

INTIMATE PARTNER VIOLENCE AGAINST ASIAN AMERICAN WOMEN: MOVING FROM THEORY TO STRATEGY

DONNA H. LEE\*

*Despite theoretical advances in understanding intimate partner violence (IPV), practical strategies for addressing the destruction it wreaks on individuals, families, and communities have stagnated. Criminal prosecutions of domestic violence, legal services to help IPV survivors obtain civil orders of protection, emergency shelters, and social services counseling provide help, but fall short. Examining social science data through an intersectional lens, this Article generates new approaches that are tailored to a specific demographic group: Asian American women. Analysis of the research done by social workers, sociologists, psychologists, and organizers about the experiences of Asian American IPV survivors yields three conceptual frames: individual, situational, and structural. I use these frames to construct and support specific proposals for working with women who choose to stay with their abusive partners, and for effecting systemic change in state court systems.*

TABLE OF CONTENTS

INTRODUCTION \_\_\_\_\_ 316

I. Providing Context \_\_\_\_\_ 319

    A. The Work that Went Before \_\_\_\_\_ 319

    B. Describing Asian American Women \_\_\_\_\_ 322

II. Interpreting Data and Conceptualizing Categories \_\_\_\_\_ 328

    A. Understanding the Social Science Literature \_\_\_\_\_ 328

    B. Individual Factors: The Prism of Culture \_\_\_\_\_ 332

        1. Family Primacy \_\_\_\_\_ 333

        2. Patriarchy \_\_\_\_\_ 335

        3. Gender Role Norms \_\_\_\_\_ 337

    C. Situational Factors: Immigrant Experiences \_\_\_\_\_ 339

        1. Patrilocalty \_\_\_\_\_ 339

        2. Economic Dislocation \_\_\_\_\_ 341

        3. Isolation \_\_\_\_\_ 342

III. Structural Factors and External Impediments \_\_\_\_\_ 344

    A. State Courts' Continuing Failure to Provide Necessary Interpretation Services \_\_\_\_\_ 346

- B. Racialized Opposition to Opening A Domestic Violence Shelter For Asian American Women 349
- IV. The Work that Lies Ahead 354
  - A. Helping Asian American Women Who Stay 355
    - 1. Thinking Expansively About Safety Planning 356
    - 2. Building Supportive Communities 359
    - 3. Implementing an Anti-Subordination Principle 362
  - B. Helping Asian American Women Who Go To Court 364
    - 1. Providing Language Access 365
    - 2. Improving Fact-Finding and Remedies 366
- CONCLUSION 369

INTRODUCTION

This Article seeks to move from a theoretical discussion about violence against Asian American women to evidence-based proposals for addressing the problem. Critical race theory and feminist theory have long called for the inclusion of other voices in the discourse about our individual and collective experiences. Scholars and activists have worked to recognize and name the ways in which race and gender shape our perspectives and choices. Understanding and describing, however, is not enough. The next step is to prescribe: how can we use the insights we gain through particularized examination? Focusing on a defined problem as experienced by a discrete demographic population, I conclude by proposing strategies that are targeted to assist Asian American women. The problem is intimate partner violence (IPV)—that is, violence between people who are or have been

in an intimate partner relationship.<sup>1</sup> The population is Asian American women,<sup>2</sup> and the proposals are rooted in their experiences.<sup>3</sup>

Mining social science research,<sup>4</sup> I first analyze IPV against Asian American women through two lenses: individual and situational. These lenses represent an internal, identity-based perspective and an outward looking perspective. The studies that discuss individual identity reveal culturally-defined (1) family primacy, a presumption that family interests trump individual interests, (2) patriarchy, and (3) gender role norms as risk factors for IPV and barriers to help-seeking behavior. Consideration of situational factors is dominated by the immigrant experiences of the more than half of Asian Americans who are

---

\* Professor of Law, CUNY School of Law. There are many people to thank: Bob Chang and Karin Wang, who encouraged me at the inception of this project at a CAPALF conference; Sumi Cho, Kimberlé Crenshaw, Adele Morrison, and Song Richardson who gave me valuable input at a CRT conference; my clinical colleagues who participated in Mid-Atlantic and New York clinical theory workshops, organized by David Chavkin and Steve Ellmann; my friends and collaborators at CUNY, including Michelle Anderson, Maria Arias, Wendy Bach, Sue Bryant, Janet Calvo, Rachel Gabriel, Martha Garcia, Julie Goldscheid, Andrea McArdle, Jenny Rivera, and Ruthann Robson; and Jack Chin, Leigh Goodmark, Suzanne Kim, Ray Lohier & Emily Sack who generously read drafts along the way. I am also grateful to many CUNY law students, and particularly Andrea Bible, for providing excellent research assistance; to the Professional Staff Congress—City University of New York for providing a research grant; and to Stacy Caplow for giving me an office in Brooklyn to complete this project.

1 See ELIZABETH M. SCHNEIDER, BATTERED WOMEN & FEMINIST LAWMAKING 45–46, n.37 (2000) (describing the “domestic violence” naming problem); Jenny Rivera, *Intimate Partner Violence Strategies: Models for Community Participation*, 50 ME. L. REV. 283, 283 n.2 (1998) (explaining her use of IPV). I use a broad definition of IPV, including physical, psychological, sexual, economic, and immigration abuse. See Shamita Das Dasgupta, *Charting the Course: An Overview of Domestic Violence in the South Asian Community in the United States*, 9 J. SOC. DISTRESS & HOMELESS 173, 176 (2000) [hereinafter Dasgupta, *South Asian Overview*] (listing multiple forms of abuse); cf. EVAN STARK, COERCIVE CONTROL: THE ENTRAPMENT OF WOMEN IN PERSONAL LIFE 83–111 (2007) (discussing difficulties of defining abuse). I use the term “survivor” rather than “victim” to recognize the agency that women exercise even while suffering abuse from an intimate partner.

2 See discussion *infra* Part I.B.

3 See discussion *infra* Part IV.

4 My interest in this topic and analysis of these studies has been shaped through my work and volunteer experiences. I have been privileged to teach in the Battered Women’s Rights Clinic at CUNY Law School, representing survivors of IPV in Family Court and on immigration matters. I also have had the joy of serving first as a volunteer, later as board chair, and currently as advisory board chair of the New York Asian Women’s Center (NYAWC). NYAWC is an organization whose mission is to help “women and their children overcome domestic violence and other forms of abuse by empowering them to govern their own lives,” and “raise public awareness about violence against women, advocate[] for the rights of survivors, and act[] as an agent of social change.” See NEW YORK ASIAN WOMEN’S CENTER, <http://www.nyawc.org> [<http://perma.cc/YBM5-MZJX>] (last visited Feb. 11, 2015).

foreign born.<sup>5</sup> The social science literature identifies the following external circumstances correlated with IPV: (1) patrilocality, or physical proximity to one's patrilineal family, (2) economic dislocation, and (3) multiple forms of isolation.

Refocusing more broadly, I next examine how societal and governmental structures intersect to exacerbate the problem of IPV against Asian American women. This third, structural lens reveals an immigration system that empowers abusers, and the continuing failure of state courts to provide adequate interpretation services. These institutional barriers deny Asian American women equal access to the courts. State court systems adjudicate civil orders of protection, custody and visitation, child support, and divorce cases, and the failure to provide adequate interpretation renders critical legal remedies unavailable. A case study of a local New York City community's racialized opposition to opening a domestic violence shelter for Asian American women and children provides one example of the particularized structural barriers facing Asian American survivors.

The work of effecting change for individuals, their families, and their communities requires both long- and short-term strategies. For many Asian American women, the cultural pull of family primacy and the post-immigration construction of family as a site of refuge on unfamiliar shores require the development of alternatives for those who choose to stay with their abusive intimate partners. Shifting from the prevailing paradigm of conditioning assistance on the act of leaving necessitates a focus on home-based strategies. Patrilocality and the enabling behavior of family members, whether acquiescence or participation in abuse, calls for education in the community and in the courts. Naturally, real access to state court remedies, like civil court orders of protection, depends on providing adequate interpretation services.

Part I provides the theoretical and empirical context for this Article. I review the scholarly literature on IPV against women of color, reexamining the relevance of culture. Using census data, I then outline pertinent demographic information. Part II analyzes the social science literature on IPV against Asian American women from the six country groups that census data identifies as having the largest populations in the United States. Part III explicates structural impediments that limit options for Asian American women who experience IPV. Part IV outlines two strategic approaches for working with Asian American survivors: (1) developing frameworks for supporting those who choose to stay in abusive relationships, and (2) identifying reforms and training that would improve access to and the effectiveness of civil orders of protection.

---

5 See *infra* notes 37–38 and accompanying text.

## I. Providing Context

### A. The Work that Went Before

The idea of moving women of color from the margins to the center of analysis and discussion has been in the public discourse for over twenty-five years.<sup>6</sup> One element of this centering process has been an examination of the intersection of race and gender in the context of IPV.<sup>7</sup> The shift from treating violence against women as a private matter to recognizing it as a public matter, subject to legal and governmental regulation, represents critical progress. Yet, the development of public responses to IPV has been critiqued as too narrowly focused on the concerns of white, middle-class women.<sup>8</sup> While women of different races and ethnicities experience gender violence differently, systemic responses such as shelters for battered women and the criminalization of domestic violence were developed for women in general. In practice, white women have served as a proxy for “women in general.”

Social science and legal scholarship that focuses on racial identity and racialized structural subordination has analyzed how IPV is experienced by women of color.<sup>9</sup> This schol-

6 See BELL HOOKS, *FEMINIST THEORY: FROM MARGIN TO CENTER* (2d ed. 1984); ELIZABETH SPELMAN, *THE INESSENTIAL WOMAN: PROBLEMS OF EXCLUSION IN FEMINIST THOUGHT* (1988); Angela P. Harris, *Race and Essentialism in Feminist Legal Theory*, 42 STAN. L. REV. 581 (1990).

7 Clearly other considerations such as age, class, disability, ethnicity, immigration status, religion, sexual orientation, and gender identity are relevant to an examination of IPV against women of color. See Mari J. Matsuda, *Beside My Sister, Facing the Enemy: Legal Theory Out of Coalition*, 43 STAN. L. REV. 1183, 1190–92 (1991) (recognizing overlapping identities and multiple oppressions). I seek to respect these other elements of identity while focusing on race and gender, and to build on the work of scholars who have and continue to center the experiences of Asian, African, Latina, and Native American women.

8 See DOMESTIC VIOLENCE AT THE MARGINS 1–10 (Natalie J. Sokoloff ed., 2005) (advocating greater focus on “marginalized” battered women); SCHNEIDER, *supra* note 1, at 62–65 (recognizing tension between particularity and generality); Adele M. Morrison, *Changing the Domestic Violence (Dis)Course: Moving from White Victim to Multi-Cultural Survivor*, 29 U.C. DAVIS L. REV. 1061 (2006); Kimberlé Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, 43 STAN. L. REV. 1241 (1993).

9 See, e.g., BODY EVIDENCE: INTIMATE VIOLENCE AGAINST SOUTH ASIAN WOMEN IN AMERICA (Shamita Das Dasgupta ed., 2007) [hereinafter BODY EVIDENCE]; MARGARET ABRAHAM, *SPEAKING THE UNSPEAKABLE: MARITAL VIOLENCE AMONG SOUTH ASIAN IMMIGRANTS IN THE UNITED STATES* (2000) [hereinafter ABRAHAM, *SPEAKING THE UNSPEAKABLE*]; BETH E. RICHIE, *COMPELLED TO CRIME: THE GENDER ENTRAPMENT OF BATTERED BLACK WOMEN* (1996); Rebecca A. Hart & M. Alexander Lowther, *Honoring Sovereignty: Aiding Tribal Efforts to Protect Native American Women from Domestic Violence*, 96 CAL. L. REV. 185 (2008); Raquel J. Gabriel, *Minority Groups and Intimate Partner Violence: A Selected Annotated Bibliography*, 10 ST. THOMAS L. REV. 451 (2007); Donna Coker, *Enhancing Autonomy for Battered Women: Lessons from Navajo Peacemaking*, 47 U.C.L.A.

arship describes the ways in which existing legal and social service responses have fallen short.<sup>10</sup> One common critique is the problematic impact of criminal justice responses to IPV in communities of color.<sup>11</sup> The use of marriage-related immigration laws by abusive U.S. citizen and legal permanent resident husbands to subordinate their immigrant women wives has also been much examined.<sup>12</sup> Another theme is the impact of racial discrimination

---

L. REV. 1 (1999); cf. INTIMATE BETRAYAL: DOMESTIC VIOLENCE IN LESBIAN RELATIONSHIPS (Ellyn Kaschak ed., 2001); JODY RAPHAEL, *SAVING BERNICE* (2000) (intersection of poverty and intimate partner violence); SUSAN WEITZMAN, *NOT TO PEOPLE LIKE US: HIDDEN ABUSE IN UPSCALE MARRIAGES* (2000); CRITICAL RACE FEMINISM (Adrien Katherine Wing ed., 1997); Ruthann Robson, *Lavender Bruises: Intra-Lesbian Violence, Law and Lesbian Legal Theory*, 20 GOLDEN GATE U. L. REV. 567 (1990).

10 See, e.g., Morrison, *supra* note 8 at 1097–118 (explaining goal of reconstructing a multicultural battered woman identity, empowerment process, and legal practice); Leti Volpp, *On Culture, Difference, and Domestic Violence*, 11 AM. U.J. GENDER SOC. POL'Y & L. 393, 395–97 (2003) (critiquing use of culture to essentialize Asian American women); Donna Coker, *Shifting Power for Battered Women: Law, Material Resources, and Poor Women of Color*, 33 U.C. DAVIS L. REV. 1009, 1014–20, 1025–32 (2000) [hereinafter Coker, *Material Resources*] (highlighting language access, economic, and separation/safety issues of Latina survivors and advocating for greater focus on providing access to material resources); Rivera, *supra* note 1, at 286–91 (critiquing IPV legislative and policy decision-making process based on lack of participation by communities of color); Jenny Rivera, *Domestic Violence Against Latinas by Latino Males: An Analysis of Race, National Origin, and Gender Differentials*, 14 B.C. THIRD WORLD L.J. 231, 234–42 (1994) (discussing effect on IPV against Latinas of limited socioeconomic mobility, stereotyping, cultural gender roles, and community norms); cf. Harris, *supra* note 6, at 585–90 (describing gender essentialism and calling for the use of “explicitly tentative, relational, and unstable” categories).

11 See, e.g., Andrea Smith, *Looking to the Future: Domestic Violence, Women of Color, the State, and Social Change*, in DOMESTIC VIOLENCE AT THE MARGINS, *supra* note 8, at 420–25 (asserting that over reliance on criminalization has detracted from “grassroots, political organizing strategies”); Andrea J. Richie, *Law Enforcement Violence Against Women of Color*, in COLOR OF VIOLENCE: THE INCITE! ANTHOLOGY 138–56 (2006) (discussing additional complication of law enforcement officers who abuse women of color); Leigh Goodmark, *Law Is the Answer? Do We Know that for Sure?: Questioning the Efficacy of Legal Interventions for Battered Women*, 23 ST. LOUIS U. PUB. L. REV. 7, 36–38 (2004) (noting that African American, Latina, and Asian American women may be reluctant to call police); Sarah M. Buel, *The Pedagogy of Domestic Violence Law: Situating Domestic Violence Work in Law Schools, Adding the Lenses of Race and Class*, 11 AM. U.J. GENDER SOC. POL'Y & L. 309, 318–23 (2003) (“[The] criminal justice system’s racial bias contributes to many battered women of color feeling reluctant to call the police for help.”).

12 See, e.g., Janet Calvo, *A Decade of Spouse-Based Immigration Laws: Coverture’s Diminishment, But Not Its Demise*, 24 N. ILL. U. L. REV. 153 (2004) (exploring how spouse-based immigration laws, particularly in the area of mail-order brides, sanctions husbands’ domination over their wives); Leslye E. Orloff & Janice V. Kaguyutan, *Offering a Helping Hand: Legal Protections for Battered Immigrant Women: A History of Legislative Responses*, 10 AM. U. J. GENDER SOC. POL'Y & L. 95 (2001) (providing “overview of the history of legislative protections for battered immigrant women in the United States”); Karyl Alice Davis, Comment, *Unlocking the Door By Giving Her the Key: A Comment on the Adequacy of the U-Visa as a Remedy*, 56 ALA. L. REV. 557 (2004); Sarah M. Woods, *VAWA’s Unfinished Business: The Immigrant Women Who Fall Through*

on the ability of women of color to leave their abusers. Racialized difficulties in finding decent, affordable housing and employment that pays a living wage impact poor women of color differently than their white counterparts.<sup>13</sup> Immigrant women with limited English proficiency additionally confront severe language access problems in obtaining social services and family court legal remedies. Racial and ethnic stereotyping creates credibility problems for women of color who do not conform to constructed notions of “deserving” IPV survivors.<sup>14</sup>

Although much of the legal scholarship about the role of culture in relation to IPV in communities of color focuses on cultural defenses asserted during a criminal prosecution,<sup>15</sup> my inquiry is different. I seek to center Asian American women affected by IPV not as criminal defendants, but as survivors who need access to resources, such as civil legal remedies. Although simplified, stereotypical notions of culture have been used to essentialize women of color,<sup>16</sup> culture can be a useful explanatory tool.<sup>17</sup> Social scientists have docu-

---

*the Cracks*, 11 DUKE J. GENDER L. & POL’Y 141 (2004); see generally Kerry Abrams, *Immigration Law and the Regulation of Marriage*, 91 MINN. L. REV. 1625 (2007) (“mapping the architecture of marriage regulation in immigration law”).

13 See Crenshaw, *supra* note 8, at 1245–50 (describing how women of color experience IPV in structurally and qualitatively different ways than white women, based on socio-economic background, racial discrimination, immigration status, cultural background, language barriers, and access to services).

14 See Linda L. Ammons, *Mules, Madonnas, Babies, Bath Water, Racial Imagery and Stereotypes: The African-American Woman and the Battered Woman Syndrome*, 1995 WIS. L. REV. 1003, 1017–30 (1995) (describing how stereotyping, disparate police response, the lack of economic resources, and race loyalty can impede efforts to help African American survivors).

15 See Cynthia Lee, *Cultural Convergence: Interest Convergence Theory Meets the Cultural Defense*, 49 ARIZ. L. REV. 911, 913 n.6 (2007) (collecting articles); see also Leti Volpp, *Talking “Culture”: Gender, Race, Nation, and the Politics of Multiculturalism*, 96 COLUM. L. REV. 1573 (1996); Holly Maguigan, *Cultural Evidence and Male Violence: Are Feminist and Multiculturalist Reformers on a Collision Course in Criminal Courts*, 70 N.Y.U. L. REV. 36 (1995); Leti Volpp, *(Mis)Identifying Culture: Asian Women and the “Cultural Defense,”* 17 HARV. WOMEN’S L.J. 57 (1994).

16 See, e.g., SHERENE H. RAZACK, *LOOKING WHITE PEOPLE IN THE EYE: GENDER, RACE, AND CULTURE IN COURTROOMS AND CLASSROOMS* 19–20 (1998) (criticizing conceptualization of cultural difference apart from histories of colonization and subordination); Leti Volpp, *Feminism Versus Multiculturalism*, 101 COLUM. L. REV. 1181, 1186–95 (2001) [hereinafter Volpp, *Feminism*] (critiquing one-sided assumption that people of color act in accordance with culture while white people exercise free choice: “‘They burn their women there [in South Asia].’ As opposed to: ‘We shoot our women [here].’”).

17 Cf. Volpp, *Feminism*, *supra* note 16, at 1217 (asserting need to understand how various cultures are differently patriarchal). Better to recognize the “culturalized” aspects of European American perspectives and behavior, rather than “decolonize” Asian American perspectives and behavior.

mented the effect of culture on how Asian American women define the problem of IPV and envision potential solutions.<sup>18</sup>

While every individual's background, experience, and situation is unique, commonalities within the broad, heterogeneous category of "Asian American women" exist and are documented in the social science literature about IPV in Asian American communities.<sup>19</sup> Advocating for change at the level of systems and institutions obviously requires generalization about the experiences of Asian American women. This must be coupled, however, with an explicit understanding that what holds true in general may not apply in a specific situation.<sup>20</sup> Critical race theory and feminist theory created a sea change by challenging conventional perspectives and policies regarding IPV. Instead of assuming that the experiences of white women are universal, the scope of investigation has broadened to include women of color. Likewise, an explicit recognition of patriarchy has shifted the conversation away from pathologizing survivors of IPV. The next step is to use this enriched understanding in a particularized context—to more effectively address IPV against Asian American women.

## B. Describing Asian American Women

Putting Asian American women at the center begs the definitional question: who exactly are we centering? Why draw the boundary around women of Asian heritage in America rather than focusing more narrowly, for example, on women of Hmong descent?<sup>21</sup> I chose a larger, more heterogeneous population for three reasons. First, adopting an Asian American construct has the important political and strategic effect of reinforcing the saliency and

---

18 See *infra* Part II.B.

19 See discussion *infra* Parts II.B, II.C.

20 Cf. Paul R. Tremblay & Carwina Weng, *Multicultural Lawyering: Heuristics and Biases*, in *THE AFFECTIVE ASSISTANCE OF COUNSEL* 143–82 (Marjorie A. Silver ed., 2007) (advocating use of heuristics to identify potential cultural difference, together with an attitude of “informed not-knowing” to counteract stereotyping); Carwina Weng, *Multicultural Lawyering: Teaching Psychology to Develop Cultural Self-Awareness*, 11 *CLINICAL L. REV.* 369, 396–401 (2005) (advocating for lawyers and law students to develop greater awareness of their own cultures); cf. Sunita Puri, *The Trap of Multiculturalism: Battered South Asian Women and Health Care*, in *BODY EVIDENCE*, *supra* note 9, at 150 (identifying concept of “cultural humility” as an approach for structuring physician responses to difference).

21 See, e.g., Deirdre Evans-Pritchard & Alison Dundes Renteln, *The Interpretation and Distortion of Culture: A Hmong “Marriage by Capture” Case in Fresno, California*, 4 *S. CAL. INTERDISC. L.J.* 1 (1995); Choua Ly, Comment, *The Conflict Between Law and Culture: The Case of the Hmong in America*, 2001 *WIS. L. REV.* 471 (2001).



power of an Asian American identity.<sup>22</sup> Second, advocating for change in societal responses and court processes requires a numerically credible assertion of need. Third, the social science literature reveals commonalities in the experiences of country-specific groups within the category of Asian American.<sup>23</sup>

The United States Census Bureau has significantly shaped and framed racial identity in America through the formulation of census questionnaires over past decades. The way that census data is collected and coded has established schema for conceptualizing race, and often given Asian Americans the option of identifying with their particular country of origin. The Census 2000 and 2010 questions about race provided a choice of six Asian country-based boxes to check (Asian Indian, Chinese, Filipino, Japanese, Korean, and Vietnamese), and three Pacific Islander boxes.<sup>24</sup> In contrast, they provided only one box for "Black, African Am., or Negro," without, for example, an additional "Black/Caribbean Am." option.<sup>25</sup> In terms of Latino/a identity, they asked about respondents' potential identification as "Spanish/Hispanic/Latino" in a separate question preceding the race question.<sup>26</sup> The Census Bureau defines "Asian" as "people having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent (for example, Cambodia, China,

---

22 See RONALD TAKAKI, *STRANGERS FROM A DIFFERENT SHORE: A HISTORY OF ASIAN AMERICANS* (1998). "There are no Asians in Asia, only people with national identities . . . . But on this side of the Pacific there are Asian Americans. This broader identity was forged in the crucible of racial discrimination and exclusion: their national origins did not matter as much as their race." *Id.* at 502.

23 While recognizing that gender, like race, is constructed, I focus on Asian American *women* for similar instrumental reasons—to advocate for systemic changes.

24 See U.S. CENSUS BUREAU, 2010 QUESTIONNAIRE REFERENCE BOOK 27–28 (2010), available at [http://www.census.gov/2010census/partners/pdf/langfiles/qrb\\_English.pdf](http://www.census.gov/2010census/partners/pdf/langfiles/qrb_English.pdf) [<http://perma.cc/2J6M-7GY7>] [hereinafter 2010 CENSUS]; JESSICA S. BARNES & CLAUDETTE E. BENNETT, *THE ASIAN POPULATION: 2000* 1 (2002), available at <http://www.census.gov/prod/2002pubs/c2kbr01-16.pdf> [<http://perma.cc/J9A7-Z2DE>] [hereinafter ASIAN POPULATION 2000]. The listed Pacific Islander response categories were Native Hawaiian, "Guamanian or Chamorro," and Samoan; and there were two catch-all options, "Other Asian" and "Other Pacific Islander." *Id.*

25 See 2010 CENSUS, *supra* note 24, at 27. Thus, Asian Pacific Americans had eleven potential categories from which to choose, and there were four other categories: "Black, African Am., or Negro," "White," "American Indian or Alaska Native," and "Some other race." *Id.* at 27–29.

26 See *id.* at 26; KAREN R. HURES, ET AL., *OVERVIEW OF RACE AND HISPANIC ORIGIN: 2010* 1 (2011), available at <http://www.census.gov/prod/cen2010/briefs/c2010br-02.pdf> [<http://perma.cc/7QK9-R5HH>] [hereinafter RACE OVERVIEW 2010] (reproducing Spanish/Hispanic/Latino question); ELIZABETH M. GRIECO & RACHEL C. CASSIDY, *OVERVIEW OF RACE AND HISPANIC ORIGIN, CENSUS 2000 BRIEF* 1 (2001), available at <http://www.census.gov/prod/2001pubs/c2kbr01-1.pdf> [<http://perma.cc/9YES-FGR3>] [hereinafter RACE OVERVIEW 2000] (same). See generally CLARA E. RODRIGUEZ, *CHANGING RACE: LATINOS, THE CENSUS, AND THE HISTORY OF ETHNICITY IN THE UNITED STATES* (2000).

India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam).”<sup>27</sup>

The formulation of response categories for the question, “What is this person’s race?”, is a complicated and political task.<sup>28</sup> Historically, the federal government has collected data on the Chinese population since 1860 and the Japanese population since 1870; between 1910 and 1970, it intermittently collected additional data on other Asian groups such as Filipinos and Koreans.<sup>29</sup> As late as 1970, Asian Indians were classified as “White” and Vietnamese people were included in the “Other” category, but since 1980, the six Asian country-based categories listed above have been included.<sup>30</sup> For this Article, I define Asian American women as those who live in the United States, and who have origins in East Asian, South Asian, and Southeast Asian countries.<sup>31</sup>

---

27 ASIAN POPULATION 2000, *supra* note 24, at 9. In addition to the six Asian categories above, Table 4 in this report lists the following Asian groups: Bangladeshi, Bhutanese, Burmese, Cambodian, Hmong, Indo Chinese, Indonesian, Iwo Jiman, Laotian, Malaysian, Maldivian, Nepalese, Okinawan, Pakistani, Singaporean, Sri Lankan, Taiwanese, Thai, and Other Asian (not specified). *See id.*

28 *See* THE STATE OF ASIAN PACIFIC AMERICA: TRANSFORMING RACE RELATIONS 43–53 (Paul M. Ong ed., 2000) (discussing racial classifications related to Asian Pacific Americans and the Census); RACE OVERVIEW 2000, *supra* note 26, at 1 (referring to “emerging sensitivities among the people of the United States” and the need to “better reflect the country’s growing diversity”).

29 ASIAN POPULATION 2000, *supra* note 24, at 2.

30 *Id.* In addition, the 2000 Census questionnaire gave respondents the option of choosing one or more race categories to indicate their racial identities. Thus, one can distinguish between those in the (a) Asian *alone* group which would include those who selected one or more “detailed Asian group,” like Korean and Asian Indian, and those in the (b) Asian *in combination* group which would include those who identify as Asian and Black, Asian and White, or Asian and American Indian. *See id.* at 2–3 & nn.6–8.

31 *See* HERBERT BARRINGER ET AL., ASIANS AND PACIFIC ISLANDERS IN THE UNITED STATES 2–3 (1993) (defining Asian Americans as those living in the United States “having some sort of ‘roots’ in Asia” which consists of all countries east of Pakistan, excluding Mongolia and Russia). The Asian & Pacific Islander Institute on Domestic Violence (APIIDV) defines “East Asians” as Chinese, Japanese, Korean, Okinawan, Taiwanese, and Tibetan; “South Asians” as Bangladeshi, Bhutanese, Indian, Maldivian, Nepali, Pakistani, and Sri Lankan; and “Southeast Asians” as Burmese, Cambodian, Filipino, Hmong, Indonesian, Laotian, Malaysian, Mien, Papua New Guinean, Singaporean, Timorese, Thai, and Vietnamese. It additionally includes the categories of “Central Asians,” comprised of Afghani, Azerbaijani, Kazakh, Kyrgyz, Tajik, Turkmen, Uzbek; and “West Asians” comprised of people from what are more commonly referred to as Middle Eastern countries, i.e., Bahrain, Iran, Iraq, Israel, Jordan, Kuwait, Lebanon, Oman, Palestine, Qatar, Saudi Arabia, Syria, Turkey, United Arab Emirates, and Yemen. *See Census Data & API Identities*, ASIAN AND PACIFIC ISLANDER INSTITUTE ON DOMESTIC VIOLENCE (Dec. 21, 2014, 5:48 P.M.), <http://www.apiidv.org/resources/census-data-api-identities.php> [<http://perma.cc/CYZ6-CFHN>].

I decided not to include Pacific Islander women in my definition both because many Pacific Islanders

I focus on the Asian ethnicities that are most numerous in the United States. The Census Bureau estimated 17.3 million Asians in 2010,<sup>32</sup> with the six largest specifically identified groups, Chinese, Asian Indian, Filipino, Vietnamese, Korean, and Japanese, comprising over 87% of the Asian American population.<sup>33</sup> The Asian population in the U.S. grew faster than any other racial group between 2000 and 2010.<sup>34</sup> Although Asians constitute a relatively small portion of the total population (about 5.6% according to 2010 data), they are geographically concentrated. More than half of all Asian Americans (alone or in combination) live in five States, and three-quarters live in ten States.<sup>35</sup> The largest populations of Asian Americans are concentrated in large metropolitan areas and their suburbs, such as New York, Los Angeles, the San Francisco Bay Area, San Diego, Sacramento, Honolulu, Chicago, Houston, Philadelphia, and Seattle.<sup>36</sup> Using this information, proposed reforms

---

themselves seek separate designation, and because I lack personal experience in working with Pacific Islander IPV survivors. See generally THE STATE OF ASIAN PACIFIC AMERICA: TRANSFORMING RACE RELATIONS 66–77 (Paul M. Ong ed., 2000) (discussing disaggregation of “Asian or Pacific Islander” category into separate “Asian” and “Native Hawaiian or Other Pacific Islander” categories on the Census).

32 U.S. CENSUS BUREAU, THE ASIAN POPULATION: 2010 3, 14 (2012), available at <http://www.census.gov/prod/cen2010/briefs/c2010br-11.pdf> [<http://perma.cc/XSS6-ZN8A>] [hereinafter ASIAN POPULATION 2010] (3.3 million Chinese alone, 4.0 million in combination; 2.8 million Asian Indian alone, 3.1 million in combination; 2.5 million Filipino alone, 3.4 million in combination; 1.5 million Vietnamese alone, 1.7 million in combination; 1.4 million Korean alone, 1.7 in combination; 763 thousand Japanese alone, 1.3 million in combination). Of the 17.3 million U.S. residents of Asian descent estimated by the 2010 Census, 14.7 million identified as being solely of Asian descent (“Asian alone” in the U.S. Census Bureau terminology), and 2.6 million identified as being of Asian descent along with one or more of the other six racial categories listed on the U.S. Census forms (“Asian in combination” or “multiple-race Asian” in U.S. Census Bureau terminology). *Id.*

33 *Id.* at 14. For comparisons, see U.S. CENSUS BUREAU, THE AMERICAN COMMUNITY – ASIANS: 2004 1–2 (2007), available at <http://www.census.gov/prod/2007pubs/acs-05.pdf> [<http://perma.cc/ZY4Y-P2A6>] [hereinafter ASIAN AMERICANS 2004]. The American Community Survey is a nationwide, sample-based, household survey conducted every year; it does not include those “living in institutions, college dormitories, and other group quarters.” *Id.* at 3.

34 ASIAN POPULATION 2010, *supra* note 32, at 1. The “Asian alone” group increased more than any other major race group (by 43%, growing from 10.2 million to 14.7 million between 2000–2010). See RACE OVERVIEW 2010, *supra* note 26, at 5.

35 See ASIAN POPULATION 2010, *supra* note 32, at 8–9. The five states are California (32%), New York (9%), Texas (6%), New Jersey (5%), and Hawaii (5%); and the ten states are these five together with Illinois, Washington, Florida, Virginia, and Pennsylvania. As a percentage of these states’ total state population, Asian Americans (Asians alone, or in combination) comprise 14.9% of California residents, 8.2% of New Yorkers, 4.4% of Texans, 9.0% of New Jersey residents, 57.4% of Hawaiians, 5.2% of Illinois residents, 9.0% of Washingtonians, 3.0% of Floridians, 6.5% of Virginians, and 3.2% of Pennsylvanians. See *id.* at 7 (Table 2). In addition, Asian Americans are 9% of Nevada’s total state population and 7.1% of Alaskans. *Id.*

36 *Id.* at 12 (Table 3). The counties with the largest concentrations of Asian-alone-or-in-combination pop-

to assist Asian American survivors could be targeted to localities with the greatest need.

Immigrant experiences shape an individual's perception of her situation. According to 2010 Census data, about 43% of Asian Americans are U.S. citizens by birth, and over half are foreign-born (30.8% naturalized U.S. citizens and 26.3% non-citizens).<sup>37</sup> According to 2004 data, the percentages of Asian Americans who immigrated to the United States from the six countries referenced above are as follows: Korean alone (75.8%), Asian Indian alone (73.3%), Vietnamese alone (70.5%), Chinese alone (69.9%), Filipino alone (66.2%), and Japanese alone (41.9%).<sup>38</sup> IPV within various immigrant populations may be shaped by country-specific factors. For example, public opinion and laws regarding IPV in South Korea could inform a Korean American woman's understanding and experience of IPV.

Marital status also potentially intersects with IPV.<sup>39</sup> American Community Survey data from 2010 indicate that Asian Americans are more likely to be married (59%) than the U.S.

---

ulations in 2010 were Honolulu, Hawaii (62%), followed by three other Hawaiian counties: Kauai (51%), Maui (47%), and Hawaii (45%); two county equivalents in Alaska (Aleutians East Borough and Aleutians West Census Area, each with 25%); and four counties in the San Francisco-San Jose area (25% or more). *Id.* at 9. American Community Survey 2011 data indicated that over half (54%) of foreign-born U.S. residents from Asia live in four states: California (3.7 million), New York (1.2 million), Texas (778 thousand), and New Jersey (593 thousand). See Thomas Gryn and Christine Gambino, *The Foreign-Born from Asia: 2011*, AMERICAN COMMUNITY SURVEY BRIEFS (2012), <http://www.census.gov/prod/2012pubs/acsbr11-06.pdf> [<http://perma.cc/EJ9J-5ZQH>] [hereinafter *Foreign-Born from Asia 2011*].

37 See Table 4. *Nativity and Citizenship Status by Sex, for Asian Alone or in Combination and White Alone, Not Hispanic: 2010*, U.S. CENSUS BUREAU (DEC. 21, 2014, 5:51 P.M.), <http://www.census.gov/population/race/data/ppl-ac10.html> [<http://perma.cc/L7RE-545X>]. The foreign-born population from Asia increased from 8.2 million in 2000 to 11.6 million in 2011. See *Foreign-Born from Asia 2011*, *supra* note 36 at 1; see also ASIAN AMERICANS 2004, *supra* note 33, at 11. In 2004, among the twenty-two states with 100,000 or more Asian Americans, about two-thirds (67%) were foreign-born in most States: Washington (67.0%), Oregon (62.7%), California (66.1%), Nevada (65.8%), Arizona (67.6%), Colorado (59.7%), Texas (70.0%), Massachusetts (76.5%), Connecticut (73.7%), New York (70.9%), Pennsylvania (69.6%), New Jersey (69.5%), Maryland (73.1%), Virginia (74.2%), North Carolina (73.5%), Georgia (72.9%), Florida (72.8%), Ohio (76.1%), Michigan (73.6%), Illinois (71.3%), Minnesota (62.2%), Hawaii (34.2%). Hawaii, where less than half the Asian American population is foreign-born, is the clear exception. See ASIAN AMERICANS 2004, *supra* note 33, at 12.

38 See ASIAN AMERICANS 2004, *supra* note 33, at 11 ("alone" designation refers to those who selected one racial/ethnic category).

39 Level of educational attainment, occupational category, median income, poverty rate, and home ownership and value are also potentially relevant factors in analyzing intimate partner violence against Asian American women. See *id.* at 15–20. Poverty and lack of economic opportunity should be considered together with race in examining violence against women of color. See, e.g., Coker, *Material Resources*, *supra* note 10, at 1025–32.

population overall (51%).<sup>40</sup> Among all foreign-born populations, 2010 data reveal that the highest proportion who are married are the foreign-born population from Asia (67%).<sup>41</sup> A study of IPV and race using data provided by Illinois social service agencies similarly reflected high marriage rates among Asian American women.<sup>42</sup> A non-governmental study of 2010 Census data, indicates that a significant majority of married Asian American women and men are married to other Asian Americans.<sup>43</sup> Finally, Asian American women had similar fertility rates as women from other racial groups, but were more likely to be married.<sup>44</sup>

English language proficiency is closely tied to the ability to effectively access social services and state court remedies. Of foreign-born Asian Americans who spoke a language other than English at home, about half (52.5%) spoke English “very well.”<sup>45</sup> The remainder spoke English “less than very well,” and data from 2007 revealed that of this group, Vietnamese speakers (60.7%), Korean speakers (58.2%), and Chinese language speak-

---

40 See PEW RESEARCH CENTER, THE RISE OF ASIAN AMERICANS 31 (2012), available at [http://www.pewsocial-trends.org/files/2013/01/SDT\\_Rise\\_of\\_Asian\\_Americans.pdf](http://www.pewsocial-trends.org/files/2013/01/SDT_Rise_of_Asian_Americans.pdf) [<http://perma.cc/5JSF-HJ2S>] [hereinafter PEW RESEARCH CENTER, THE RISE OF ASIAN AMERICANS].

41 See U.S. CENSUS BUREAU, AMERICAN COMMUNITY SURVEY REPORTS, THE FOREIGN-BORN POPULATION IN THE UNITED STATES: 2010 10 (2012) [hereinafter FOREIGN-BORN IN UNITED STATES 2010]. Among U.S.-born Asian American adults, who tend to be younger than foreign-born Asian Americans, 35% are married. PEW RESEARCH CENTER, THE RISE OF ASIAN AMERICANS, *supra* note 40, at 31.

42 Susan F. Grossman & Marta Lundy, *Domestic Violence Across Race and Ethnicity: Implications for Social Work Practice and Policy*, 13 VIOLENCE AGAINST WOMEN 1029, 1038 (2007). The percentages of married individuals were as follows: White (56.5%), African American (39.2%), Hispanic American (61.2%), American Indian (55.4%), Asian American (70.9%). Additionally, the percentage of Asian Americans who had never been married was relatively low: White (21.9%), African American (46.7%), Hispanic American (28.7%), American Indian (25.4%), Asian American (16.1%). See *id.*

43 See C.N. Le, *Interracial Dating & Marriage*, ASIA-NATION: THE LANDSCAPE OF ASIAN AMERICA (Dec. 21, 2014, 2:43 P.M.), <http://www.asian-nation.org/interracial.shtml> [<http://perma.cc/3A9R-NCZV>]. Professor C.N. Le provides the following data identifying the percentage of endogamous, or in-group, marriage by gender and ethnic group: Asian Indian men (92.5%), Asian Indian women (92.9%), Vietnamese men (92.6%), Vietnamese women (84.6%), Korean men (90.4%), Korean women (68.1%), Chinese men (88.8%), Chinese women (79.9%), Filipino men (85.1%), Filipino women (61.6%), Japanese men (62.8%), Japanese women (44.4%).

44 See PEW RESEARCH CENTER, THE RISE OF ASIAN AMERICANS, *supra* note 40, at 31. According to the Pew Research Center’s analysis of 2010 American Community Survey data, only 15% of Asian American women between ages 18–44 who gave birth in the previous year were unmarried, compared to 37% of the population overall. Among foreign-born Asian American women between 18–44 who gave birth, only 10% were unmarried. *Id.* The National Center for Health Statistics in 2009 reported that Asian American and Pacific Islander women of childbearing age were about as likely as other women to have given birth in the previous year. *Id.*

45 See *id.* at 37, 41, 44, 47, 50, and 53 (citing 2010 American Community Survey data).

ers (55.6%) were less proficient in English than Japanese speakers (46.2%) and Tagalog speakers (31.0%).<sup>46</sup> Of all Asian alone households in 2004, 76.5% spoke a language other than English at home, ranging from a high of 88% for Vietnamese Americans to a low of 47% for Japanese Americans.<sup>47</sup> This indicates that providing interpretation services for Vietnamese, Korean, and Chinese speakers is particularly important.

## II. Interpreting Data and Conceptualizing Categories

Centering Asian American survivors, I first examine commonly reported interpretations of family situations and options, and describe how these perspectives are likely to be heavily influenced by culture. Next, I analyze external facts about individual survivors' lives that are frequently correlated with immigrant status. Finally, I show how IPV against Asian American women is "intimately linked to broader structural forces – political, economic, [and] social" that 'create multiple layers of oppression and hierarchies.'"<sup>48</sup>

### A. Understanding the Social Science Literature

In surveying the social science literature on IPV against Asian American women,<sup>49</sup>

---

46 See U.S. CENSUS BUREAU, AMERICAN COMMUNITY SURVEY REPORTS, LANGUAGE USE IN THE UNITED STATES: 2007 7 (Mar. 2010) [hereinafter LANGUAGE USE 2007] (reports of English-speaking ability of persons age 5 and older).

47 See ASIAN AMERICANS 2004, *supra* note 33, at 14 (Vietnamese alone (88.2%), Chinese alone (83.1%), Korean alone (79.9%), Asian Indian alone (79.1%), Filipino alone (66.1%), Japanese alone (47.0%)). Data from Pew's 2012 survey of Asian Americans found that 53% of Asian American adults born outside the U.S. speak only English at home or speak English very well, similar to the 49% in the Census Bureau's 2010 American Community Survey. See PEW RESEARCH CENTER, THE RISE OF ASIAN AMERICANS, *supra* note 40, at 24.

48 Cecilia Menjivar & Olivia Salcido, *Immigrant Women and Domestic Violence: Common Experiences in Different Countries*, 16 GENDER & SOC'Y 898, 900 (2002). My analytical model is similar to Heise's ecological model, which incorporates analysis of (1) "personal history factors," (2) partner and family related factors that form the "immediate context" for the abuse, (3) "institutions and structures such as the workplace, social networks and neighbourhoods," and (4) "economic and social environment and cultural norms in the particular society." See Lori L. Heise, *Violence Against Women: An Integrated, Ecological Framework*, 4 VIOLENCE AGAINST WOMEN 262 (1998).

49 See *Reference Bibliography by Ethnicity*, ASIAN & PACIFIC ISLANDER INSTITUTE ON DOMESTIC VIOLENCE (Feb. 2003) [http://www.apiidv.org/files/BibliographyByEthnicity-2003\(Rev.2008\).pdf](http://www.apiidv.org/files/BibliographyByEthnicity-2003(Rev.2008).pdf) [<http://perma.cc/T3T5-A4TN>] (listing over 300 references of articles, studies and reports on violence against Asian and Pacific Islander women); Natalie J. Sokoloff, *Bibliographic References for Multicultural Perspectives on Domestic Violence in the U.S.*, JOHN JAY COLLEGE OF CRIMINAL JUSTICE (Dec. 21, 2014, 3:08 P.M.), <http://www.lib.jjay.cuny.edu/research/DomesticViolence> [<http://perma.cc/G5VU-QRH8>] (listing over 140 references).

two recurring questions are prevalence and characteristics. Prevalence seeks to quantify frequency: How often does IPV occur? Characteristics are qualitative measures, referring to the way in which individuals experience IPV. The social science research reveals shared cultural norms among Asian American women that may inhibit help-seeking behavior, and a common context of patrilocalty, economic dislocation, and isolation related to immigration.

Since there have been no nationwide studies that focus on IPV in Asian American populations, it is impossible to state the size of the problem with any certainty.<sup>50</sup> The various, smaller studies that have been done were predicated on different research designs, goals, and sampling practices, and it is difficult to reconcile their disparate conclusions. Some studies used randomized phone sampling to recruit participants. Others used "convenience" sampling, such as approaching shoppers at an ethnic supermarket or attendees at an ethnic health fair. Still others used "snowball" sampling, asking participants to suggest names and provide contact information for others who might be willing to participate in the study. The types of questions asked also varied from rating questions using a Likert scale of 1 to 5, to open-ended questions soliciting a participant-directed narrative response.<sup>51</sup> At a minimum, however, the following studies demonstrate that the problem of IPV against Asian American women is sufficiently prevalent and our level of understanding sufficiently limited to warrant further study.<sup>52</sup>

---

50 See Anita Raj & Jay G. Silverman, *Intimate Partner Violence Against South Asian Women in Greater Boston*, 57 J. AM. MED. WOMEN'S ASS'N 111, 111 (2002) [hereinafter Raj & Silverman, *South Asian Women*] (noting lack of race/ethnicity data in U.S. epidemiological studies "of IPV among minority and immigrant communities"); Grossman & Lundy, *supra* note 42, at 1049 (identifying need in "larger epidemiological studies to avoid the trap of combining diverse and distinct racial and ethnic groups" and calling for "empirical research using samples other than White individuals"); Mo-Yee Lee, *Understanding Chinese Battered Women in North America: A Review of the Literature and Practice Implications*, 8 J. MULTICULTURAL SOC. WORK 215, 216 (2000) (noting absence of data about the prevalence of IPV in Asian American communities).

51 See Marianne Sullivan et al., *Participatory Action Research in Practice: A Case Study in Addressing Domestic Violence in Nine Cultural Communities*, 20 J. INTERPERSONAL VIOLENCE 977 (exploring methodology for designing and implementing a culturally and linguistically relevant, as well as safe and confidential, qualitative, comparative research study within nine cultural and ethnic communities).

52 See LORA JO FOO, *ASIAN AMERICAN WOMEN: ISSUES, CONCERNS, AND RESPONSIVE HUMAN AND CIVIL RIGHTS ADVOCACY* ix, xvii-xviii (2d ed. 2007) (noting "shameful void of data and research on Asian American women" and "Paucity of Data on Asian America"); U.S. COMM'N ON CIVIL RIGHTS, *CIVIL RIGHTS ISSUES FACING ASIAN AMERICANS IN THE 1990S* (1990), at 174-75 (attributing underserving of Asian American women experiencing IPV, in part, to fact that "incidents of spouse battering are not routinely recorded and tabulated by race/ethnicity," making prevalence assessment "nearly impossible" and hindering advocacy for greater resources); Alice G. Yick & Jody Oomen-Early, *A 16-Year Examination of Domestic Violence Among Asians and Asian Americans in the Empirical Knowledge Base*, 23 J. INTERPERSONAL VIOLENCE 1075, 1087-88 (2008) (noting "paucity of

On one end of the size spectrum, the National Intimate Partner and Sexual Violence Survey (NISVS), conducted from January 22, 2010 through December 31, 2010, completed over 16,500 telephone surveys through national random digit dial in fifty states and the District of Columbia.<sup>53</sup> The percentage of Asian Pacific Islander (API) women who reported rape, physical violence, and/or stalking by an intimate partner was 19.6%.<sup>54</sup> The NISVS 2010 did not separately report, for this group, the prevalence of rape alone, stalking alone, and physical violence alone by an intimate partner because of the low sample size.<sup>55</sup>

In the National Violence Against Women Survey, conducted from November 1995 to May 1996, the report authors collected telephone responses from 8,000 women that reflected significantly lower victimization rates.<sup>56</sup> Asian Pacific Islander women represented only 1.6% of all respondents (n=133), and of this smaller group, 12.8% reported being assaulted, and 3.8% reported being raped by an intimate partner at least once during their lifetime.<sup>57</sup> The report authors suggest that the lower rate might be “an artifact of underreporting” and note the possibility that “traditional Asian values emphasizing close family ties and harmony” discourage disclosure.<sup>58</sup>

research on domestic violence in the Asian and Asian American communities,” which constituted only 2.4% of articles published in journals and time frame studied).

53 See MICHELLE C. BLACK ET AL., CENTERS FOR DISEASE CONTROL, THE NATIONAL INTIMATE PARTNER AND SEXUAL VIOLENCE SURVEY: 2010 SUMMARY REPORT (Nov. 2011), available at [http://www.cdc.gov/violenceprevention/pdf/nisvs\\_report2010-a.pdf](http://www.cdc.gov/violenceprevention/pdf/nisvs_report2010-a.pdf) [<http://perma.cc/P8HL-E6EC>].

54 See *id.* at 20 (Table 2.3), 40 (Table 4.3). These rates were the lowest among all of the race/ethnicity groups identified (Hispanic, white, Black, API, American Indian, Alaska Native, and multiracial), which ranged to a high of 53.8% and 58% for the multiracial group.

55 See *id.* at 20 (Table 2.3), 30 (Table 3.2), 40 (Table 4.3). Asian or Pacific Islander non-Hispanic women constituted 4.8% of the survey sample, approximately 792 survey respondents. See *id.* at 102 (Table B.1).

56 PATRICIA TJADEN & NANCY THOENNES, U.S. DEP'T OF JUSTICE, EXTENT, NATURE, AND CONSEQUENCES OF INTIMATE PARTNER VIOLENCE: FINDINGS FROM THE NATIONAL VIOLENCE AGAINST WOMEN SURVEY iii (2000), available at <https://www.ncjrs.gov/pdffiles1/nij/181867.pdf> [<https://perma.cc/R8GA-T9R7>].

57 *Id.* at 26–27.

58 *Id.* (white (21.3% assaulted, 7.7% raped), African American (26.3% assaulted, 7.4% raped), American Indian/Native Alaskan (30.7% assaulted, 15.9% raped), Mixed race (27.0% assaulted, 8.1% raped)); see also *id.* at 27 (Hispanic (21.2% assaulted, 7.9% raped)). The authors cited to an unpublished doctoral dissertation revealing that 60% of immigrant Korean women had experienced IPV. This dissertation author published a book citing the same 60% prevalence rate. See YOUNG I. SONG, BATTERED WOMEN IN KOREAN IMMIGRANT FAMILIES (1996) (based on study of 150 Korean immigrant women in Chicago); cf. Julia Elissa Krane, *Violence Against Women in Intimate Relations: Insights from Cross-Cultural Analyses*, 33 TRANSCULTURAL PSYCHIATRY 435, 437



Other smaller scale research studies focusing on Asian American women found significantly higher prevalence rates. From June 2000 to September 2001, an advocacy group received a government grant to conduct a needs assessment, and administered an anonymous survey using convenience sampling of 178 Asian American women in Washington, D.C.<sup>59</sup> Of these women, 31.9% had experienced physical or sexual abuse at least occasionally during the past year.<sup>60</sup> A recent report based on interviews with 143 Filipina and Pakistani/Indian women living in the San Francisco Bay area revealed that a majority of those surveyed had experienced sexual violence (56.3% and 64.3% respectively) and stalking (67.8% and 50.0% respectively).<sup>61</sup> In another study of 160 South Asian women in the Boston area recruited through community outreach from August 1998 to June 1999, 40.8% of participants reported some form of physical and/or sexual abuse by their current male partners in their lifetime.<sup>62</sup> In a 1995 face-to-face interview study of 211 Japanese American women in Los Angeles County, 52% reported experiencing physical violence during their lifetime.<sup>63</sup> These studies all trend higher than national survey findings that between 35.6% and 25.5% of all American women have experienced IPV in their lifetime.<sup>64</sup>

---

(1996) ("Nationwide epidemiological surveys conducted in Korea revealed that 37.5% of women had been battered by their spouses in the last year.") (citing K.E. Kim & Y.G. Cho, *Epidemiological Survey of Spousal Abuse in Korea*, in *INTIMATE VIOLENCE: INTERDISCIPLINARY PERSPECTIVE* 277–82 (1992)).

59 KAREN A. McDONNELL & SHAMIRA E. ABDULLA, PROJECT AWARE 8–9 (2001) (report co-authored by Ph.D. psychologist affiliated with Johns Hopkins Bloomberg School of Public Health). Although the study had been designed to include Asian American and Pacific Islander American women, none of the study respondents were Pacific Islander American.

60 See *id.* at 19.

61 See MIEKO YOSHIHAMA ET AL., LIFECOURSE EXPERIENCES OF INTIMATE PARTNER VIOLENCE AND HELP-SEEKING AMONG FILIPINA, INDIAN, AND PAKISTANI WOMEN: IMPLICATIONS FOR JUSTICE SYSTEM RESPONSES 6 (Oct. 2011), available at <https://www.ncjrs.gov/pdffiles1/nij/grants/236174.pdf> [<https://perma.cc/47FR-JNCH>] [hereinafter YOSHIHAMA ET AL., JUSTICE SYSTEM RESPONSES].

62 See Raj & Silverman, *South Asian Women*, *supra* note 50, at 111; cf. Skultip Sirikantraporn, *Biculturalism as a Protective Factor: An Exploratory Study on Resilience and the Bicultural Level of Acculturation Among Southeast Asian American Youth Who Have Witnessed Domestic Violence*, 4 *ASIAN AM. J. OF PSYCHOL.* 109 (2013) (reporting that 70% of South Asian children participants had witnessed domestic violence).

63 Mieko Yoshihama, *Domestic Violence Against Women of Japanese Descent in Los Angeles: Two Methods of Estimating Prevalence*, 5 *VIOLENCE AGAINST WOMEN* 869, 879, 886 (1999).

64 See BLACK, *supra* note 53, at 2; TJADEN & THOENNES, *supra* note 56, at 9; cf. Krane, *supra* note 58, at 436 (asserting "[i]n developed and developing societies, research findings suggest that from 20 to 67% of women have experienced violence in intimate heterosexual relationships"). Prevalence can also be measured within a shorter timeframe, such as within the past year, and one difficulty in comparing studies is that the relevant timeframe does not always match and is not always clearly defined. Some other difficulties of measuring

The scholarship of social workers, psychologists and sociologists helps to identify risk factors for IPV, and barriers to seeking and receiving help.<sup>65</sup>

## B. Individual Factors: The Prism of Culture

Socio-cultural context is a lens through which abuse may be defined and options for change evaluated.<sup>66</sup> In the broadest sense, “culture” refers to “social doctrines taken on by a group” that can be defined by a variety of “unifying social phenomena,” including geographic region.<sup>67</sup> While culture is dynamic, changing over time and space,<sup>68</sup> a “snapshot” can illuminate the way in which Asian American women may be particularly vulnerable to

---

prevalence include differing definitions of IPV, and sampling differences in size and methodology. For example, randomized telephone sampling may not capture those with limited English proficiency while “snowball sampling” which entails recruiting volunteer respondents and asking them to suggest other respondents may also skew the sample.

65 For example, data from the National Violence Against Women Survey indicates that women of color in “ethnic” monoracial relationships demonstrate the greatest risk for physical and nonphysical forms of violence. See Kristin Carbone-Lopez, *Across Racial/Ethnic Boundaries: Investigating Intimate Violence within a National Sample*, 28 J. INTERPERSONAL VIOLENCE 3, 13–15 (2013).

66 See Marianne R. Yoshioka, *The Impact of the Cultural Context on the Experience of Domestic Violence* 3 (2014) (unpublished manuscript) (on file with author); Alice G. Yick, *Feminist Theory & Status Inconsistency Theory: Application to Domestic Violence in Chinese Immigrant Families*, 7 VIOLENCE AGAINST WOMEN 545, 548 (2001) [hereinafter Yick, *Feminist Theory*] (“If interventions and programs are to be effective, they must be congruent with the group’s value system.”).

67 Anita Raj & Jay Silverman, *Violence Against Immigrant Women: The Roles of Culture, Context and Legal Immigrant Status on Intimate Partner Violence*, 8 VIOLENCE AGAINST WOMEN 367, 369 (2002) [hereinafter Raj & Silverman, *Immigrant Women*]; see also Aarati Kasturirangan, Sandhya Krishnan & Stephanie Riger, *The Impact of Culture and Minority Status on Women’s Experience of Domestic Violence*, 5 TRAUMA, VIOLENCE & ABUSE 318, 322–26 (2004) (exploring aspects of culture including family structure, acculturation, immigration status, poverty, community responses, and larger social context).

68 See Yick, *Feminist Theory*, *supra* note 66, at 546 (asserting that cultural values are “continually shifting and dynamic, in part a function of navigating different personal and social contexts”); Hoan N. Bui, *Help-Seeking Behavior Among Abused Immigrant Women: A Case of Vietnamese American Women*, 9 VIOLENCE AGAINST WOMEN 207, 209 (2003) [hereinafter Bui, *Vietnamese Help-Seeking*] (citing importance of understanding “how cultural continuity and change can affect family dynamics and abused women’s efforts to seek help”); Volpp, *Feminism*, *supra* note 16, at 1192 (“minority cultures, like all cultures, undergo constant transformation and reshaping”); Woochan S. Shim & Myung Jin Hwang, *Implications of an Arrest in Domestic Violence Cases: Learning From Korean Social Workers’ Experiences in the U.S.*, 20 J. FAM. VIOLENCE 313, 326 (2005) (“Cultural beliefs and practices should be and can be redefined within the historical and geographical context.”).

abuse, and what barriers exist to seeking and receiving help.<sup>69</sup> Family primacy, patriarchy, and gender role norms are neither unique to, nor completely defining of Asian American women.<sup>70</sup> These frames do, however, possess explanatory power and contribute to understanding IPV against Asian American women.<sup>71</sup>

## 1. Family Primacy

Family primacy entails both a collectivist orientation that elevates family interests over self-interest, and a privacy norm that discourages and penalizes disclosure of abuse. Numerous studies characterize Asian culture as prioritizing family and community over the individual, and investigate how this hierarchy of interests might affect a person's self-concept and perspective on conflict resolution.<sup>72</sup> Researchers studying IPV in Chinese, Korean, Vietnamese, and Cambodian American communities theorized that, "Influenced by the teachings of Confucianism and Buddhism, which emphasize harmonious interpersonal relationships and interdependence, the interests of the family take precedence over

---

69 See, e.g., Dasgupta, *South Asian Overview*, *supra* note 1, at 177 (describing threat from husband to wife to "ruin her reputation" possibly putting a South Asian woman at risk from her natal family, as a culturally-specific form of abuse); cf. Grossman & Lundy, *supra* note 42, at 1033 ("[T]here are variations within the Asian American community itself related to the willingness to accept violence, with Vietnamese, Khmer, and Laotians displaying a higher tolerance than Chinese families.").

70 See Menjivar & Salcido, *supra* note 48, at 901 (warning against "tendency to stereotype domestic violence in some ethnic groups as an inherent part of their cultural repertoire").

71 See Nimish R. Ganatra, *The Cultural Dynamic in Domestic Violence: Understanding the Additional Burdens Battered Immigrant Women of Color Face in the United States*, 2 J.L. Soc'y 109 (2001); Lee, *supra* note 50, at 216 ("[C]onceptualization of gender as the primary foundation of battering as a social problem mitigated consideration of culture/ethnicity and other factors as significant in understanding the phenomenon of domestic violence."); Karin Wang, *Battered Asian American Women: Community Responses from the Battered Women's Movement and the Asian American Community*, 3 ASIAN L.J. 151 (1996). But cf. Nilda Rimonte, *A Question of Culture: Cultural Approval of Violence Against Women in the Pacific-Asian Community and the Cultural Defense*, 43 STAN. L. REV. 1311, 1312-13 (1991) (distinguishing immigrants "who continue to rely on their native language for communication and maintain a decidedly Asian world view" from Asian Americans).

72 See, e.g., Marianne R. Yoshioka & Deborah Y. Choi, *Culture and Interpersonal Violence Research: Paradigm Shift to Create a Full Continuum of Domestic Violence Services*, 20 J. INTERPERSONAL VIOLENCE 513, 513-14 (2005); see also Marianne R. Yoshioka et al., *Social Support and Disclosure of Abuse: A Comparison of African American, Hispanic, and South Asian Battered Women*, 18 J. FAM. VIOLENCE 171, 172 (2003) [hereinafter Yoshioka, *Social Support Comparison*] ("[R]esearchers have speculated that adhering to a value of collectivism may impede one's sense of personal control."); cf. Rupaleem Bhuyan et al., *"Women Must Endure According to Their Karma": Cambodian Immigrant Women Talk About Domestic Violence*, 20 J. INTERPERSONAL VIOLENCE 902 (2005) (focus group revealed themes of enduring spousal abuse by husbands to keep the family together and declining to seek outside support).

those of the individual.”<sup>73</sup> A study involving South Asian women similarly found evidence of familism which was defined as valuing, identifying with, and being attached to one’s nuclear and extended family.<sup>74</sup> Whereas structured family relationships “provide[] a sense of identity and belonging,” they are also a mechanism through which individuals are taught to subordinate their own interests to those of the family.<sup>75</sup>

The effects of family primacy were examined in a comparative study of South Asian women, African American women, and Latinas. Researchers found that the South Asian women “were more likely to disclose [abuse] to their father and/or brother.”<sup>76</sup> Despite reports of abuse, however, “a larger portion of the South Asian women were advised to stay in their marriages and live with their circumstances.”<sup>77</sup> The researchers hypothesized that social and cultural factors in the South Asian immigrant community contributed to advising women to stay.<sup>78</sup>

---

73 Marianne R. Yoshioka et al., *Attitudes Toward Marital Violence: An Examination of Four Asian Communities*, 7 VIOLENCE AGAINST WOMEN 900, 901 (2001) [hereinafter Yoshioka, *Four Asian Communities*]; see also Bui, *Vietnamese Help-Seeking*, *supra* note 68, at 232 (“Growing up within a cultural tradition that emphasizes collectivism, many Vietnamese American women acted not only in their own interests but also in the interests of other family members, including parents, siblings, and children.”).

74 Yoshioka, *Social Support Comparison*, *supra* note 72, at 172.

75 Yick, *Feminist Theory*, *supra* note 66, at 550, 556; see also Yoshioka, *Four Asian Communities*, *supra* note 73, at 901–02 (highlighting collectivist orientation giving precedence to family over individual; “power distance” orientation socializing respect for authority and role conformity; and family privacy orientation burdening efforts to seek outside assistance).

76 Yoshioka, *Social Support Comparison*, *supra* note 72, at 175. The researchers hypothesized that “culturally based family roles may require brothers to take responsibility for sisters.” *Id.* at 177.

77 *Id.* at 175; see also Dasgupta, *South Asian Overview*, *supra* note 1, at 180–81 (asserting that South Asian community “has systematically been hostile toward women who have attempted to leave their marriages and reveal their experiences of spousal abuse”); cf. Bui, *Vietnamese Help-Seeking*, *supra* note 68, at 217–18 (those who sought help from their personal network commonly received a non-helpful response).

78 Yoshioka, *Social Support Comparison*, *supra* note 72, at 178. Religion and participation in religious communities is another complicating factor. For example, for South Asian women who are also Muslim, progressive Islamic perspectives on domestic violence compete with traditional views. See, e.g., Azizah Y. al-Hibri, *An Islamic Perspective on Domestic Violence*, 27 FORDHAM INT’L L.J. 195, 224 (2003) (“The Qur’anic verses were revealed . . . over fourteen hundred years ago when the world viewed beating one’s wife as a right. Today, our society has moved decidedly beyond that stage, and views wife abuse as the crime it really is.”); SALMA ELKADI ABUGIDEIRI, A PERSPECTIVE ON DOMESTIC VIOLENCE IN THE MUSLIM COMMUNITY (2010), available at <http://www.faihttrustinstitute.org/resources/articles/DV-in-Muslim-community.pdf> [<http://perma.cc/39QV-B5TU>] (“responses to incidents of domestic violence are as varied as the community is diverse,” from invalidating a victim’s experience to providing community support and resources); cf. SUDHA SHREENIWAS, ADVOCATING FOR

To the extent that responsibility for family harmony falls on Asian American women, it incentivizes silence about IPV.<sup>79</sup> Multiple studies have discussed the guilt, shame, and loss of face associated with breaching family privacy norms.<sup>80</sup> Disclosing abuse “means exposing family weakness to outsiders . . . [and] shaming the family name.”<sup>81</sup> The cultural norm of family privacy and the negative consequences of divorce, including economic hardship, stigmatization, and the perceived negative effect on children, further burden disclosure of IPV by Asian American women to anyone outside of the family.<sup>82</sup>

## 2. Patriarchy

Confucianism’s role in supporting male supremacy as a societal norm in China, Korea,

---

SOUTH ASIAN WOMEN (2010), available at <http://www.faithtrustinstitute.org/resources/articles/Advocating-for-South-Asian-Women.pdf> [<http://perma.cc/39QV-B5TU>] (identifying a plethora of religions in South Asia, including Hinduism, Islam, Christianity, Judaism, Sikhism, and Buddhism, and recognizing the difficulties that women’s groups have in cooperating with religious groups).

79 See Raj & Silverman, *Immigrant Women*, *supra* note 67, at 370, 372; Grossman & Lundy, *supra* note 42, at 1032–33.

80 See, e.g., Lee, *supra* note 50, at 220 (“Shaming the family name and losing face is simply unthinkable.”); Shim & Hwang, *supra* note 68, at 315 (“[M]ain reason for the reluctance to seek help from the outside, including counseling, is often described as saving face.”); Dasgupta, *South Asian Overview*, *supra* note 1, at 180–81 (recognizing “fear of losing face and shaming her family and community as well as the sense of failing her marital commitments”); Bui, *Vietnamese Help-Seeking*, *supra* note 68, at 211 (citing “cultural prohibitions against causing any ‘loss of face’ for oneself and one’s family”); Yoshioka, *Four Asian Communities*, *supra* note 73, at 901–02 (discouraging “conflict that may disrupt group relations or bring guilt and shame to the family”); Xiao Xu, Jacquelyn C. Campbell & Feng-Chuan Zhu, *Intimate Partner Violence Against Chinese Women: The Past, Present, and Future*, 2 TRAUMA, VIOLENCE & ABUSE 296, 308 (2001) (citing “traditional imperative” to keep IPV within the family for fear of losing face); cf. Aisha Gill, *Voicing the Silent Fear: South Asian Women’s Experiences of Domestic Violence*, 43 HOWARD J. CRIM. JUST. 465, 475–77 (2004) (discussing the influence of “honor” and “shame” in creating norms that control women’s behavior and purport to justify violence).

81 Lee, *supra* note 50 at 223; see also Merry Morash et al., *Risk Factors for Abusive Relationships: A Study of Vietnamese American Immigrant Women*, 13 VIOLENCE AGAINST WOMEN 653, 656 (2007) [hereinafter Morash, *Vietnamese Risk Factors*] (hypothesizing that perspective on “family violence as a private matter” increases the risk of abuse); cf. Krane, *supra* note 58, at 439–40 (suggesting that “close family ties, hierarchy and order . . . may function to minimize and conceal family violence that could bring guilt and shame to the family”).

82 Bui, *Vietnamese Help-Seeking*, *supra* note 68, at 231–32; see also Yoshioka, *Social Support Comparison*, *supra* note 72, at 178 (“Not only may a divorced woman lose family support but also leaving one’s spouse and living independently is particularly arduous for an immigrant woman who may not have an extensive informal support network.”).

Japan, and Vietnam is well established.<sup>83</sup> Multiple articles about IPV against East Asian women reference the patriarchy inherent in the “three rules of obedience” which require that “(a) [b]efore marriage, a woman follows and obeys her father; (b) after marriage, she follows and obeys her husband; and (c) after the death of her husband, she follows and obeys her son.”<sup>84</sup> Traditional Vietnamese culture is similarly infused by patriarchal values, which are often strongly correlated with physical and verbal abuse.<sup>85</sup>

Notwithstanding commonalities, there are multiple variations in the expression of patriarchy.<sup>86</sup> For example, in Vietnam, women have had inheritance rights since the 15th century and “there was no traditional division of labor in most Vietnamese rural families” with women working in the fields, traveling and trading, and handling household finances.<sup>87</sup> Yet, relatively greater equality for Vietnamese American women in the economic sphere has not

---

83 See e.g., Shim & Hwang, *supra* note 68, at 315 (noting socialization of Korean women to the Confucian precepts); Judith Shepherd, *Vietnamese Women Immigrants and Refugees in the United States*, in *SOCIAL WORK PRACTICE WITH ASIAN AMERICANS* 89–90 (Sharlene Maeda Furuto et al. eds., 1992) (referencing “lasting influence that Chinese Confucianism had on Vietnam”); cf. Raymond B. Williams, *Asian Indian and Pakistani Religions in the United States*, 558 *ANNALS AM. ACAD. POL. & SOC. SCI.* 178 (1998) (discussing patriarchy in South Asian communities without any references to Confucianism); Myrna S. Feliciano, *Law, Gender, and the Family in the Philippines*, 28 *LAW & SOC’Y REV.* 547, 548 (1994) (referencing Spanish colonial regime and introduction of Spanish religion); see generally ERIC LAI & DENNIS ARGUELLES, *THE NEW FACE OF ASIAN PACIFIC AMERICA: NUMBERS, DIVERSITY & CHANGE IN THE 21ST CENTURY* 45–50 (2003) (brief historical and demographic overview of Filipino Americans).

84 Xu, Campbell & Zhu, *supra* note 80, at 298–99; see also Yick, *Feminist Theory*, *supra* note 66, at 550–51 (“Fathers control and supervise their daughters; after the women marry, this role is passed to their husbands; if they outlive their spouses, authority is then passed to their sons.”); Lee, *supra* note 50, at 220 (“The ‘three obediences’ are widely accepted codes of behavior for morally good women.”).

85 See Morash, *Vietnamese Risk Factors*, *supra* note 81, at 660, 666–67 (“[D]eeply ingrained patriarchal values and attitudes that support sexual inequality and related male dominance are central to explaining the abuse of women by their partners.”).

86 See, e.g., Yoshioka, *Four Asian Communities*, *supra* note 73, at 901 (recognizing commonalities among Asian American groups, but assuming variation in “the extent to which [cultural themes] describe any particular individual”); Yick, *Feminist Theory*, *supra* note 66, at 546, 557 (distinguishing between male “orchestrative power” to pursue intellectual activities and female “implementative power” to execute daily tasks to support family life in Chinese American couples); Young I. Song-Kim, *Battered Korean Women in Urban United States*, in *SOCIAL WORK PRACTICE WITH ASIAN AMERICANS* 213 (Sharlene Maeda Furuto et al. eds., 1992) (describing language differences in Korean that signal patriarchy such as *uri chip ju in* (the master of our house) for husband, and *chip saram* (house person) for wife).

87 See Hoan N. Bui & Merry Morash, *Domestic Violence in the Vietnamese Community: An Exploratory Study*, 5 *VIOLENCE AGAINST WOMEN* 769, 775 (1999) [hereinafter Bui & Morash, *Vietnamese Exploratory Study*].

translated into a relaxation of patriarchal control in family life.<sup>88</sup> A study examining inter-ethnic differences revealed that the Vietnamese respondents scored higher in endorsing male privilege than the Cambodian, Korean, and Chinese American respondents.<sup>89</sup> Parsing the data more finely, the researchers found that Vietnamese Americans born in Vietnam, as opposed to the United States, “more highly endorsed attitudes of male entitlement and did not support alternatives to violence.”<sup>90</sup>

### 3. Gender Role Norms

Research on Asian American women confirms that norms and disagreements over role definition are associated with IPV.<sup>91</sup> Studies have also identified the validation and elevation of “suffering and perseverance” as virtues in Asian American communities.<sup>92</sup> Divorce is commonly viewed as unacceptable, and women receive positive societal reinforcement for “endur[ing] violence for the sake of their families’ togetherness.”<sup>93</sup> This “cultural glorification of women’s suffering”<sup>94</sup> is related to family primacy and patriarchy in terms of

---

88 For instance, Vietnamese law “punishe[s] the wife more severely than the husband for the commission of the same crime. Wife beating was legally sanctioned as long as no injuries resulted but husband beating was severely punished.” *Id.* at 776.

89 See Yoshioka, *Four Asian Communities*, *supra* note 73, at 912–13.

90 *Id.* at 919; see also *id.* (“[T]he older one was at the time of immigration, the greater one’s endorsement of the use of violence against wives in specific situations.”). Similarly, “Chinese immigrant adults more highly endorsed the use of violence against wives in specific situations” than Chinese adults born in the United States. See *id.* Regional differences between West and East Coast Asian American communities; reasons for immigrating, whether political turmoil and war, or better economic opportunities; socioeconomic conditions for women in the immigrants’ country of origin; and level of educational attainment all may also contribute to interethnic differences. See *id.* at 921–22.

91 See Raj & Silverman, *Immigrant Women*, *supra* note 67, at 369 (correlating failure to abide by “[c]ulturally bound, traditional gender roles” with abuse); Alice G. Yick & Pauline Agbanyani-Siewart, *Perceptions of Domestic Violence in a Chinese American Community*, 12 J. INTERPERSONAL VIOLENCE 832, 842 (1997) (“Older Chinese respondents tended to justify domestic violence in cases of hierarchical or gender role violations.”); Morash, *Vietnamese Risk Factors*, *supra* note 81, at 668, 670; cf. *id.* at 666–67 (“[D]isagreements over gender roles and family expectations most consistently predicted the severity of abuse.”).

92 Yoshioka, *Four Asian Communities*, *supra* note 73, at 901–02 (citations omitted); see also Lee, *supra* note 50, at 223 (recognizing “virtues of perseverance and endurance” and labeling one who seeks help and thus shames the family as an “instigator”).

93 Dasgupta, *South Asian Overview*, *supra* note 1, at 182.

94 *Id.*

subordinating one's own interests to the interests of one's children and husband.<sup>95</sup>

The practice of arranged marriages for some Asian American women illustrates one context in which gender roles operate. Since "many South Asian women come to the United States for arranged marriages," differing relationship expectations among spouses, and differing English language ability and access to social support systems likely exacerbate IPV.<sup>96</sup> Similarly, the "traditional collectivity of extended family/kinship networks" may contribute to identity formation as "a daughter, a sister, a wife, and a mother, but not an independent woman striving for self-actualization."<sup>97</sup>

The belief that children are harmed when raised by a single parent additionally may inhibit help-seeking behavior.<sup>98</sup> For example, when asked why they might stay in an abusive relationship, 39.5% of participants in a study of Vietnamese American women cited the specific goal "that their child or children obtain a good education and/or have a bright future," and 24.8% had the goal of having "a happy family life with an intact family."<sup>99</sup> Thus, a defining aspect of these gender roles is related to being a mother and assuming responsibility for her children's welfare.<sup>100</sup>

---

95 Yoshioka, *Social Support Comparison*, *supra* note 72, at 172 (finding "willingness to sacrifice personal autonomy, and freedom to adhere to" traditional role of wife and mother).

96 *Id.* at 172; *see also* ABRAHAM, *SPEAKING THE UNSPEAKABLE*, *supra* note 9, at 21 (arranged marriage "is inherently unequal since the position of dominance lies primarily with the prospective groom's family").

97 Lee, *supra* note 50, at 219–20 ("[B]ehavioral expectations are circumscribed by well-defined roles within a hierarchical structure.").

98 Dasgupta, *South Asian Overview*, *supra* note 1, at 182 ("[M]arriage and motherhood provide women with their primary identities."). According to Dasgupta, immigration to the United States "has not prompted South Asians to repudiate traditional gender symmetries," but rather has prompted efforts "to recreate and establish traditional gender relations, which inherently privilege men." *Id.* at 176.

99 Morash, *Vietnamese Risk Factors*, *supra* note 81, at 665; *see also* Bui & Morash, *Vietnamese Exploratory Study*, *supra* note 87, at 783 (many felt "the quality of their children's lives would be worse, both financially and emotionally, in case of divorce"); Uma A. Segal, *A Pilot Exploration of Family Violence Among Nonclinical Vietnamese*, 15 J. INTERPERSONAL VIOLENCE 523, 531 (2000) ("primary concern mentioned regarded the children").

100 *See* Krane, *supra* note 58, at 444 (women's role as "keepers of the culture" led them to "conceal instances of abuse").



### C. Situational Factors: Immigrant Experiences

Immigrant experiences shared by more than half of Asian American women provide another analytical perspective. While ethnically, economically, and educationally diverse, three immigration-related frameworks—patrilocal, economic dislocation, and isolation—characterize IPV against Asian American women. These situational realities do not excuse IPV, but constitute risk factors and raise potential barriers to seeking and receiving help.

#### 1. Patrilocal

Focusing on patrilocal, or proximity to patrilineal family members, expands the traditional “abuser-victim” dyad. It recognizes the role that an abuser’s family members can play in perpetrating, enabling, or acquiescing to IPV. Social science research confirms that many Asian American women live geographically far from their own families<sup>101</sup> and “often live with or close to their husband’s family due to cultural dictates and economic necessity.”<sup>102</sup> For example, a study involving interviews with social service providers revealed that many Korean American women are without parental or sibling support in the U.S. and live with or close to their parents-in-law.<sup>103</sup>

Patrilocal is correlated with an “increased likelihood of abuse from in-laws,”<sup>104</sup> and multiple Asian country-specific studies reveal patterns of patrilocal and abuse.<sup>105</sup> Among

---

101 See Morash, *Vietnamese Risk Factors*, *supra* note 81, at 656 (absence of extended family networks exacerbates isolation).

102 Raj & Silverman, *Immigrant Women*, *supra* note 67, at 371; see also Anita Raj & Jay G. Silverman, *Immigrant South Asian Women at Greater Risk for Injury From Intimate Partner Violence*, 93 AM. J. PUB. HEALTH 435, 435 (2003) (28% of respondents in study of South Asian women in Greater Boston area reported no family in the United States).

103 Shim & Hwang, *supra* note 68, at 316; cf. Mieko Yoshihama, *A Web in the Patriarchal Clan System: Tactics of Intimate Partners in the Japanese Sociocultural Context*, 11 VIOLENCE AGAINST WOMEN 1236, 1240-41, 1253-54 (2005) [hereinafter Yoshihama, *Japanese Sociocultural Context*] (revealing similar residential patterns with respect to patrilocal in Japan).

104 Raj & Silverman, *Immigrant Women*, *supra* note 67, at 371.

105 See generally McDONNELL & ABDULLA, *supra* note 59, at 19 (cultural traditions regarding centrality of extended family can exacerbate effects of geographic patrilocal). See also LORA JO FOO, *ASIAN AMERICAN WOMEN: ISSUES, CONCERNS, AND RESPONSIVE HUMAN AND CIVIL RIGHTS ADVOCACY* 151 (2d ed. 2007) (referencing survey finding that 28.5% of participants “knew of a woman who was being abused by her in-laws” and reports of “cases where entire families get involved in abusing a woman”).

Chinese Americans “both male and female relatives on the male side” may instigate violence against wives.<sup>106</sup> Similarly, studies of IPV against Korean American and South Asian American women include reports of in-laws “joining in the verbally and emotionally retaliating behavior of the batterer.”<sup>107</sup>

The role of in-laws in relation to IPV can be organized into three categories: co-abuser, facilitator, and bystander.<sup>108</sup> In addition to physical, verbal, and emotional abuse by in-laws, the social science literature discusses immigration abuse, including threats of deportation and losing custody of children, and imposed isolation through restricting social interactions.<sup>109</sup> In some cases, even when in-laws sympathized with the woman, they would still reinforce the “wife’s role . . . of keeping the family intact,”<sup>110</sup> minimizing the violence and blaming the woman for causing an abusive reaction by the batterer.<sup>111</sup> An in-law’s potential bystander role is self-explanatory; however, it may stem from widely varying causes—a passive sense of helplessness,<sup>112</sup> or a knowing refusal to recognize that abuse has occurred.<sup>113</sup>

A distinct strand of the social science literature focused on mother-in-law abuse. For example, one study found that Chinese American women are at risk of violence from other women, such as their mothers-in-law, who “can derive power from their association with

106 Lee, *supra* note 50, at 221 (citing K.A. Huisman, *Wife Battering in Asian American Communities*, 2 VIOLENCE AGAINST WOMEN 260 (1996); S. MING-JYH, CHINESE FAM. SERVICE OF GREATER MONTREAL, RESEARCH ON CONJUGAL VIOLENCE IN CHINESE FAMILIES OF MONTREAL (1994)); *cf. id.* (study of Chinese Canadians demonstrated that 64% of abused wives who lived with in-laws “were also physically and emotionally abused by the parents of their husband”).

107 Shim & Hwang, *supra* note 68, at 318; *see also id.* at 323 (“[B]ecause their in-laws live together or live close by, the victim’s fear of retaliation by the in-law . . . is a unique barrier.”); ABRAHAM, SPEAKING THE UNSPEAKABLE, *supra* note 9, at 111 (“[M]arital abuse for South Asian immigrant women is not just a dyadic relationship between a husband and wife but frequently involves other family members.”).

108 See Yoshihama, *Japanese Sociocultural Context*, *supra* note 103, at 1253–54 (“A substantial number of participants described the role of in-laws as helpless bystanders or, at times, co-perpetrators in their sons’ abuse.”).

109 See Shim & Hwang, *supra* note 68, at 316–17; Dasgupta, *South Asian Overview*, *supra* note 1, at 178.

110 Shim & Hwang, *supra* note 68, at 318.

111 Yoshihama, *Japanese Sociocultural Context*, *supra* note 103, at 1254.

112 See *id.* at 1253–54.

113 See Shim & Hwang, *supra* note 68, at 318; *see also* Yoshihama, *Japanese Sociocultural Context*, *supra* note 103, at 1254 (“Some parents kept silent about their sons’ abuse for the sake of respectability.”).

the male figures in the family.”<sup>114</sup> Similarly, “[i]n the South Asian community, domestic abuse is not just perpetrated by the intimate partner but is often complicated by the proverbial ‘mother-in-law’ abuse.”<sup>115</sup> Some researchers asserted that mothers-in-law were more frequently abusive than fathers-in-law.<sup>116</sup> Regardless, the research clearly showed that patrilocality constitutes a risk factor for abuse.

## 2. Economic Dislocation

The social science literature describes immigrating to the United States as both disrupting traditional economic roles and suppressing economic mobility. Multiple studies have shown a correlation between economic insecurity and IPV.<sup>117</sup> Specifically, disrupting economic roles poses a risk factor for IPV.<sup>118</sup> Immigrant Asian American women appear to have greater access to low-paying jobs as maids, childcare, and food service workers.<sup>119</sup> Conversely, immigrant men may reject menial jobs because of the loss of status. To the extent that immigrant women are better able to find work, this shift in economic role may result in greater conflict.<sup>120</sup> Research involving Vietnamese American women revealed that immigration “changed the power dynamics between husbands and wives” based on a relative rise in women’s economic contributions.<sup>121</sup>

---

114 Lee, *supra* note 50, at 221.

115 Dasgupta, *South Asian Overview*, *supra* note 1, at 178; see also ABRAHAM, SPEAKING THE UNSPEAKABLE, *supra* note 9, at 108–09 (describing a married woman’s “subordination to the men in the family and to the older women, especially her mother-in-law”).

116 Raj & Silverman, *Immigrant Women*, *supra* note 67, at 371 (citing studies indicating that in-law abuse is “more commonly perpetrated by female in-laws”).

117 See *id.* at 374; cf. Coker, *Material Resources*, *supra* note 10, at 1025–32 (emphasizing importance of access to material resources).

118 Grace H. Chung et al., *Wives’ Relative Income Production and Household Male Dominance: Examining Violence Among Asian American Enduring Couples*, 57 FAM. REL. 227, 234–36 (2008) (documenting correlation between abuse and earning equal or higher salaries than their husbands).

119 See, e.g., Yoshioka, *Four Asian Communities*, *supra* note 73, at 902, 904 (finding that Korean American women were increasingly entering the paid labor force and at risk for IPV).

120 See Menjivar & Salcido, *supra* note 48 at 906–08; see also Bui & Morash, *Vietnamese Exploratory Study*, *supra* note 87, at 776; cf. Raj & Silverman, *Immigrant Women*, *supra* note 67, at 370 (noting stress on gender role ideology based on “presence of comparatively more egalitarian U.S. gender roles”).

121 Morash, *Vietnamese Risk Factors*, *supra* note 81, at 656; cf. Menjivar & Salcido, *supra* note 48, at 903 (improved language skills “may exacerbate the abusive behavior since male control and orthodox gender roles are contested”).

Downward mobility associated with immigration is another manifestation of immigration-related economic dislocation. Racism, limited English proficiency, and varying rules for occupational licensing result in downward mobility expressed through unemployment or underemployment.<sup>122</sup> Even those whose immigration status permits them to work are burdened by immigration regulations requiring recertification. These same regulations bar those who are undocumented from obtaining work authorization. They thus are more vulnerable to exploitation by their employers. Economic insecurity and dependency also suppress help-seeking behavior.<sup>123</sup>

### 3. Isolation

Asian American women are at greater risk for IPV and experience greater difficulty in accessing help due to language-based, physical/geographic, and cultural isolation. Multiple studies have identified language barriers as a contributing factor to the isolation of Asian American women affected by IPV.<sup>124</sup> More specifically, limited English proficiency and the scarcity of helping organizations that can provide language-specific, culturally appropriate services are barriers to disclosure of abuse.<sup>125</sup> An analysis of data gathered from social service providers in Illinois similarly indicated that Asian Americans were underrepresented

---

122 See Yick, *Feminist Theory*, *supra* note 66, at 554–55. According to “status inconsistency theory[,] . . . decision-making power is contingent on the amount and the perceived value of the resources the individual contributes to the family,” and violence results when family members “are threatened by their lack of resources or perceive their status as inconsistent with social norms.” *Id.* at 553.

123 See Bui, *Vietnamese Help-Seeking*, *supra* note 68, at 225 (Although both “absolute dependency and relative dependency” affected help-seeking behavior, “absolute dependency appeared to have stronger effects”); Morash, *Vietnamese Risk Factors*, *supra* note 81, at 664–65 (showing that Vietnamese American women who did not work and those who were in low paying jobs were particularly reluctant to report abuse); *cf.* Bhuyan et al., *supra* note 72, at 911 (study of Cambodian immigrant women indicated that husbands tried “to control them and keep them from working”).

124 See, e.g., Yick, *Feminist Theory*, *supra* note 66, at 547 (asserting that access problems related to language barriers “augment the complexities normally involved”); Bui, *Vietnamese Help-Seeking*, *supra* note 68, at 225–26 (cultural isolation, and particularly limited English proficiency, impeded access to information and ability to communicate with helping agencies).

125 See, e.g., Xu, Campbell & Zhu, *supra* note 80, at 308 (citing M.Y. Lee & P. Au, *Chinese Battered Women in North America: Their Experiences and Treatment*, in *BATTERED WOMEN AND THEIR FAMILIES* 448–82 (R.R. Albert ed., 1998); MARIANNE R. YOSHIOKA & QUYNH DANG, *ASIAN TASK FORCE AGAINST DOMESTIC VIOLENCE, INC., ASIAN FAMILY VIOLENCE REPORT: A STUDY OF THE CHINESE, CAMBODIAN, KOREAN, SOUTH ASIAN AND VIETNAMESE COMMUNITIES IN MASSACHUSETTS* 4 (2000), available at <http://www.atask.org/site/images/pdf/asianfamilyviolencereport.pdf> [<http://perma.cc/39QV-B5TU>] (recognizing need to “improve linguistic accessibility of services” and to “educate social service providers about domestic violence and cultural sensitivity”).

in seeking domestic violence services.<sup>126</sup> The lack of service providers who were language accessible likely accounts, at least in part, for this underrepresentation.<sup>127</sup> Additionally, “[a]s a group, Asians have a plethora of dialects, which further complicates locating services[.] Chinese, Vietnamese, Laotian, and many other ethnic subgroups . . . do not have access to resources because of language barriers.”<sup>128</sup>

Language isolation can be exacerbated by both physical and cultural isolation.<sup>129</sup> Physical isolation and dependence, in turn, is correlated with limited access to information about resources and ongoing limited English proficiency.<sup>130</sup> Studies have also suggested that “Asian American women were less likely than women from other racial/ethnic groups to report abuse incidents to the police.”<sup>131</sup> Additionally, data on referrals to social service providers reveal a link between isolation from the criminal justice system and from mainstream community resources.<sup>132</sup> These findings track assertions in the social work literature that Asian Americans lack access to IPV information and assistance.<sup>133</sup>

The tension created when cultural norms from an immigrant woman’s country of origin

---

126 See Grossman & Lundy, *supra* note 42, at 1044. This data set included the adult intake/eligibility forms of 993 Asian Americans which represented 1% of the entire data set of 100,020, compared to census data indicating that Asian Americans comprised 2.8% of the population in Illinois during the relevant July 1990 to June 1995 time frame. See *id.* at 1036.

127 *Id.* at 1044 (“[I]n Chicago, an area with a larger Asian American population than other parts of the state, only three programs exist that are geared specifically to meet the needs of Asian women.”); cf. Krane, *supra* note 58, at 444 (Canadian study showed “linguistic isolation . . . amplified the isolation, dependency, shame and fear associated with experiences of abuse”).

128 See Grossman & Lundy, *supra* note 42, at 1034 (citing K.A. Huisman, *Wife Battering in Asian American Communities*, 2 VIOLENCE AGAINST WOMEN 260 (1996)).

129 See Morash, *Vietnamese Risk Factors*, *supra* note 81, at 664 (most of the women (62%) worked exclusively in the Vietnamese community with little exposure to the outside world, but most of the men (69.2%) “worked in the mainstream”); Raj & Silverman, *Immigrant Women*, *supra* note 67, at 377–80 (abuse of immigrant women commonly entails isolation, limiting contact with family members, prohibiting friendships with Americans, and disallowing women from learning English and wearing American clothes).

130 See Bui, *Vietnamese Help-Seeking*, *supra* note 68, at 210.

131 See *id.* at 208; YOSHIHAMA ET AL., JUSTICE SYSTEM RESPONSES, *supra* note 61, at 7–8 (summarizing barriers to contacting criminal justice agencies).

132 See Grossman & Lundy, *supra* note 42, at 1039 (Asian Americans were less likely to be referred by the police to social services than any of the other groups).

133 See, e.g., *id.* at 1045.

are juxtaposed with “American” cultural norms is another source of isolation.<sup>134</sup> Alienation from both cultures and conflict between the two can heighten the risk of IPV.<sup>135</sup> Although some studies have identified strong adherence to the traditional culture of one’s country of origin as a risk factor, the effect of cultural clashes are equally, if not more, salient.<sup>136</sup> One study noted that the effect of traditional culture may be multiplied by “those who resist assimilation to retain their ethnic identities and those who are segregated in ethnic enclaves.”<sup>137</sup> Thus, one reaction to acculturation stress is for an immigrant community to adhere more tightly to the culture of its home country.<sup>138</sup>

### III. Structural Factors and External Impediments

Examining IPV against Asian American women through a structural lens contextualizes the preceding discussion of individual and situational factors.<sup>139</sup> Broader societal forces and institutional failures profoundly limit the range of options available to Asian American survivors. For example, although one’s sense of family primacy may derive from cultural norms, the dearth of language-accessible, culturally appropriate social, legal, and criminal justice services obviously hinders help-seeking. Similarly, an immigration system predicated on marriage creates vulnerability to abuse, amplifying the impact of patrilocalty. Culturally specific norms may pull Asian American women towards abusive families and unsympathetic ethnic communities, but indifferent or hostile social and legal service providers push hard in the same direction. Societal racism and racialized responses to community-based organizations that focus on minority groups exacerbate the problem.

---

134 See Lee, *supra* note 50, at 224–26.

135 See, e.g., Jae Yop Kim & Kyu-taik Sung, *Conjugal Violence in Korean American Families: A Residue of the Cultural Tradition*, 15 J. FAM. VIOLENCE 331, 338–39 (2000) (acculturation stress was correlated with the highest levels of violence); cf. Yoshioka, *Social Support Comparison*, *supra* note 72, at 172 (“[C]onflict and negotiation of values and norms of two cultures may heighten stress within Hispanic families increasing the risk for partner violence.”).

136 See Morash, *Vietnamese Risk Factors*, *supra* note 81, at 668 (identifying “difference in years in the United States between the respondent and the partner” as a predictor for abuse); Yoshioka, *Social Support Comparison*, *supra* note 72, at 172 (“[T]he rate of partner violence was highest among moderately acculturated couples in comparison to either the high or the low acculturation groups.”).

137 Bui, *Vietnamese Help-Seeking*, *supra* note 68, at 211.

138 See, e.g., Morash, *Vietnamese Risk Factors*, *supra* note 81, at 670.

139 See Rashmi Goel, *Aboriginal Women and Political Pursuit in Canadian Sentencing Circles: At Cross Roads or Cross Purposes*, in RESTORATIVE JUSTICE AND VIOLENCE AGAINST WOMEN 60, 68 (James Ptacek ed., 2010) (mistake to prioritize culture to the exclusion of structural injustices).

Given that more than half of Asian Americans are immigrants, familiarity with the system for achieving legal status and citizenship is critical. Family-based immigration law generally gives the U.S. citizen or legal permanent resident spouse control over the citizenship process.<sup>140</sup> In the context of IPV, privileging the marital sponsor fosters an immigrant beneficiary's dependency and facilitates the development of an abusive relationship.<sup>141</sup> A batterer can harm an intimate partner by failing to initiate the necessary administrative process.<sup>142</sup> Manipulation of employment-based immigration law is another form of abuse. Those who enter the United States on work visas are dependent on their sponsoring employers, and "[b]atterers have been reported to disrupt and threaten immigrant women's jobs."<sup>143</sup> Additionally, deportation provisions based on relatively minor crimes, such as shoplifting, can fuel victimization: "[A] batterer . . . who successfully involves his partner in criminal activity can use this criminal history to threaten or to have deported any noncitizen immigrant partner, even legal permanent residents."<sup>144</sup>

The difficulty that Asian American women experience in trying to gain access to language-specific, culturally appropriate legal services compounds the problem. As a practical matter, survivors who do not speak English or have limited English proficiency cannot access immigration or other legal remedies absent adequate interpretation services. Despite explicit funding provisions in VAWA 2005 that seek to target underserved communities,<sup>145</sup> the capacity of organizations serving non-English speaking populations falls short of the

140 See, e.g., Janet Calvo, *A Decade of Spouse-Based Immigration Laws: Coverture's Diminishment, But Not Its Demise*, 24 N. ILL. U. L. REV. 153 (2004) (analyzing spouse-based immigration laws).

141 See Morash, *Vietnamese Risk Factors*, *supra* note 81, at 670 (noting that "[p]artner's threat of divorce to jeopardize a woman's immigration status" is correlated with Vietnamese women staying in abusive relationships); Michelle J. Anderson, Note, *A License to Abuse: The Impact of Conditional Status on Female Immigrants*, 102 YALE L.J. 1401 (1993).

142 See, e.g., Raj & Silverman, *Immigrant Women*, *supra* note 67, at 375 (citing M. Dutton, L.E. Orloff & G.A. Hass, *Characteristics of Help-seeking Behaviors, Resources, and Service Needs of Battered Immigrant Latinas: Legal and Policy Implications*, 7 GEO. J. ON POVERTY L. & POL'Y 245 (2000) (among immigrant Latinas "in abusive relationships, 72% of citizen and LPR spouses do not file immigration papers for their wives")).

143 *Id.* at 376; cf. Shivali Shah, *Middle Class, Documented, and Helpless: The H-4 Visa Bind*, in BODY EVIDENCE, *supra* note 9, at 195–210 (describing plight of "dependent spouses of foreign nationals working in specialty occupations" whose legal status is dependent on their H-1B visa holding spouses).

144 See Raj & Silverman, *Immigrant Women*, *supra* note 67, at 376.

145 For example, the STOP grant program in Section 101 of VAWA 2005 establishes a 10% set-aside of victim services money to be distributed to "culturally specific" community-based organizations. 42 U.S.C. § 3796gg-1(c)(4)(C) (2013). Similarly, Section 121 created new grants to enhance culturally specific services for victims of domestic violence, dating violence, sexual assault, and stalking. 42 U.S.C. § 14045a (2013).

need. State governments have also recognized the imperative to serve racial, ethnic, and religious minority groups,<sup>146</sup> but this recognition has yet to yield sufficient programmatic capacity to serve these minority populations.

### A. State Courts' Continuing Failure to Provide Necessary Interpretation Services

State court systems generally handle not only requests for orders of protection, but also issues related to child custody, visitation, and support that critically affect the lives of IPV survivors. Nevertheless, these systems routinely fail to provide the interpretation services necessary for equal access to the courts. The lack of interpretation has diminished public confidence in the courts; for example, "[i]n California, two-thirds of Asians and Hispanics believe that the courts treat English speakers better than LEP individuals."<sup>147</sup> A 2006 National Center for State Courts report examined nationwide access to interpreter services for individuals seeking civil orders of protection.<sup>148</sup> It documented systemic failures that impede non- and limited English speaking women's access to legal remedies such as orders of protection.<sup>149</sup> Non-English speaking persons seeking orders of protection most commonly spoke Spanish, according to 84% of responding state courts; however, Vietnamese was the next highest response (47%), followed by Russian (41%), and Korean (37%).<sup>150</sup> Other Asian languages that were commonly spoken included Mandarin (30%), Laotian (30%), Cantonese (29%), Farsi (25%), Tagalog (20%), and Punjabi (20%).<sup>151</sup>

---

146 For example, the New York State Office for the Prevention of Domestic Violence promulgates a model policy, encouraging counties to ensure equal access and protection by developing specialized and culturally competent services for traditionally underserved groups. It recognizes that diverse communities may provide services that are more appropriate to a survivor's cultural or religious affiliation than those available through the mainstream service system. A copy of the policy can be found at [http://www.opdv.state.ny.us/professionals/coordination/model\\_policy/index.html](http://www.opdv.state.ny.us/professionals/coordination/model_policy/index.html) [<http://perma.cc/FF4A-BDTR>].

147 LAURA ABEL, BRENNAN CTR. FOR JUSTICE, LANGUAGE ACCESS IN STATE COURTS 6 (2009), available at <http://www.brennancenter.org/publication/language-access-state-courts> [<http://perma.cc/6SF8-X9GP>].

148 See BRENDA K. UEKERT ET AL., NAT'L CTR. ST. CTS., SERVING LIMITED ENGLISH PROFICIENT (LEP) BATTERED WOMEN: A NATIONAL SURVEY OF THE COURTS' CAPACITY TO PROVIDE PROTECTION ORDERS (2006), available at <https://www.ncjrs.gov/pdffiles1/nij/grants/216072.pdf> [<https://perma.cc/J3QY-SSNR>].

149 See, e.g., *id.* at 38 ("Findings indicate that . . . courts do not have the capacity to provide interpreters for LEP persons seeking assistance with issues related to protection orders.").

150 See *id.* at 3, 39–40.

151 See *id.* at 40; cf. N.Y. STATE UNIFIED COURT SYS., COURT INTERPRETING IN NEW YORK: A PLAN OF ACTION: MOVING FORWARD I (2011) ("More than 30 percent of New Yorkers—almost five million people—speak a lan-



With respect to comparative demographic data, the Census Bureau estimated that in 2010, the foreign-born population constituted approximately 13% (40 million) of the total U.S. population, and that 28% of this population was born in Asia.<sup>152</sup> With more than a quarter of all foreign-born residents having emigrated from Asia, addressing the language access needs of Asian American women should be a priority. Census data from 2010 additionally show that the three states with the highest numbers of Asian Americans are California (5.6 million), New York (1.6 million), and Texas (1.1 million), and that these states account for just under half (47.6%) of all Asians in the United States.<sup>153</sup> Reform efforts concentrated in these states could significantly improve language access for Asian American survivors.

The failure to address language barriers denies meaningful access to federally funded government benefits and services in violation of Title VI's prohibition against national origin discrimination and Executive Order 13166.<sup>154</sup> Since "most local and state government agencies, including . . . courts, are supported through federal funds," these federal requirements apply more broadly to state court systems.<sup>155</sup> Pursuant to Executive Order 13166 and a Department of Justice policy guidance document, state court systems receiving federal funds must provide interpreters in civil as well as criminal matters "during all hearings, trials, and motions during which the LEP individual must and/or may be present."<sup>156</sup>

The percentages of interpreter availability for persons seeking orders of protection in state courts was higher in large, urban settings, and significantly lower in rural counties. For example, "interpreter availability for Vietnamese-speaking persons ranged from 66 percent in population centers to 33 percent in rural counties."<sup>157</sup> The capacity of state courts to provide interpreter services fell "substantially short of what [was] required to meet the

---

guage other than English at home.").

152 See ELIZABETH M. GRIECO ET AL., U.S. CENSUS BUREAU, THE FOREIGN-BORN POPULATION IN THE UNITED STATES: 2010 (2012), available at <http://www.census.gov/prod/2012pubs/acs-19.pdf> [<http://perma.cc/BMU6-AJR8>].

153 ELIZABETH M. HOEFFEL ET AL., U.S. CENSUS BUREAU, THE ASIAN POPULATION: 2010 7 (2012), available at <http://www.census.gov/prod/cen2010/briefs/c2010br-11.pdf> [<http://perma.cc/DPP4-Z9AH>].

154 See Exec. Order No. 13166, 28 C.F.R. § 42.104(b)(2) (2002).

155 UEKERT ET AL., *supra* note 148, at 16; see also ABEL, *supra* note 147, at 8.

156 ABEL, *supra* note 147, at 8 n.32 (quoting 67 Fed. Reg. 41,455, 41,471 (June 18, 2002)).

157 UEKERT ET AL., *supra* note 148, at 42.

needs of the LEP population they serve.”<sup>158</sup> Similarly, a 2009 report by the Brennan Center found that forty-six percent of the thirty-five states with the highest density of LEP individuals fail to require that interpreters be provided in all civil cases.”<sup>159</sup>

Inadequacies in the quality and professionalism of court interpreters presents another serious concern.<sup>160</sup> Despite some progress,<sup>161</sup> the lack of professionally trained, neutral interpreters presents multiple risks. These include having an interpreter who lacks the English language skills and sufficient familiarity with the court system to provide adequate interpretation.<sup>162</sup> These failures may, in turn, endanger the safety of the interpreter and petitioner.<sup>163</sup>

---

158 *Id.* at 42–43.

159 ABEL, *supra* note 147, at 62 (of these thirty-five states, only twenty-four (Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New Mexico, New York, Oregon, Pennsylvania, South Carolina, Texas, Utah, Washington, Wisconsin) and the District of Columbia had a “mandatory written requirement that interpreters be appointed in all civil cases”). *See also id.* App. D.; NAT’L LANGUAGE ACCESS ADVOCATES NETWORK, LANGUAGE ACCESS PROBLEMS AMONG DOJ’S STATE COURT GRANTEEES (Feb. 2010), *available at* <http://www.brennancenter.org/sites/default/files/legacy/Justice/LangAccess/FactSheet.LA-StateCourts.pdf> [<http://perma.cc/E8G9-9HPM>] (“[N]early 13 million limited English proficient . . . individuals live in states that do not require their courts to provide interpreters to LEP individuals in most types of civil cases.”).

160 *See, e.g.*, UEKERT ET AL., *supra* note 148, at 44–47 (over a third of courts in rural areas had no formal means of assessing their interpreters’ qualifications); ABEL, *supra* note 147, at 1 (37% of states examined “fail to require the use of credentialed interpreters, even when such interpreters are available”); MOHAMMAD ALAM, POOJA FALDU & PURVI SHAH, SAKHI FOR SOUTH ASIAN WOMEN, TALKING THE TALK: A NATIONAL STUDY OF COURT INTERPRETERS: PRELIMINARY DATA AND RECOMMENDATIONS ON LANGUAGE ACCESS IN NYS COURTS (2008), *available at* <http://www.sakhi.org/CIP/NationalCourtInterpreterSurveyPreliminaryReport.pdf> [<http://perma.cc/G2Y6-X9MZ>] (identifying need to reform interpreter training and continuing education).

161 *See* N.Y. STATE UNIFIED COURT SYS., COURT INTERPRETING IN NEW YORK: A PLAN OF ACTION: MOVING FORWARD 2–3 (2011), *available at* <http://www.nycourts.gov/publications/pdfs/ActionPlanCourtInterpretingUpdate-2011.pdf> [<http://perma.cc/8H5L-PYS9>] (requiring passage of written English proficiency exam and of oral exam, available for 22 languages including Bengali, Cantonese, Hindi, Japanese, Korean, Mandarin, Punjabi, Urdu, and Vietnamese).

162 Informal interpretation through the bilingual staff of community based organizations also ranged from a high of 30% in metropolitan counties to a low of 15% in rural counties, and state courts additionally reported using bilingual court staff to provide interpretation. *See* UEKERT ET AL., *supra* note 148, at 44–47. Likewise, family members, friends, and even children may be called in to interpret. *See id.* at 46.

163 *See* Muneer Ahmad, *Interpreting Communities: Lawyering Across Language Difference*, 54 UCLA L. REV. 999 (2007) (describing hypothetical conflict of interest between female asylum seeker and male religious leader who served as her interpreter); Meiver De la Cruz & Carol Gomez, *Ending Oppression. Building Solidarity. Creating Community Solutions*, in *THE REVOLUTION STARTS AT HOME* 38–49 (Ching-In Chen et al.

Implementation of other language access measures are similarly lacking: “Fewer than 17 percent of the courts use language identification cards or posted signs informing the public of the availability of free interpretation services.”<sup>164</sup> Moreover, “[t]here is no systematic data collection that would allow courts to assess the quality and range of their service provision to LEP persons.”<sup>165</sup> Over fifteen years ago, the American Bar Association adopted a resolution recommending that “all courts be provided with qualified language interpreters,” and over ten years ago, the Conference of Chief Justices passed a similar resolution recommending, in part, the removal of language barriers. State courts nevertheless continue to fall short of providing “‘meaningful access’ to protection orders and court services for the LEP population.”<sup>166</sup>

Structural barriers are reflected both in institutional failures, such as the lack of sufficient interpretation services discussed above, and societal hostility, such as that experienced by a domestic violence organization that explicitly focuses on the needs of Asian American survivors.

## **B. Racialized Opposition to Opening A Domestic Violence Shelter For Asian American Women**

Societal discomfort and hostility to racial difference can deter Asian American women affected by IPV from seeking and receiving help. Examining a community’s response to the opening of a shelter for Asian American survivors illustrates how racialized NIMBYism can impede resource development.<sup>167</sup> Creating shelters is a well-established strategy for

---

eds., 2011) (describing IPV survivor “chided and humiliated” “throughout the hearing” by a “sexist, unprofessional Korean male court interpreter”).

164 UEKERT ET AL., *supra* note 148, at 48, 55–56.

165 *See id.* at 56 (“The courts do a poor job of data collection on LEP issues on primary language of petitioners, petitioner satisfaction with interpreter services, and documenting grievances or complaints due to language access issues.”); cf. Nancy K.D. Lemon, *Access to Justice: Can Domestic Violence Courts Better Address the Needs of Non-English Speaking Victims of Domestic Violence?*, 21 BERKELEY J. GENDER, L. & JUST. 38 (2006).

166 UEKERT ET AL., *supra* note 148, at 56–57 (citing ABA Resolution, Rep. No. 109, adopted Aug. 1997; Conference of Chief Justices, Resolution 28 (In Support of State Courts’ Responsibility to Address Issues of Racial and Ethnic Fairness), adopted Aug. 1, 2002); *see also* ABEL, *supra* note 147, at 1–2.

167 NIMBY is an acronym for “not in my back yard,” and is defined as “the protectionist attitudes and exclusionary/opposition tactics adopted by community groups facing an unwelcome development in their neighborhood.” Gregory M. Maney & Margaret Abraham, *Whose Backyard? Boundary Making in NIMBY Opposition to Immigrant Services*, 35 SOC. JUST. 66, 66 (2008).

combating IPV. However, when mainstream shelters cannot provide language specific, culturally appropriate services, Asian American survivors face an added burden. Opposition to a shelter equipped to help Asian Americans limits access for those unable or disinclined to use mainstream services.<sup>168</sup> The case study below reveals one iteration of structural subordination against a racially-identified domestic violence organization.

Since 1982, the New York Asian Women's Center (NYAWC) has been working with individual Asian American survivors of domestic violence to help them live safe and independent lives.<sup>169</sup> NYAWC's residential services evolved over time, starting with "safe homes" in which volunteers provided emergency housing by opening their homes to women and children fleeing violence. NYAWC later offered "safe dwellings" for women and children who needed longer-term transitional housing, and in 2001, NYAWC opened its first 24-hour, professionally-staffed domestic violence shelter.<sup>170</sup> The controversy underlying this case study occurred during the transition from renting to owning shelter space.

NYAWC decided to buy a building to minimize the operational drain caused by renting. Whenever a landlord chose not to renew a lease, all of the administrative work of opening a shelter, such as obtaining a certificate of occupancy, would be undone. Moreover, confidentiality concerns make locating appropriate space for a domestic violence shelter targeted

---

168 A Department of Justice study of women at domestic violence shelters across eight states (Connecticut, Florida, Illinois, Michigan, New Mexico, Oklahoma, Tennessee, and Washington) showed that of the 3,410 women surveyed, only 1% identified as Asian/Pacific Islanders. See ELEANOR LYON ET AL., *MEETING SURVIVORS' NEEDS: A MULTI-STATE STUDY OF DOMESTIC VIOLENCE SHELTER EXPERIENCES*, FINAL REPORT 49–50 (2008), available at [http://www.vawnet.org/Assoc\\_Files\\_VAWnet/MeetingSurvivorsNeeds-FullReport.pdf](http://www.vawnet.org/Assoc_Files_VAWnet/MeetingSurvivorsNeeds-FullReport.pdf) [<http://perma.cc/R3KY-9JMT>] (based on data collection over six months from 3,410 respondents who were residents in 81% of the shelters in eight states). Likewise, data from the New York City Department of Homeless Services shows that less than 1% of the population using the shelter system are Asian American, see *DHS Data Dashboard Fiscal Year 2012*, NEW YORK CITY (Dec. 21, 2014, 6:49 P.M.), [http://www.nyc.gov/html/dhs/downloads/pdf/dashboard/dhs\\_data\\_dashboard\\_charts\\_fy\\_2012.pdf](http://www.nyc.gov/html/dhs/downloads/pdf/dashboard/dhs_data_dashboard_charts_fy_2012.pdf) [<http://perma.cc/G7KN-84KH>], while 12.7% of the New York City population is Asian American. See 2010 U.S. Census Bureau American Community Survey; see also *State and County Quick Facts*, U.S. CENSUS BUREAU (Dec. 21, 2014, 6:43 P.M.), <http://quickfacts.census.gov/qfd/states/36/3651000.html> [<http://perma.cc/2HSY-8ZST>].

169 See *What We Do*, NYAWC (Dec. 21, 2014, 6:52 P.M.), <http://www.nyawc.org/about/what-we-do.html> [<http://perma.cc/N8ML-TGAK>] (mission statement). This section is based in part on my personal experience with NYAWC. I volunteered, joined the Board, served as Board Chair, and am currently the Advisory Board Chair.

170 See generally 18 N.Y. COMP. CODES R. & REGS. tit. 18, §§ 452.2(a), 452.2(e)(1), 452.2(f) (2009) (distinguishing safe homes, safe dwellings, and shelters).

to serve Asian American women particularly difficult.<sup>171</sup> Since Asian Americans are an identifiable racial minority, homogenous, wholly non-Asian neighborhoods are potentially problematic sites: they may reduce the comfort of shelter residents and cause a safety problem. Asian American neighborhoods, such as Flushing and Jackson Heights, Queens, pose the danger of living in an abuser's neighborhood. Racial identity-related location challenges present a structural barrier not faced by organizations primarily serving women from majority racial groups.<sup>172</sup> General concerns about safety, schools, and affordability add to these particularized burdens.<sup>173</sup>

In 2003, NYAWC purchased a brownstone building in a residential neighborhood that was historically a white ethnic neighborhood, but with a cadre of racially diverse, upwardly mobile homeowners and renters.<sup>174</sup> Additionally, NYAWC had operated similar shelter facilities within the same general vicinity without engendering any neighborhood opposition. To protect confidentiality, NYAWC did not notify community leaders or local politicians of its plans. It obtained financing, purchased the building, and began renovations to open a twenty-bed residential shelter, using a construction company that it had used before which primarily employed Chinese American workers. These workers drew the attention of community members who learned of NYAWC's plan to open a domestic violence shelter.<sup>175</sup>

---

171 See Janice Haaken & Nan Yragui, *Going Underground: Conflicting Perspectives on Domestic Violence Shelter Practices*, 13 FEMINISM & PSYCHOL. 49, 50 (2003) (identifying "belief that the safety of women escaping male violence depends on confidentiality concerning the location of the shelter" as a "major tenet"). But see Pam Belluck, *Shelters for Women Disclosing Their Locations, in Spite of Risk*, N.Y. TIMES (Aug. 10, 1997), <http://www.nytimes.com/1997/08/10/us/shelters-for-women-disclosing-their-locations-in-spite-of-risk.html?pagewanted=all&src=pm> [<http://perma.cc/5SCN-R5RR>] (considering pros and cons of the movement for open shelters).

172 Fundraising to provide social services to a targeted population, such as Asian American women, represents another structural disadvantage. Corporations lack an incentive to provide support since the Asian American market is comparatively small and the issue of domestic violence is difficult. Likewise, studies have shown that Asian Americans lag behind other racial groups in charitable donations. See Nina Bernstein, *Class Divide in Chinese-Americans' Charity*, N.Y. TIMES (Jan. 20, 2007), <http://www.nytimes.com/2007/01/20/nyregion/20philanthropy.html?pagewanted=all> [<http://perma.cc/TTG5-XNRZ>] (lack of Chinese-American philanthropy specifically and Asian-American philanthropy generally); cf. Kirk Semple, *Asian-Americans Gain Influence in Philanthropy*, N.Y. TIMES, Jan. 8, 2013, at A1, available at <http://www.nytimes.com/2013/01/09/nyregion/as-asian-americans-numbers-grow-so-does-their-philanthropy.html?pagewanted=all> [<http://perma.cc/5253-FYBG>] (philanthropy movement becoming more commonplace in Asian American communities).

173 Maney & Abraham, *supra* note 167, at 69 (identifying shelter site selection criteria as "a mixed urban neighborhood, safe housing for residents, and quality schools for their children").

174 See *id.*

175 Chaiti Sen, *Locals Turn on Asian Women's Shelter*, COLORLINES 45 (Winter 2004).

Although any social service use of property in a residential neighborhood might elicit a NIMBY response, the reaction in this instance to a shelter for *Asian American* women was explicitly racialized.<sup>176</sup> A local newspaper article about a community meeting cited participants' concerns about "the cultural makeup of the facility, which would be comprised of Asian women." The article included the following quote: "We don't speak Chinese . . . . How are we going to be neighbors with people we can't even communicate with?"<sup>177</sup> An Asian American shelter opponent's denial that the NIMBY group had an anti-Asian animus evidenced the racial aspects of the controversy: "Those who are for the shelter have made hollow accusations that those opposed are anti-Asian . . . I'm Asian myself. I wouldn't be a member of the executive committee if that were true."<sup>178</sup> A letter to the editor the following month stated: "[A] group of Asian women are going to stand out like a sore thumb. They are not going to blend into the Kameron Glen neighborhood."<sup>179</sup>

Opponents of NYAWC's shelter engaged in community organizing and zoning litigation. They held meetings and rallies, publicized the shelter location through fliers and on websites, and filed an administrative challenge before the NYC Department of Buildings, as well as a lawsuit in state court. Both filings were dismissed.<sup>180</sup> In terms of location,

---

176 The national program director on immigration at the Family Violence Prevention Fund observed that: "It's easy to see that there's a xenophobic feeling . . . saying that these are outsiders who don't look like us so we need to keep them out." Sen, *supra* note 175, at 46; *see also* Maney & Abraham, *supra* note 167, at 75 (media alert on NIMBY group's website: "We have already had our first distraught, belligerent Asian man come to our block, [sic] scared a few elderly people [sic] in broken English if his wife was in the shelter.").

177 Patrick Gallahue, *150 rip Kameron Glen[\*] shelter for Asian women*, THE BROOKLYN PAPER, Sep. 1, 2003. \*I have substituted the same pseudonym used in the Maney & Abraham article, *supra* note 167, for the location and have copies of all the newspaper articles cited on file.

178 Gary Buiso, *Shelter Showdown: Residents Battle Over Asian Women's Shelter*, KAMERON GLEN COURIER, Sep. 29, 2003; *see also* Deborah Kolben, *Protestors continue shelter attack*, THE BROOKLYN PAPER, Oct. 13, 2003 (same); Andrea Peyser, *Shelter spurs nasty 'Nazi' talk*, N.Y. POST, Dec. 10, 2003 ("[T]his is not some racist, Italian-versus-Asian battle.").

179 Philip J. Safina, *Outsider not a voice of the Glen*, THE BROOKLYN PAPER, Oct. 6, 2003. The community was not united in opposition, and vocal supporters in the neighborhood defended NYAWC's efforts to open a domestic violence shelter. One community supporter wrote a letter to the editor, stating that NYAWC was "like organizations dedicated to the similar needs of African-American, Hispanic or other women, part of a network dedicated to helping women, of all ethnicities," and ridiculed the claim by shelter opponents that NYAWC was "prejudiced by virtue of their specific mission." Harry Seldom, *Safe 'hood's what battered women need*, THE BROOKLYN PAPER, Oct. 6, 2003.

180 Maney & Abraham, *supra* note 167, at 69; *cf.* Ben Silverbush, *Battered Women's Shelter Battle Continues in Kameron Glen*, BROOKLYN FREE PRESS, Oct. 2003 ("It's kind of ironic because some of those same tactics of threats and creating an atmosphere of intimidation and fear, which they did by publicizing the address, are the

although existing laws prohibit social service providers from breaching confidentiality,<sup>181</sup> there is no law in New York State or New York City that prohibits the general public from publicizing a shelter location.<sup>182</sup> Whether shelters need to have confidential locations is a complicated and open question.<sup>183</sup>

Ultimately, with the assistance of the local New York City Council and New York State Assembly representatives, NYAWC developed a Memorandum of Understanding and a Community Advisory Board “to foster a dialogue to address local concerns about [the shelter], while calling on the surrounding community to embrace the facility as a neighbor.”<sup>184</sup> Community opposition dropped dramatically once the shelter opened, and NYAWC’s shelter has now housed survivors and their children without incident for the past ten years.

This case study illustrates some of the societal structural barriers confronting Asian American survivors and the organizations that work with them. NYAWC staff, board members, and supporters experienced the shelter opponents’ statements and actions in a racialized way, and newspaper accounts included statements by opponents that referenced race and ethnicity. There were objections to the “cultural makeup” of the NYAWC’s shelter, expressed frustration about the anticipated inability to communicate, and an assumption that Asian American survivors were not going to be able to “blend” into the community.

same tactics that abusers of women use.”).

181 See N.Y. SOC. SERV. § 459-g (McKinney 2008).

182 Some states, such as Georgia and California, may impose criminal liability for such disclosures, see GA. CODE ANN. §§ 19-13-2 (amended), -23 (new), -31 (amended); CAL. PENAL CODE § 273.7 (West 2008), and Arizona may impose a civil penalty for disclosing a shelter location. See ARIZ. REV. STAT. ANN. § 36-3009 (2009) (providing for fine up to \$1,000); cf. CAL. PENAL CODE §§ 11160-11163.2 (mandatory domestic violence reporting by health care providers); COLO. REV. STAT. § 12-36-135 (same); KY. REV. STAT. § 209.030 (same).

183 On the one hand, there is “separation violence” which can make IPV survivors more vulnerable to injury after they have left their abusers. See STARK, *supra* note 1, at 115-16; cf. D. Marisa Black, *Working Outside the HMIS Box: HUD Funding, Domestic Violence Shelters, and Approaches to Protect Domestic Violence Client Confidentiality*, 8 J.L. & FAM. STUD. 203 (2006). Additionally, the safety of IPV survivors who were involved in prostitution or trafficking may require confidentiality. See Dickie Chester-James, *Downplaying Danger: A Response to Haaken & Yragui’s ‘Going Underground’*, 14 FEMINISM & PSYCHOL. 583, 584, 586 (2004). On the other hand, “shelters are often confidential in theory but public in actual practice, particularly in communities where they have been in a stable location for many years.” Haaken & Yragui, *supra* note 171, at 59; see also Teuvo Peltoniemi, *The First Twelve Months of the Finnish Shelters*, 6 VICTIMOLOGY 198 (1981) (open refugees model of domestic violence shelters in Finland).

184 Maney & Abraham, *supra* note 167, at 71 (quoting *New York Daily News*, Dec. 2003). I participated in the Community Advisory Board monthly meetings and have a copy of the Memorandum of Understanding on file.

Additionally, the organizing campaign against the shelter referenced stereotypes of Asians. One example was the accusation that NYAWC was “sneaking” into the neighborhood because it did not approach community members in advance.<sup>185</sup> Asian Americans are still the “other” or “inassimilable alien” vis-à-vis the dominant group “based on perceived and actual legal status, physical features, language, accents, food, music, clothing, and beliefs.”<sup>186</sup> Thus, Asian American survivors are susceptible to particularized, racialized opposition that warrants attention when envisioning potential solutions.<sup>187</sup>

#### IV. The Work that Lies Ahead

Centering Asian American survivors reveals that shared cultural precepts, immigrant experiences, and structural barriers call for strategies informed by these realities. The two that I focus on are supporting Asian American women who stay with their abusive partners and equipping state court systems to offer equal access to civil orders of protection. A common practice and goal of IPV social service agencies is to help survivors to leave their abusers.<sup>188</sup> This one-size-fits-all approach, however, is not best for all,<sup>189</sup> particularly

---

185 *Id.* at 78 (“Stereotypic racial slurs against Asians often imputed that they were sly, dishonest, and devious.”); see also Deborah Kolben, *Protestors continue shelter attack*, THE BROOKLYN PAPER, Oct. 13, 2003, at 1 (opponents chastised NYAWC for “sneaking into the neighborhood”); Albor Ruiz, *Scared of Haven for Battered Women*, N.Y. DAILY NEWS (Oct. 9, 2003), <http://www.nydailynews.com/archives/boroughs/scared-haven-battered-women-article-1.516901> [<http://perma.cc/8UXT-DWUK>] (NYAWC statement, “We’ve been accused of being sneaky. I’m so sorry that they perceive it that way.”); cf. FRANK H. WU, *YELLOW: RACE IN AMERICA BEYOND BLACK AND WHITE* 79–129 (2002) (discussing Asians as perpetual foreigners through historical and personal examples).

186 Maney & Abraham, *supra* note 167, at 76; cf. KENJI YOSHINO, *COVERING* (2006) (describing how racial minorities feel pressured to “act white” and noting four axes of covering: appearance, affiliation, activism, and association).

187 Obviously domestic violence shelters that serve African American, Latina, Native American, and European American women may face NIMBY opposition as well. My point here, however, is that racial difference contributed to a multifaceted, integrative opposition to the development of resources targeted for Asian American survivors.

188 See, e.g., JILL DAVIES, ELEANOR LYON & DIANE MONTI-CATANIA, *SAFETY PLANNING WITH BATTERED WOMEN* 125 (1998) [hereinafter DAVIES ET AL., *SAFETY PLANNING*] (describing most service-defined advocacy as being limited to women planning to leave their relationships); Donna Coker, *Transformative Justice: Anti-Subordination Processes in Cases of Domestic Violence*, in *RESTORATIVE JUSTICE AND FAMILY VIOLENCE* 135 (Heather Strang & John Braithwaite eds., 2002) [hereinafter Coker, *Transformative Justice*] (describing “staying” as socially suspect and presumptions that IPV survivors “should” leave).

189 See Margret E. Bell, Lisa Goodman & Mary Ann Dutton, *Variations in Help-Seeking, Battered Women’s Relationship Course, Emotional Well-Being, and Experiences of Abuse Over Time*, 33 *PSYCHOL. WOMEN Q.* 149,



all immigrant Asian American women who may disengage from helping resources when services are implicitly or explicitly conditioned on leaving.<sup>190</sup>

### A. Helping Asian American Women Who Stay

Researchers have critiqued the static nature of societal responses to IPV in the United States despite growing racial and ethnic diversity,<sup>191</sup> and suggested alternatives that “involve staying in the relationship and eliminating the violence.”<sup>192</sup> A study of survivors’ shelter experiences found that: “[T]he Asian/Pacific Islander survivors in the sample were rather consistently less comfortable with their entry experience [into the shelter] than those from other racial/ethnic backgrounds.”<sup>193</sup>

Studies have identified rigid gender roles, the loss of social support (isolation), children’s well-being (family primacy), and a lack of information (structural barriers) as the

---

160 (2009) (“[U]nder certain circumstances, it may be possible to resolve or at least reduce the risk of violence while remaining in the relationship.”); Margaret E. Bell Lisa Goodman & Mary Ann Dutton, *The Dynamics of Staying and Leaving: Implications for Battered Women’s Emotional Well-Being and Experiences of Violence at the End of a Year*, 22 J. FAM. VIOLENCE 413, 426 (2007) (“Some women who choose to remain in their relationship may in fact be better off [than women who leave]”).

190 See MIMI KIM, INNOVATIVE STRATEGIES TO ADDRESS DOMESTIC VIOLENCE IN ASIAN AND PACIFIC ISLANDER COMMUNITIES: EXAMINING THEMES, MODELS AND INTERVENTIONS 7–8, 17 (2010), available at <http://www.apiidv.org/files/Innovative.Strategies.Rpt-APIIDV-2002%28Rev.2010%29.pdf> [<http://perma.cc/7BPF-5J8L>] [hereinafter KIM, INNOVATIVE STRATEGIES] (critiquing narrow focus on leaving and characterizing shelter services “as an option, not as the central one”).

191 See Yoshioka & Choi, *supra* note 72, at 515 (critiquing mismatch between population diversity and homogeneity in approaches to IPV); BETH E. RICHIE, ARRESTED JUSTICE: BLACK WOMEN, VIOLENCE, AND AMERICA’S PRISON NATION (2012) (critiquing shift from a community-based, activist approach to a professionalized, social services approach to IPV); SHAMITA DAS DASGUPTA, CREATING SUSTAINABLE SAFETY FOR BATTERED WOMEN 2 (2014), available at <http://files.praxisinternational.org/AssessingSocialRisk.pdf> [<http://perma.cc/A2QU-B9A5>] [hereinafter DASGUPTA, SUSTAINABLE SAFETY] (critiquing government and foundation funders’ preference for quantitative measures versus more resource intensive focus on permanent safety).

192 Yoshioka & Choi, *supra* note 72, at 516; see also Woodchan S. Shim & Holly Nelson-Becker, *Korean Older Intimate Partner Violence Survivors in North America: Cultural Considerations and Practice Recommendations*, 21 J. WOMEN & AGING 213, 219–20 (2009) (discussing use of support groups for older Korean women who stay with their abusers); KIM, INNOVATIVE STRATEGIES, *supra* note 190, at 16 (questioning whether minimizing violence is preferable to “independence” absent economic stability); cf. Sally F. Goldfarb, *Reconceiving Civil Protection Orders for Domestic Violence: Can Law Help End the Abuse Without Ending the Relationship*, 29 CARDOZO L. REV. 1487 (2008).

193 ELEANOR LYON ET AL., DEPARTMENT OF JUSTICE, MEETING SURVIVORS’ NEEDS: A MULTI-STATE STUDY OF DOMESTIC VIOLENCE SHELTER EXPERIENCES, FINAL REPORT 115 (Feb. 2008).

reasons for delayed help-seeking.<sup>194</sup> Notwithstanding IPV, the experiences of immigrant Asian American survivors as racial and ethnic minorities may cause them to “see family as a site of resistance to the dominant society.”<sup>195</sup> Thus, “racism can prevent immigrant women from seeking help outside their families and ethnic communities.”<sup>196</sup>

Applying critical race theory to social science data with the goal of developing practical strategies is an underutilized methodology. Specifically, the issue of how to work with Asian American survivors who stay with their abusers is discussed in the social science literature, but under-theorized in the law review literature. I propose three guiding principles: First, goal-setting and the definition of safety should be expanded beyond immediate physical safety. Second, the focus of the work should be widened beyond the individual to include building a supportive community around the survivor. Third, the implementation of these principles—setting goals, planning for safety, and engaging others around the survivor—should be governed by an anti-subordination principle.

### 1. Thinking Expansively About Safety Planning

Although safety is an obvious goal for IPV survivors, what it means in practice varies widely. All safety planning, however, should include both concrete steps and a long-term, richly imagined vision of safety.<sup>197</sup> Crisis intervention is obviously necessary, but it is not sufficient. An expanded concept of “sustainable safety” is critical to individual and collective progress.<sup>198</sup> A more ambitious long-term goal is to develop the “autonomy and energy

---

194 See, e.g., Farah Ahmad et al., “Why Doesn’t She Seek Help for Partner Abuse?” *An Exploratory Study with South Asian Immigrant Women*, 69 SOC. SCI. & MED 613, 617 (2009).

195 Bui, *Vietnamese Help-Seeking*, *supra* note 68, at 210.

196 *Id.*; cf. Bohsiu Wu, *Intimate Homicide Between Asians and Non-Asians: The Impact of Community Context*, 24 J. INTERPERSONAL VIOLENCE 1148, 1161 (2009) (identifying Asian immigration patterns as contributing to family as both integrative and protective).

197 See DAVIES ET AL., *SAFETY PLANNING*, *supra* note 188, at 8, 50–52, 71–72, 113–28 (summarizes elements of woman-defined advocacy; identifies batterer-generated and life-generated risks; describes safety planning process).

198 See DASGUPTA, *SUSTAINABLE SAFETY*, *supra* note 191, at 3 (advocating holistic perspective of individual, family, and community safety); Mimi Kim, *Alternative Interventions to Intimate Violence: Defining Political and Pragmatic Challenges*, in *RESTORATIVE JUSTICE AND VIOLENCE AGAINST WOMEN* 202 (James Ptacek ed., 2010) [hereinafter Kim, *Alternative Interventions*] (critiquing overly narrow definitions of safety).

for intellectual, psychological and spiritual development.”<sup>199</sup> This dual perspective is particularly important given the cultural, situational, and institutional pressures to stay.

One necessary component of supporting Asian American women who stay is to conduct a lethality assessment.<sup>200</sup> The “Danger Assessment” is an instrument that can assist in analyzing the risk of intimate partner homicide.<sup>201</sup> The woman who is the target of the violence can use it to make better informed and more fully considered decisions.<sup>202</sup> Alarming, “immigrants of . . . Asian/other descent experience a higher risk of [IPV-related] homicide in general than U.S.-born persons.”<sup>203</sup> Examinations of IPV homicide

---

199 DASGUPTA, SUSTAINABLE SAFETY, *supra* note 191, at 3, 6–10 (articulating four aspects of safety—temporality, totality, collectivity, stability—referring to timeframe, scope beyond bodily integrity, including others, and sustainable versus transitory safety); *see also* CRIS M. SULLIVAN, NATIONAL RESOURCE CENTER ON DOMESTIC VIOLENCE, EXAMINING THE WORK OF DOMESTIC VIOLENCE PROGRAMS WITHIN A “SOCIAL AND EMOTIONAL WELL-BEING PROMOTION” CONCEPTUAL FRAMEWORK 13 (2012), *available at* <http://www.dvevidenceproject.org/wp-content/uploads/ConceptualFramework.pdf> [<http://perma.cc/E3TX-ZUSW>] (outlining eight factors for restoring well-being: provide information; safety plan; build skills; offer encouragement, empathy, respect; supportive counseling; increase access to community resources and opportunities; increase social support and community connections; community change and systems change work); *cf.* Danielle F. Wozniak & Karen Neuman Allen, *Ritual and Performance in Domestic Violence Healing: From Survivor to Thriver Through Rites of Passage*, 36 CULTURE, MED. & PSYCHIATRY 80, 85–86 (2012) (replacing goal of surviving to planning with the goal of thriving); Rachel Herzing & Isaac Ontiveros, *Making Our Stories Matter*, in THE REVOLUTION STARTS AT HOME 208 (Ching-In Chen et al. eds., 2011) (articulating goal not only to end violence, but also to achieve liberation).

200 *See* Jacquelyn C. Campbell et al., *The Danger Assessment: Validation of a Lethality Risk Assessment Instrument for Intimate Partner Femicide*, 25 J. INTERPERSONAL VIOLENCE 653, 670 (2009); *see also* Rachel Louise Snyder, *A Raised Hand: Can a New Approach Curb Domestic Homicide*, THE NEW YORKER, July 22, 2013, at 34.

201 Campbell et al., *supra* note 200, at 656–59, 661–62, 665 (identifying risk factors such as “a child in the home who is not the biological child of the abuser [and] . . . the presence of firearms in the home”).

202 *See* DAVIES ET AL., SAFETY PLANNING, *supra* note 188, at 4 (“[W]hen staying provides the best possible alternative, woman-defined advocacy supports a woman’s decision and works with her to keep her and her children as safe as possible.”). *But cf.* Campbell et al., *supra* note 200, at 669 (advising counseling since “only about one half of the actual (45%) and near lethal violence (54%) victims accurately determined their risk of lethal violence”).

203 MICHAEL RUNNER, MIEKO YOSHIHAMA & STEVE NOVICK, FAMILY VIOLENCE PREVENTION FUND FOR THE ROBERT WOOD JOHNSON FOUNDATION, INTIMATE PARTNER VIOLENCE IN IMMIGRANT AND REFUGEE COMMUNITIES: CHALLENGES, PROMISING PRACTICES AND RECOMMENDATIONS 11 (2009), *available at* [http://www.futureswithout-violence.org/userfiles/file/ImmigrantWomen/IPV\\_Report\\_March\\_2009.pdf](http://www.futureswithout-violence.org/userfiles/file/ImmigrantWomen/IPV_Report_March_2009.pdf) [<http://perma.cc/N9QS-5MM9>] [hereinafter FVPF REPORT]; *cf.* Susan B. Sorenson & Haikang Shen, *Homicide Risk Among Immigrants in California, 1970 Through 1992*, 86 AM. J. PUB. HEALTH 97, 97 (1996) (concluding that foreign born Asians were at significantly higher risk of homicide than U.S.-born Asians); Wu, *supra* note 196, at 1155 (identifying

rates in Hawaii, Santa Clara County, California, and Massachusetts revealed that Asian Americans were over-represented as homicide victims relative to their population percentages.<sup>204</sup> Domestic violence fatality reviews in Washington State from 1997 to 2006 found that Asian and Pacific Islander women were at a 1.7 to 3.66 times greater risk for domestic violence homicide than white, non-Hispanic women.<sup>205</sup> Although the social science data is not unanimous, a lethality assessment is clearly a necessary component of safety planning for every Asian American survivor who decides she wants to stay.

Following this initial assessment, assuming there is no emergency, the next step is to listen.<sup>206</sup> An effective planning process requires the free disclosure of information and should be regularly revisited and updated.<sup>207</sup> A survivor needs a safe time and space to share the factual details of her experience,<sup>208</sup> and recognizing future possibilities is an important supplement to working in the moment to maximize safety. Goals may differ from combating isolation and maintaining contact with others,<sup>209</sup> to finding paid employment to

---

linguistic isolation as a predictor of Asian intimate homicide).

204 See FVPF REPORT, *supra* note 203, at 41. In 2000 in Hawaii, more than 70%, five of the seven women killed in domestic violence-related homicides, were of Filipina descent, compared to Filipinos representing only 12.3% of the state's population. During the period from 1993–1997 in Santa Clara County, California, 31%, or sixteen out of fifty-one women killed in domestic violence-related homicides were Asian, compared to Asians representing 17.5% of the county's population. In 1991 in Massachusetts, 13% of women and children killed in IPV-related homicides were Asian, compared to Asians representing only 2.4% of the state's population. See *id.* (citations omitted).

205 JAKE FAWCETT ET AL., NOW THAT WE KNOW: FINDINGS AND RECOMMENDATIONS FROM THE WASHINGTON STATE DOMESTIC VIOLENCE FATALITY REVIEW 37–38 (2008). But see NEW YORK CITY DOMESTIC VIOLENCE FATALITY REVIEW COMMITTEE ANNUAL REPORT (2012), available at [http://www.nyc.gov/html/ocdv/downloads/pdf/Statistics\\_7th\\_Annual\\_Report\\_Fatality\\_Review\\_Committee\\_2012.pdf](http://www.nyc.gov/html/ocdv/downloads/pdf/Statistics_7th_Annual_Report_Fatality_Review_Committee_2012.pdf) [<http://perma.cc/WU6Q-PE9R>] (Asians accounted for 13% of New York City's population from 1990–2010, and 7% of the family-related homicide victims from 2002–2010).

206 DAVIES ET AL., SAFETY PLANNING, *supra* note 188, at 42 (“[L]istening involves much more than just hearing the words a woman is speaking . . . . It means understanding and accepting unfamiliar views, beliefs, and cultures.”).

207 See *id.* at 118–19.

208 The following vignette illustrates the danger: A DV hotline counselor hears that the caller's alcoholic husband has begun to drink after a period of abstinence and that the caller is worried he may become violent. The counselor immediately advises her to apply for a restraining order. Meanwhile, the caller wants to remain married, depends on her husband's income, and had a past experience in which her attempt to get a restraining order had backfired and escalated the violence. See *id.* at 126.

209 See *id.* at 84 (survivors with supportive friends and family may choose to “rotate” them to avoid over-

develop greater financial security.<sup>210</sup> Regardless, acknowledging potential planning limitations promotes transparency and helps to ensure that even if a survivor falls out of touch, she will later feel welcome to reconnect. Anticipating a long-term time frame, spanning years as opposed to months, can help to build capacity to ensure that a survivor maintains an effective support system.

## 2. Building Supportive Communities

My second principle for working with Asian American women who stay moves beyond an individual survivor, and towards building capacity within a woman's community to provide ongoing support.<sup>211</sup> A social services approach may focus on discrete actions, like filing a VAWA self-petition, but may not be able to resolve a survivor's isolation going forward.<sup>212</sup> Similarly, a counseling approach alone likely would not create a self-sustaining resource network. Rather than continued reliance on "professional" assistance,<sup>213</sup> this second principle calls for developing a community of helpers within the survivor's social circles.<sup>214</sup> It focuses on building supportive communities among family members, friends, co-workers, neighbors, those who work in social service organizations,<sup>215</sup> and antiviolence activists.<sup>216</sup>

---

burdening any one person).

210 This goal may have particular resonance for Asian American immigrant survivors who are experiencing economic dislocation. Cf. Kim, *Alternative Interventions*, *supra* note 198, at 206 (noting that "development of concrete, on-the-ground alternative approaches and programs remains remarkably sparse").

211 See *id.* at 211.

212 See *supra* notes 124–38 and accompanying text. Cf. Bhuyan et al., *supra* note 72, at 915 (identifying desire to break isolation, teach and learn basic skills, and engage in community supported self-help as priorities for Cambodian survivors).

213 A common critique of the domestic violence movement is that its bureaucratization through a shift from community-based engagement to government-funded services, together with an over-emphasis on criminal justice approaches, has stalled the movement.

214 See James Ptacek, *Resisting Co-optation: Three Feminist Challenges to Antiviolence Work*, in *RESTORATIVE JUSTICE AND VIOLENCE AGAINST WOMEN* 24–25 (James Ptacek ed., 2010) (citing Joan Pennell's work to "empower abused women and their children by mobilizing informal supports and developing partnerships between families and community institutions").

215 To the extent that social service agencies are engaged in helping Asian American survivors who stay, their ultimate goal should be a form of planned obsolescence—building capacity within the survivor's community so that the agency can transfer its supportive role onto others.

216 See, e.g., Connie Burk, *Think. Re-Think*, in *THE REVOLUTION STARTS AT HOME* 270 (Ching-In Chen et al.

Using state criminal law processes is a problematic strategy if a survivor wants the violence to stop, but the relationship to continue. Once an arrest is made, the prosecutor, not the victim, decides whether, and if so, how to proceed. Moreover, criminal prosecutions are based on a transactional, incident-based concept of IPV.<sup>217</sup> In contrast, survivors, scholars, psychologists, and advocates have described the nature of IPV as relationship-based.<sup>218</sup> Given the multiple barriers faced by Asian American survivors, marshaling resources to enable communities to do the work of supporting survivors is a foundational requirement for helping women who stay over the long term.<sup>219</sup>

Advocate and activist Mimi Kim has developed the concept of “creative interventions” which apply organizing models to violence interventions that must be (1) “carried out by those closest to and most impacted by violence,” and (2) “situated in the very spaces and places where violence occurs—within our homes, neighborhoods, and communities.”<sup>220</sup> This model implicates confidentiality concerns,<sup>221</sup> but IPV is too often “maintained, sup-

---

eds., 2011) (advocating “community accountability” that would “replicate the helpful functions of law enforcement (interrupting harmful acts) and prosecution (determining responsibility for and redressing harm), but outside the framework of the State”).

217 See, e.g., Deborah Tuerkheimer, *Renewing the Call to Criminalize Domestic Violence: An Assessment Three Years Later*, 75 GEO. WASH. L. REV. 613 (2007) (asserting that transactional model of crime conceals reality of IPV as an ongoing pattern of conduct within a relationship characterized by power and control).

218 See generally STARK, *supra* note 1, at 198–221.

219 Another critical consideration is how to garner financial support for such approaches. See DASGUPTA, SUSTAINABLE SAFETY, *supra* note 191, at 2–3 (hypothesizing that “institutions of funding also funnel our work towards crisis intervention,” as opposed to addressing long term needs); FVPF REPORT, *supra* note 203, at 19 (recognizing need for funding to support “real community organizing and leadership opportunities for women”).

220 Kim, *Alternative Interventions*, *supra* note 198, at 195; see also *Strengthening Partnerships Between Domestic Violence Advocates and Faith Communities: Two Case Studies* 1–12 (June 2010), <http://tc.clientrab-bit.com/sites/default/files/CCC%20Case%20studies%20FINAL.pdf> [<http://perma.cc/DM3U-8JGY>] (although “faith traditions, beliefs, and practices are often at best complacent about the gender inequality that enables DV, and at worst, they perpetuate it,” a community group is working to train Korean American faith leaders and develop a model for collaboration). For survivors already participating in a faith-based community, that community’s response to IPV is critical to effecting change. See *id.* at 14 (describing situation of an abusive boyfriend in a Catholic adult baptism class where the parish leadership prioritized the survivor’s safety, communicating to the ex-boyfriend that he should stay away until “he was willing to be accountable for his actions”).

221 *Id.* at 211 (“Collective involvement opens up the arena of public disclosure, defying the usual antiviolence practices of confidentiality.”). Two additional complications of public disclosure are “shame and victim blaming” for survivors and “public shaming as punishment” for perpetrators. *Id.*

ported, or encouraged by a community that [] colludes with violence.”<sup>222</sup> Imposing responsibility on bystanders and incentivizing the role of becoming an ally is a paradigm-shifting change that must occur to provide actual assistance for Asian American survivors who stay.<sup>223</sup>

The overarching goal is to work together with survivors to equip and empower their communities to challenge the abuse, end the violence, and promote repair and healing.<sup>224</sup> This entails providing “family, friends, neighbors, co-workers, and others toward whom persons in need first turn—with the model and tools to effectively intervene.”<sup>225</sup> One example is to share a taxonomy of different types of support: instrumental (financial, accom-

---

222 *Id.* at 199; see also Peggy Munson, *Seeking Asylum: On Intimate Partner Violence & Disability*, in *THE REVOLUTION STARTS AT HOME* 117 (Ching-In Chen et al. eds., 2011) (“[Those] who are aware of chronic or severe mistreatment and do not speak out against it . . . unwittingly become[] the abuser’s ally.”); cf. Grace H. Chung et al., *Enculturation as a Condition Impacting Korean American Physicians’ Responses to Korean Immigrant Women Suffering Intimate Partner Violence*, 30 *HEALTH CARE FOR WOMEN INT’L* 41, 58–60 (2009) (documenting range of responses to IPV from denial and trivialization to probing inquiry and acknowledgement, depending on level of acculturation to U.S. medical practices).

223 One potential aspect is the development of “community accountability” that engages communities to confront abusers, and hold them accountable. MIMI KIM, *COMMUNITY ENGAGEMENT CONTINUUM: OUTREACH, MOBILIZATION, ORGANIZING AND ACCOUNTABILITY TO ADDRESS VIOLENCE AGAINST WOMEN IN ASIAN AND PACIFIC ISLANDER COMMUNITIES* 37 (2010), available at <http://www.apiidv.org/files/CommunityEngagement.Continuum-Report-2005%28Rev.2010%29.pdf> [<http://perma.cc/A2Y8-YJ7E>] [hereinafter KIM, *COMMUNITY ENGAGEMENT*] (engaging communities to facilitate “reparations to their victims, monitor[] future abuse, and [implement] long-term measures that prevent violence”).

224 See Kim, *Alternative Interventions*, *supra* note 198, at 196 (“[A]ddress violence, identify the problem, map allies, create common goals, and coordinate a plan of action and response.”); Meiver De la Cruz & Carol Gomez, *Ending Oppression. Building Solidarity. Creating Community Solutions*, in *THE REVOLUTION STARTS AT HOME* 41–49 (Ching-In Chen et al. eds., 2011) (describing how a community supported a Korean immigrant IPV survivor); Alexis Pauline Gumbs, *I Am Because We Are: Believing Survivors and Facing Down the Barrel of a Gun*, in *THE REVOLUTION STARTS AT HOME* 83–85 (Ching-In Chen et al. eds., 2011) (describing how a community supported an IPV survivor who was married to a police officer).

225 Kim, *Alternative Interventions*, *supra* note 198, at 207; see also RESTORATIVE JUSTICE AND FAMILY VIOLENCE 14 (Heather Strang & John Braithwaite eds., 2002) (teaching “intervention scripts” to supportive third parties who want to help, but do not know how); Deborah I. Bybee & Cris M. Sullivan, *The Process Through Which an Advocacy Intervention Resulted in Positive Change for Battered Women Over Time*, 30 *AM. J. COMMUNITY PSYCHOL.* 103, 110–11 (2002) (reporting effectiveness of advocacy intervention based in part on “mobilizing the community to effectively respond to the individual’s needs”); JAKE FAWCETT, *UP TO US: LESSONS LEARNED AND GOALS FOR CHANGE AFTER THIRTEEN YEARS OF THE WASHINGTON STATE COALITION AGAINST DOMESTIC VIOLENCE FATALITY REVIEW* 30–32 (2010), available at <http://fatalityreview.files.wordpress.com/2013/11/2010-dvfr-report.pdf> [<http://perma.cc/6AS8-6ZTH>] (recommending building the “capacity of friends, family members, neighbors, employers, and coworkers to support domestic violence victims and respond to abusers”).

modations, employment, information), social (opportunities to meet and learn about group activities), and personal (establish self-worth and identity).<sup>226</sup> Developing a vocabulary for working with Asian American survivors can help community members to communicate clearly and concretely about how to provide needed support.<sup>227</sup>

Another higher-risk, potentially higher-reward example is to engage in “public naming” and “public shaming” rituals that confront abusers.<sup>228</sup> Two potential targets of direct action strategies, such as a candlelight vigil outside an abuser’s home, are the abusive partner himself, and the community that might otherwise turn a blind eye. The abuser could respond to such tactics by becoming more violent, and a community might “blame the victim” for drawing attention to a racial and ethnic community. In any event, such direct action would have to be survivor-directed, and supportive community members would have to commit to supporting the survivor through its aftermath.

### 3. Implementing an Anti-Subordination Principle

A robust commitment to an anti-subordination principle is necessary to safeguard an IPV survivor’s agency and autonomy. While community members try to help create lasting changes, one risk is that the helper may inadvertently reify the power and control dynamic that a survivor seeks to change. Some of these interactions may fall within the bounds of traditional attorney-client and social worker-client relationships that have established precepts and professional codes of conduct, but some may not. An anti-subordination imperative is particularly important given the absence of rules designed to protect survivor

---

226 See Pauline Meemeduma, *Support Networks of Sri Lankan Women Living in the United States*, in *SOCIAL WORK PRACTICE WITH ASIAN AMERICANS* 202 (Sharlene Maeda Furuto et al. eds., 1992); see also DASGUPTA, *SUSTAINABLE SAFETY*, *supra* note 191, at 4 n.6 (enlisting the aid of in-laws, religious leaders, and a survivor’s parents to push an abuser to sign a “peace bond” which is a “no-violence contract” that is morally binding on the batterer and obligates the sponsors to monitor transgressions).

227 If communities and/or social service organizations commit to doing community-organizing work, then they need access to resources specifically allocated to such an effort. Cf. FVPF REPORT, *supra* note 203 (“Fundors should recognize that developing community leaders who can help change social and community norms takes significant resources.”).

228 KIM, *COMMUNITY ENGAGEMENT*, *supra* note 223, at 39–42 (describing demonstrations organized by a South Asian women’s organization, Sakhi for South Asian Women, when an abusive husband burned his wife, causing third degree burns).



autonomy in less structured relationships.<sup>229</sup>

A more flexible, less formal approach can “acknowledge the familial commitments of the survivors and reflect the long-term caring and cultural ties.”<sup>230</sup> The language commonly used by Asian American antiviolence organizations, “referring to professional advocates by more familial terms such as ‘auntie’ or ‘sister,’” reflect the “blurred professional-client boundaries.”<sup>231</sup> An anti-subordination principle would counteract the risk of diminishing a survivor’s agency through “help” that is unwanted or premature.<sup>232</sup> Having a touchstone principle can work to ensure that collaborations with IPV survivors to try to create lasting, healthy change stay on course. Just as an anti-subordination principle has been applied in restorative justice processes,<sup>233</sup> this same principle should apply when working with Asian American women who stay. Ideally, “the social networks that can assist battered women”<sup>234</sup> would make a commitment to anti-subordination, particularly since some may be navigating relationships with both the survivor and the batterer.

The “lack of a community consensus condemning the violence”<sup>235</sup> is a significant hur-

---

229 The existence of regulations governing professional relationships and theories of practice, such as client-centered lawyering, *see generally* David A. Binder, Paul Bergman & Susan C. Price, *LAWYERS AS COUNSELORS: A CLIENT-CENTERED APPROACH* (1991), are not a panacea, and the clients of lawyers and social workers would likely benefit if these professions also adopted an anti-subordination principle of practice.

230 Joan Pennell & Mimi Kim, *Opening Conversations Across Cultural, Gender, and Generational Divides*, in *RESTORATIVE JUSTICE AND VIOLENCE AGAINST WOMEN* 183 (James Ptacek ed., 2010).

231 *Id.* at 184.

232 While endorsing Kim’s principle of locating intervention in survivors’ communities, I am not comfortable with community-based interventions that are not initiated by and do “not necessarily rely upon the knowledge or consent of the primary survivor.” Kim, *Alternative Interventions*, *supra* note 198, at 207. My priorities are to enable survivors to make their own decisions and follow their own directions.

233 See Coker, *Transformative Justice*, *supra* note 188, at 128–52; Julie Stubbs, *Restorative Justice, Gendered Violence, and Indigenous Women*, in *RESTORATIVE JUSTICE AND VIOLENCE AGAINST WOMEN* 103–22 (James Ptacek ed., 2010).

234 Coker, *Transformative Justice*, *supra* note 188, at 130.

235 Stubbs, *supra* note 233, at 105 (“Community accountability requires coordinated time, effort, and a level of emotional commitment that is difficult to sustain.”); *see also* Kim, *Alternative Interventions*, *supra* note 198, at 199 (“Gender-based violence is not only perpetrated by abusive family members, intimate partners, and other individuals. It is maintained, supported, or encouraged by a community that often colludes with violence.”); Orchid Pusey & gita mehrotra, *Movement Building Starts with Healthy Relationships*, in *THE REVOLUTION STARTS AT HOME* 237, 251 (Ching-In Chen et al. eds., 2011).

dle to working in communities, with community members.<sup>236</sup> Nevertheless, effecting lasting change and supporting Asian American survivors who choose to stay demands that we confront this challenge. An anti-subordination principle would restrain actions prioritizing the perpetrator's needs, which are customarily considered in restorative justice processes, over the survivor's needs.<sup>237</sup> Absent some indication from the Asian American survivor herself, permitting or encouraging community-initiated intervention would be contrary to fortifying a survivor's autonomy, independence, and sense of self-efficacy. As a practical matter, advocates and allies should apply an anti-subordination analysis to every situation and proposed action.

### **B. Helping Asian American Women Who Go To Court**

Likewise, for those who seek them, improving access to and the efficacy of civil orders of protection is a necessary priority. Providing interpretation services is mandated under federal law. Using census data to target language access efforts is a sensible and feasible strategy. Additionally, educating state courts about the potential cultural, immigration, ethnicity, and race-based impediments experienced by Asian American survivors would increase the effectiveness of orders of protection. Training about societal impediments, such as racial microaggressions, would equip judges and other court personnel to make contextualized judgments about IPV against Asian American survivors. Likewise, training about cultural and situational factors, such as patrilocality, would enable judges to better understand situations that involved, for example, in-law abuse. Providing additional resources to organizations, like NYAWC, that already have the experience, personnel, and language capacity to work with Asian American women would increase access as well.

State court processes for seeking civil orders of protection (OP) suffer from a lack of interpretation and of understanding about the individual, situational, and structural impediments experienced by Asian American petitioners. These processes fall short of providing equal access to legal remedies, regardless of race or ethnic origin. Courts must implement more comprehensive interpretation systems, and state court personnel, including judges, court attorneys, law clerks, administrators, clerks' office staff, and court security officers, need training on cultural and racial difference. Knowledge about shared cultural and immigration-related experiences, as well as institutional and structural barriers would equip

---

236 Kim, *Alternative Interventions*, *supra* note 198, at 196 (describing community as "an incomplete and imperfect collection of individuals," some of whom will be motivated to end the violence).

237 See Pusey & Mehrotra, *supra* note 235, at 252 (noting that community members "sometimes rally behind interventions that could put survivors and key interveners at heightened risk of harm").

judges to do better fact development and fact finding by providing context. These improvements could also lead to more effective remedies that are tailored to an individual Asian American woman's particular situation.

### 1. Providing Language Access

The lack of language accessibility in the state courts that adjudicate petitions for OPs is well documented.<sup>238</sup> Studies show that a smaller number of Asian American immigrants use mainstream IPV shelters and counseling than would be proportionate to their population percentages.<sup>239</sup> Conversely, studies of mental health programs have shown increased utilization rates when "bilingual/bicultural staff . . . [provide] visible, culturally relevant services"; under such circumstances, "there is a significant response among Asian clients."<sup>240</sup> By this same logic, Asian American women would likely petition for OPs at a higher rate if they had language-specific, culturally appropriate access to the courts. In a 2009 report, the Family Violence Prevention Fund noted that *both* language barriers and a lack of cultural understanding prevent effective communication and hinder efforts to help IPV survivors.<sup>241</sup> Likewise, in recommendations to potential funders, the report noted that "language capacity is such a critical and overriding issue that even an organization that did nothing but pay for reliable translators . . . would be valuable."<sup>242</sup>

The development of interpretation services should be informed by census data, identifying need both geographically and in terms of languages. For example, data from 2011 indicate that 54% of foreign-born residents from Asia live in California, New York, Texas,

---

238 See *supra* notes 147–66 and accompanying text.

239 See *supra* notes 124–28, 167, 193 and accompanying text; see also Emily M. Douglas & Denise A. Hines, *The Reported Availability of U.S. Domestic Violence Services to Victims Who Vary by Immigration Status, Primary Language, and Disability*, 2 PARTNER ABUSE 427, 429 (2011) ("[S]ignificant barrier to immigrant IPV victims receiving help at DV agencies is not being proficient in English.").

240 Kenji Murase, *Models of Service Delivery in Asian American Communities*, in SOCIAL WORK PRACTICE WITH ASIAN AMERICANS 103 (Sharlene Maeda Furuto et al. eds., 1992) ("[N]umber of Asians utilizing a single Asian community-based program in Seattle in one year was approximately equal to the total numbers of Asians utilizing a sum of 18 other community mental health centers over a three-year period.").

241 See FVPF REPORT, *supra* note 203, at 14–15.

242 *Id.* at 25 (citing need for translators "to work with the police, courts, hospitals and shelters on domestic violence issues"); see also Yoshihama, *Justice System Responses*, *supra* note 61, at 72 (recommending governmental collaboration with community-based organizations without "burdening" them by "expecting bilingual advocates or ad hoc interpreters to obviate the need for professional interpreters").

and New Jersey, and the areas with the largest populations of Asian Americans are metropolitan areas in these states, such as Los Angeles, the San Francisco Bay area, San Diego, Sacramento, New York City, and Houston.<sup>243</sup> With respect to English language proficiency, census data further indicate a greater need for interpretation services for Vietnamese, Chinese, and Korean Americans, which is corroborated in part by the fact that the majority of Vietnamese and Chinese immigrants arrived in the United States after 1990.<sup>244</sup> Census data can and should be supplemented by area-specific studies to ensure that language access reforms are evidence-based.<sup>245</sup> The heterogeneity and sheer number of languages and dialects spoken by Asian American immigrants underscore the difficulties, but do not excuse the current lack of equal access to civil court remedies.

## 2. Improving Fact-Finding and Remedies

Courts that adjudicate requests for civil orders of protection (OPs) should incorporate training on cultural, immigration-related, and structural obstacles faced by Asian American women. Many survivors already experience the process of applying for an OP as ineffective and disrespectful,<sup>246</sup> and Asian American survivors must navigate additional particularized hurdles. Court personnel may be instructed to treat all petitioners with respect,<sup>247</sup> but they need tools for applying this instruction in their daily work. One such tool is training

---

243 See Table 4. *Nativity and Citizenship Status by Sex, for Asian Alone or in Combination and White Alone, Not Hispanic: 2010*, U.S. CENSUS BUREAU (Dec 22, 2014, 9:57 A.M.), <http://www.census.gov/population/race/data/ppl-ac10.html> [<http://perma.cc/NLH3-EAWU>]; ASIAN POPULATION 2010, *supra* note 32, at 12 (Table 3).

244 Specifically, the majority of Chinese alone (50.9%) and Vietnamese alone (50.9%) entered after 1990 with the bulk of them entering between 1990 and 1999. See ASIAN AMERICANS 2004, *supra* note 33, at 13.

245 See, e.g., RICE UNIV. KINDER INST. FOR URBAN RESEARCH, HOUSTON AREA ASIAN SURVEY: DIVERSITY AND TRANSFORMATION AMONG ASIANS IN HOUSTON 6–10 (2013), available at [http://kinder.rice.edu/uploadedFiles/Center\\_for\\_the\\_Study\\_of\\_Houston/Kinder%20Institute%20Houston%20Area%20Asian%20Survey.pdf](http://kinder.rice.edu/uploadedFiles/Center_for_the_Study_of_Houston/Kinder%20Institute%20Houston%20Area%20Asian%20Survey.pdf) [<http://perma.cc/VFC6-W9P9>] (describing demographic trends, including a 76% increase in the Houston area's Asian population); BELLINGHAM-WHATCOM COUNTY COMM'N AGAINST DOMESTIC VIOLENCE, WHATCOM COUNTY DOMESTIC VIOLENCE PROTECTION ORDER SAFETY AND ACCOUNTABILITY AUDIT 80–81 (2011) (case study on improving language access in civil courts in one Washington State county).

246 See generally Jane K. Stoeber, *Freedom from Violence: Using the Stages of Change Model to Realize the Promise of Civil Protection Orders*, 72 OHIO ST. J.L. 303, 359–63 (2011) (noting survey data and multiple examples of disrespectful treatment of petitioners for OPs); Margret E. Bell et al., *Battered Women's Perceptions of Civil and Criminal Court Helpfulness: The Role of Court Outcome and Process*, 17 VIOLENCE AGAINST WOMEN 71, 80–81 (2011) (noting that court processes, such as treatment by staff and process length, affect battered women's evaluation of helpfulness).

247 See FVPF REPORT, *supra* note 203, at 26.

on cultural difference to develop an attitude of “cultural humility.”<sup>248</sup> Rather than assume the ability to become “competent” regarding an Asian American woman’s culture, the concept of humility recognizes the complexity and uniqueness of the interaction between an individual and her culture.<sup>249</sup> Cultural humility entails asking an individual to describe her relationship to ethnicity and culture, rather than assuming that general knowledge is transferable to all individuals. Better to respectfully ask questions than assume understanding.

Given that approximately 50% of Asian American women are foreign born, training on immigration-related abuse, and to counteract immigrant, racial, and ethnic stereotypes would improve access to civil court OPs. A study of IPV among Filipina, Indian, and Pakistani women recommended training on immigration-related abuse, such as threats of deportation.<sup>250</sup> Court personnel, including judges should know that the majority of immigrants are documented and have some form of legal status.<sup>251</sup>

Additionally, training about “racial microaggressions” could address the implicit biases related to “foreignness” and the failure to assimilate.<sup>252</sup> Microaggressions refer to “brief and commonplace daily verbal, behavioral, and environmental indignities, whether intentional or unintentional, that communicate hostile, derogatory, or negative racial slights and insults to the target person or group.”<sup>253</sup> One example is when a judge assumes that an at-

248 Sunita Puri, *The Trap of Multiculturalism: Battered South Asian Women and Health Care*, in BODY EVIDENCE, *supra* note 9, at 147 (Shamita Das Dasgupta ed., 2007).

249 See *id.* at 147 (warning against “homogeniz[ing] members of an ethnic, religious, and cultural group”).

250 YOSHIHAMA ET AL., *Justice System Responses*, *supra* note 61, at 71. Although this study examined criminal justice processes, its findings are similarly applicable to civil contexts.

251 See PEW RESEARCH CENTER, UNAUTHORIZED IMMIGRANTS MADE UP 28% OF ALL U.S. IMMIGRANTS IN 2012, DOWN FROM 30% IN 2007 (2013), available at <http://www.pewhispanic.org/files/reports/133.pdf> [http://perma.cc/N7P4-K68D]; JEFFREY S. PASSEL & D’VERA COHN, PEW RESEARCH CENTER, UNAUTHORIZED IMMIGRANT POPULATION: NATIONAL AND STATE TRENDS, 2010 (2011), available at <http://www.pewhispanic.org/2011/02/01/unauthorized-immigrant-population-national-and-state-trends-2010> [http://perma.cc/97SU-QCLU] (“unauthorized immigrants made up 3.7% of the nation’s population and 5.2% of its labor force in March 2010”); cf. Nancy Rytina, *Estimates of the Legal Permanent Resident Population in 2012*, DHS POPULATION ESTIMATES (2013), [http://www.dhs.gov/sites/default/files/publications/ois\\_lpr\\_pe\\_2012.pdf](http://www.dhs.gov/sites/default/files/publications/ois_lpr_pe_2012.pdf) [http://perma.cc/XHZ5-DY2A]) (“[E]stimated 13.3 million LPRs lived in the United States on January 1, 2012, and 8.8 million of them were eligible to naturalize.”).

252 David B. Thronson, *Of Borders and Best Interests: Examining the Experiences of Undocumented Immigrants in U.S. Family Courts*, 11 TEX. HISP. J.L. & POL’Y 45, 54–57 (2005) (documenting discrimination based on immigration status in family court).

253 Derald Wing Sue et al., *Racial Microaggressions in Everyday Life*, 62 AM. PSYCHOLOGIST 271, 273

torney of color is a litigant. Although erroneous assumptions like this may seem harmless, psychological research has shown that they impair the performance of persons of color and contribute to the creation of inequities.<sup>254</sup>

Judicial training about individual, situational, and structural barriers would improve judges' ability to find facts and craft remedies. For example, when considering arguments based on a petitioner's failure to disclose IPV, a judge who had received training on family primacy could elicit testimony about this constraint. Similarly, familiarity with patrilocal-ity and in-law abuse could inform a judge's credibility assessments in an order of protection proceeding and improve fact-finding.

The court process itself, apart from the ordered remedy, may encourage abusive or enabling family members to take responsibility for their actions and inactions that contribute to IPV. A petitioner could subpoena her in-laws to appear in court, and a judge who is familiar with the possibility of in-law abuse could question them about the abuse. The very act of being questioned in a court proceeding could help to reinforce a norm against IPV. "Judges' words from the bench carry significant safety implications. Research shows that when judges give warnings or lectures to respondents about the seriousness and wrongness of their violence, such judicial messages can positively impact respondents' future behavior."<sup>255</sup>

As for remedies, judges familiar with patrilocal-ity could better determine whether a full OP requiring the abuser to "stay away" is feasible, or whether a limited OP requiring the abuser to "refrain from" further abuse would be more effective. For a survivor living in her in-law's home, imposing an exclusionary order to expel her husband seems unlikely to be effective. Whether a language-accessible shelter is available is also a critical consideration. With respect to in-law abuse, existing mechanisms for prohibiting "third party contact" could be employed. Although a petitioner may not want, or be able to prove that other relatives had committed a family offense, tailoring an existing remedy to prohibit their potentially abusive communication may be effective.

Finally, "safety and accountability audits" were developed to monitor criminal justice

---

(2007); see also Peggy C. Davis, *Law As Microaggression*, 98 YALE L.J. 1559 (1989) (exploring "widespread minority perception of bias" within the court system and positing microaggressions as an explanatory factor).

254 Sue et al., *supra* note 253, at 273, 279.

255 Stoevers, *supra* note 246, at 360.

responses, but are transferable to a civil court context.<sup>256</sup> Constituting an audit “team” of insiders, such as advocates for IPV survivors and legal practitioners within the audited institution, would facilitate the development of recommendations that are credible and feasible.<sup>257</sup> In addition to measuring safety, the auditing process could evaluate and improve the other reforms discussed above. Data collection on the availability of interpretation, the provision of training on cultural humility, immigrant status, and racial microaggressions could lead to more effective, evidence-based reform. Finally, tailoring the civil OP process to accommodate Asian American survivors could lead to more accurate adjudications through improved fact-finding, and the crafting of more effective remedies.

### CONCLUSION

Critical race theory, third wave feminism, and the concepts of centering and intersectionality marked a sea change by revealing the devaluation of the experiences of women of color. Discussing these experiences represents progress, but the next step is to use them. This Article seeks to translate theory into practice by applying the insights gained through particularized examination of IPV against Asian American women. While recognizing the persuasiveness of individual narratives, I based my proposals on the research findings of the social workers, sociologists, and psychologists who have contributed to the richly detailed social science literature on IPV against Asian American women.

My analysis of this data proceeded in three stages: consideration of (1) culturally defined individual norms, (2) situational factors related to immigrant experiences, and (3) structural impediments to help-seeking behavior, such as the lack of interpretation, and dearth of language specific, culturally appropriate social services, including shelters. Since each stage revealed pressures on Asian American survivors to stay with their abusive partners, my first proposal outlines principles for helping women who stay. My second proposal addresses deficiencies revealed through a structural analysis, specifically the lack of court interpretation services, and the need for training on cultural, immigration-related, and racial difference.

This Article illustrates a methodology—pushing theory into action—that can be applied to different problems in different contexts. The first step is problem definition. The

---

256 Ptakek, *supra* note 214, at 13–15; ELLEN PENCE & KRISTINE LIZDAS, MINNESOTA PROGRAM DEVELOPMENT, INC., THE DULUTH SAFETY AND ACCOUNTABILITY AUDIT (1998).

257 See Ptakek, *supra* note 214, at 13–14; see also Ellen L. Pence, *Advocacy on Behalf of Battered Women*, in SOURCEBOOK ON VIOLENCE AGAINST WOMEN 329–43 (Claire M. Renzetti et al., eds. 2001).

analysis could be centered on any particularized situation, from immigration issues affecting Latinas with ethnic origins in Central America, to housing discrimination against African American families from the Caribbean. Next, interdisciplinary research provides the perspectives and insights of the population experiencing the identified problem so that empirical data can inform the inquiry. The analytical framework then should be developed from the bottom up, based on individual and community experiences, documented both in narratives and through larger scale studies. The final and most important step is to use this understanding to develop policy initiatives, practical strategies, and tools for addressing the problem in the real world. In terms of IPV against Asian American women, combining theory and practice generated the following strategies: expansive safety planning, building community, and anti-subordination, as well as language access and training for state court systems.