



Custody

Gendered Harms Affecting Asian & Other Immigrant Communities

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Asian Pacific Institute on Gender-Based Violence

Sponsored by Battered Women's Justice Project (BWJP)

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Overview

This webinar will address the following considerations affecting Asian and other immigrants, and the implications for mediators and evaluators:

- Different dynamics of domestic violence, including coercive control related to immigration status;
- Trends such as transnational abandonment and forced divorce affecting outcomes;
- Barriers faced by immigrant/refugee abused mothers and how they can be compounded by the paucity of culturally relevant assessment and mediation;
- Gender bias in mediation and approaches to mitigate it.

Domestic Violence is one amongst many forms of abuse: Lifetime Spiral of Gender Violence



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Lifetime Spiral of Gender Violence



Lifetime Spiral of Gender Violence illustrates:

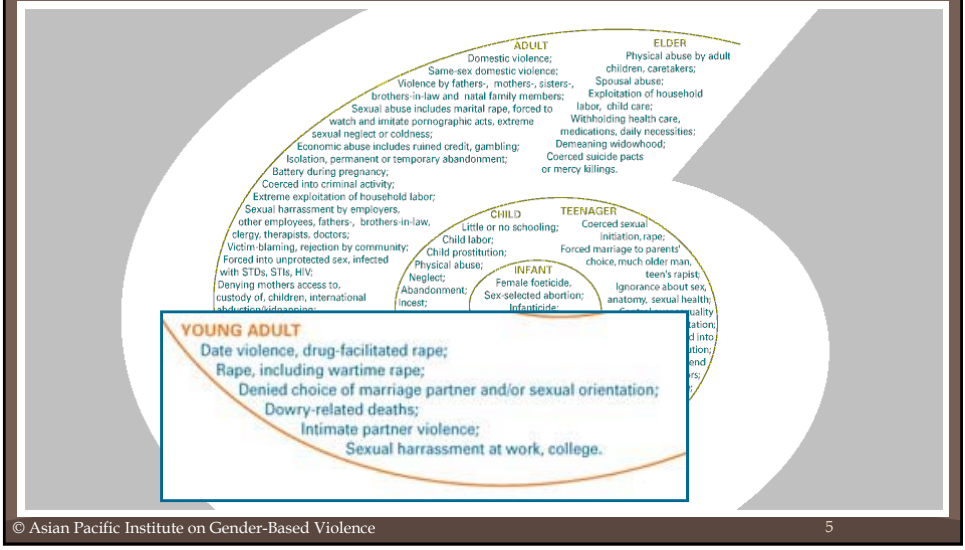
1. Historical nature of gender-based violence: it is not about being in the wrong place at the wrong time
2. Types of abuses girls and women are vulnerable or exposed to, or experience
3. Location of various perpetrators across lifespan

Gender violence is in all cultures, its manifestations differ.

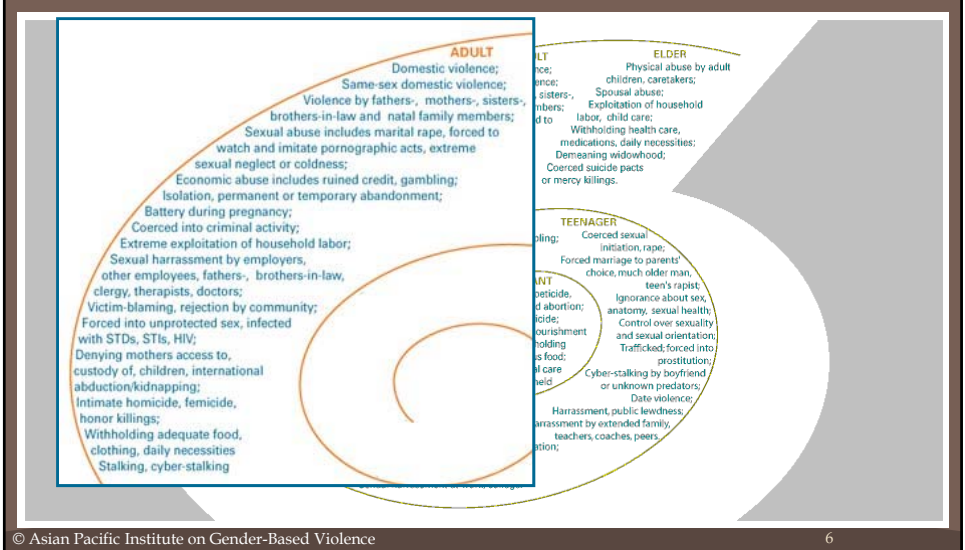
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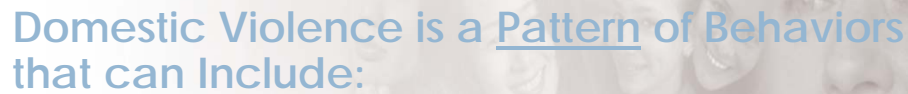
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Lifetime Spiral of Gender Violence



Lifetime Spiral of Gender Violence





Domestic Violence is a Pattern of Behaviors that can Include:

1. Physical: Violent acts resulting in injuries, even death
2. Emotional | Coercive Control: Conduct designed to retain privilege, establish fear, domination, dependence, deprivation of liberties. Abuses marked by their frequency and 'routine' nature rather than their severity
3. Sexual Violence: Repetitive and often escalating in severity
4. Reproductive Coercion: Forced pregnancy, birth control sabotage
5. Economic Abuse: Ranges from withholding money to ruined credit
6. Surveillance | Stalking: Pre- and post-separation
7. Abuse directed at Mothers: Blocking care-giving, diminishing maternal authority, threatening loss of children
8. Co-occurrence of Child Abuse: Physical, sexual, emotional abuse

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Domestic Violence Indicates Inequality

The presence of domestic violence tells us about inequality in the relationship, the extent of the violence tells us about the extent of the inequality

How would this inequality and domination because of domestic violence, affect a victim's:

- Demeanor in joint or individual sessions?
- Participation in the process?
- Access to funds to retain counsel?
- Access to records, reports, bank statements, etc. requested by evaluator/mediator?

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Immigrants, Refugees | Few Clarifications

- **First Generation Immigrant**: Foreign born individual who is lawfully admitted to US for permanent (as opposed to temporary) residence
- **2nd, 3rd Generation Immigrant**: Child(ren) of first generation immigrant born in the U.S. who is in fact, a citizen
- **Legal Permanent Resident (LPR)**: Documented immigrant who has legal residency in the U.S., is issued green card (“Resident Alien”), and can eventually apply for citizenship



Immigrants, Refugees | Few Clarifications

- **Undocumented Immigrant**: Individual who arrives without proper documentation, including someone trafficked into U.S.
- **Refugee**: Person who owing to well-founded fear of persecution for reasons of race, religion, nationality, social group membership, or political opinion cannot get protection in or return to her/his country



Immigrants, Refugees | Few Clarifications

- **Mixed Status:** Family composed of adults and children with a combination of individuals from any of the above categories

- **Other Visas:**
 - K (fiancé),
 - H-1(B), H-4,
 - J (Juvenile),
 - Humanitarian



Domestic Violence Dynamics & Trends in Asian Homes

*41-61% of Asian women report
experiencing domestic violence in their
lifetime*



1. Physical Violence Dynamics: Considerations

MULTIPLE ABUSERS, SINGLE VICTIM

DYNAMICS: Male & female in-laws may also abuse

IMPACT ON VICTIM: Internalized devaluation and victim-blaming are driven deeper as multiple batterers tell her she causes/ deserves the abuse.

SYSTEMS: May misidentify/ overlook true victim; have incomplete info on incidents; believe multiple witnesses (in-laws, husband) over victim.



2. Emotional Violence: Considerations

PUSH FACTORS

DYNAMICS meant to 'push' or coerce her out of the relationship and force her to leave the home, rather than draw her back in.

IMPACT ON VICTIM: Push and pull factors affect how decisions about leaving, and especially leaving with or without the children, are made.

SYSTEMS: May not comprehend her 'decisions'; consider she has abandoned her children – a claim often made by batterer/in-laws.

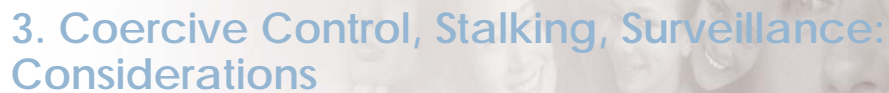


2. Emotional Abuse, cont'd.

OTHER FORMS OF EMOTIONAL ABUSE

- Rigid, tightly prescribed gender roles to coerce her
- Severe isolation
- Victim-blaming
- Religion used to justify domestic violence
- Pressure from the natal family
- In same-sex couples, outing threats

IMPACT ON VICTIMS: Poor understanding of their rights & how systems can protect these rights



3. Coercive Control, Stalking, Surveillance: Considerations

68% of Filipinas & 50% of Indian women report being stalked

MICRO CONTROLS BY PARTNER/EXTENDED FAMILY:

- Deprivation
- Coercive control tactics
- Intensive surveillance
- Stalking, including recruiting others to stalk



3. Micro-Controls, cont'd.

IMPACT ON VICTIMS: Help-seeking is inhibited, monitored or blocked

SYSTEMS:

- Deprivation may not be understood as abusive.
- Her infrequent help-seeking may mask danger, or family members may pose as helpers.
- Control may be mistaken as justifiable because it is in keeping with Asian 'cultural' norms



4. Sexual Violence: Considerations

64% of Indians/Pakistanis, 56% of Filipinas report intimate sexual violence

- Being forced to watch and imitate pornography.
- Being forced to accept husband's live-in girlfriend, mistress, gay partner
- Accusations of affairs and besmirching family honor
- Blaming victims for past history of rape or incest; and disclosing it to prove she is 'crazy' or to humiliate her.



4. Sexual Violence, cont'd.

- Coercing unprotected sex
- Extreme sexual neglect.
- Body humiliation and/or body modification.
- Sexual harassment and/or assault from extended family members, community leaders, clergy, etc.
- Forced marriage (as opposed to arranged)
- Sexual violence in home countries and attendant unresolved trauma



4. Sexual Violence, cont'd.

IMPACT ON VICTIM: Extreme humiliation; cultural prohibition to silence because sexual assault carries more shame.

SYSTEMS: May not inquire/investigate sexual assault; may hold cultural stereotypes of Asians; may cover up custodial rape in ICE detention



5. Reproductive Coercion: Considerations

35% of women (all groups) experiencing IPV also report reproductive coercion; their risk of unintended pregnancy was doubled.

- Forced pregnancy
- Forced sex-selected abortions,
- Multiple, repeated pregnancies despite health risk
- Birth control sabotage
- Women pregnant by rape may be forced (by her parents) to marry rapist



5. Reproductive Coercion, cont'd.

IMPACT ON VICTIMS: Short- and long-term health problems

SYSTEMS: May miss reproductive coercion especially in communities where large families are the norm and/or boys are valued over girls.



6. Abuse Directed at Mothers: Considerations

(a) DISRUPTING MOTHER-CHILD BONDS, DIMINISHING MATERNAL AUTHORITY

- Blocking care-giving
- Sowing division within family
- Blaming moms for dad's violence
- Blaming mothers for children's problems

(b) LOSS OF CHILD CUSTODY/ACCESS

- False reports and accusations by batterers
- Using culture and cultural norms to separate mothers from their children

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7. Abuse & Trends Related to Immigration Status: Considerations

(a) ABUSE TO JEOPARDIZE IMMIGRATION STATUS

- Making false declarations to I.C.E. (formerly INS)
- Not submitting or processing paper-work to regularize immigration status
- Withholding or hiding passports and other important documents.
- Threats of deportation if she reports domestic violence.

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7. Trends Connected to Immigration Status cont'd.

(b) TRANSNATIONAL ABANDONMENT TRENDS

- “Marry and Dump”: (i) Filing for divorce soon after marriage in U.S. or in home country (ii) Abandonment in home country: untraceable husbands return alone to the U.S. on the pretext of filing immigration papers
- Some batterers use International Marriage Bureaus to marry and entrap women from Asian countries or abandon them after their fiancé visa expires within 3 months of arrival in the U.S.



7. Trends Connected to Immigration Status cont'd.

(c) FORCED DIVORCE TRENDS

- Husbands force wives to divorce, so they can re-marry.
- Ex-wives may be made to stay on in the marital home
- Batterers trick wives with false claims

Trends like forced divorce or transnational abandonment illuminate the climate of fear and the type of threats Asian women may face



8. Children: DV Exposure; Abuse Co-occurrence

(a) Exposure

- 15 million children are exposed, majority are under age of 8.
- Do children know that domestic violence is happening in the home?
 - 40% of dads said yes
 - 55% of moms said yes
 - 90% of children said yes



8. Children: DV Exposure; Abuse Co-occurrence, cont'd.

(b) Incest

1:30 batterers perpetrate incest, compared to 1:200 non-battering men

(c) Witnessing Homicide

60 (of 63) non-fatal child victims (in a study of Asian cases) were present in the home and ear or eye witnesses to maternal homicide



8. Children: DV Exposure; Abuse Co-occurrence cont'd.

(d) PTSD

Most significant precedent of PTSD in children under 4, was threats to their caregiver, not their own abuse.

(e) Trauma

Domestic violence exposure (47.2%) was second most significant contributor to trauma, after loss of a parent (47.9%)



BARRIERS




BARRIERS: Systems Barriers Constrain Help-seeking

- Anti-immigrant policies have a chilling effect on help-seeking
- Inadequate outreach means immigrants lack info about systems & resources available to them
- Lack of culturally sensitive specific services further deter LGBTQ, Deaf, disabled survivors
- Victims with limited English proficiency face language, economic, racial, cultural, religious, professional, and/or identity-based barriers to social and legal services



Isolating Socio-Cultural Barriers from Communities & Battersers

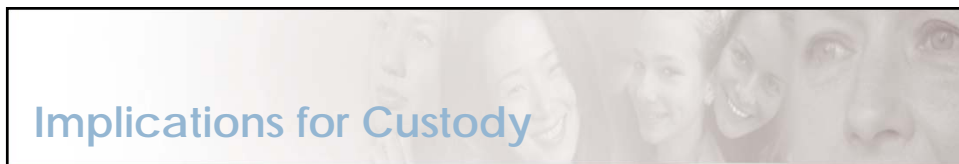
- Battersers exploit systems biases/community attitudes to battered women, and incorporate them into their abusive tactics
- The strong nexus of public disclosure and shame in many Asian communities is a barrier seeking help
- Covert or overt support and the lack of sanctions that accrue to batterers increase their impunity and entitlement to violence
- Community attitudes reinforce domestic violence by utilizing victim-blaming, silencing, shaming and rejecting battered women who speak up or seek help



IMPLICATIONS FOR CUSTODY

Applying the cultural contexts of domestic violence in custody evaluations & determinations

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Implications for Custody

1. Assess for presence & effects of multiple batterers in an extended family home.
2. Identify the impact of 'push' factors on battered mothers.
3. Arrange interpretation services for clients with Limited English Proficiency.
4. Mitigate gender bias by examining the assumptions that contribute to it.

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1. Assess for presence & effects of multiple batterers in an extended family home

- a. Domestic violence may exist even if the intimate partner is not abusive.
- b. Explicitly gather additional information about who else is battering her.
- c. Accompanying female or male relatives may not be part of a support system.
- d. Identify how multiple batterers or relatives compromised maternal authority during the relationship
- e. Assess children's fears of, and relationships to, extended family members



2. Identify the impact of 'push' factors on battered mothers

- a. Establish the severity of push factors
- b. Scrutinize allegations by a father and his family
- c. Assess risk of post-separation violence given push factors.



3. Arrange interpretation services for clients with Limited English Proficiency

- a. Use professional interpreters for all parties with Limited English Proficiency at evaluation sessions and at proceedings.
- b. Arrange for certified or qualified interpreters and understand how to work with interpreters and their ethical responsibilities.
- c. Do not ask or allow interpreters to proffer opinions, explanations or commentary. Interpreters are not cultural brokers or anthropologists.
- d. Do not have spouses, adult or child family members, friends, or other bi-lingual individuals interpret in any situation.



3. Arrange interpretation services for clients with Limited English Proficiency (cont'd)

- e. Immigrant or refugee families who lack proficiency in English should not be considered uneducated or disadvantaged at parenting.
- f. Greater credibility should not be attached to more acculturated, English-speaking fathers.
- g. If available, utilize the Family Law Interpreter Program to fund interpretation services



4. Mitigate gender bias by examining the assumptions that contribute to it

Assumption 1: Battering fathers can still be good parents, but battered mothers may not.

Recommendation: Identify the pre-separation parenting strategies used by battering fathers to evaluate how they might surface post-separation. (L. Bancroft's research shows they tend to be authoritarian, neglectful, verbally abusive, undermining maternal authority)



4. Mitigate gender bias by examining the assumptions that contribute to it (cont'd)

Assumption 2: Children exposed to or witnessing domestic violence is a mother's failure to protect.

Recommendation: Evaluate and provide data on the effects of exposure to (witnessing) the abusive parent's violence (Most research focuses on witnessing maternal abuse, not paternal brutality, putting onus on mothers for protection. We need more data on exposure to paternal use of violence.)



4. Mitigate gender bias by examining the assumptions that contribute to it (cont'd)

Assumption 3: Good fathering is all too often proved by minimal levels of paternal responsibility, or assumed to exist in the extended family home.

Recommendation: Elevate the standards for good fathering to equal those for good mothering; and maintain same standards for dads despite (ostensibly more attractive) extended family home



TECHNICAL ASSISTANCE & TRAINING

- ✓ Asian Pacific Institute on Gender-Based Violence
 - Custody Evaluation in Asian Families
 - Language Access and Interpretation

www.api-gbv.org ; info@api-gbv.org

- ✓ Battered Women's Justice Project

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Thank You!

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For Technical Assistance and Training,
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