

WIFE BATTERING
IN
IMMIGRANT COMMUNITIES
FOR
STATUS OF WOMEN CANADA

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FOREWORD

Given the very limited timeframe for this report, we have only been able to outline the major barriers which confront battered immigrant women. Our focus is Ontario-based, but we did interview and receive materials from women working with battered immigrant women in Montreal (Leticia Solano - Latin-American Women's Shelter), and in Winnipeg (Sylvia Guijon and Bosee Agbayewa, Manitoba Committee on Wife Assault). In addition to these sources, our information for this report came from our own experience in working in this area and from the studies and reports listed at the end of the report.

Some specific questions are addressed to us in a memorandum from Josée Normandin, dated February 28, 1986. As the limitations under which we prepared this report did not allow us to address the issues with the degree of specificity required by the questions, we have responded to the questions separately and attached our answers as an appendix to this report. The answers are, of course, implicit in the more general information which is provided in the body of the report.

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WIFE BATTERING IN IMMIGRANT COMMUNITIES

I. INTRODUCTION

1. Scope of the Report

In this paper, we briefly examine the particular problems faced by battered immigrant women in this country. Our focus is primarily on the impact of the woman's legal immigration status, the overwhelming barriers which face battered immigrant women who speak neither English nor French, and the racial and ethnic biases and prejudices encountered by battered immigrant women. These three factors substantially compound the numerous barriers and hurdles which already face any and every battered woman. We examine government and social policies, programs and agencies which deal with battered immigrant women in an effort to determine in what ways these services fail to serve the needs of battered immigrant women. In the course of our examination of the issues, we include some recommendations for program and policy changes.

It is well recognized that battering is a social problem which crosses class, race, ethnic and educational barriers. There is no cultural or economic group of men who are particularly prone to battering nor any cultural or economic group of women at greater risk of being battered. Any examination of the issues of battered immigrant women or any program directed to their specific needs must be unequivocally premised upon such an understanding. It is very easy when addressing cultural issues and the difficulties experienced by immigrant women to fall into the trap of cultural and racial stereotypes which serve to perpetuate and reinforce the problems of these women, rather than to offset them. Although the distinction between the recognition of problems specific to immigrant communities and the imposition of cultural stereotypes is sometimes a fine one, it is a critical distinction which needs to be kept in the forefront at all times.

2. Definitions

Our report is based upon the following definitions of the terms referred to.

a) Battering

There are a number of problems with prevailing definitions of wife battering, such as that employed by the Ontario Standing Committee on Social Development in its Report on Wife Battering: "Any form of physical assault perpetuated by an adult male against an adult female, presently or previously living together".¹ We have a much broader understanding of battering as

including emotional and psychological, as well as physical abuse. Accordingly, we would not restrict the definition of battering to physical assault. Neither would we restrict the definition to married or even common-law spouses. We would include any couples who are or have been in an intimate relationship, regardless of whether or not they actually cohabited. We use the word "wife" throughout this report to denote such a relationship. However, as the understanding of the issue of battering is not the primary focus of this inquiry, we do not pursue the issue of defining battering more precisely.

b) Immigrant

We need a broad definition of immigrant women in order to address all of the factors which impact negatively upon the lives and experiences of battered immigrant women -- immigration status, language, and cultural and racial biases. Accordingly, we use the following definition:

Immigrant women refers to those women who were born outside of Canada and/or also have one or more of the following characteristics:

1. Their mother tongue is neither English nor French;
2. They are denied some basic rights because of their legal immigration status;
3. Their behaviour is guided by their understanding of family law, rights of women and the role of the police acquired in their country of birth; or
4. They are excluded from mainstream Canadian society, or discriminated against because of their race, language and/or culture.

3. Battering in Immigrant Communities: The Extent of the Problem

There are very few studies which specifically address wife assault in immigrant communities or document the experiences and problems of battered immigrant women.² Statistics from other studies and reports not dealing specifically with immigrant women are generally not broken down so as to indicate the numbers of immigrant women included in the figures presented. This is a critical gap in the reporting mechanisms currently in operation and in the data collected through empirical research. The absence of statistics on battered immigrant women serves to maintain the invisibility of the particular problems experienced by these women.

It is important to be able to trace and document the experiences of battered immigrant women. Without such data, the following types of questions cannot be answered:

1. Is the batterer less likely to be arrested if the woman whom he battered does not speak English or French?
2. Are there delays experienced by immigrant women in seeking welfare or subsidized housing which are not experienced by non-immigrant women?
3. Are immigrant men who batter likely to receive a more severe sentence than a non-immigrant batterer? Or are the penalties different in some other significant way?

This information needs to be made available so that we can determine how much ethnic and cultural background is a factor in the treatment which battered immigrant women receive. Such information is, of course, not sought in order to justify or to trigger negatively differential treatment, but rather to pinpoint when and where such discriminatory treatment does arise.

From the limited information which is available, we do know that wife assault is a significant problem in immigrant communities. In 1982, 53% of the residents of Interval House (a shelter in Toronto which houses battered women and their children), were women who were born outside Canada; 24% of the residents were sponsored immigrants.³ A survey of the mental health needs of low-income Spanish and Portuguese-speaking women in Toronto indicated that every counsellor in community agencies run for immigrant women has numerous clients who are battered.⁴ The experience of counsellors working with immigrant women is the most extensive source of information on this issue. Through the experiences of their clients, they are made acutely aware of the extent and the severity of the problem of wife abuse in the communities in which they work.

II. THE CONTEXT

1. Introduction

In order to recognize and be able to respond to the particular needs and problems of battered immigrant women, it is essential to have some understanding of the lives and experiences of immigrant women in Canada. The picture which we present in this section is a generalization which does not apply to all immigrant women: not all immigrant women are poor; not all immigrant women need English or French language training; not all immigrant women fear the police.

The following issues are presented, not to create a stereotype of the battered immigrant woman, but to portray some of the factors which impact negatively upon immigrant women in Canada. These are the factors which give rise to the specific problems encountered by battered immigrant women.

2. Immigrant Women in the Paid Labour Force

Although there is a small sector of immigrant women who are at the top economic end of the paid labour force, the vast majority of immigrant women work at low-paying, non-unionized jobs which are physically demanding and often pose serious health risks to the worker. Immigrant women are found mainly in the garment and textile industry, or working as cleaners or domestics, or waiting on tables in restaurants. Many immigrant women do piecework, which is highly stressful and dangerous. Many immigrant women go through long periods of unemployment.

Most immigrant families, particularly those who have recently immigrated to Canada, are not able to survive on one person's salary. Thus, most immigrant women have no choice but to participate in the paid labour force. Such participation is made more difficult by the absence of childcare facilities in most working-class immigrant neighbourhoods. In fact, the shortage of affordable child care is a critical problem for these women. Mothers are forced to spend long hours at the beginning and end of their exhausting workday transporting their children to and from child care. And this is all done on public transit; for most immigrant women, a car is an unknown luxury.

The position which most immigrant women occupy in the paid labour force has serious implications for other aspects of their lives, all of which have particular significance for battered immigrant women.

The ghettoization of immigrant women in particular pockets of the job market means that they are generally not required to learn English for employment purposes. The

physical demands of their paid work and of their work in the home leave most immigrant women too exhausted to take advantage of the English-as-a-Second-Language (ESL) classes which are available to them.

The low pay and job insecurity which characterize most immigrant women's paid employment means that, despite their participation in the paid labour force, these women tend to be economically dependent on their husbands. Combined with other factors discussed in this report, this economic dependence often makes it extremely difficult for a battered immigrant woman to consider leaving her spouse.

3. Language

Language is one of the most significant barriers which battered immigrant women face. Without English or French language skills, immigrant women have very limited job opportunities. Access to professional and social services such as doctors, lawyers, social workers and shelters, can be difficult, if not impossible. Access to translators is generally very limited. Language is one of the major problems contributing to the isolation of immigrant women.

4. The Family

In immigrating to Canada, many families undergo significant changes which have the simultaneous effects of familial disruption and of isolating the wife and making her totally dependent upon her husband.

In many of the countries of origin from which immigrant families come to Canada, there is a heavy emphasis and reliance upon the extended family. The extended family demands devoted loyalty from its members and, in turn, provides family unity, stability and tradition. The extended family usually plays an important role as mediator in family disputes. Although immigrant women may have been much less independent in their country of origin, their dependence was spread over a much larger group, the extended family, and not nearly so centred on the husband.

Families usually come to Canada as a nuclear family unit, leaving behind the support and protection provided by the extended family. The husband and wife become completely dependent on each other, especially in the first few years. The husband tends to try to keep very tight control over this family, very often through economic control (for example, with the husband having exclusive access to family finances) and by keeping his wife isolated from the community. The woman might be denied permission to study English or even to have her own friends. This total dependence of the wife upon the husband is reinforced by

immigration laws and by the position of immigrant women in the paid labour force in Canada.

Alcohol often plays an important role in family dynamics and is a factor which can precipitate wife abuse. Although it is well recognized that drinking is not a cause of wife battering, alcohol can provide "the excuse" for a man to beat his wife. Drinking with their male friends is one of the major social activities of many immigrant men. We are not aware of any research done on the dynamics of male drinking groups, but we are acutely aware of the fact that many women are severely beaten when their husbands return from these sessions. Men may be implicitly, or even explicitly, encouraged by their peers to exert control over their families by beating their wives. Research needs to be conducted into the roles of alcohol and peer pressure with respect to wife abuse. Special programs need to be established which address the issue of alcoholism within immigrant communities.

In many cultures, divorce or separation is not seen as an acceptable solution to marital problems, no matter how severe. The wife's role is to keep the family together and it is she who is generally blamed if the marriage breaks down. An immigrant woman who leaves her husband risks the possibility of being totally ostracized from her friends and community.

The organization and structure of immigrant families and communities tend to leave immigrant women particularly vulnerable to wife abuse and to severely restrict the woman's ability to respond to an abusive situation. Dependence and isolation characterize the lives of many immigrant women in this country.

III. GOVERNMENT AND SOCIAL SERVICE POLICIES AND PROGRAMS

1. Introduction

We need to examine government and service policies and social programs to determine how they might contribute to or reinforce the vulnerable position of immigrant women both in society at large and in their own homes. Immigration status and language training are the two major issues in this regard, not only in their own right, but in impeding immigrant women's access to other services and programs. Every effort must be made to identify and eliminate the disadvantages to which immigrant women are subject and which render them particularly susceptible to ongoing abuse from their husbands.

2. Immigration Status

Immigration being a matter under federal jurisdiction, the following information applies across the country.

Deportation is a major fear shared by most, if not all, immigrants. One of the most significant problems with respect to immigration status is that immigrant women are frequently not aware of their legal rights and are therefore vulnerable to the fear of deportation even when that fear is unwarranted. Once an immigrant woman who is under her husband's sponsorship receives her permanent resident status, she cannot be deported simply because of the sponsorship breakdown. Her immigration status should not in any way affect her decision to stay or to leave her husband. As a permanent resident, she is, or should be, eligible for welfare or subsidized housing on the same basis as any other Canadian. (See discussions following under the headings Social Assistance and Subsidized Housing.)

There is, however, a sizeable group of women who are at risk of deportation and who may therefore choose to stay in an abusive relationship rather than face that risk. These include women who are on a visitor's permit or a Minister's Permit awaiting permanent resident status and women who are in Canada illegally, that is, without any permit or official immigration status.

1) Fear of Deportation

Because they do not know their legal rights, many women who have permanent resident status in Canada stay in abusive relationships in order to avoid the possibility of deportation on the basis of sponsorship breakdown. A sponsoring husband is not entitled to withdraw his sponsorship of a permanent resident. His financial responsibilities as sponsor continue, but the wife is under no obligation to continue to live with him.

However, this security enjoyed by permanent residents is meaningless to battered immigrant women if they are not made aware of their rights. Abusive husbands often play upon their wives' fear of deportation, by threatening that they will be deported if they leave them. Lesser access to language training and social services means that immigrant women tend to be less aware of their legal rights than their husbands. An immigrant woman whose primary or sole source of information on Canadian law and policies is her husband is very dependent on him and much more vulnerable to his abuse, threats and misinformation than if she had access to such information herself.

Information on legal rights, and particularly one's rights as an immigrant to Canada, needs to be made readily accessible to immigrant women. This information needs to be provided to immigrant women upon their entry into Canada and be available to them at places which they frequent.

RECOMMENDATION: Materials explaining the immigration process and one's rights as an immigrant be made available in a variety of languages and distributed in workplaces, childcare facilities, ESL classes, ethnic shopping areas, immigrant community agencies, etc. Such information should be provided to any woman who is being sponsored by her husband, either in her country of origin, or when the application for permanent residence is made from within Canada.

2) Suing the Sponsor

The Immigration Act provides for the assignment of the sponsor's undertaking of support from the Minister of Immigration to the province. Where the sponsored immigrant woman has been receiving social assistance, the province may sue the sponsor to recover these welfare expenses incurred by them as a result of the sponsor's breach of his undertaking of support. It would be reasonable and equitable to provide the sponsored wife with a similar right to sue her sponsor for breach of the agreement. Although this would probably not be an appropriate remedy for those battered women for whom any contact with their husband represents a serious danger, it would provide some battered immigrant women with an alternative means of enforcing their husband's support obligation.

RECOMMENDATION: The sponsored person should be added as a party to the sponsorship contract so as to enable her to sue the sponsor for support under the sponsorship agreement or sue the government

for enforcement of the sponsor's undertaking. However, such a right should in no way affect the sponsored person's eligibility for social assistance.

3. Those at Risk of Deportation

Illegal immigrants and immigrants who are waiting to receive permanent residence status are the two groups of women who do risk deportation if they leave their husband.

Illegal immigrants -- women who either came into Canada illegally or whose visitor's permit has expired and not been renewed -- are totally dependent upon their husbands. These women face almost certain deportation if they come to the attention of the immigration authorities. Many such women live in what might be called "house detention" and, if their husbands abuse them, feel totally powerless to do anything about it. To call the police or to leave their husband would almost certainly result in deportation. We have no way of knowing how many of these women there are and how many of them are battered.

The usual procedure for sponsoring family members into Canada is for the person being sponsored to remain in her/his home country until the sponsor's application is approved. S/he then comes to Canada as a permanent resident. Special provision is made in the Immigration Act to allow a person to sponsor her/his spouse from within Canada.

In this situation, the sponsored spouse remains in Canada on a Minister's permit or a visitor's visa while she awaits approval of the application for her permanent residence status. This approval process can take up to two years or more. The sponsoring husband may withdraw his sponsorship undertaking at any time prior to the finalization of his wife's permanent resident status. Without sponsorship, the wife faces the risk of deportation. The tremendous incentive for a sponsored immigrant to stay in even the most abusive relationship is obvious. In fact, community workers and lawyers frequently advise battered women to wait out the permanent resident process before they take any action against the abuse. The Canada Employment and Immigration Commission (CEIC) estimates that there are approximately 3,500 immigrant women in this precarious situation.

Deportation is not automatic when the husband withdraws his sponsorship during the time that his wife is waiting to receive permanent residence status. Each

case is individually reviewed by Immigration in order to determine whether special considerations justify allowing the person to stay in Canada. The principal factors to be looked at are the person's ability to become successfully established in Canada and the existence of humanitarian and compassionate grounds. With regard to the latter, the fact of physical abuse is to be taken into consideration, but the CEIC operations memorandum makes it clear that "abuse itself is not a reason to land someone."

There are no statistics presently available on the number of battered immigrant women who have been deported. CEIC is presently collecting this information. The collection of this data is useful, but it is not a sufficient response to the problem. It is important to try to gain some understanding of the extent of this problem, but we have no way of knowing how many battered immigrant women are staying with their abusers, rather than taking the risk of being deported. By its very nature, the data will always be incomplete.

There are two reasons why battered immigrant women should not be deported. The first is simply that battering should always be recognized as constituting compassionate and humanitarian grounds. We appreciate the government's concerns with respect to the woman possibly having to seek social assistance upon withdrawal of her husband's sponsorship. However, we would hope that these financial considerations do not take precedence over the life, health and safety of a person who is living in our country. A policy whereby a battered woman may be deported upon withdrawal of her sponsor's undertaking in effect encourages those battered women to stay in the abusive situation.

The second reason for not deporting battered wives is that the withdrawal of the sponsor's undertaking should, in fact, make little practical difference. A sponsoring husband would still have a legal obligation to support his wife under Canadian family law, an obligation which is just as binding and effective as a sponsorship undertaking with respect to a permanent resident. It should be noted that the wife's right to support from her husband, would, for all practical purposes, be lost upon deportation.

There seems to be an assumption that it would be no hardship for a woman in these circumstances to be deported. "An option which is always available, particularly in these (wife abuse) cases, is for a person to return home to the safety and security of their family." There are a number of reasons why it

might be difficult or dangerous for an immigrant woman to return to her country of origin. In many countries, marital separation and divorce are not accepted and she might be ostracized from family and friends for having left her husband. She may have engaged in political activities in her home country or in Canada which would place her at risk upon her return. She may have made Canada her home and not wish once again to be uprooted and relocated.

RECOMMENDATION: The breakdown of a sponsorship undertaking due to abuse by the husband should per se constitute compassionate and humanitarian grounds under which the abused wife is automatically granted permanent residence.

Alternatively, the husband's support obligations under provincial family law should be taken into consideration in assessing the wife's ability to become successfully established in Canada.

Alternatively, women awaiting permanent residence status whose sponsorship has been withdrawn should be granted a Minister's Permit for a period of one year, in which time the woman would have the opportunity to prove her ability to become successfully established in Canada.

3. Language Training

Language training is critical for all immigrant women who speak neither French nor English, and yet, most immigrant women do not have meaningful access to language training programs. The absence of such training impacts upon battered immigrant women in a number of ways. Without skills in either English or French, immigrant women tend to be much more economically and emotionally dependent upon their husbands, and much more socially isolated, restricted either to their immediate family or their cultural community. Professional and social services are very inaccessible to those who do not speak the dominant language.

The conditions under which English as a Second Language (ESL) classes are held make it impossible for most immigrant women to take advantage of them, despite the fact that they are available without tuition or other fee. With the exception of sponsored refugees, sponsored immigrants are not eligible for a Manpower (sic) training allowance or for child care while they learn English or French. In effect, this means that immigrant women are not eligible for these services. Without the training allowance, most immigrant women cannot afford to attend a federally-sponsored intensive language training program, even if they otherwise

qualified (that is, they were considered a skilled worker and lack of English or French was the identified barrier to employment).

Those immigrant women whose families can afford for them to be out of the paid labour force are totally dependent upon their husbands financially for the six months duration of the training. Usually, six months is not sufficient time for a person to achieve fluency in a new language. This means that, even after having completed the language training program, most immigrant women do not qualify for other Manpower (sic) training programs.

Women who cannot afford to take time out of the paid labour force generally have neither the time nor the energy to enable them to take an ESL class. Most of these women work at exhausting and gruelling paid jobs, as well as having the full responsibility for the care of their children and their home. It is totally unrealistic to expect immigrant women to add language training to their already overwhelming double workdays.

The absence of the provision of child care in conjunction with ESL classes renders these unavailable to almost all immigrant women who have children. Child care must be recognized as an essential component of language training.

RECOMMENDATION: Intensive language training be made available to all immigrants to Canada who speak neither English nor French, regardless of their connection to the paid labour force. Programs must be long enough to enable the participants to attain fluency in the language. All participants must be eligible for a full training allowance for the full time that they participate in the language training program. Child care services must be offered in conjunction with all language training programs.

4. Job Creation

Immigrant women's restricted participation in the paid labour force whereby most of them are ghettoized in low-paying, physically-demanding jobs, is a critical problem for all immigrant women. Access to better jobs would reduce a battered immigrant woman's economic dependency upon her husband and would give her greater options in terms of responding to an abusive situation. The federal government needs to focus job training and retraining programs specifically to meet the needs of immigrant women.

The federal government will spend four billion dollars over the next two years in preparing Canadians for the current and future needs of the labour market. Under the

title of job-entry, these new programs will offer training opportunities to women who want to re-enter the paid labour force after being home for two to three years. The vast majority of these programs will not be open to most immigrant women. Of the twenty-four re-entry programs funded by the federal government that were announced in the Toronto Star of March 24, 1986, only one will provide basic English language training, two other programs will accept women with Grade 8 to 9 English. The language requirement for all of the other job training programs announced was too high for most immigrant women to qualify.

RECOMMENDATION: Immigrant women should be specifically targeted for job entry and retraining programs in an effort to break down the job ghettoization of immigrant women and to open up new job opportunities for them. Intensive language training programs and child care must be included as essential components of all job training programs. Affirmative action programs should specifically target immigrant women at all levels - training, hiring and promotion.

5. Social Assistance

Eligibility for welfare is a problem for all battered women in that they must be living separate and apart from their husbands in order to qualify for social assistance in their own right. Women who have no access to finances of any kind have great difficulty in establishing themselves separate and apart from their husbands so as to be eligible for welfare. This is one of the reasons why shelters for battered women are in such critical demand.

Immigrant women face an additional hurdle in many provinces in qualifying for welfare. The difficulty stems from the sponsorship undertaking in which the sponsor agrees to provide lodging, care and maintenance for the sponsored immigrant and accompanying dependents. The purpose of the agreement would seem to be to ensure that the person being sponsored does not become a burden on social services. Although withdrawal of the sponsorship undertaking is not a criterion set by Immigration, it is a welfare eligibility criterion employed by most provinces with respect to sponsored immigrants seeking social assistance. Ontario has recently eliminated this requirement.

The sponsorship breakdown requirement is particularly onerous for battered immigrant women. Welfare authorities send the battered woman to the Immigration office to obtain confirmation of the sponsorship breakdown. In addition to being demeaning for the applicant, the procedure creates a number of problems. Fear of the prospect of having to attend at Immigration may be sufficient to intimidate the battered woman back into the abusive relationship. This is

particularly true for women whose husbands have threatened them that they will get deported if they try to leave. This requirement plays into the overriding fear of deportation shared by most immigrant people. The fear and uncertainty felt by battered immigrant women are exacerbated by this procedure.

Additionally, the sponsorship breakdown requirement causes warranted delays in the processing of the woman's welfare application, which, in most circumstances works a severe financial hardship on her. Furthermore, the requirement gives substantial discretion to Immigration officers, who may use it improperly. The sponsored wife is subject to the officer's perception of what constitutes marriage breakdown. In many instances, the officer is suspicious of the woman's reasons for separating from her husband and will not provide the required document until s/he has had a meeting with the husband. The husband may deny the breakdown and try to use the immigration interview to pressure his wife to return to him.

The requirement of an acknowledgement of the sponsorship breakdown by Immigration in order for a sponsored immigrant to qualify for welfare is totally unnecessary. It places battered women in a very disadvantageous position in terms of fear of deportation, delays and pressure to reunite with her abusive husband. The requirement must be eliminated in any province where it still exists.

RECOMMENDATION: A sponsored immigrant whose sponsorship agreement has broken down should be eligible for social assistance without written authorization from Immigration. Immigrants should be eligible for social assistance on the same basis as non-immigrants.

6. Subsidized Housing

Most, if not all, provinces (including Ontario) require an acknowledgement of sponsorship breakdown from Immigration in order for a sponsored immigrant to qualify for government-subsidized housing. The problems of fear of deportation the discretion of the immigration officer, delays, and pressure to reconcile with the abusing husband apply equally in the context of housing eligibility as they do with respect to social assistance, as discussed in the preceding section. Immigration status should not be a barrier to housing eligibility.

RECOMMENDATION: A sponsored immigrant whose sponsorship agreement has broken down should be eligible for subsidized housing without written authorization from the immigration authorities.

Immigrants should be eligible for government- assisted housing on the same basis as non-immigrants.

7. Shelters

Shelters offer an essential service to battered women in terms of providing temporary housing for themselves and their children, information and practical assistance in obtaining other necessary services and in re-establishing themselves if they so choose, and emotional support and counselling. There is a chronic shortage of shelters for assaulted women in this country and those that are in existence are chronically underfunded. This is a major problem which applies to all battered women. Battered immigrant women are subject to a number of additional problems.

For battered immigrant women, language and cultural barriers can make the use of a shelter very difficult. Most shelters do not employ multi-cultural multilingual staff. Translators are available on only a limited basis. This may mean that a woman is literally unable to communicate with anyone in the shelter except her children, if she has children. Culturally, she may be living in the shelter in an environment which is totally foreign to her; she may, for example, be required to eat food which she has never eaten before. The shelter experience can be a totally alienating and isolating one for a battered immigrant woman, despite the best efforts of the shelter workers. This experience can serve as a substantial disincentive to these women being able to end an abusive relationship.

Shelter workers are often not aware of the particular needs and problems of immigrant women. They may, for example, not be aware of immigration rules and thus would not be able to alleviate the fears of any sponsored immigrants residing in the shelter or advise them of how best to proceed.

There are two shelters in Canada that specifically cater to the needs of battered immigrant women. The first, located in Montreal is run by a collective of Latin American women. The second will open in Toronto in September, 1986. These shelters could serve as prototypes for similar facilities in other parts of the country.

Basic information and counselling services need to be made available to all immigrant women in every shelter in Canada. Shelters need to hire multilingual and multicultural staff to address the specific needs of the communities which they serve. All shelter workers need to be provided with cross-cultural training.

Shelters specifically designed to meet the needs of immigrant women need to be set up throughout Canada. The critical issue in making these services available is the provision of the funds to do so.

RECOMMENDATION: A special program be established to provide ongoing funds for cross-cultural training for shelter staff. Special affirmative action programs should be set up to train women with multilingual, multicultural skills to work in shelters. Additional monies need to be made available for the establishment of shelters specifically designed to meet the needs of battered immigrant women.

8. Second Stage Housing

There is a critical shortage of affordable housing in Canada, which makes it very difficult for many battered women to leave the home which they share with their abusive spouse. In addition to these important economic considerations, many women who decide to leave a battering relationship and set up a home for themselves and their children, need a supportive environment in which to do so and access to support and counselling services to assist them in establishing a new life for themselves. Such supportive and affordable housing communities are referred to as second-stage housing, because, for most of the women, a shelter will constitute the first stage in this process.

There are a few second-stage housing programs and projects scattered across Canada, but their limited numbers make them unavailable to most women. We are not aware of any such programs which specifically recognize and address the needs of immigrant women in this context. Thus, second-stage housing is probably even more inaccessible to immigrant women than to non-immigrant women.

RECOMMENDATION: Funds need to be directed toward the large scale development of second-stage housing for women. Special funds need to be made available to ensure that such programs respond to the particular needs of immigrant women.

IV. THE LEGAL PROCESS

1. Introduction

Battered immigrant women encounter a number of specific problems in terms of access to a use of the legal system which are directly attributable to the fact that they are immigrant women. These problems stem from cultural and racial stereotypes among officials within the legal system and from the language barriers created when a battered woman speaks neither English nor French. These problems reflect an immediate and pressing need for the employment of multicultural, multilingual workers at all levels of the legal system; the multicultural training of all personnel in the legal system, from police to judges, increased access to translators who have been specifically trained on the issue of wife battering, and the availability of English or French language training to all immigrant women. Without these services, battered immigrant women are being denied equality before and under the law and the equal protection of the law guaranteed to them by the Canadian Charter of Rights and Freedoms.

2. Access to Information

In the Ontario study conducted by A.R.A. Consultants on Wife Battering Among Rural, Native and Immigrant Women, there was a consistent finding that immigrant women were not aware of their legal rights nor how to use the legal system.

"Victims do not know the roles and responsibilities of different personnel in the criminal justice system, where to locate and contact different personnel, and what to expect from these personnel at each stage of the system ... The issue was continually raised ... that without knowledge of its purpose and its use, it is next to impossible for battered immigrant women to make use of the criminal justice system."

It is critical that information on their rights under Canadian law and how to use the legal system be made available to immigrant women.

RECOMMENDATION: Information sessions and materials outlining Canadian law of particular concern to women and services available to assist immigrant women with legal problems or questions should be made available in a variety of languages and provided to immigrant women upon their entry into Canada and distributed in workplaces, child care facilities, ESL classes, ethnic shopping areas, immigrant community agencies, etc.

3. Police

Many immigrant women are extremely reluctant to rely upon the police in any circumstances. Many women have learned from experience in their country of origin that the police are a brutal and repressive force to be avoided at all costs. It is extremely difficult, if not impossible, for these women to see the police as capable of protecting or supporting them.

In addition, racism and cultural stereotypes are seen as prevalent among police forces across Canada. Immigrant women fear that these attitudes will be used against them or their spouses so as to treat them unfairly or more harshly than non-immigrants. Almost one half of the battered immigrant women interviewed in the A.R.A. study cited the "fear that husband/partner will be brutalized/victimized by the police"⁹ as a reason for not calling the police. The perception that "police believe that in (my) culture it is acceptable for men to beat women"¹⁰ was indicated as a reason for not calling the police by over one third of the women. These attitudes are not unique to the police, but are shared by legal personnel at all levels of the legal system.

Attitudinal barriers which inhibit battered immigrant women's reliance upon the police will only be eliminated when racism and cultural stereotyping have been eliminated from the police forces of this country. Cultural and sensitivity screening and training of all police officers will be critical components of this process.

Additional problems arise with police handling of situations involving battered immigrant women where the police officer and the woman do not speak the same language. In such situations, the officer often ends up speaking only to the husband. The story which the police get is thus very one-sided and self-interested. The battered woman is not likely to see her rights as being protected when the communication takes place solely between her batterer and the police. Alternatively, police will sometimes use the couple's children to interpret for the mother. Not only does this create similar problems of distortions in interpretation, but places the children in a difficult and potentially damaging relationship.

Many women are more comfortable talking to a woman than a man about their experience of battering. This may be particularly true for immigrant women from cultures in which women do not generally engage in personal conversations with men other than their husbands. A woman should always at least be given the option of talking to a female police officer.

The problem of police advising the battered woman to lay the charge against her batterer herself, rather than having a police-laid charge, is of major concern to all assaulted women. Despite the directive from the Ontario Attorney-General to the contrary, the A.R.A. report found that police are not laying the charges in the majority of the wife assault cases to which they are called. Difficult as it is for any woman to muster the courage and confidence to go down to the Justice of the Peace and herself lay an assault charge against her partner, it is much more difficult for most immigrant women, particularly those who speak neither English nor French. The failure of police to lay charges in these circumstances effectively means that no charges are laid, not because no abuse has occurred, but because women are not being given proper protection and assistance.

Police play a critical role as a battered woman's first contact with the criminal justice system. Special attention needs to be paid to ensure that they play this role sensitively and with a sympathetic understanding of the particular needs and problems of battered immigrant women.

RECOMMENDATION: Affirmative action programs be initiated to hire multilingual police officers from a variety of racial and cultural backgrounds, with a particular emphasis on the hiring of women from these groups. Cultural sensitivity be instituted as a substantial component of all police training. And similarly, education on battering and other forms of violence against women be mandatory training for all police officers.

All battered women should be offered the option of speaking with a female police officer. Where there is not a police officer available to speak to the complainant in her own language, a translator needs to be provided by the police department.

Police should be required to lay the charges in all situations where there is reasonable and probable grounds to believe that an offence has, or is about to be, committed.

4. Translation Services

Where the battered immigrant woman speaks neither English nor French, translation services need to be provided for all stages and aspects of any legal proceedings. These services need to be available to the woman without charge. Translators are presently provided for actual court hearings, but for preliminary and related matters, the victim is expected to bring her own translator. This includes, for example, situations where the woman has to lay

the charge herself before the Justice of the Peace. Battered immigrant women are forced to rely upon their children, relatives or friends to translate for them, a situation which can be embarrassing, uncomfortable, unreliable, distorting and damaging for the battered woman and for the person whom she brings to translate.

It is critical that those who are employed by the court or any other agency or service to translate for battered women be trained in the issue of wife assault and screened for sensitivity to the issue. Otherwise, there is a risk of the translator adding his or her own interpretation in the process of the translation or adding her/his advice or opinion, unbeknownst to any of the parties involved in the communication. Lawyers, for example, not infrequently find that the translator has been advising their client to return home to her abusive husband in-between the advice which the lawyer is trying to communicate.

RECOMMENDATION: Translation services be available free of charge to any battered woman who requires them and for all legal matters.

Translators should be screened for their sensitivity to wife assault and especially trained in the issues and dynamics of wife battering.

5. The Courts

The experience of going to court and testifying against her battering spouse may be more difficult for an immigrant women. The unfamiliarity of the setting, the fear and uncertainty and the sense of isolation may be exacerbated for an immigrant woman, especially if she does not speak English or French and has to rely upon a translator in order to communicate or understand what is going on. Racist attitudes and cultural stereotypes are as prevalent among court personnel as within the rest of the population.

The services of either a legal or lay advocate should be available to battered immigrant women who feel the need for support and assistance through the criminal proceedings. Crowns should be sure to take the time to meet the victim well before the date of the hearing and fully explain the process and her role in it.

There is no information available on the particular experiences of battered immigrant women in the courtroom which would enable an assessment on whether and to what extent the fact that they are immigrants has an impact on how she and/or her partner is treated by the court.

There are, no doubt, numbers of cases where either the victim or the accused, or both, have been treated more

harshly or in a different manner because they are immigrants.¹² These situations need to be dealt with clearly and firmly as an indication that discrimination and racism will not be tolerated within our court system.

These same concerns apply in civil cases as well, and should be dealt with in the same manner.

RECOMMENDATION: All court personnel be required to take cultural sensitization training and be educated on the issue of wife assault. Legal or lay advocates should be available to accompany battered immigrant women to court if they feel they need such support or assistance. Crowns should meet the victims well before the date of any court hearing and fully explain the process and her role in it.

Any court personnel (from clerk, to crown, to judge) who deals with an immigrant person who is before the court in a discriminatory manner should be disciplined immediately. The public should be made aware of efforts from within the legal system to eradicate its own discrimination in order to mitigate the fears of immigrant populations in this regard.

6. Legal Aid

Legal Aid fails to make essential services available to battered immigrant women in at least two situations. Battered women who do not speak either English or French are often denied a Legal Aid certificate for such matters as Provincial Court custody or support applications. Legal Aid assumes that these are matters which the applicant can handle on her own, an assumption which is totally inaccurate for women who do not speak the dominant language.

Legal Aid does not pay for translation services, which means that where the battered woman does not speak the same language as her lawyer, she is again forced to rely upon family or friends.

Many lawyers who are multilingual are not very sensitive to the issue of wife battering and allow their own values rather than the needs of their client to dictate the legal advice which they provide.

RECOMMENDATION: A Legal Aid certificate should be available to a battered woman who does not speak either English or French for any and all legal services which she requires, including the cost of translation services, if required, for interviews with her lawyer. Legal Aid should provide cultural sensitization and education on wife battering to lawyers who represent battered immigrant women. Such training should be a

prerequisite to the issue of a Legal Aid certificate to any lawyer acting for a battered immigrant woman. Lawyers should be paid by Legal Aid for the time which they spend in such training.

V. CONCLUSION

In this report, we have outlined the key issues which serve to disadvantage battered immigrant women and the ways in which government and social service programs fail to alleviate these problems. Language and cultural barriers and the vulnerability created by the battered woman's immigration status are the most significant factors in this regard. These problems can be mitigated, if not eliminated. The following are some steps which can be taken immediately:

1. Funds need to be made available to address the concerns particular to battered immigrant women.
2. Resources and programs need to be developed to meet the specific needs of battered immigrant women.
3. Language training needs to be made effectively available to all immigrant women.
4. A focus on hiring multilingual, multicultural staff in all forums which come into contact with battered immigrant women needs to be established. All such staff should be provided with cultural sensitization training and education on wife assault.
5. Immigration policy needs to be changed so that no battered woman risks deportation if she leaves her battering husband.

We hope that this report provides the impetus needed to get these programs started. Status of Women Canada can and should play a major advocacy role on behalf of immigrant women; but the direction and focus for that advocacy must come from immigrant women themselves. The programs and resources discussed in this report must be developed by immigrant women because it is they who know and understand the issues involved.

APPENDIX

The following are our brief responses to the specific questions directed to us in the memo of Josée Normandin, dated February 28, 1986.

1. Does the immigrant woman have access to welfare if her sponsor withdraws his support? Does it depend on the province of residence?

An immigrant woman who is awaiting her permanent residence status is at risk of deportation if she is in a position where she needs to apply for welfare (i.e., her sponsorship has broken down). If she is allowed to stay in Canada, she is eligible for welfare under the same terms as a permanent resident. Most provinces require an official confirmation of sponsorship breakdown from the Immigration Commission before an immigrant woman can receive welfare.

2. If the sponsored immigrant woman does not work and her assaulter is sent to jail, what are her possible means of support? Is she allowed to remain in Canada?

The fact that the batterer is sent to jail should not be a factor with respect to deportation of the wife or her eligibility for welfare. The answer to this question, therefore, is the same as to Question 1 above. It may be, however, that in practice an immigrant woman awaiting permanent residence status is at a higher risk of deportation, because this is a discretionary matter.

3. Who is paying for her per diem following her stay in a transition house (or safe home)? Is there any arrangement between the municipal, provincial and federal levels of government?

Per diems apply to stays in transition homes and, accordingly, we assume that this is the intent of the question. Per diems are funded through a joint municipal, provincial and federal program and administered by the municipality. In some jurisdictions, the per diem is available for all shelter residents; in others, only residents who otherwise qualify for welfare are eligible for the per diem. This means that shelters in these latter jurisdictions may give housing to immigrant women without receiving funds for the provision of this service. This places an unfair burden on these transition houses and leaves some battered immigrant women at risk of being denied shelter.

4. What is the role of the courts in cases of family violence in immigrant families?

The role of the courts in cases of wife abuse should be the same in immigrant families as in non-immigrant families: to provide assistance and protection to the battered woman and her children and to punish and deter the offender. The particular problems encountered by immigrant women in the legal process are discussed in the main body of the report.

5. Where could transition houses get help and financial support in their betterment of services provided to immigrant women? CEIC?

Special funds need to be made available by all levels of government and a number of departments (for example, Secretary of State, Immigration, Status of Women, Community and Social Services, Multiculturalism, Hostel Operations) to assist transition houses and other services in bettering the services which they provide to immigrant women. One of the major problems is that these funds have generally not been available to date. Once funding is in place, the help itself must come from immigrant women. It is immigrant women who must be hired to set up the programs and develop the resources.

RECOMMENDATIONS

1. Materials explaining the immigration process and one's rights as an immigrant should be made available in a variety of languages and distributed in workplaces, child care facilities, ESL classes, ethnic shopping areas, immigrant community agencies, etc. Such information should be provided to any woman who is being sponsored by her husband, either in her country of origin, or when the application for permanent residence is made from within Canada.
2. The sponsored person should be added as a party to the sponsorship contract so as to enable her to sue the sponsor for support under the sponsorship agreement or sue the government for enforcement of the sponsor's undertaking. However, such a right should in no way affect the sponsored person's eligibility for social assistance.
3. The breakdown of a sponsorship undertaking due to abuse by the husband should per se constitute compassionate and humanitarian grounds under which the abused wife is automatically granted permanent residence.

Alternatively, the husband's support obligations under provincial family law should be taken into consideration in assessing the wife's ability to become successfully established in Canada.

Alternatively, women awaiting permanent residence status whose sponsorship has been withdrawn should be granted a Minister's Permit for a period of one year, in which time the woman would have the opportunity to prove her ability to become successfully established in Canada.

4. Intensive language training be made available to all immigrants to Canada who speak neither English nor French, regardless of their connection to the paid labour force. Programs must be long enough to enable the participants to attain fluency in the language. All participants must be eligible for the full time that they participate in the language training program. Child care services must be offered in conjunction with all language training programs.
5. Immigrant women should be specifically targeted for job entry and retraining programs in an effort to break down the job ghettoization of immigrant women and to open up new job opportunities for them. Intensive language training programs and child care must be included as essential components of all job training programs. Affirmative action programs should

specifically target immigrant women at all levels - training, hiring, and promotion.

6. A sponsored immigrant whose sponsorship agreement has broken down should be eligible for social assistance without written authorization from Immigration. Immigrants should be eligible for social assistance on the same basis as non-immigrants.
7. A sponsored immigrant whose sponsorship agreement has broken down should be eligible for subsidized housing without written authorization from the immigration authorities. Immigrants should be eligible for government-assisted housing on the same basis as non-immigrants.
8. A special program should be established to provide ongoing funds for cross-cultural training for shelter staff. Special affirmative action programs should be set up to train women with multilingual, multicultural skills to work in shelters. Additional monies need to be made available for the establishment of shelters specifically designed to meet the needs of battered immigrant women.
9. Funds need to be directed toward the large scale development of second-stage housing for women. Special funds need to be made available to ensure that such programs respond to the particular needs of immigrant women.
10. Information sessions and materials outlining Canadian law of particular concern to women and services available to assist immigrant women with legal problems or questions should be made available in a variety of languages and provided to immigrant women upon their entry into Canada and distributed in workplaces, child care facilities, ESL classes, ethnic shopping areas, immigrant community agencies, etc.
11. Affirmative action programs should be initiated in hiring multilingual police officers from a variety of racial and cultural backgrounds, with a particular emphasis on the hiring of women from these groups. Cultural sensitivity be instituted as a substantial component of all police training. And similarly, education on battering and other forms of violence against women should be mandatory training for all police officers.

All battered women should be offered the option of speaking with a female police officer. Where there is not a police officer available to speak to the

complainant in her own language, a translator needs to be provided by the police department.

Police should be required to lay charges in all situations where there is reasonable and probable grounds to believe that an offence has, or is about to be, committed.

12. Translation services should be available free of charge to any battered woman who requires them and for all legal matters.

Translators should be screened for their sensitivity to wife assault and especially trained in the issues and dynamics of wife battering.

13. All court personnel should be required to take cultural sensitization training and be educated on the issue of wife assault. Legal or lay advocates should be available to accompany battered immigrant women to court if they feel they need such support or assistance. Crowns should meet the victims well before the date of any court hearing and fully explain the process and her role in it.

Any court personnel (from clerk to crown to judge) who deals with an immigrant person who is before the court in a discriminatory manner should be disciplined immediately. The public should be made aware of efforts from within the legal system to eradicate its own discrimination in order to mitigate the fears of immigrant populations in this regard.

14. A Legal Aid certificate should be available to a battered woman who does not speak either English or French for any and all legal services which she requires, including the cost of translation services, if required, for interviews with her lawyer. Legal Aid should provide cultural sensitization and education on wife battering to lawyers who represent battered immigrant women. Such training should be a prerequisite to the issue of a Legal Aid certificate to any lawyer acting for a battered immigrant woman. Lawyers should be paid by Legal Aid for the time which they spend in such training.