NEGOTIATING THE INTERSECTION:
How and Why Provisions for Battered Immigrant Women Have Become a Part of U.S. Immigration Policy

by

Sujata B. Barai

2 April 1998

A Senior Thesis presented to the Faculty of the Woodrow Wilson School of Public and International Affairs in partial fulfillment of the requirements for the degree of Bachelor of Arts.

This thesis is dedicated to immigrant women who are trapped in abusive relationships and to the advocates and service providers who help them break free. It is also dedicated to Champak-dada, my maternal grandfather, who passed away in India in 1988. His love of scholarship and learning inspires my desire to explore and excel, and his memory lives on in this work, which culminates my Princeton University education.

ACKNOWLEDGEMENTS

My thanks go first and foremost to the people in my life who saw me through this year. Mommy, thanks for missing me; Daddy, thanks for being my travel agent; and Binita, Nikita, and Chirag, thanks for being your silly selves. (A special thank you to Niki, the budding writer, for her terribly strange and amusing stories to which I could turn to procrastinate, or even if I just needed to smile.) I thank Rakesh for being my sounding board for epiphanies *and* frustrations, and for sounding back words of support. Renu, my partner in crime(s), only two words for you: Anand Jon. And to my cherished friends here at Princeton (you crazy kids know who you are...), I must say that I think I would have preferred to spend the all-nighters watching movies with you rather than revising chapters, but we made it, didn't we?

In the thinking about and writing of this thesis, my thanks to Professor Marta Tienda, Professor Jameson Doig, and Richard Trenner. I am also greatly indebted to Leslye Orloff and Kathleen Sullivan for their significant feedback on certain chapters, which helped me get the story straight. In addition, I am grateful to Sujata Warrier, Shalini Gujavarty, Jasmine Karalakulasingam, and Rakesh Agrawal, who also provided feedback on various portions of drafts.

In my research, I was given great help by the staff of Manavi, a South Asian women's center where I volunteered this year. Shalini, Anjali, Sujata, Shamita, and Monisha welcomed my presence back in September, when I first went to a Manavi general meeting, and accommodated my every request thereafter. My experiences at Manavi were a catalyzing force in my research on battered immigrant women, and will continue to inform my commitment to such issues in the future and my growth as a South Asian woman. I would also like to extend special gratitude to Leslye Orloff, of Ayuda, Inc., for her generosity of time and materials. Leslye was a research savior, providing me not only with wonderfully detailed accounts of events in interviews, but also with many primary documents that I could not have come across were it not for her willingness to provide them. Beyond Manavi and Leslye, I offer my thanks to all those who took time out of their busy schedules to grant me an interview, and all those who dug through their files to send me materials. It is because of the advocates' and service providers' willingness to share their experiences that I am able to tell the story that I do in this thesis. For any grave and unjust omissions I have made, by chance or by choice, I offer my most sincere apologies and take full responsibility. While the story that I tell is admittedly not perfect, I do hope that it is accurate and meaningful.

To Bhumikaben and Richa – it was my privilege to be there for two of the most eye-opening, challenging days of my life to date.

And in general, thank you everyone, everywhere, for everything. I am where I am because God and the world has been very good to me.

LIST OF ACRONYMS AND ABBREVIATIONS USED IN TEXT

CIRRS	Coalition for Immigrant and Refugee Rights (now the Northern California Coalition for Immigrant Rights)
FVO	Family Violence Option
FVPF	Family Violence Prevention Fund
IIRAIRA	Illegal Immigration Reform and Immigrant Responsibility Act of 1996
IMFA	Immigration Marriage Fraud Amendments of 1986
IMMACT	Immigration Act of 1990
INS	Immigration and Naturalization Service
IRCA	Immigration Reform and Control Act of 1986
IWTF	Immigrant Women's Task Force (of the CIRRS)
LSC	Legal Services Corporation
NIP	National Immigration Project of the National Lawyers' Guild
NNBBIW	National Network on Behalf of Battered Immigrant Women
NOWLDEF	National Organization for Women Legal Defense and Education Fund
PRAWORA	Personal Responsibility and Work Reconciliation Act of 1996
VAWA	Violence Against Women Act of 1994
VAWA II	Violence Against Women Act of 1998, to be introduced in Congress

TABLE OF CONTENTS

Acknowledgements

List of Acronyms and Abbreviations Used in Text

Introduction *1*

CHAPTER 1

Battered Immigrant Women in the U.S.: A Unique Constellation of Vulnerabilities *6*

Scope of the Problem: A Question of Dynamics *8*

A Theoretical Understanding of Battered Immigrant Women: Intersectionality Analysis *12*

Figure 1: Wheel of Power and Control *15*

Women and Domestic Violence *15*

Women of Color: Racial and Ethnic Minorities *17*

Immigrant Women as New-Comers *21*

Immigrant Women as Sponsored Dependents *26*

Conclusion: Battered Immigrant Women's Policy Nexus -- The Intersection of Domestic Violence and Immigration *30*

CHAPTER 2

The Legislative Progression of Provisions for Battered Immigrant Women, 1986-1991 ..... *32*

Table 1: Summary of Legislation *34*

Spousal Control in U.S. Immigration Policy: Theory of Coverture *36*

The 1986 Immigration Marriage Fraud Amendments: Cracking Down on "Sham" Marriages, Opening Up a Gap of Vulnerability *38*

The 1990 Immigration Act: Trying to Narrow the Gap of Vulnerability *43*

The 1994 Violence Against Women Act: Going Further to Close the Gap of Vulnerability *47*

Conclusion: Incremental Change, Fundamental Reforms *53*

CHAPTER 3

Regional Reactions, National Action: Building Awareness and Awakening Activism, 1986-1991 ..... *55*

1986 IMFA: Exaggerated Causes, Disastrous Effects *57*

Regional Reactions to the Immigration Law Changes of 1986: Organizing for Immigrant Women's Rights *60*

National Action – the 1990 Immigration Act: Legislating for Battered Immigrant Women *67*

Practice Distorting Intent: INS Implementation of the Battered Spouse Waiver *74*

Conclusion: Laying the Groundwork for More Extensive National Activism and Action *77*

CHAPTER 4
Organzing Nationally for the VAWA: Bigger and Better Connections, Bigger and Better Provisions, 1991-1996 ..... *80*
Convening Activists Formally and Nationally: The 1991 "Dreams Lost, Dreams Found Conference *82*
Figure 2: General Excerpts from Conference Program *84*
Figure 3: Domestic Violence-Related Excerpts from Conference Program *85*
Encouraging Coherency and Coalition-Building: The National Network on Behalf of Battered Immigrant Women *87*
Securing the Passage of the VAWA: Mainstreaming the Issue of Battered Immigrant Women.. ..... *93*
Pursuing Protective Regulations: Dissecting the Issue of Battered Immigrant Women.. ..... *106*
Conclusion: Doing What Works.. ..... *116*

CHAPTER 5
Findings and Conclusions: Negotiating the Intersection ***119***
Policy Implications: A Nexus of Considerations *122*
Improving the Process *122*
245(i) *123*
extreme hardship *126*
Completing the Picture *127*
work authorization *128*
public benefits *130*
Political Findings: Advocacy at the Intersection *135*
Lobbying and Providing Technical Assistance *137*
Educating 139
Coalition- and Movement-Building 142
Conclusion 144

Appendix: Fieldwork and Methodology 147
Table 2: List of Interviewees 153
Table 3: List of Contact Organizations 155

Bibliography 157

Sujata B. Barai, 18 Dec. 1997.

INTRODUCTION

A woman from the Philippines was abused by her United States citizen spouse. He threatened to have immigration authorities deport her...if she tried to leave him. She stayed. He later cut her all over her back, head, and hands with a meat cleaver.[1]

Tragically, the Filipina woman's story is true. It is one of thousands, and exemplifies the precarious and uniquely vulnerable condition of an immigrant woman who is being battered by her husband. Stories like hers constitute the day-to-day work of advocates and service providers who assist battered immigrant women in the United States.[2] In addition to one-on-one service provision, many advocates have taken their convictions to policy arenas at the local, state, and national levels.

Often, at the local and state levels, policy advocacy has focused on issues such as funding for domestic violence shelters or sensitivity training for police officers in districts with large immigrant communities. At the national level, advocates have organized and lobbied to change immigration policy in order to remove the policy-based barriers that hinder battered immigrant women's ability to leave abusive U.S. citizen or legal permanent resident husbands. Advocates have worked to convince members of Congress that legislative remedies are necessary, and to sensitize Immigration and Naturalization

[1] Janet M. Calvo, "Spouse-Based Immigration Laws: The Legacies of Coverture," 28 *San Diego Law Review* 593 (1991) 593.

[2] The terms "activist" and "advocate" are used synonymously throughout this thesis and refer to individuals who have been or currently are involved in political advocacy for battered immigrant women. The term "service provider" refers to individuals in community-based organizations or local agencies that directly serve battered immigrant women, but may not be involved in political advocacy.

Service (INS) officers to the ways in which implementation of the legislation affects battered immigrant women. In addition to convincing government officials of the need to address the problems of this population, advocates have worked to educate fellow activists who are in mainstream[3] anti-domestic violence and immigrant rights groups about the unique needs of battered immigrant women – needs that can differ dramatically from those of battered native women or of immigrant men.

This thesis examines national political advocacy for battered immigrant women, spanning the years from 1986 to 1996, as that advocacy relates to changes in U.S. immigration policy. Delineated in Chapter 2, the three pieces of legislation that form the policy framework for this thesis are: the Immigration Marriage Fraud Amendments of 1986 (IMFA), the Immigration Act of 1990 (IMMACT), and the Violence Against Women Act of 1994 (VAWA). This thesis focuses on the advocacy history behind federal legislation and the regulations implementing it – on the actions and events that led to reform of certain policy structures that prevented immigrant women's escape from spousal abuse.[4]

The challenge of this thesis is to explain how and why provisions for battered immigrant women have become a part of U.S. immigration policy. Or, in more poignant terms, the question to be answered is how and why this small, relatively powerless, and very vulnerable population has come to avail itself of provisions that, while not perfect,

[3] Here "mainstream" is used to connote and convey the dominant focus of these movements: in the case of domestic violence, the focus has primarily been on native white women; in the immigrant rights movement, the needs of immigrants have often been equated with the needs of immigrant men. In both movements, advocates for battered immigrant women perceived marginalization of their constitutence, based on race/ethnicity/immigration status or on gender.

[4] Not addressed here are vital issues like the funding of groups that cater to battered immigrant women of a certain ethnicity, such as Manavi, an organization for South Asian women, or Mujeres Latinas en Acción, an organization serving Latina women, or of combatting insensitivity in local INS or police offices that have frequent contact with battered immigrant women.

are significant improvements upon the situation prior to their existence. The "how" refers to the political organizing and lobbying by advocates for immigration policy changes, and the "why" demands an explication of the inadequacies and flaws of policies that have driven advocates to pursue reform. This thesis is a political story of policy changes, one that begins with a description of the constituency itself.

Thus, Chapter 1 provides the foundation for understanding the policy issues pertaining to battered immigrant women. Explained in detail are the many dimensions of battered immigrant women's identities and experiences. These include being a female victim of domestic violence *and* facing cultural pressures that deter reporting the abuse *and* not knowing enough English to seek help *and* being bound to abusive husbands because they are legally in control of their wives' immigration status. The chapter is grounded in the analytical model of intersectionality analysis, as articulated by law professor Kimberle Crenshaw, and a slightly more specific representation of this model called the "ethno-gender" approach, as explained by sociologist Margaret Abraham. The theoretical framework established in the chapter is substantive in that it provides a way to account for the constellation of factors that render battered immigrant women uniquely vulnerable. The framework is also representational in that it speaks to the lobbying strategies and education efforts employed by advocates to reach both government officials and fellow activists. Advocacy for battered immigrant women has required negotiating the intersection of their interests and concerns – namely, the policy cusp created by the crossing of precarious immigration status with domestic violence.

Chapters 3 and 4, the heart of the tale that this thesis tells, not only expound in detail advocates' lobbying and education efforts in Congress and the INS, but also track

the internal growth of advocacy for battered immigrant women and the ways it affected the policy-making process. The story begins in Chapter 3 with regional reactions to the 1986 Immigration Marriage Fraud Amendments, which trapped immigrant women in abusive marriages, and progresses to limited national advocacy for the 1990 battered spouse waiver. It continues in Chapter 4 with growing national coherency among advocates and the passage of the 1994 Violence Against Women Act. The explanations in these chapters are concerned primarily with the thought and practice of advocacy. They do not necessarily seek to establish, for example, whether there actually was a definable anti-immigrant sentiment at the time of the passage of the Violence Against Women Act; they do, however, seek to locate the motivations and actions of activists in their own perception of such sentiment. The tale is told by gauging the perceptions, concerns, and events that influenced advocates, and how the advocates acted on them in pursuit of change.

The question of how and why provisions for battered immigrant women have become a part of U.S. immigration policy is a fascinating one because the odds are seemingly against this small group of national activists and their marginalized constituency. Contemporary anti-immigrant sentiment makes it difficult to believe that Congress was willing to enact provisions that opened up a new avenue for gaining legal immigration status. Moreover, battered immigrant women's complete lack of political power casts a dark shadow on hopes of achieving political change for them: these women do not comprise a voting constituency in the United States, nor do they have the financial or social capital to protect themselves against their abusers, much less incite political change. One might also be skeptical of advocates' chances of political success

because they often have not had quantitative data to which policy-makers, at a glance, might react. One wonders how activists have been able to make their case about the seriousness and significance of the problem. Against all of these odds, though, advocates for battered immigrant women have achieved substantial success in ensuring federal provisions for their constituency, and continue their pursuit of policy reform. As Leslye Orloff, a leading policy advocate for battered immigrant women, commented, "What we did doesn't happen. It just doesn't happen!"[5] But it did. And here is how and why.

[5] Leslye E. Orloff, Director, Clinica Legal Latina, Ayuda, Inc., interview by Sujata Barai, 18 Dec. 1997.

Julila, an immigrant woman from Pakistan, was abused by her legal permanent resident husband, Rahinder. She wasn't allowed to learn English, work, or attend school. Rahinder called her a whore, and slapped and punched her regularly. He threatened to return her to Pakistan without their two children. He refused to file the immigration petition that would allow her to remain in the U.S. legally, and frequently threatened to turn her in to the INS. Julila considered returning to her natal family in Pakistan, but her family only reprimanded her for disrespecting Rahinder, for they interpreted Muslim law as requiring a wife's obedience to her husband. Also, Rahinder's family in Pakistan threatened to harm her if she left him.

Julila remains in the U.S. as an undocumented immigrant, living in fear of deportation because her husband hasn't filed her immigration papers. She remains in the U.S. as a vulnerable immigrant because she does not have the skills that would allow her to function independently in the society outside her abusive home. She remains in the U.S. because family and cultural pressures bar her from leaving her husband and she fears harm if she returns to her country of origin. Julila remains bound to her batterer.[1]

CHAPTER 1

BATTERED IMMIGRANT WOMEN IN THE U.S.: A Unique Constellation of Vulnerabilities

Julila's story is not an uncommon one. Such a tragic story of spousal abuse[2] is particularly poignant in light of the increasing number of women immigrating to the United States, particularly after the 1965 immigration policy shift to family reunification, explained in Chapter 2. Considering that the majority of female immigrants come to the

[1] Adapted from Pamela Goldberg, "Anyplace but Home: Asylum in the United States for Women Fleeing Intimate Violence," 26 *Cornell International Law Journal* 565 (1993) 567-568. Names were changed by Goldberg to protect the privacy of those involved. Author wishes to clarify the use of the present tense in the second section to avoid misleading the audience as to the status of this case: the present tense is used adapting directly from the Goldberg article – at the time the article was written, this case was pending before the INS. However, author does not know the status of Julila's situation today.

[2] In this thesis, the terms spousal abuse, abuse, and domestic violence will be used interchangeably. Domestic violence and abuse can of course take the form of battering or cruelty inflicted by any family member on any other family member. Because the focus of this thesis is on immigrant women whose abusive U.S. citizen or legal permanent resident husbands use immigration law to trap them in a violent relationship, though, those general terms will be used to denote this specific kind of abuse.

U.S. as the sponsored spouses of their husbands, the very basic dilemma that most battered immigrant women face is the inability to leave an abusive husband due to fear of deportation. Grace Perez, of Violence Intervention in New York City, recalls the case of one woman who came to the clinic in the mid-1980s:

> This young woman entered into her marriage very much in good faith, but she ended up being very badly injured. She was denied [citizenship] twice. First because he didn't show up at the interview and second because she was in the shelter. She eventually moved back in with him and paid a lot of money to him so she could stay [in the U.S.][3]

The choices battered immigrant women, such as the one described by Perez, face are often further complicated by factors, such as distrust of government authorities, lack of English proficiency, and cultural pressure to keep the abuse private. As Julila's case illustrates, battered immigrant women must confront their difficult existence on several different fronts.

In this chapter, the situation that many battered immigrant women find themselves in is explained in its complexity, and the common and most important considerations of their situation are presented. These aspects of their experiences and identities do not narrowly define their existence, but are often at the heart of their plight to one degree or another. Examining the multitude of ways in which battered immigrant women are disadvantaged betrays their special vulnerability. Moreover, their cause is not one that has been or could be effectively addressed only by immigrants' rights advocates, nor has it or could it be envisioned in purely domestic violence terms. It is the intersection of the domestic violence tragedy and the immigration policy realities that results in a set of acute concerns that are unique to this population. Law professor Kimberle Crenshaw's theoretical model of *intersectionality analysis,* combined with sociologist Margaret

Abraham's *ethno-gender* approach, helps explain the confluence of circumstances in the lives of battered immigrant women. However, the stories of the women themselves provide the strongest argument for their protection. This chapter also shares some true stories that exemplify the problems battered immigrant women face. These are the same stories that have motivated activists and law-makers to reform immigration policy in the interests of battered immigrant women. The theory and the real-life situations presented here bring into sharp focus the unique constellation of vulnerabilities that characterize battered immigrant women's lives, and serve as a sociological backdrop for the chapters of policy and political analysis to come.

Scope of the Problem: A Question of Dynamics

To portray the scope of abuse of immigrant women by their husbands is a complicated endeavor. It is made doubly difficult by the underreported nature of domestic violence and the problems encountered when trying to survey immigrants who may be understandably reluctant to participate in a formal study. Although invisible to most observers, the severity of the problem is apparent to many service providers who work in immigrant communities and with victims of domestic violence. "Among immigrant and refugee women, 'the scope of the problem is huge and underreported,'" states Leni Marin, director of the Battered Immigrant Women's Rights Project of the Family Violence Prevention Fund.[4] Based on existing studies, though, a comprehensive, national rate of abuse is not evident.

[3] As quoted in Wendy Lin, "Is INS Hindering Abused Wives?" *Newsday,* 8 July 1991.
[4] Christen Whalen and Marsha King, "Abuse in a New Land – Immigrant Wives Often Isolated, Vulnerable," *The Seattle Times,* 8 Aug. 1994.

The well-known studies that do exist are limited in that they offer a profile of certain immigrant women in specific geographical areas. Nevertheless, collectively, these studies provide some sense of the scope of abuse. The pioneering study of the needs of immigrant women was undertaken in 1990 by Chris Hogeland and Karen Rosen on behalf of the Immigrant Women's Task Force of the Coalition for Immigrant and Refugee Rights and Services. Through a survey of over 400 undocumented women in the San Francisco Bay Area based on personal interviews, the study revealed, among other problems faced by the immigrant women, a spousal abuse incidence rate of 20% among Filipina participants, and 34% among Latina participants.[5] Another study in Northern California of 150 Korean immigrant women, conducted in the early 1990s by researcher Young Song, discovered that nearly 60% of women had been abused by their spouses.[6] Shamita Das Dasgupta, a scholar on South Asian immigrant women in the U.S., agrees that reliable, comprehensive data is difficult to obtain. Based on her years of personal and academic experience dealing with the issue of domestic violence in South Asian immigrant communities, though, she estimates a rate of roughly 30% for this population.[7]

The most recent and well-publicized study is one undertaken by Ayuda, Inc. in Washington, DC. Conducted between 1993 and 1995, this study on needs assessments and incidence rates of domestic violence among Latina immigrant women in the District of Columbia is based on interviews of 305 undocumented or recently documented

---

[5] Chris Hogeland and Karen Rosen, *A Needs Assessment of Undocumented Women* (San Francisco: Coalition for Immigrant and Refugee Rights and Services, 1990).
[6] Raul Ramirez, "Violence at Home Grips Alien Women," *The San Francisco Examiner,* 10 March 1991.
[7] Shamita Das Dasgupta, Professor of Psychology at Rutgers University, and co-founder, Manavi, interview by Sujata Barai, 10 Nov. 1997.

Latinas.[8] Listed below are some of the most important findings of the survey which contribute to an understanding of spousal violence against immigrant women:

- 62% of the women surveyed reported physical or emotional abuse, the most prevalent being physical.[9] Women who experienced the most severe abuse reported suffering it on a daily or weekly basis.[10]
- 55.2% of reported abuse would qualify for issuance of a protection order.[11]
- 31% of abused women reported that abuse increased with immigration.[12]
- Women who suffered emotional abuse reported being publicly humiliated; prohibited from having friends, attending school, finding a job, or learning English; being threatened that they would be thrown out of the house; actually having been thrown out of the house, having had the phone ripped out of the house, and having been locked in their house or room.[13]
- 71% of battered women with citizen or lawful permanent resident spouses reported that their spouse never filed immigration petitions for them, and of those that did file petitions, delay times ranged from one to eighteen years.[14]
- Almost half of the women surveyed spoke no English.[15]
- 83% reported that they had never called the police for help in response to domestic violence and abuse .[16]

The important quantitative information that the Ayuda study and others offer textures a discussion of the problems facing battered immigrant women. The full story of battered immigrant women's dilemmas cannot, however, be captured in numbers. This understanding exists in a qualitative awareness of how battered immigrant women's

[8] Leslye E. Orloff and Nomi Dave, "Identifying Barriers: Survey of Immigrant Women and Domestic Violence in the D.C. Metropolitan Area," *Poverty & Race* 6:4 (July/Aug. 1997) 9.
[9] Ibid.
[10] Ayuda, Inc. "Summary of Some Preliminary Data From Ayuda Survey" (5 April 1997) 4.
[11] Ibid.
[12] Ibid., 5. These women were victims of domestic violence before and after their migration. The increase of abuse with migration could be triggered by great stress and tension inherent in the migration process, as well as by a possible shift in traditional gender roles after migration, whereby women become breadwinners. See Jorge Banales, "Abuse Among Immigrants: As Their Numbers So Does the Need for Services," *The Washington Post,* 16 Oct. 1990.
[13] Ibid., 4.
[14] Orloff and Dave, 10. The importance of filing this petition is explained briefly in the section of this chapter entitled "Immigrant Women as Sponsored Dependents" and in greater detail in Chapter 2.
[15] Ibid., 9.
[16] Ibid., 10.

situations are uniquely problematic, and requires drawing on the experiences of both battered immigrant women and the activists and providers who serve them. Sujata Warrier, Program Specialist for the New York State Office for the Prevention of Domestic Violence and President of Manavi, a New Jersey-based South Asian women's organization, surmises that the rates of abuse in many immigrant communities may be very similar to the rate of domestic violence in the native population.[17] It is not the rate, but the dynamics of the abuse, that make the problems of battered immigrant women deserving of special attention.[18] That is, the scope of the problem is in large part a question of dynamics – of understanding how the many factors that shape immigrant women's lives, such as their ethnic or cultural affiliations, their immigration status, or their knowledge of U.S. laws and customs, converge to create a uniquely vulnerable situation. The confluence of these factors forms an intersection of identities and circumstances.

Factors are individually explored in this chapter. First, though, a theoretical foundation must be laid on which to build a full understanding of battered immigrant women's unique constellation of vulnerabilities. This constellation merits examination at a theoretical level through the lenses of intersectionality analysis and the ethno-gender approach.

---

[17] Sujata Warrier, Program Specialist for the New York State Office for the Prevention of Domestic Violence and President of Manavi, presentation at a workshop held by Manavi, *Understanding Domestic Violence in the South Asian Context,* attended by Sujata Barai, 10 Nov. 1997.

[18] Shamita Das Dasgupta, interview by Sujata Barai, 10 Nov. 1997: "It is the dynamics of the abuse that are different."

A Theoretical Understanding of Battered Immigrant Women: Intersectionality Analysis

Intersectionality analysis contends that individuals for whom several aspects of identity coincide must be understood in terms of that intersection. Thus, battered immigrant women cannot properly be understood just as battered women, or just as immigrants, or just as women of color. Sociologist and scholar on South Asian immigrant women Margaret Abraham explains,

> As women, immigrant women (unlike immigrant men) have to cope with gender boundaries that define them as subordinate, based on the patriarchal norms and values of both the immigrant and mainstream cultures. As an ethnic minority, regardless of class affiliation in their home country, immigrant women (unlike women from the dominant culture) have to cope with semipermeable boundaries that allow them, as subordinate group members, to partially internalize the norms and values of the dominant culture while being excluded by the dominant group from total membership in the dominant culture.[19]

A separate space, at the intersection, must be created for those with multiple layers of social identity. Abraham creates such an analytical space through her ethno-gender approach, which can be understood as "the multiple intersection of ethnicity, gender, class, and legal status as [a] significant categor[y] in the analysis of domestic violence, with a special emphasis on the relationship between ethnicity and gender."[20] As Crenshaw's colleague Professor Mari Matsuda explains, "[S]ome of us have overlapping identities. Separating out and ranking oppression denies and excludes these identities."[21] Rather than separating out and ranking disadvantage, Crenshaw compels an examination of "the way in which women of color are situated within overlapping structures of

---

[19] Margaret Abraham, "Ethnicity, Gender, and Marital Violence: South Asian Women's Organizations in the United States," *Gender & Society* 21:4 (Aug. 1995) 453.
[20] Margaret Abraham, "Speaking the Unspeakable: Marital Violence Against South Asian Immigrant Women in the United States," draft of article that was forthcoming in *Indian Journal of Gender Studies* 5:2 (June-Dec. 1997).
[21] Mari J. Matsuda, "Beside My Sister, Facing the Enemy: Legal Theory Out of Coalition," 43 *Stanford Law Review* 1183 (July 1991) 1191.

subordination....[and] how the dynamics of each hierarchy exacerbates and compounds the consequences of another."[22]

Although developed for understanding the general situation of women of color and not necessarily immigrant women, intersectionality analysis explains well battered immigrant women's unique constellation of vulnerabilities. The fact that "the violence that many women experience is often shaped by other dimensions of their identities such as race and class"[23] can be further extrapolated to argue that the violence that immigrant women experience is shaped by an additional dimension of their identity – immigration status. Battered immigrant women must not only contend with "gendered subordination" in the form of wife abuse,[24] but also possible racism, cultural conflict, and structural obstacles to their independence present in immigration policy. Through Crenshaw's articulation of "the ways in which the location of women of color at the intersection of race and gender makes [their] actual experience of domestic violence...qualitatively different than that of white women,"[25] it is apparent that the situation of battered immigrant women is not only different from that of battered native women, but also that of non-battered immigrant women and immigrant men.

As a critique of feminism's neglect of the racial dimensions of women's lives and of anti-racist efforts that are insensitive to issues of gender,[26] intersectionality analysis compels not only a deeper understanding of the *concept* of important multiple identities, but also a more thorough examination of the "ways in which...*practices* relating to race

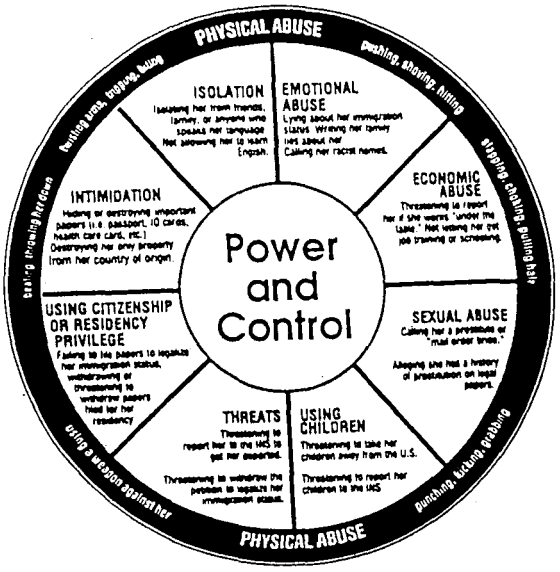
---

[22] Kimberle Crenshaw, "Beyond Racism and Mysogyny: Black Feminism and 2 Live Crew" in *Words that Wound: Critical Race Theory, Assaultive Speech, and the First Amendment* (Oxford: Westview Press, 1993) 114.
[23] Ibid., 1242.
[24] Crenshaw, "Beyond Racism and Mysogyny," 115.
[25] Crenshaw, "Mapping the Margins," 1245.
[26] Ibid., 1299.

and gender interrelate."[27] Intersectionality analysis thus comes to bear on the political and policy arenas in several ways. In some instances, such as the sensitizing of INS officials and of mainstream immigrant and women's rights groups, the efforts of activists have largely been devoted to fostering as full an understanding as possible of the complicated situation of battered immigrant women. Under other circumstances, though, the reality of political strategy has trumped the theory of intersectionality analysis. Many legislators have only been willing to consider policies to protect battered immigrant women when a singular aspect of battered immigrant women's situation – their status as victims of domestic violence – was emphasized above all other considerations. Subsequent chapters will develop the story of all that took place in the political and policy arena. Resting on the foundation of intersectionality analysis, this chapter elaborates the unique plight of battered immigrant women in greater detail by presenting the various considerations that must be understood in order to fully comprehend the problems of battered immigrant women.

[27] Crenshaw, "Beyond Racism and Mysogyny," 112 (italics added).

Figure 1[28]



Women and Domestic Violence

Although battered immigrant women[29] face a confluence of serious circumstance that make their situation more problematic than the situation of a battered native woman, their plight must first and foremost be understood in the basic context of domestic violence against women. Most experts agree that domestic violence, defined as a pattern of controlling behavior, including acts of "overt physical abuse, sexual violence, or psychological violence between spouses, ex-spouses, boyfriends, or girlfriends,"[30] is a

---

[28] Leti Volpp, *Working With Battered Immigrant Women: A Handbook to Make Services Accessible* (San Francisco: Family Violence Prevention Fund, June 1995) 5. "This version of the Power and Control wheel, adapted with permission from the Domestic Abuse Intervention Project in Duluth, Minnesota, focuses on some of the many ways battered immigrant women can be abused."

[29] For the purposes of this examination of battered immigrant women who are the spouses of U.S. citizens or legal permanent residents, domestic violence will be defined and employed as acts of said abuse perpetrated by the husband upon his wife. (See also footnote 2.) Though men can be victims of domestic violence, the overwhelming majority of victims are women, who face obstacles specifically related to their gender.

[30] Alice Butler, "Domestic Violence: Data, Programs and Funding," *CRS Report for Congress 97-675 EPW* (3 July 1997) 1. For more extensive definitions, see Daniel J. Sonkin, PhD., Del Martin, and Lenore E.A. Walker, Ed.D. (eds.) *The Male Batterer: A Treatment Approach* (New York: Springer Publishing Company, 1985); Ginny NiCarthy. *Getting Free: A Handbook for Women in Abusive Relationships* (Seattle: Seal Press, 1986); and The Family Violence Prevention Fund, "Domestic Violence in Civil Court Cases," (San Francisco: The Family Violence Prevention Fund, 1992).

gendered crime whose victims are disproportionately women.[31] In fact, "being female is [the]greatest predictor of being abused."[32] Domestic violence is viewed not just a criminal activity, but also as "a major health problem for women today."[33] Though crimes of domestic violence are believed to be severely underreported, the most recent data from the Bureau of Justice Statistics indicate that: [34]

- 78% of female victims of nonfatal violence were victimized by someone they knew, whereas 23% were assaulted by a stranger (1992-1993).
- Women suffered seven times as many incidents of nonfatal violence by an intimate (partners who are dating, married, or separated) as did men (1992-1993).
- 1,214 women were killed by intimates in 1995, as compared to 458 men that were killed by an intimate.

Battered immigrant women are not unlike other female victims of domestic violence. They too experience the gender-based ploys of control, manipulation, and power that manifest themselves in the form of emotional and physical injury. Abuse often takes the form of the husband isolating the wife by curtailing her freedom and her association with people outside the home; the effect of this isolation is that she can become "completely dependent upon him."[35] An abuser may exacerbate a woman's isolation by distorting the information that she does receive through him by lying, offering contradictory information, or withholding information, especially about matters such as her legal rights or the effects of legal action she might take.[36] The reasons why

---

[31] Butler, 1.
[32] Joan Zorza, "Women Battering: High Costs and the State of the Law," *Clearinghouse Review* (Special Issue 1994) 386.
[33] Ibid.
[34] Ibid., 2-3.
[35] Del Martin, "Domestic Violence: A Sociological Perspective" in Daniel Jay Sonkin, PhD., Del Martin, and Lenore E.A. Walker Ed.D. (eds.) *The Male Batterer: A Treatment Approach* (New York: Springer Publishing Company, 1985) 11.
[36] Family Violence Prevention Fund, "Domestic Violence in Civil Court Cases," (San Francisco: Family Violence Prevention Fund, 1992).

women may feel unable to leave abusive relationships are numerous:[37] fear of inciting more violence,[38] lack of options for financial support for herself and her children,[39] feeling paralyzed by the psychological or physical trauma of the abuse, being unable to afford the financial costs of legal action, hoping that the abuser will change, and pressure to keep the family intact. For immigrant women, however, additional concerns, such as cultural pressures, challenges as new-comers to the U.S., and legal dependency on their husbands for their immigration status, exacerbate their already desperate status as victims of domestic violence.

Women of Color: Racial and Ethnic Minorities

Describing a study of battered women in which "the 70 minority women...had a 'double disadvantage in this society that serves to tie them more strongly to their spouses,'"[40] Crenshaw maintains that women of color experience gender subordination in a way that is shaped by their race. As the majority of immigrants in the U.S. today are from Asia, Latin America, and South America,[41] issues of racial and ethnic minority status are highly relevant for understanding the vulnerability of battered immigrant women. For many immigrant women, though, it is not just their identification as women of color that complicates their situation, but their status as ethnic minorities. Margaret Abraham

---

[37] Ibid, adapted from above.
[38] Ibid. "[I]n almost 75% of reported spousal assaults, the partners were divorced or separated."
[39] Ginny NiCarthy explains that when deciding whether to leave a relationship or not, women's fear of poverty [is] coupled with the reality that when women separate from their partners, there is a substantial loss in economic status for her. See *Getting Free: A Handbook for Women in Abusive Relationships* (Seattle: Seal Press, 1986).
[40] Crenshaw, "Mapping the Margins," 1248 footnote 24, citing study in Mildred Daley Pagelow, *Woman-Battering: Victims and Their Experiences* (1981).
[41] Immigration and Naturalization Service, "Table 5: Immigrants Admitted by Region of Birth and Type and Class of Admission – Fiscal Year 1996," p. 35 of larger document unknown to author because only the table of statistics was faxed to author by INS Statistics Division, Demographic Statistics Branch.

explains, "Courses of action, strategies, distinctiveness of culture, and structural arrangements have to be understood and addressed by looking at ethnic minority women based not only on their gender but also on their position as an ethnic minority."[42] The cultural norms and understandings that immigrants bring with them to the United States and that are recreated in immigrant communities here shape battered immigrant women's experiences greatly.

Battered immigrant women's membership in immigrant and ethnic minority communities requires negotiating between norms of their native culture and those of U.S. society. Many times this inter-cultural conflict plays out in terms of a contrast of gender roles, a "clash between traditional patriarchal values...and modern gender equality values."[43] Traditional values of female obedience and subservience to males can serve to justify abuse and pressure women to accept it.[44]

---

[42] Abraham, "Ethnicity, Gender, and Marital Violence," 453.

[43] Ko-lin Chin, "Out-of-Town Brides: International Marriage and Wife Abuse Among Chinese Immigrants," *Journal of Comparative Family Studies* XXV:1 (Sping 1994) 61. Note: Author does not wish to imply that the United States is a perfectly egalitarian society, which has realized in practice the precepts of gender equality it may boast of in theory. See Kathleen J. Ferraro, "An Existential Approach to Battering" in Gerald T. Hotaling, David Finkelhor, John T. Kirkpatrick, and Murray A Straus (eds.) *Family Abuse and Its Consequences: New Directions in Research* (Newbury Park, CA: Sage Publications, 1988): "The ideology of male dominance remains an important aspect in the development of male identity. Social- and self-esteem for males in the United States...remains linked to the pereception of control over at least one other" (127). For many immigrant women, though, the gender roles in the United States may offer more freedom and flexibility relative to the gender norms they experienced in their native country. Also, in light of Shamita Das Dasgupta's warning that "American mainstream society still likes to believe that woman-abuse is limited to minority ethnic communities, lower socio-econimic strata, and individuals with dark skin colors," it is important to emphasize that cultural particularities may influence the dynamics of abuse, but do not confine it to one particular culture. Shamita Das Dasgupta, "Women's Realities: Defining Violence Against Women by Immigration, Race, and Class," forthcoming in 1998 in R.K. Bergen (ed.) *Issues in Intimate Violence* (Sage Publications, Inc.), 8 of manuscript.

[44] Chin, 57. See also Das Dasgupta and Warrier, "In the Footsteps of 'Arundhati,'" 242, 252.

In broader cultural terms, "[a]s immigrants, these women [are] under...pressure to uphold the standards of 'cultural family values' in a foreign land."[45] In an interview-intensive study of twelve South Asian battered immigrant women, Shamita Das Dasgupta and Sujata Warrier, both of Manavi, found that these women experienced the "pressures of preserving traditions and presenting an 'unblemished' image of the community to the U.S. mainstream," which inhibited them from reporting the abuse they suffered.[46]

Vimi Gupta, a social worker with Asian Human Services in Chicago, Illinois, a mental health service provider for area Asian immigrants, states that when it comes to the issue of domestic violence, "there is a lot of stigma in the Asian community."[48] This reluctance to acknowledge the presence of domestic violence wields itself in the forms of community norms about privacy and shame. Of the South Asian community, Das Dasgupta and Warrier explain that there are "strict rules about privacy in order to maintain family honor and name. Consequently, family matters are never shared with individuals who are considered to be outside the family, such as physicians and mental health professionals."[49]

A TRUE STORY...
For Arya, a Pakistani immigrant woman married to Azeem, a U.S. legal permanent resident, the imperative to legalize her immigration status is great. After enduring years of abuse in which Azeen punched and kicked Arya and sometimes woke her up when asleep by pulling her hair, Arya escaped to a battered women's shelter (though after being forced to return to Azeem by his brothers when she tried to leave him on a previous occasion). Without legal status, she cannot work to support herself and her children and live a life in the U.S. free of her husband's abuse. The option of returning to Pakistan is not a viable one. She fears that Azeem's family there would harm her, because in their view, she has dishonored their family by leaving him. She sought help from her own family in Pakistan, but they, too, feel that she dishonored their family because she left her husband.[47]

[45] Shamita Das Dasgupta and Sujata Warrier, "In the Footsteps of 'Arundhati': Asian Indian Women's Experience of Domestic Violence in the United States," *Violence Against Women* 2:3 (Sept. 1996) 254.
[46] Das Dasgupta and Warrier, "In the Footsteps of 'Arundhati,'" 238.
[47] Adapted from "Untold Stories: Cases Documenting Abuse by U.S. Citizens and Lawful Residents on Immigrant Spouses," (San Francisco: Family Violence Prevention Fund, Nov. 1993), case 27. Names changed by booklet editors to protect the identities of those involved.
[48] Vimi Gupta, licensed social worker and counselof, Asian Human Services, interview by Sujata Barai, 31 Oct. 1997.
[49] Das Dasgupta and Warrier, "In Visible Terms," 20.

The South Asian concept of *izzat,* the notion that women uphold the integrity of the community and thus would be judged dishonorable if they publicly revealed facts that may disgrace the community, can prevent many abused women from coming forth.[50] Of the larger Asian community, Leni Marin, of the Family Violence Prevention Fund, an immigrant from the Philippines herself, declares, "There's big, big pressure not to report this."[51] Directives that compel women to keep hidden the abuse they are suffering at the hands of their husbands, "ten[d] to be interpreted as obliging women not to scream rather than obliging men not to hit."[52]

Beyond obligations to the community-at-large, family ties also will many women to keep their abuse a secret or prevent them from taking advantage of legal protections.[53] "Because of the strong emphasis on obligations to the family, a Pacific Asian woman will often remain silent rather than admit to a problem that might disgrace her family."[54] For battered immigrant women with children, expectations about the way children should be raised may also prevent them from leaving an abusive husband. Citing their study of South Asian battered immigrant women, Das Dasgupta and Warrier explain, "In each case, the woman believed that to be a 'good mother' she had to keep the family intact. The presence of a father, abusive or not, was regarded as essential to the proper upbringing of children."[55]

---

[50] Sujata Warrier, presentation at a workshop, *Understanding Domestic Violence in the South Asian Context,* attended by Sujata Barai, 10 Nov. 1997.
[51] Marilyn Gardner, "When US, Newcomers' Values Clash," *Christian Science Monitor,* 16 July 1997.
[52] Crenshaw, "Mapping the Margins," 1257.
[53] Tina Shum, a family counselor at a social service agency, as cited in Crenshaw, "Mapping the Margins," 1248: "This law [the 1990 battered spouse waiver] sounds so easy to apply, but there are cultural complications in the Asian community that make even these requirements difficult."
[54] Nilda Rimonte, "Domestic Violence Against Pacific Asians," in Asian Women United of California (ed.) *Making Waves: An Anthology of Writings By and About Asian American Women* (Boston: Beacon Press, 1989) 328.
[55] Das Dasgupta and Warrier, "In the Footsteps of Arundhati,'" 252.

Cultural norms of public behavior significantly influence the courses of action battered immigrant women believe are open to them. Based on her identification with her cultural community, a battered immigrant woman can experience a conflict between the pressure to keep the domestic violence a private matter and the desire to take advantage of public remedies and social services.[56] While cultural norms and values differ among ethnic groups, strong obligations to protect the reputation of the group may themselves silence battered immigrant women. However, in addition to these culturally-specific and gendered codes of conduct, battered immigrant women confront numerous challenges simply as new-comers to the United States.

Immigrant Women as New-Comers

Female immigration to the United States has been increasing, and women have comprised the majority of immigrants since 1930.[57] Women come to the U.S. for a variety of reasons, ranging from the lure of economic or academic opportunity to the promise of greater political freedom. Women immigrate as employees, sisters, mothers, students, and most frequently, as wives.

Although women immigrate as wives of U.S. citizens or legal permanent residents under the general policy of spousal sponsorship, as will be described in the next section, some enter the U.S. more specifically as "mail-order" brides and military wives. In the late 1980s, nearly 5,000 women from China, Hong Kong, and Taiwan were immigrating

[56] Sujata Warrier, explaining the cultural and emotional barriers to change for battered immigrant women during a presentation at workshop, *Understanding Domestic Violence in the South Asian Context,* attended by Sujata Barai, 17 Nov. 1997.

[57] Houstoun, Marion F., Roger G. Kramer, and Joan Mackin Barrett. "Female Predominance in Immigration to the United States Since 1930: A First Look," *International Migration Review* 18:4 (1984).

annually to the United States as "mail-order" brides,[58] or women selected by men in the U.S. through catalogues advertising the women's willingness to marry, move to the U.S., and provide a good home. For many of these women, domestic violence occurs in the context of their husbands' expectations that they will be subservient to the men who are offering a way for them to enter the U.S. and because they are conditioned by their cultures to behave in a deferential way.[59]

Military brides are also a significant immigrant population. "As a result of the deployment of U.S. troops in Asian countries..., over 200,000...women have married U.S. servicemen and immigrated to the United States" as military brides since World War II.[60] Spousal abuse occurs more frequently and with greater severity in the homes of military couples than civilian couples.[61] According to one study, "military men used weapons on their wives twice as often as civilians and...three-fourths of the cases were life-threatening, compared to one-third of cases involving civilians."[62] Researchers conclude that "the worst of the civilian cases were the norm for military cases."[63]

For battered immigrant women, whether they are mail-order or military brides or not, several obstacles stemming from their status as new-comers may block their path to escaping spousal abuse. The most obvious and immediate obstacle is lack of proficiency

[58] Immigration and Naturalization Service, 1988 *Statistical Yearbook* and 1989 *Statistical Yearbook* (Washington, DC: Government Printing Office).
[59] Venny Villapando, "The Business of Selling Mail-Order Brides" in Asian Women United of California (ed.) *Making Waves: An Anthology of Writings By and About Asian American Women* (Boston: Beacon Press, 1989) 319.
[60] Michelle J. Anderson, "A License to Abuse: The Impact of Conditional Status on Female Immigrants," 102 *Yale Law Journal* 1401 (April 1993) 1406.
[61] Uma Narayan, "'Male-Order' Brides: Immigrant Women, Domestic Violence and Immigration Law," *Hypatia* 10:1 (Winter 1995) 106.
[62] Ibid.
[63] Anson D. Shupe, William A. Stacey, and Lonnie R. Hazlewood. *Violent Men, Violent Couples: The Dynamics of Domestic Violence* (Lexington, MA: Lexington Books, 1987) 77.

in English.[64] Women who cannot speak English well or at all often experience severe difficulty when seeking help. The American Bar Association reports that when seeking help from the legal system, one of the most significant barriers for non-English speaking clients is the barrier of language.[65] Professor Margaret Abraham, from her contact with South Asian battered immigrant women, recounts the following scenario,

> In some cases, the inability of the woman to communicate her situation to the [police] officers because of language barriers results in the officer letting the abuser become the communicator of the situation. This can result in the abuser not getting arrested, as I found out in my interviews with some of the abused women.[66]

A woman's own lack of English proficiency is compounded by the problem of "insufficient bilingual personnel at all levels – 911 operators, police, court personnel."[68] Culturally-specific social service agencies such as Manavi in Union, NJ or Mujeres Latinas en Acción in Chicago or Asian Women's Shelter in San Francisco do offer services in languages other than English. But many mainstream shelters, agencies, and offices do not offer multi-lingual services and are thus inaccessible to many battered immigrant women.

> ***A TRUE STORY...***
> A Chinese woman married an American citizen. Within a month of her arrival in the United States, her husband threatened her with a gun and subjected her to repeated physical abuse. She did not initially leave because she feared deportation and could not speak enough English to gain information about her legal rights.[67]

[64] Jorge Banales, "Abuse Among Immigrants; As Their Numbers So Does the Need for Services," *The Washington Post,* 16 Oct. 1990.
[65] American Bar Association (ABA) Center on Children and the Law, "Special Groups: Immigrant Women and Children" in *The Impact of Domestic Violence on Children: A Report to the President of the American Bar Association* (ABA, 1994) 20.
[66] Abraham, "Ethnicity, Gender, and Marital Violence," 461.
[67] Janet M. Calvo, "Spouse-Based Immigration Laws: The Legacies of Coverture," 28 *San Diego Law Review* 593 (1991) 594.
[68] Leslye E. Orloff, Deanna Jang, and Catherine F. Klein, "With No Place to Turn: Improving Legal Advocacy for Battered Immigrant Women," *Family Law Quarterly* 29:2 (Summer 1995) 317.

In addition to a lack of English skills, battered immigrant women, as new-comers, also often lack knowledge of U.S. laws and services available to help them. The manipulative nature of domestic violence rears its ugly head when immigrant women are severely isolated by their abusers and are cut off from information. Already far from the familiarity and support system of their native country, their isolation is exacerbated when

> batterers in immigrant families control much of the information that the battered wife receives about American culture....[F]ew immigrant and refugee women will have a complete understanding that the court system is not an arm of the INS, or that in seeking a protection order the judge will not report her to immigration.[69]

A TRUE STORY...
Ariel, a Mexican immigrant, is married to Sean, a U.S. citizen. Over the course of their seventeen-year relationship in which they had four children, Ariel suffered constant physical abuse by Sean. Sean never filed Ariel's immigration papers. Moreover, throughout their marriage, Sean made her stay in their house at all times and would not let her have any contact with neighbors. She was also not allowed to use the phone at all. He was extremely controlling over every aspect of her life, even awhat clothes she could wear.[70]

For some immigrant women, incorrect assumptions about U.S. systems are formed based on their knowledge of the legal codes of their native countries. One battered Indian immigrant woman explains that "there is really no such term as 'domestic violence' in India. It does not separately exist in the law."[71] Some women may not seek help simply because they do not know where to turn, or even that there is a place to turn. Das Dasgupta and Warrier found in their study that "[w]hen they had called Manavi for assistance, the majority of participants...had exhibited a complete lack of knowledge regarding their legal rights in the U.S."[72]

---

[69] Ibid., 323.
[70] Adapted from "Untold Stories," case 13.
[71] Anonymous personal affidavit of a battered Indian immigrant woman, written in March 1996 to the INS in support of her petition for gender asylum; the woman is a client at Manavi, the organization from whom this affidavit was obtained by author.
[72] Das Dasgupta and Warrier, "In the Footsteps of 'Arundhati,'" 253.

An immigrant woman's knowledge of her rights and the role of the U.S. legal system in helping her escape abuse may also be skewed by her previous experiences with the government of her own country.[73] Many battered immigrant women have good reason to fear authorities. Gloria Bonilla-Santiago explains the perspective of many Latinas towards government officials. She states, "People from Latin America often share a regional heritage that includes abuse from governmental officials...so they bring with them memories of and suspicions about the assistance available from enforcement agencies."[74] More specifically, domestic violence may have been legal in some immigrants' countries of origins. Thus, these immigrants have difficulty imagining that domestic violence is a crime in the U.S. for which people can be imprisoned, according to Debra Robbin, director of education and training at Casa Myrna Vazquez, a shelter for Hispanic women in Boston.[75] Initially deterred for such reasons from seeking aid was an battered Indian immigrant woman who eventually did contact Manavi. In a personal affidavit written in support of her petition for gender asylum, this woman explains, "I was too afraid of the police and the system here to tell anyone....I was afraid because I knew that in India, I would never be believed, and thought this is how things work here too."[76]

To develop a working knowledge of how things do in fact work in the United States, to realize that protective options do exist for battered women regardless of their immigration status, even to learn that domestic violence is against the law in their

---

[73] ABA Center on Children and the Law, 19: "The reluctance of immigrants and refugees to turn to the legal system for help grows out of experience with the legal systems in their home countries."
[74] Gloria Bonilla-Santiago, "Latina Battered Women: Barriers to Service Delivery and Cultural Considerations," in Albert R. Roberts, ed. *Helping Battered Women: New Perspectives and Remedies* (New York: Oxford University Press, 1996) 231.
[75] Gardner.
[76] Anonymous personal affidavit of a battered Indian immigrant woman, see footnote 71.

adopted country can be a slow process and a big step for battered immigrant women. It is a step that brings them closer to the help they need. Battered immigrant women must overcome many of the hurdles common to new-comers to the U.S., such as language proficiency and knowledge of laws and customs. These hurdles grow in size when their abusive husbands control their whereabouts and what information they receive. In addition to complications arising from their status as ethnic minorities and as new-comers, a major dilemma exists for battered immigrant women, and it rests at the heart of their unique constellation of vulnerabilities. As immigrants sponsored by their spouses, these women must contend with the ways U.S. immigration policy poses structural barriers to their independence. These barriers fall directly at the intersection of domestic violence and immigration status.

Immigrant Women as Sponsored Dependents

Chapter 2 offers an in-depth look at the immigration policies that have created obstacles for battered immigrant women and those policies that have tried to remove them. Thus, only a cursory description of the way immigration policy presents structural barriers to battered immigrant women's independence is in order in this chapter. These hurdles are the most important and relevant ones for this paper, as this thesis is about the ways activists fought to change immigration policy.

NB

The battered immigrants eligible for the provisions in the 1990 Immigration Act and the 1994 Violence Against Women Act are those who are married to U.S. citizens or legal permanent residents who are their immigration sponsors. Before 1986, spouses married to U.S. citizens or legal permanent residents were granted unconditional and almost automatic permanent resident status. The immigrating spouse of a U.S. citizens,

classified in immigration law as an "immediate relative," receives preference and is admitted free of any quotas. The spouse of a legal permanent resident is granted "second preference" status. Though subject to an immigration quota, this category is the largest in immigration policy.[77] It is crucial to note that women have long constituted the overwhelming majority of sponsored spouses of U.S. citizens or legal permanent residents.[78]

Concerned about alleged abuse of this marriage-based route of establishing U.S. residency, Congress in 1986 passed the Immigration Marriage Fraud Amendments (IMFA) to the Immigration and Naturalization Act of 1952. The IMFA ended the policy of granting automatic and unconditional residency for the immigrating spouses and created a system of conditional residency for them. Shortly before the end of the two-year conditional residency period, the couple must jointly petition the INS to prove that their marriage is still intact. The woman is dependent upon her husband to file her initial papers for conditional residency. Without these, she is undocumented. If she wishes to gain permanent residency, she must stay in the marriage for the two years and is again dependent upon her spouse's cooperation to follow through with the joint petition. Her husband is in not obligated to file the initial papers or follow through with the joint petition, and may withdraw his sponsorship at any time.

[77] David Moyce, "Petitioning on Behalf of an Alien Spouse: Due Process Under the Immigration Laws," 74 *California Law Review* 1747 (Oct. 1986) 1749.

[78] Between 1972-1979, alien wives of U.S. citizens were 62% of such spouses, and alien wives of legal permanent residents were approximately 66% of such spouses, according to Houstoun et al., 924-925. Recent figures are similar, as reported by Joan Fitzpatrick, "The Gender Dimension of U.S. Immigration Policy," 9 Yale Journal of Law and Feminism 23 (1997), footnote 7: in fiscal year 1994, 60% of admitted spouses of U.S. citizens and 66% of legal permanent residents were female.

The presumption of marriage fraud until proven otherwise, and the requirements of the initial and joint petition place the immigrating spouse in a position of complete dependence. These requirements negatively impacted women disproportionately because they comprise the majority of spouse-sponsored immigrants. As Crenshaw explains in applying intersectionality to the situation of immigrant women, "[T]he marriage fraud provisions...exacerbated the disempowerment of those already subordinated by other structures of domination....[b]y failing to take into account the vulnerability of immigrant spouses to domestic violence."[79] Indeed, the 1986 Immigration Marriage Fraud Amendments are manifestations of an immigration policy that has "historically bound [immigrant women's] hope for legalization to their husbands,"[80] leaving battered immigrant women with the anguished choice of remaining in an abusive relationship or leaving, becoming undocumented, and facing deportation.

"Fear of deportation permeates all aspects of the undocumented woman's life,"[82] report researchers Chris Hogeland and Karen Rosen. In fact, their study found that for 64% of Latinas and 57% of Filipinas, the most significant barrier to seeking help was

A TRUE STORY...
Melbis, a Columbian immigrant, married Tonio, a legal permanent resident. Though he did file an initial petition for her, he began physically abusing her almost immediately thereafter. Whenever Melbis would try to call the police, try to leave, or even just say that she wanted the abuse to stop, Tonio would threaten to withdraw his petition, and to call the INS to report her. During almost every incident where Tonio physically abused Melbis, he used the residency petition to ensure that she would not report the abuse. As an undocumented woman, Melbis feared exposure and deportation. Even when a police officer intervened after an assault on the street, Melbis kept quiet.[81]

[79] Crenshaw, "Mapping the Marings," 1249.
[80] Chris Hogeland, "Immigrant Women in U.S. History" in Deeana L. Jang, Leni Marin and Gail Pendleton (eds.) *Domestic Violence in Immigrant and Refugee Communities: Asserting the Rights of Battered Women, 2nd Ed.* (San Francisco: Family Violence Prevention Fund, 1997) 48.
[81] Adapted from "Untold Stories: Cases Documenting Abuse by U.S. Citizens and Lawful Residents on Immigrant Spouses," case 5.
[82] Hogeland and Rosen.

fear of deportation.[83] For some women, the fear of deportation is great because they are afraid of losing custody of their children in the process. Other women greatly fear deportation because they bear the weight of obligations to their families in their native countries. Some women must remain in the U.S. not only in order to earn money to send back home, but also so that they can one day sponsor family members as immigrants to the U.S. These women, known as the "engines" of their natal families,[84] must try to establish legal status in the U.S. in order to fulfill the expectations of their families, which may entail enduring an abusive husband. The position of legal dependency is inherently a position of vulnerability, and fosters a crisis of choice in the lives of these women: "live with the abusers in the hope of gaining legal status, or escape from their abusers and risk deportation."[85]

Changes in immigration policy that offer protections for battered immigrant women are attempts to mitigate the potentially disastrous consequences of complete dependency. The 1990 Immigration Act's *battered spouse waiver* and the 1994 Violence Against Women Act's *self-petitioning* and *cancellation of removal* provisions mark significant steps in the direction towards dissociating a battered immigrant woman's potential for legalization from her abusive husband's sponsorship, but do not eliminate the element of dependence completely. Moreover, these provisions are Band-Aids that do not fundamentally address the problem of the abuse of immigrant women. They do, however, represent the breaking down of structural, policy-based barriers and offer hope

[83] Ibid., 17.
[84] Chin, 63 (citations omitted).
[85] Ryan Lilienthal, "Old Hurdles Hamper New Options for Battered Immigrant Women," 62 *Brooklyn Law Review* 1595 (Winter 1996) 1.

for women who choose to come forward and are successful in their applications for the remedies.

Conclusion: A Unique Policy Nexus – The Intersection of Domestic Violence and Immigration

It is clear that many "newly arrived battered immigrant women whose immigration status is not permanently established, because they are undocumented, conditional residents, or here on visas"[86] are particularly vulnerable to domestic violence because their abusers can "control and manipulate their unsettled immigration status as a means of keeping them in abusive relationships."[87] Battered immigrant women must also contend with other considerations central to their identity whose confluence is unique to their situation. First, battered immigrant women must be viewed in the general context of domestic violence and its gendered nature. Battered immigrant women share with battered non-immigrant women the horrors of violence perpetrated against them by the men in their lives. Secondly, battered immigrant women, as members of racial and ethnic minority groups, face the hurdles that cultural norms place in the way of escaping domestic violence. Thirdly, these women share with most immigrants formidable challenges as new-comers, such as acquiring proficiency in English and understanding the systems and resources of their adopted country. Lastly, and most significantly for the purposes of this thesis, battered immigrant women must negotiate around their dependency on their husband for their immigration status, a legal dependency that forces women to remain in violent relationships out of fear of deportation.

---

[86] Volpp, 2.
[87] Ibid.

Although this thesis focuses on the structural (i.e., immigration policy-based) barriers to the independence of battered immigrant women, it must be viewed against a full backdrop of the considerations in the lives of the women who are availing themselves of policy options. An understanding of this intersection of identities and concerns facilitates a more accurate analysis of the provisions for battered immigrant women in U.S. immigration policy. Furthermore, this understanding forms an meaningful lens through which to examine the ways activists have chosen to negotiate and strategize around battered immigrant women's complicated identity when advocating policy reform. Indeed, a well-developed sense of this unique constellation of vulnerabilities that forms the epicenter of the lives of battered immigrant women is what ultimately informs provisions to lessen their vulnerability and increase their autonomy.

"Once we looked into her legal options, we realized she had none."
Representative Louise M. Slaughter, describing her personal dismay at the predicament of one abused conditional resident who sought her help in 1989.[1]

CHAPTER 2

THE LEGISLATIVE PROGRESSION OF PROVISIONS FOR BATTERED IMMIGRANT WOMEN, 1986-1996

The purpose of this chapter is to ensure basic knowledge of the provisions for battered immigrant women in U.S. immigration policy.[2] Details of the political strategy employed to bring these legislative changes about are explored and explained in following chapters. Here, it is important to track the development of the laws and regulations that affect battered immigrant women's immigration interests. In addition, it is necessary to note a recurring problem of Immigration and Naturalization Service (INS) regulations that distort, or do not represent well, Congressional intent in passing the laws. Political advocacy for battered immigrant women wins only one victory if a favorable law is passed; advocates and members of Congress have needed to ensure that the regulations properly reflect and implement legislative intent, or battered immigrant women will, in

[1] As cited in Michelle J. Anderson, "A License to Abuse: The Impact of Conditional Status on Female Immigrants," 102 *Yale Law Journal* 1401 (April 1993) 1414.
[2] NOTE: All of the legislative provisions to be discussed are available to men as well. The phenomenon of battered immigrant spouses, however, is not sex or gender-neutral. This thesis focuses exclusively on battered immigrant women, as women constitute the majority of immigrants sponsored by spouses and are the overwhelming majority of victims of spousal abuse. Also, some of the mentioned protections are available to the immigrant parent of abused children or to immigrant children themselves, as upcoming footnotes will explain. Again, though, the focus here is on immigrant women who themselves are battered.

the end, remain unprotected. Thus, political advocacy has focused on both laws and regulations at each step in the progression of provisions.

The ten years spanning from 1986 to 1996 saw several significant changes to U.S. immigration policies that affect battered immigrant women. Some policies codified barriers to immigrant women's autonomy, while others were enacted precisely to counteract and remedy those troubling laws and regulations. The 1986 Immigration Marriage Fraud Amendments (IMFA) are a clear example of a law that unintentionally created, or at least set the stage for, the dilemmas of an extremely vulnerable population. The law did so by introducing a policy of conditional residency that left battered immigrant women at the mercy of their abusive husbands who were sponsoring their immigration petitions.

The amendments to the IMFA in the 1990 Immigration Act sought to address the problems of the 1986 legislation. Specifically, the 1990 *battered spouse waiver* recognized the obstacles created for abused spouses by the 1986 IMFA, and offered relief for women who qualified and could meet its stringent evidentiary criteria. However, the 1990 reforms were insufficient to counteract the problems of the IMFA. In response to the inadequacies of the 1990 changes, advocates fought for the *self-petitioning* and *cancellation of removal* remedies in the 1994 Violence Against Women Act (VAWA). The VAWA allows spouses who qualify for the provisions to take their immigration status into their own hands and extricate themselves more fully from their husband's control over their ability to remain in the United States legally.

A systematic examination of these pieces of legislation and their ramifications is in order, prefaced by a summary of the legislation in Table 1.

Table 1

SUMMARY OF LEGISLATION
The Legal Provisions for Battered Immigrant Women

1986: THE IMMIGRATION MARRIAGE FRAUD AMENDMENTS (IMFA)[3]

- **conditional residency requirement**[4] — An immigrant spouse married to a U.S. citizen or legal permanent resident (LPR) for less than two years receive two-year conditional residency status, which begins from the date of filing with the INS, not from the date of marriage. For those two years, the couple must remain married if the immigrant spouse wishes to gain legal permanent residency; if the marriage dissolves before the two years, the immigrant spouse becomes undocumented and is subject to deportation. Shortly before the two years are over, the couple must jointly petition INS to adjust the immigrant spouse's status, a process which often requires a joint interview. If the INS is satisfied that the marriage was entered into in good faith (i.e., for genuine marital purposes, not to obtain a visa) and is still intact, the immigrant spouse, if married to an LPR, will join the queue of those waiting to receive a green card (the issue of legal permanent resident status), and if married to a citizen, will obtain almost automatic adjustment of status.
- **extreme hardship waiver**[5] — This waiver is available to an immigrant spouse of a citizen or LPR seeking relief from the joint petitioning process who can prove that deportation would cause extreme hardship due to circumstances that arose during her conditional residency.
- **good faith/good cause waiver**[6] — This waiver is available to an immigrant spouse whose marriage ended before the two-year conditional residency period was over and is seeking relief from the joint petitioning requirement. The spouse applying for the waiver must prove that the marriage was entered into in good faith, terminated for good cause, and that she initiated the divorce. The requirements of a "good cause" termination and of the immigrant spouse being the initiating party in the divorce were later changed by the 1990 Immigration Act.

1990: THE IMMIGRATION ACT (IMMACT)[7] *– AMENDMENTS TO THE 1986 IMFA*

- **changes to the gf/gc waiver**[8] — The good faith/good cause waiver was amended to no longer require that the waiver-seeking spouse have initiated the divorce, nor require proof of good cause termination.
- **battered spouse waiver**[9] — To qualify for this waiver, an immigrant spouse must already have conditional residency and must prove that she was abused by her husband. The law recognizes physical and

[3] P.L. [Public Law] 99-639, 101 Stat. 3537.
[4] Ibid., Section 216(a)(1)
[5] Ibid., Section 216(c)(4)(A)
[6] Ibid., Section 216(c)(4)(B)
[7] P.L. 101-649, 104 Stat. 4978.
[8] Ibid., Title VII, Section 701(a)(2).
[9] Ibid., Section 701(a)(4)(C). See 56 *Federal Register* 22635 (16 May 1991).

mental abuse together, but INS regulations created different evidentiary requirements for each. Originally, the INS accepted evidence of mental abuse only from certain professionals. The 1994 VAWA, however, changed this practice so that the INS must now accept "any credible evidence" in support of all claims of abuse. If successful, the woman[10] follows the same procedure as previously outlined to establish legal permanent residency. If unsuccessful, the woman is not allowed an appeal, but may ask for reconsideration of the decision once in deportation hearings.

1994: THE VIOLENCE AGAINST WOMEN ACT (VAWA)[11]

- **the bsw evidentiary standards** — The INS can no longer demand evidence from only certain sources for an extreme mental cruelty claim for a battered spouse waiver, but must accept "any credible evidence."[12]

- **self-petitioning**[13] — The ability to petition for one's own immigration status is available to a woman[14] married to a citizen or LPR (she must be married to him at the time the application is filed; divorce is a bar), but whose husband did not file initial papers with the INS. She must prove battering or extreme cruelty, a good faith marriage, that she resided with the abuser for a period of time (unspecified), that she is of good moral character, and that she or her children would suffer extreme hardship if deported. If her petition is approved, her green card application follows the same course as previously outlined. If unsuccessful, the woman may be put into deportation hearings as she would be without legal status.

- **cancellation of removal**[15] — A battered immigrant woman[16] who is already in deportation hearings may seek a cancellation of removal, by which she would be allowed to remain in the U.S. and adjust her own immigration status to that of an LPR. This remedy is only open to women who are in the U.S. on account of being or having been the spouse of a citizen or LPR. In order to obtain this remedy, the woman must prove that she would suffer extreme hardship if she were deported, and may use her status as a battered or divorced woman as a relevant factor that would contribute to such hardship; show three years of continuous physical presence in the U.S., and prove good moral character. If successful, the woman will immediately obtain a visa of legal permanent residency whether she was married to an LPR or a citizen, unlike the procedure for successful applicants for other remedies. If unsuccessful, her deportation hearings continue.

---

[10] The immigrant spouse may also be eligible for the waiver if she can show that her children have been battered or subjected to extreme cruelty by the citizen of LPR during the marriage.
[11] P.L. 103-322, 108 Stat. 1796.
[12] P.L. 103-322, 108 Stat. 1796, Subtitle G, Section 40702(a).
[13] Ibid., Subtitle G, Section 40701(a)(1)(C)(iii).
[14] NOTE: The self-petitioning spouse may petition based on abuse of her child during the marriage. Also, a child may self-petition independently.
[15] P.L. 103-322, 108 Stat. 1796, Subtitle G, Section 40703(a)(3).
[16] NOTE: This remedy is also available to abused children, but they must file their own applications, they may not be included in their parent's application.

Though many battered immigrant women can now avail themselves of these legal protections, it is critical to understand the situation prior to the creation of these provisions, especially with regard to the immigration policy that brings women to the United States under the sponsorship of their husbands.

Spousal Control in U.S. Immigration Policy: Theory of Coverture

Spousal sponsorship, or the ability of a U.S. citizen or legal permanent resident to endorse his or her immigrant spouse's immigration petition, has long been an critical facet of immigration law.[17] Previously explicitly discriminatory, spousal sponsorship has since become a sex-neutral policy, one that does not differentiate between men and women. In the 1922 Cable Act, Congress "prevented USC [U.S. citizen] or LPR [Legal Permanent Resident] wives from sponsoring their alien husbands,"[18] a prohibition that clearly exemplifies the common-law doctrine of coverture. A concept adopted by the U.S. from the British legal system, coverture was originally defined by Blackstone in his *Commentaries on the Laws of England* as the system by which "the very being or legal existence of the woman is suspended during the marriage, or at least incorporated and consolidated into that of the husband, under whose wing, protection, and cover, she performs everything."[19] Law professor Janet M. Calvo further explains that "[t]he coverture doctrine did two things. First, it established the notion of spousal domination

---

[17] Karen L. Rae, "Alienating Sham Marriage for Tougher Immigration Penalties: Congress Enacts the Marriage Fraud Act," 15 *Pepperdine Law Review* 181 (1988) 181-182.
[18] Ryan Lilienthal, "Old Hurdles Hamper New Options for Battered Immigrant Women," 62 *Brooklyn Law Review* 1595 (Winter 1996) 1606.
[19] As cited in Janet M. Calvo, "Spouse-Based Immigration Laws: The Legacies of Coverture," 28 *San Diego Law Review* 593 (1991) 596.

and control....Second, the coverture doctrine gave all the power to the male spouse."[20] At its most basic, coverture means that a woman is not allowed to act autonomously.

Immigration law did not allow women to bring their foreign husbands to the U.S., but did allow husbands that ability because women were considered under men's control and identity, as noted above. This manifestation of coverture began to be eroded, when, in 1932, Congress passed legislation allowing women to sponsor alien husbands, (although only if the marriage took place before the imposed cut-off date).[21] The "legacy" of coverture, though, as Professor Calvo argues, continued. For, even though spousal sponsorship is sex-neutral, it is not gender neutral: the implications of spousal sponsorship are most serious for women.

Twenty years later, in the Immigration and Nationality Act of 1952, existing law was altered so that "any USC or LPR has the right to sponsor his or her alien spouse."[22] In a more comprehensive revision of immigration policy, the 1965 Immigration Act changed the overall philosophy. Specifically, it changed the premise of the immigration system from admitting or barring immigrants based on race, ethnicity, or national origin to promoting immigration for family reunification and U.S. business interests.[23] Along with the 1952 spousal sponsorship change, the 1965 Act remains the foundation of modern immigration policy, of which family reunification forms the cornerstone.

Although the spousal sponsorship laws are neutral on their face towards men and women, their gender-specific impacts betray the persistence of coverture mentality and doctrine in immigration law. The 1952 sponsorship law "equalized the ability of USC or

---

[20] Ibid., 597.
[21] Lilienthal, 1606. The cut-off date was originally July 1, 1932, but was later changed to 1948.
[22] Ibid.
[23] Calvo, 605.

LPR women and men to exert power over their alien spouses through the sponsorship process" without regard to the problematic aspects of the power itself. Female immigrant spouses have been the ones over whom power in the form of sponsorship has most often been exerted, for they constitute the majority of the spouse-sponsored immigrant category, as established in the previous chapter.

Given the historical legal and social subordination of wives in marriage[24] and the fact that women are the overwhelming majority of victims of spousal abuse, the plight of battered immigrant women whose immigration status is entirely in the hands of their husbands exemplifies the serious consequences of coverture. This doctrine of gender-based subordination and control did not see its end after 1965, however. In fact, the 1986 Immigration Marriage Fraud Act "substantially *added* to the control of a citizen or resident spouse over his alien spouse's immigration status,"[25] leaving a battered spouse no leverage. In fact, Congress would have to act in two separate pieces of legislation over the next eight years to remedy the damage caused by the 1986 Immigration Marriage Fraud Amendments.

The 1986 Immigration Marriage Fraud Amendments: Cracking Down on "Sham" Marriages, Opening Up a Gap of Vulnerability

Concerned that too many immigrants were marrying U.S. citizens or legal permanent residents only for the purpose of obtaining a visa, Congress in 1986 amended the Immigration and Naturalization Act in the form of the Immigration Marriage Fraud Amendments. The actions of Congress were based on evidence of marriage fraud that was questionable, as explained in Chapter 3. However, the frenzy to curb perceived

[24] Ibid., 614.
[25] Calvo, 606. (italics added)

fraud resulted in a policy establishing conditional residency for immigrant spouses.[26] Prior to 1986, spouses of U.S. citizens or legal permanent residents, termed "beneficiaries" by virtue of being sponsored, automatically received legal permanent residency when their spouses, known as "petitioners" by virtue of their filing for their spouse's immigration petition, filed the proper papers with the INS.[27] The Immigration Marriage Fraud Amendments, though, mandate that a spouse married for less than two years to a citizen or legal permanent resident be given a two-year conditional resident status. Within 90 days of the end of this two-year period, the couple must jointly petition the INS to have the beneficiary spouse's status adjusted from conditional to permanent. The INS may ask the couple to appear for joint interviews as a way to verify that the marriage still exists and is not a sham.[28] If the couple fails to file jointly or if the marriage was terminated at any point during those two years, the dependent spouse automatically becomes "undocumented" and thus subject to deportation.[29] The U.S. citizen or legal permanent resident spouse is not required to file for his spouse to begin with, or to follow through with the joint petition. Nor is he obliged to stay in the marriage for that two-year period during which his wife is dependent upon him for her immigration status. As such, a wife left is "completely dependent on the goodwill of the husband and the continuing viability of the marriage."[30]

---

[26] U.S. Congress, *Bill Summary & Status for the 99th Congress: H.R. 3737,* Public Law: 99-639.
[27] Rae, 181.
[28] Leti Volpp, "Working with Battered Immigrant Women: A Handbook to Make Services Accessible" (San Francisco: Family Violence Prevention Fund, 1995) 37. Specifically, the joint petition must demonstrate that the marriage was entered lawfully and has not been terminated, no fee or other consideration was given for the filing of the immigrant's petition, and the marriage has been a bona fide relationship, as evidenced by cohabitation, joint ownership of property, filing of joint tax returns, or other such evidence during the period of conditional residency [U.S. Congress, *Senate Report 491,* 99th Cong., 2nd Sess. (1986) 3.]
[29] *Senate Report 491,* 99th Cong., 2nd Sess., 11.
[30] Uma Narayan, "'Male-Order' Brides: Immigrant Women, Domestic Violence and Immigration Law," *Hypatia* 10:1 (Winter 1995) 111.

The 1986 IMFA contained two provisions that exempted immigrant spouses from the joint petitioning process: the extreme hardship waiver and the *good faith/good cause waiver.* Neither exemption directly addressed the needs of a battered spouse, but rather were generally available remedies for an immigrant who needed to adjust her status from conditional to permanent resident without her husband's cooperation. To qualify for the *extreme hardship waiver,* a spouse who failed to meet the joint petitioning requirement and who was subject to deportation had to show that deportation would result in extreme hardship for her. The INS was directed only to consider circumstances causing extreme hardship that arose within the period of conditional residency.[31]

The extreme hardship waiver was not a "light at the end of the tunnel" for battered women facing deportation. The INS preserved very strict standards of extreme hardship, and thus was "unlikely to find [it] except in rare cases."[32] Moreover, as "the focus of the hardship inquiry was on whether deportation would result in extreme hardship, not extreme hardship endured during marriage,"[33] this requirement could impact women differently based on their country of origin. For example, if one battered immigrant woman is from a country whose gender norms are relatively egalitarian, while another battered immigrant woman applying for the waiver is originally from a country with an explicitly patriarchal order that disallows women's autonomy, the ability to prove extreme hardship upon return would be more difficult for the woman from the more liberal country. Furthermore, even though the Senate Report on the IMFA cites abuse by

[31] Maxine Yi Hwa Lee, "A Life Preserver for Battered Immigrant Women: The 1990 Amendments to the Immigration Marriage Fraud Amendments," 41 *Buffalo Law Review* 779 (1993) 789.
[32] Tien-Li Loke, "Trapped In Domestic Violence: The Impact of United States Immigration Laws on Battered Immigrant Women," 6 *Boston Public Interest Law Journal* 589 (Winter 1997) 595.
[33] Ibid.

a U.S. spouse as one of several legitimate reasons to grant the waiver,[34] the denial rate of the waiver when used in abusive situations was 60%.[35]

The good faith/good cause waiver was the remedy cited by the INS as "the one most likely to be utilized by a battered spouse."[36] This waiver could be available if a conditional resident spouse could demonstrate that the marriage was entered into in good faith and that a divorce was initiated for good cause. A divorce was a necessary criterion for this waiver; mere separation would not do. Another criterion for the waiver was that the spouse applying for the waiver must be the one who initiated the divorce, a standard which could create a "race to the courthouse"[37] between a wife seeking this waiver and her husband trying to block her by being the one to initiate the divorce. Divorce proceedings are often an already difficult task made worse if the woman has few resources to hire a lawyer or knows little of the operation of the legal system, as is the case for many battered immigrant women.[38] In the case of battered spouses, although the INS may consider domestic violence a good cause, "divorce proceedings in a 'no-fault' jurisdiction [e.g., California] created evidentiary problems for battered women"[39] trying to prove the "goodness" of their cause. Also, the standard of "goodness" itself was questioned. Limited in applicability to "situations where the alien made a good faith effort to establish a bona fide marriage, but the actions of the citizen (or LPR) were so

[34] *Senate Report 491*, 99th Cong., 2nd Sess., 8.
[35] Anna Y. Park, "The Marriage Fraud Act Revised: The Continuing Subordination of Asian and Pacific Islander Women," 1 *UCLA Asian American Pacific Islands Law Journal* 29 (1993) 31.
[36] Bonnie Derwinski (Acting Director, Congressional and Public Affairs, INS). Letter to: The Honorable Louise M. Slaughter. Re: Response to Slaughter letter of September 14, 1989, 19 Oct. 1989, reprinted in Appendix III of 66 *Interpreter Releases* (18 Dec. 1989) 1428-1430.
[37] Ibid., 596.
[38] See Chapter 1.
[39] Loke, 596.

egregious as to necessitate the alien leaving the marriage,"[40] the waiver's criteria imply, for example, "that a battered alien spouse might not be able to obtain [the] waiver if she...did not stay and try to resolve the abuse."[41]

Though sex-neutral on their face, the IMFA provisions disproportionately impacted the lives of female spouses – the majority of spouses in the dependent, conditional resident category. The two waivers could be difficult to obtain whether the immigrant spouse was battered or not, and they certainly did not take into account the especially difficult situation of a battered immigrant spouse. The fear of marriage fraud on the part of Congress and the INS, though severely misguided, as Chapter 3 shows, was not entirely unfounded. The priority that spouses are given in immigration policy can create significant incentives to gain residency through marriage. However, the attempt to curb "sham" marriages in the way that Congress did resulted in the heightened vulnerability of battered women. As explained by lawyer Sandra Pressman,

> IMFA provisions inadvertently create a framework under which battered immigrant women have two choices: remain in abusive marriages until the conditions of their resident status are removed, or leave and risk deportation if the sponsoring spouse withdraws the petition or the alien's waiver request is denied.[42]

At the time that the IMFA was passed, immigration lawyers and service providers across the country were largely unaware of its broader implications.[43] It was after the 1986 IMFA, when service providers began to encounter battered immigrant women who were suffering due to the IMFA's provisions, that an effort by activists began to promote

---

[40] Michael Shaul (INS Senior Examiner), as cited in "INS Responds to Marriage Fraud Questions," 67 Interpreter Releases (19 March 1990) 314.
[41] "INS Responds to Marriage Fraud Questions," 67 Interpreter Releases (19 March 1990) 314-315.
[42] Sandra D. Pressman, "The Legal Issues Confronting Conditional Resident Aliens Who Are Victims of Domestic Violence: Past, Present, and Future Perspectives," 6 *Maryland Journal of Contemporary Issues* 129 (1995) 134.
[43] Leslye E. Orloff, Director, Clinica/Ayuda, Inc., interview by Sujata Barai, 18 Dec. 1997.

protections specifically designed for battered immigrant women, as described in Chapter 3. The first victory of this effort was in the Immigration Act of 1990.

The 1990 Immigration Act: Trying to Narrow the Gap of Vulnerability

In 1990, Congresswoman Louise Slaughter introduced changes to the 1986 IMFA as well as a new waiver specifically for battered immigrants, the battered spouse waiver. The changes, pursued with the urging and support of advocates, reflected a recognition of the serious and negative ramifications the IMFA held for battered immigrant spouses. The most basic concern about the IMFA was that ambiguity surrounding the use of its waivers by battered immigrants may preclude abused spouses from leaving an abusive marriage.[44] As the language of the law and regulations stood, battered immigrants were not guaranteed a waiver of the joint petitioning process even if they could prove abuse.[45] The changes to the IMFA and the newly-introduced waiver, too, were fraught with problems, as this section explains. Nevertheless, for many battered immigrant women, the reforms were a significant symbolic and actual step towards creating a necessary legal safety net tailored to their unique circumstances.

Although the 1990 Amendment left the extreme hardship provision unchanged, it did alter the good faith/good cause waiver. The waiver no longer requires that the waiver-applying spouse be the one who initiated the divorce, thus protecting women who may lose the race to the courthouse. Also, it no longer requires marriage termination for a "good cause." The waiver is still in effect today, and may be appropriate for battered

[44] Statement of Representative Louise M. Slaughter, reprinted in 136 *Congressional Record* (daily ed. 2 Oct. 1990) 27085.
[45] U.S. Congress, *House Report 723,* 101st Cong., 2nd Sess. (1990) 51.

conditional residents who cannot meet evidentiary requirements of the battered spouse waiver, to be discussed below, but can meet the requirements of this waiver.[46]

The 1990 battered spouse waiver, like the two 1986 waivers, exempts certain immigrants from the joint petitoning process provided they already have conditional residency (i.e., their initial paperwork was filed by their spouse) and can meet the waiver's criteria. These criteria are namely that the marriage occurred in good faith and that the immigrant was abused by her U.S. citizen or legal permanent resident spouse.[47] The battered spouse waiver was the first protection specifically designed for battered immigrant spouses and thus the first formal recognition in immigration policy of their particular dilemma. Moreover, the way in which Congresswoman Slaughter defined "abuse," as "battery or extreme cruelty," was one of the most comprehensive definition of abuse to date in federal policy.[48]

Though women who qualified for the battered spouse waiver now had an avenue open to them to legalize their status that directly acknowledged their concerns as victims of domestic violence, several flaws of the law left it, in the eyes of advocates, falling short of the goal of meeting the needs of as many battered immigrants as it could have. Its most basic shortcoming was that it only allowed women to apply whose initial paperwork had been filed by her sponsor, and thus whose legal conditional residency had already been established. The battered spouse waiver still left the abusive husband in significant control of his wife's legal status and left without recourse

---

[46] Gail Pendleton, "Immigration Relief for Women and Children Suffering Abuse" in Deeana L. Jang, Leni Marin, and Gail Pendleton eds. *Domestic Violence in Immigrant and Refugee Communities: Asserting the Rights of Battered Women, 2nd Edition* (San Francisco: Family Violence Prevention Fund, 1997) 95.
[47] Loke, 598.
[48] Leslye E. Orloff, interview by Sujata Barai, 18 Dec. 1997.

> the large group of undocumented women whose husbands never filed an initial petition to commence their conditional status....[and] women who may have entered the United States as non-immigrants, married a citizen or LPR more than two years ago, but neglected to change their immigration status.[49]

The battered spouse waiver also received great criticism for arguably unreasonable and burdensome evidentiary requirements. The most basic criticism of the regulations was that they distorted Congressional intent. The INS divided abuse into two categories, physical battery and extreme mental cruelty, and created different evidentiary standards for each. In the legislation, however, all abuse was treated as equally pernicious and no distinction was made as to how claims for either type of abuse should be supported. Though the legislation suggested only that evidence be "credible," the INS required specific kinds of proof.[50]

INS regulations were deemed unnecessarily burdensome in cases of extreme mental cruelty, for which the INS stipulated that a waiver application "must be supported by the evaluation of a professional recognized by the [Immigration and Naturalization] Service as an expert in the field."[51] This evidentiary requirement was inherently problematic in that it counteracted the benefits Congress intended in the legislation by expanding the definition of abuse.[52] Congressional intent sought to restrict a denial of the waiver to "rare and exceptional circumstances such as when an alien poses a clear and significant detriment to the national interest."[53] The regulations that implemented the law, however, were much more strict and were considered by Representative Slaughter,

---

[49] Loke, 597-598.
[50] Pressman, 141.
[51] 8 C.F.R. Section 216.5(e)(3)(iv), 56 *Federal Register* 22635 (16 May 1991).
[52] Pressman, 143.
[53] Statement of Representative Louise Slaughter.

the law's sponsor, to "create an access problem which undermine[d] the protective intent of the waiver."[54]

Not only did advocates feel that the INS was skewing the intentions of Congress, but moreover that the INS was doing so.in a manner that could bar many women in real ways from qualifying for the battered spouse waiver. Numerous responses by service providers to this regulation detailed the many practical considerations which made the requirement of professional verification of mental abuse an undue burden on battered immigrant women applying for the waiver: reluctance based on cultural norms to confide in a stranger about such a private matter, difficulty finding bilingual professionals or relying on interpreters for women with limited English skills, and having the financial resources to pay the mental health expert.[55] As noted by Kimberle Crenshaw, "Although the waiver is formally available to all women, the terms of the waiver make it inaccessible to some."[56] Moreover, the INS requirements were viewed as conceptually wrong-minded because they "focus[ed] on the mental state of the abuse victim instead of the acts...of the abuser."[57] These criticisms, along with the fundamental concern that women whose U.S. citizen or legal permanent resident husbands had not filed their initial paperwork were still without recourse, [58] left advocates feeling like Congress had thrown battered immigrant women a life preserver to which many were not able to swim.[59] This

[54] As quoted in Lee, 798.
[55] Ibid. In Anderson, 1418: "A survey of the psychiatrists, psychologists, and clinical social workers in the entire Los Angeles area, which has one of the largest concentrations of immigrants in the United States, revealed that there were 'very few' bilingual professionals available. Of those available, most were private and would not evaluate clients without charge."
[56] Kimberle Crenshaw, "Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color," 43 *Stanford Law Review* 1241 (July 1991) 1250.
[57] Jones, 690.
[58] Calvo, 613.
[59] Nancy A. Fellom, "Fear and Loathing in America," *The Recorder,* 15 Aug. 1991.

petitioning and cancellation of removal. These remedies expand immigration relief eligibility and increase autonomy, thus improving certain battered immigrant women's hopes of leaving their abusive husbands without fear of deportation. Although these remedies remain flawed and advocates plan to improve upon them in the upcoming Violence Against Women Act of 1998 (VAWA II),[63] they do mark a significant progression from previous provisions.

Battered immigrant women whose husbands never filed their initial immigration paperwork to establish their conditional residency (i.e., women who are undocumented) are not eligible for immigration relief under the 1990 battered spouse waiver, but are eligible under the VAWA. The ability for women to adjust their own immigration status to that of legal permanent resident is available under the VAWA if they qualify for a self-petition and can meet its extensive evidentiary requirements. The theory of the provision is solid, and Congress's purpose rightful: "[t]he purpose of permitting self-petitioning is to prevent the citizen or resident from using the petitioning process as a means to control or abuse an alien spouse."[64] Some procedural and evidentiary requirements, however, may prevent self-petitioning from being available as a legal remedy to all the battered immigrant women sorely in need of it.

Battered immigrant women who wish to legalize their immigration status on their own and whose husbands never filed their initial papers must first prove that they meet the self-petition requirements, and then apply to adjust their status to that of a legal permanent resident.[65] For those successful petitioners who are the spouses of U.S. citizens, the status adjustment process is nearly automatic. For women married to legal

[63] See Chapter 5.
[64] *House Report No. 395,* 103rd Cong., 1st Sess. (1993) 37.

permanent residents, the adjustment of status depends on the availability of visas, and often may take between three and ten years even after a self-petition is approved.[66] During the period when a woman's visa application is pending, she is usually without INS work authorization and thus cannot establish financial independence. Moreover, due to the recent sunset of section 245(i) of the Immigration and Nationality Act of 1952, a provision that allowed immigrants awaiting green cards to remain in the U.S. during the wait if they paid a $1,000 fee, women may be forced to return to their native countries during these years.[67] Both work authorization and 245(i) are issues that advocates will take up in the drafting of VAWA II, as detailed in Chapter 5.

Eligibility for and success with the self-petitioning process can itself pose problems. While the VAWA self-petition allows women whose spouses have not filed initial paperwork for them to apply for the petition, and thus is a much more expansive remedy than the battered spouse waiver, it still applies only to women married to U.S. citizens or legal permanent residents.[68] If a woman's husband is a legal permanent resident and his immigration status changes for any reason to that of undocumented while her petition application is pending, she may no longer be eligible for the petition because she would no longer be the spouse of someone who is a legal permanent resident. Also,

---

[65] Lilienthal, 1611-1612.
[66] Louisa Gilbert, Social Intervention Group, Columbia University School of Social Work, text of presentation at: *Domestic Violence Among South Asian, East Asian and Arab Immigrant Women: Challenges and Solutions* (Columbia University, New York City) 17 Oct. 1997, attended by Sujata Barai..
[67] NOW Legal Defense and Education Fund, "National Task Force on Violence Against Women: VAW Update and Meeting Announcement," Washington, D.C.: NOW, recent press release, exact date unknown.
[68] Spouses of immigrants who are not legal permanent residents (i.e., undocumented or those in the U.S. on non-immigrant visas) or unmarried partners are not eligible for any provisions that would allow them to petition independently for immigration status.

the fact that divorce is a bar to self-petitioning[69] can create problems for women whose abusive husband threatens divorce in an effort to derail her petition.

Certain evidentiary requirements, as promulgated in the INS regulations, which were not released until March of 1996, have been critiqued as too complicated or burdensome for women. In fact, some advocates object to the complicated and involved process as a whole, arguing that this provision cannot be considering *self*-petitioning if a woman is not able to file the application without an immigration attorney.[70] Specific features that can create large hurdles to successful self-petitioning are certain documentation gathering, the good moral character requirement, and the extreme hardship requirement.

In addition to providing evidence about her own situation as a battered spouse, the petitioning woman must offer proof of her husband's status as a U.S. citizen or legal permanent resident, as well as proof of termination of his prior marriages, if applicable. It is unlikely that the woman will have photocopies of her husband's passport, green card, or previous marriage and divorce documents, and requiring her to provide such evidence threatens her safety.[71] Advocates prefer that the INS bear the primary burden of retrieving such information about the abusive spouse through its immigration records.[72]

In terms of the good moral character requirement, a complex but frequently-present requirement in many immigration policies, the fear of advocates is that certain

[69] A divorced that occurs after a self-petition is approved will not alter the approval. A divorce that occurs before approval of the petition, does, however, preclude an applicant from successful petitioning.
[70] Shamita Das Dasgupta, Professor of Psychology, Rutgers University and co-founder of Manavi, interview by Sujata Barai, 10 Nov. 1997.
[71] Janet Calvo, "The Violence Against Women Act: An Opportunity for the Justice Department to Confront Domestic Violence," 72 *Interpreter Releases* (10 April 1995) 488.
[72] The National Immigration Project of the National Lawyer's Guild, "New Immigration Relief for Women and Children Suffering Abuse," in *Stopping Violence Against Women: Using New Federal Laws* from the American Bar Association Center for Continuing Legal Education (ABACLE) (1996) 109, 110.

recognition kindled many activist fires across the country and paved the way for the 1994 Violence Against Women Act's self-petitioning and cancellation of removal provisions.

The 1994 Violence Against Women Act: Going Further to Close the Gap of Vulnerability

The Violence Against Women Act (VAWA) of 1994, passed as part of the Violent Crime Control and Law Enforcement Act, marked not just a step, but a stride forward for national anti-domestic violence efforts. The Act "acknowledges on a national level the government's responsibilities to battered women."[60] Not only do new channels exist for shelter and service funding, but also altered is the legal landscape of options available to victims of domestic violence. The VAWA deems domestic violence a gender-motivated crime in response to which victims can pursue civil, rather than just criminal, remedies.[61]

While the VAWA marks a significant symbolic and actual turning point for all battered women, the landmark legislation contains provisions specifically for battered immigrant women that improve upon the 1990 battered spouse waiver and further narrow the gap of vulnerability created by the 1986 Immigration Marriage Fraud Amendments. The VAWA specifically addressed the problematic INS evidentiary regulations for the 1990 waiver by "removing the requirement that battered women submit an affidavit of a licensed mental health professional,....[and instead] requir[ing] the Attorney General to consider 'any credible evidence' in granting all battered spouse benefits."[62] Furthermore, the VAWA introduced new immigration remedies for battered immigrant women: self-

[60] Lilienthal, 1611.
[61] Charles V. Dale, "Sexual Harassment and Violence Against Women: Developments in Federal Law," *CRS [Congressional Research Service] Report for Congress 96-862 A* (updated 12 May 1997) 21.
[62] Leslye E. Orloff, Deanna Jang, and Catherine F. Klein, "With No Place to Turn: Improving Legal Advocacy for Battered Immigrant Women," *Family Law Quarterly,* vol. 29 no. 2 (Summer 1995) 328.

circumstances or actions may negatively impact an applicant's good moral character standing if taken out of the context of her abuse. The National Immigration Project of the National Lawyer's Guild provides the following potentially problematic examples of events that can work against a woman's good moral character standing if they are not understood as part of her plight as an abused spouse: receiving public assistance, the husband filing for custody of children arguing that his wife's undocumented status makes her an unfit mother, the abusive husband filing countercharges against her in criminal proceedings, or a government agency threatening to remove children from the her custody.[73] These circumstances are detrimental at face value; the INS must attempt to discover how they may be linked to the control and manipulation inherent in domestic violence in order that the woman's good moral character record is cleared.

A third major problem area is the extreme hardship requirement, for which the self-petitioner must demonstrate the extreme hardship she or her children would suffer if forced to return to their country of origin. Fortunately, a definition of extreme hardship that takes into account the woman's status as a victim of domestic violence was adopted by the INS.[74] However, the lawyer and her client must still gather extensive proof, much of it from the woman's country of origin, to document the drastic and negative repercussions a return to the country would hold for her or her children. The focus is shifted from granting the petition due to the hardship she suffered in this country at the hands of her abusive husband to the extreme hardship she may suffer if she were to return to her native country. As described earlier, this requirement may disadvantage women from countries that are socially progressive by U.S. standards. The argument

[73] Ibid.
[74] Ibid., 114.

thus remains that the extreme hardship requirement, in any form, is a superfluous regulation that increases the INS's processing time and is onerous to prove.[75]

The self-petition is not available to all immigrant women; for example, those who are divorced must try to invoke the other VAWA remedy, cancellation of removal. The cancellation of removal provision, formerly known in immigration policy as "suspension of deportation," is a legal option "specifically designed to protect inadmissible or deportable aliens for whom deportation would be an extreme hardship."[76] Traditional suspension of deportation requirements were made more lax and flexible in the cases of battered immigrant women in recognition of their unique circumstances as deportable aliens.[77] Moreover, the woman need not be married to her abusive husband at the time of seeking this remedy, unlike the case of the self-petition, for which divorce is a bar.[78] Once a battered immigrant woman is in deportation hearings, her advocate must prove that she would suffer extreme hardship if she returned to her country of origin. Her lawyer could employ arguments that her status as a battered wife who publicly sought help or as a divorcee would stigmatize her or restrict opportunities in her country of origin.[79] If successful, the woman would be allowed to stay in the United States and adjust her immigration status to legal permanent resident on her own, without the visa waiting period for approved self-petitioners.

---

[75] Gail Pendleton, Director, National Immigration Project of the National Lawyer's Guild, telephone interview by Sujata Barai, 21 Jan. 1998. Pendleton argues that there is no rational basis for this requirement, as it is not a fraud deterrent, and that it may make processing of petitions twice as long.
[76] Lilienthal, 1612.
[77] Ibid. For example, battered immigrant women must only show three years of continuous presence in the U.S., whereas other undocumented immigrants seeking this remedy would have to show seven years.
[78] Loke, 604.

Cancellation of removal is a last resort remedy of sorts, and is not easily obtainable. It is not a remedy that can be proactively pursued, but only reactively sought once a woman is already in deportation hearings. Moreover, even though the immigrant's status as a victim of domestic violence is taken into account, the evidentiary requirements for proving "extreme hardship" are still often too burdensome to meet. It is generally a standard that is applied very strictly by immigration judges, and by one estimation, has succeeded in five percent of these cases, at best.[80]

Conclusion: Incremental Change, Fundamental Reforms

As can be traced in the progression of provisions for battered immigrant women from 1986 to 1996, from the passage of the IMFA to the issue of INS regulations for the VAWA, there has been a growing recognition in legislation of the debilitating consequences of spousal control of immigration status for victims of domestic violence. Over the years, immigration policy has improved the remedies available for immigrant women who abused by U.S. citizen or legal permanent resident husbands. The efforts to reform immigration law in this way represent an intersection of immigration changes and awareness of domestic violence concerns. In 1989, when there were no provisions for a woman such as the abused conditional resident who sought her help, Representative Slaughter's concerns, as cited at the beginning of the chapter, were well-founded. The 1990 Immigration Act's amendments to the Immigration Marriage Fraud Amendments

[79] Examples of other arguments of extreme hardship that could be employed that are relevant to the abuse: the legal system of the country of origin ignores or tolerates domestic violence, her husband could find her in the country of origin and harm her without fear of being caught or punished, or she would suffer from the loss of counseling or other services made available to her in the U.S. See Chapter 1: The true story of Vangi, an battered immigrant women from Pakistan, may be an example of circumstances in a woman's native country which contribute to extreme hardship.

and the 1994 Violence Against Women Act both contained provisions that enable some abused women to adjust their immigration status without the cooperation oftheir abusive husband and without fear of deportation.

The steps from 1986 to 1990 to 1994, evidencing *why* each specific protection was needed, have been incremental, and in large part a direct response to inadequacies left by the previous legislation. Battered immigrant women are a largely powerless group in political terms – they are not citizens or even permanent residents and thus lack explicit political capital; are mostly poor and thus wield no financial power; and are largely invisible as a result of the underreported nature of domestic violence crimes and the immigrants' distrust of government officials. Considering additionally that there very limited quantitative research documenting the magnitude of this largely unknown problem, it is a wonder that such systematic and extensive protections for battered immigrant women have become a part of U.S. immigration policy, for "[o]ne might legitimately ask how poor, undocumented women of color might *ever* prevail in the political process."[81]

Discerning *how* this was made possible is the subject of the next two chapters. The story continues, and documented are the ways advocates progressed from the mid-1980s, at a time when sympathy for and understanding of this problem was low, to the early and mid-1990s when battered immigrant women's concerns were finally gaining a national voice and receiving formal notice.

---

[80] Margaret Donnelly, Professor of Immigration Law at Southwestern Methodist University, as quoted in Thomas Huant and Frank Trejo, "Immigrant Spouses Put Hopes In New Law: Wives Can Remain in U.S. If They Can Prove Abuse," *New Orleans Times-Picayune,* 11 May 1995.

[81] Kevin R. Johnson, "Public Benefits and Immigration: The Intersection of Immigration Status, Ethnicity, Gender, and Class," 42 *UCLA Law Review* 1509 (Aug. 1995) 1518.

"I don't think anybody noticed it."
Sandra Sobieraj, Legislative Assistant to Representative Louise M. Slaughter at the time of the passage of the 1990 Immigration Act, commenting on how the battered spouse waiver was able to be included in the larger Act.[1]

CHAPTER 3

REGIONAL REACTIONS, NATIONAL ACTION: Building Awareness and Awakening Activism, 1986-1991

In the mid-1980s, major changes in immigration law were paralleled by an unrelated growth in awareness of domestic violence issues.[2] As this and the following chapter demonstrate, both developments shaped the course of advocacy for battered immigrant women. The 1986 Immigration Marriage Fraud Amendments (IMFA) had profound effects on the lives of battered immigrant women, as described in the previous chapter, but were perhaps overshadowed in some immigrant advocacy circles by a larger immigration reform measure called the 1986 Immigration Reform and Control Act (IRCA). Passed within days of each other, these laws represented heightened concern at the time for immigration issues, concern that sometimes stemmed from misinformation, as in the case of the IMFA. Simultaneously, awareness of domestic violence concerns was growing, though not necessarily of the issues unique to immigrant women or, more generally, women of color.[3] The response to the IMFA on the part of service providers

[1] Sandra Sobieraj, telephone interview by Sujata Barai, 17 Feb. 1998.
[2] Janet M. Calvo, "Spouse-Based Immigration Laws: The Legacies of Coverture," 28 *San Diego Law Review* 593 (1991) 598.
[3] Leslye E. Orloff, Director, Clinica Legal Latina/Ayuda, Inc., interview by Sujata Barai, 18 Dec. 1997.

involved such awareness-building. These efforts involved educating immigrants' rights groups about domestic violence concerns and educating the anti-domestic violence movement about the unique barriers that immigrant women face. Not yet a coherent national campaign for the rights of battered immigrant women, sparks of activism began to appear at the regional level in the mid- and late-1980s.

Growing awareness and awakening activism at the national level on the part of a few key activists helped introduce the idea of the *battered spouse waiver* in Congress, an endeavor for which immigration experts and women's advocates played different, but key roles. The plight of battered immigrant women was unknown to most in Congress, and an agenda for the protection of the rights of this group needed to be formulated by activists. Such a process of agenda formulation defines "the course by which issues are adopted for public consideration and...remedy."[4] Activists for battered immigrant women worked successfully with Congresswoman Louise Slaughter for the passage of important provisions in the 1990 Immigration Act (IMMACT). The 1990 provisions, including the battered spouse waiver as well as improvements to the 1986 IMFA's *good faith/good cause waiver*, faced a resistant and restrictive Immigration and Naturalization Service (INS) when it came to regulatory implementation of the 1990 law.[5] The provisions included in the 1990 Immigration Act were a victory for the rights of battered immigrant women, but it was clear by 1991 that more and better organizing, lobbying, and policy advocacy were necessary.

---

[4] Barbara J. Nelson, *Making an Issue of Child Abuse: Political Agenda Setting for Social Problems* (Chicago: The University of Chicago Press, 1984) 20.

[5] Michelle J. Anderson, "A License to Abuse: The Impact of Conditional Status on Female Immigrants," 102 *Yale Law Journal* 1401 (April 1993)1426, footnote 141, quoting Sandra Sobieraj: "The INS was resistant to the whole concept of the legislation."

1986 IMFA: Exaggerated Causes, Disastrous Effects

As noted in Chapter 2, Congress passed the Immigration Marriage Fraud Amendments out of great concern about allegedly extensive abuse of the marriage-based visa system.[6] The perception of fraud and abuse was largely based on an INS estimate of a national marriage fraud rate of 30 percent.[7] This "evidence" employed by Congress was later shown to be grossly inaccurate, as the INS admitted in a 1990 federal district court case, *Manwani v. INS.*[8] Moreover, the INS may have been conscious of the shaky foundations of their estimate *before* they offered it to Congress. In the same federal district court case, it was found that:

> High ranking officials in the INS Central Office were aware of and had discussed the limitations of the [estimate] in 1984 and knew that the [estimate] was not a valid or reliable survey of marriage fraud. David Nachtsheim, the INS official responsible for designing and overseeing the survey, acknowledged that the data would not be a reliable indication of the need for legislative changes.[9]

The INS has been criticized on the methodological grounds that in the study, an unacceptably small statistical sample was used,[10] and furthermore, that the 30 percent fraud figure was "based upon the number of cases that field investigators suspected were fraudulent,...not cases where actual fraud had been proven."[11] Unfortunately, this estimate was a driving force behind the passage of the IMFA.

Uma Narayan argues that, ultimately, "Exaggerated worries about 'sham marriages' cannot justify policies that jeopardize the welfare and human rights of battered

---

[6] Congressional Information Service, Inc., *Legislative History of P.L. 99-639: Immigration Marriage Fraud Amendments of 1986.*
[7] U.S. Congress, *Senate Report 491,* 99th Cong., 2nd Sess. (1986) 2.
[8] James A. Jones, "The Immigration Marriage Fraud Amendments: Sham Marriages or Sham Legislation?" 24 *Florida State University Law Review* 679 (Spring 1997) 699.
[9] Ibid.
[10] "INS Reveals Basis for Fraud Claims," 65 *Interpreter Releases* (11 Jan. 1988) 27: For this survey, only one-twentieth of one percent of applications filed in fiscal year 1994 were used.
[11] Jones, 699.

women with dependent immigration status."[12] The exaggerated information or misinformation was not just statistical, but also impressionistic. Subcommittee hearings in which only female citizens testified to being victims of marriage fraud by male immigrating spouses distorted the demographic reality of spouse-based immigration. In reality, the majority of immigrating spouses are female, not male, and thus the hearings misrepresented the true gender dynamics of spousal sponsorship.[13] Congress was further compelled by a cross-national study by the General Accounting Office that concluded that "most of the countries surveyed have stronger controls to prevent marriage fraud than the U.S."[14] Congress passed the 1986 IMFA believing that marriage fraud was a significant enough problem to justify tightening the conditions of settling in the U.S. for an immigrant spouse, and without anticipation of the law's gender-specific consequences. The IMFA created a fraught and dangerous decision for battered immigrants such that "[w]hen faced with the choice between protection from their batterers and protection against deportation, many immigrant women chose the latter."[15]

Many immigration activists also did not anticipate the implications of the IMFA for battered immigrant women, and for the most part, had not developed a strategy ahead of time to help those harmed by the IMFA.[16] The legislation was driven by INS allegations about the prevalence of fraud[17] and the policy-making process did not entail

[12] Uma Narayan, "'Male-Order' Brides: Immigrant Women, Domestic Violence and Immigration Law," *Hypatia* 10:1 (Winter 1995) 116.
[13] Calvo, 616.
[14] *Senate Report 491*, 2.
[15] Kimberle Crenshaw, "Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color, 43 *Stanford Law Review* 1241 (1991) 1247.
[16] Leslye E. Orloff, interview by Sujata Barai, 18 Dec. 1997.
[17] Terry Helbush, former director, National Immigration Project of the National Lawyers' Guild, telephone interview by Sujata Barai, 3 March 1998.

consultation with practicing immigration lawyers.[18] The issue of "the battered immigrant woman" became an issue precisely due to the conditional residency requirement of the IMFA, and thus advocates and service providers were in a position only to react.

Domestic violence in immigrant communities, or any communities for that matter, was not a new phenomenon. However, the unique intersection of immigration and domestic violence concerns created by the IMFA changed the landscape by adding "a whole new layer of work," as described by former immigration attorney and activist William (Bill) R. Tamayo.[19] As noted in the in the introduction to this chapter, other immigration policy issues affecting women, as introduced by the IMFA and IRCA, were also at hand. For example, many immigration attorneys were concerned early on about a marriage fraud regulation that required immigrants who married while in deportation hearings to leave the country for two years.[20] Also, activists were concerned about the impact on women of two particular provisions of the IRCA: the effects of criminalizing undocumented immigrants; and the effects of employer sanctions, especially with regard to the potential for racial discrimination and exploitation of female immigrant workers concentrated in certain low-wage industries.[21] Thus, activists and service providers in areas around the country with large immigrant populations began organizing for the rights of immigrant women, but did so in a general sense, and not yet with the coherency and specificity of later national activism particularly for the rights of *battered* immigrant women.

---

[18] William (Bill) R. Tamayo, former Managing Attorney, Asian Law Caucus, telephone interview by Sujata Barai, 2 March 1998.
[19] Ibid.
[20] Terry Helbush, telephone interview by Sujata Barai, 2 March 1998.
[21] Chris Hogeland, "Immigrant Women in U.S. History," in *Domestic Violence in Immigrant and Refugee Communities: Asserting the Rights of Battered Women 2nd Ed.* (San Francisco: Family Violence Prevention Fund, 1997) 47.

Regional Reactions to the Immigration Law Changes of 1986: Organizing for Immigrant Women's Rights

Ironically, Bill Tamayo first conducted an educational workshop in the San Francisco area for domestic violence service providers and immigration lawyers about the specific challenges facing battered immigrant women in September of 1986, shortly *before* the 1986 Immigration Marriage Fraud Amendments were passed. Tamayo became aware of the dilemmas of battered women early on, in 1982, when he represented an immigrant woman from the Philippines who married a legal permanent resident who was a member of the U.S. military. She suffered severe abuse at the hands of her husband, who also refused to file her visa petition papers. She eventually sought help from Tamayo and others, but it seemed too little too late.

This woman called Tamayo one day from the San Francisco airport to thank him for his help and to inform him that she was returning to the Philippines with her children even though she would have liked to have made a good life in the United States. She would return to dire conditions – great poverty and few opportunities – according to Tamayo, who knew her background in the Philippines. He tried to persuade her from returning to those dismal conditions, and offered to help her make a new life for herself and her two children here, reminding her that they had not yet exhausted all legal avenues to protect her from her husband. But it was no use; she said that she just could not take it anymore, that anything would be better than what she endured here. She thanked him again and hung up the phone. Bill Tamayo never heard from this woman again, but he recalls that experience as influential in his activism on behalf of battered immigrant women.[22]

[22] Bill Tamayo, telephone interview by Sujata Barai, 2 March 1998.

Tamayo's workshop, more an exception than the rule in its early tackling of the problems of battered immigrant women, foreshadowed a larger education effort to come. Many of those working for years in immigrant communities, such as Berta Hinojosa, former Domestic Violence Program Coordinator of Chicago's Mujeres Latinas en Acción (Latin Women in Action), have long known of the complications of ethnicity, gender, and domestic violence. Others in the immigrant community, though, who had not explicitly worked on women's issues did not understand the dynamics of domestic violence in immigrant communities. Similarly, many mainstream anti-domestic violence advocates were relatively uneducated about the special challenges, such as racism or language barriers, faced by many immigrants and women of color.[23] As the dangers created by the Immigration Marriage Fraud Amendments for battered immigrant women became apparent, efforts at awareness-building in both immigrants' rights and anti-domestic violence groups emerged in pockets of the U.S. Concern over other immigration provisions in the IMFA and the IRCA that affected immigrant women also helped catalyze this education campaign, and the result was the creation of forums to address the many issues facing immigrant women, not solely the issue of domestic violence. The regional examples offered in this chapter – of San Francisco, New York City, Chicago, and Boston – obviously do not report on efforts in other U.S. immigrant strongholds, such as Los Angeles, Texas, or Washington, D.C.; and are thus meant to be illustrative rather than exhaustive.

In San Francisco, Bill Tamayo, then Managing Attorney at the Asian Law

[23] Deanna Jang and Leni Marin, "Immigrant Women's Rights Organizing" in *From Basic Needs to Basic Rights: Women's Claims to Human Rights,* ed. Margaret A. Schuler (Washington, D.C.: Women, Law and Development, 1995) 503. Also, Leslye E. Orloff, interview by Sujata Barai, 18 Dec. 1998.

Caucus, continued to hold educational workshops about the needs of immigrant women. Terry Helbush, an immigration attorney in San Francisco and former director of the National Immigration Project of the National Lawyer's Guild (NIP), also began to hold such seminars after the 1986 IMFA and IRCA were passed.[24] In addition to their individual and somewhat informal attempts to help other lawyers and service providers meet the needs of immigrant women, a more formal mechanism for activism, education, and organizing was created by the Coalition for Immigrant and Refugee Rights and Services (CIRRS). The CIRRS began to organize for immigrant women's rights in the form of the San Francisco-based Immigrant Women's Task Force (IWTF), a group that still existstoday.

The CIRRS was "one of the many organizations [that] sprang up throughout the country during this time to defend immigrants,"[25] but was one of the first immigrant rights' groups specifically to take on women's issues, according to Debbie Lee, immigrant issue liason for the Family Violence Prevention Fund (FVPF) in San Francisco at the time.[26] The motivations behind the formation of the IWTF, the idea of filling an activist void, are described by Deanna Jang, an attorney with the Asian Law Caucus at the time, and Leni Marin, also of the FVPF:

> Women activists in CIRRS found that particular issues affecting women under the new law were not being addressed by immigrant rights, women's rights, or other civil rights organizations or policy makers. In response, they formed the Immigrant Women's Task Force (IWTF) of CIRRS.[27]

---

[24] Terry Helbush, telephone interview by Sujata Barai, 3 March 1998.
[25] Deanna L. Jang and Leni Marin, "Introduction" in *Domestic Violence in Immigrant and Refugee Communities: Asserting the Rights of Battered Women 2nd Ed.* (San Francisco: Family Violence Prevention Fund, 1997) 1.
[26] Debbie Lee, telephone interview by Sujata Barai, 25 February 1998.
[27] Deanna Jang and Leni Marin, "Immigrant Women's Rights Organizing," 496.

The IWTF defined its goals quite broadly as "to promote and defend the rights of all immigrant and refugee women...with the goal of eliminating social, political, economic, legal, and institutional barriers to full participation in society."[28] While domestic violence did not constitute the focus of the IWTF, it did receive attention. For example, *A Needs Assessment of Undocumented Women*, the study cited in the first chapter that uncovered, among many other problems facing immigrant women, significant rates of domestic violence amongst Filipinas and Latinas, was conducted under the auspices of the IWTF.[29] These findings were an early effort to document the existence of an unacknowledged problem, or, for some activists, served to confirm what they suspected. This study marked an early step toward formal documentation, education, and awareness building, which would find stronger voice in a landmark gathering of activists in 1991 at a national conference on immigrant women's rights, explored in the next chapter.

Indeed, some activists had long been trying to organize community leaders and service providers to ensure that the needs of battered immigrant women could be met. Berta Hinojosa, recently retired Domestic Violence Project Coordinator of Chicago's Mujeres Latinas en Acción, has been an activist on behalf of area Latinas for 18 years.[30] As Mujeres Latinas has expanded its own programs over the last 25 years, it has also expanded its involvement with other area activist groups. In the early 1980s, anti-domestic violence activists in the area formed the Chicago Metropolitan Battered

---

[28] Ibid.

[29] Ibid., 501. "This survey of over 400 undocumented women in the San Francisco Bay Area...revealed that 20% of Filipina participants and 34% of Latina participants had experienced some for of domestic violence with their partner."

[30] Mujeres Latinas celebrated its 25th anniversary this February, and began in the 1970s as part of the women's movement in order to pinpoint issues specific to Latina Women. Mujeres Latinas currently has eight programmatic components, but one of the two it has had from its inception is a domestic violence program.

Women's Network to advocate for domestic violence policy changes at the local and state level. Though the Network did not aim specifically to address the needs of immigrant women, Hinojosa always took it upon herself to voice the concerns of minority and immigrant women in larger discussions of domestic violence policy. Furthermore, Hinojosa's personal efforts included educating and sensitizing local police officers and domestic violence court adjudicators about the situation of immigrant women. Also, the Chicago Network, under Hinojosa's lead, met with the local INS to sensitize officials to the difficulties battered immigrant women faced in the hopes that they would be lenient and accommodating.[31] At the time there was no policy directing the INS to take into account the needs of battered immigrants.[32]

In New York City, the Network for the Rights of Immigrant Women was formed shortly after the passage of the IMFA and IRCA. The group, "a loose collection of community activists and lawyers who monitored policy in the interest of immigrant women," met under the auspices of New York City's Center for Immigrants Rights.[33] It was not devoted specifically to the issue of domestic violence, but was aware of the particularly precarious circumstances of immigrant women who were battered. Although this network, started by City University of New York law professor and immigration attorney Janet Calvo and activist Maria Arias, collapsed shortly after the passage of the 1990 battered spouse waiver, the group did liase for a short time with the Coalition of

[31] Hinojosa reported that INS officers in the area often used to show up at family court hearings in which they suspected an undocumented immigrant might be a plaintiff or defendant so that they could track the immigrant and start deportation hearings. Hinojosa and others tried to develop good working relationships with area INS officials and persuade them to stay away from court; for in the case of domestic violence, if women feared a surprise INS appearance in court, they would be reluctant to report domestic violence to the authorities or prosecute their husbands.

[32] Berta Hinojosa, interview by Sujata Barai, 31 Oct. 1997.

[33] Sujata Warrier, Program Specialist, New York State Office for the Prevention of Domestic Violence and President, Manavi, interview by Sujata Barai, 24 Nov. 1997.

Battered Women's Advocates in New York City. The Coalition was formed in 1990 to represent domestic violence agencies that did not carry influence in state and local government decision-making about the funding of shelters.[34] Sujata Warrier, President of Manavi and Program Director for the New York State Office for the Prevention of Domestic Violence, played a role similar to Hinojosa. Warrier, too, served as a liaison between the Coalition and the Network, and advocated specifically for the interests of battered immigrant women in both forums.[35]

One initial policy effort to address the needs of immigrant women was more national in character than the ones just described. The National Immigration Project (NIP) of the National Lawyers' Guild, based in Boston, also realized that attention needed to be paid to the specific ways in which women may be affected by the recent immigration law changes. Gail Pendleton, an east coast immigration attorney and current director of the NIP, recalls that Deanna Jang and Terry Helbush were the catalysts encouraging the NIP to focus on women's issues.[36] Jang, an attorney in the Domestic Relations Unit of San Francisco Neighborhood Legal Assistance Foundation and co-chair of the Immigrant Women's Task Force, and Helbush, a San Francisco immigration lawyer, broached to NIP members the idea of setting up a group under the NIP devoted to women's immigration issues. Specifically, Deanna Jang had legal experience in domestic violence issues, and as Pendleton describes her, was "the only d.v. [domestic violence] person linked to these immigration people" at the time.[37] The result was the creation of

[34] Warrier explains that many groups and agencies were unable to critique state and local policies because it was these government offices that provided their funding. The Coalition, though, as a third party, could represent the interests of the service providers and voice critiques of funding policies.
[35] Sujata Warrier, interview by Sujata Barai, 24 Nov. 1997.
[36] Gail Pendleton, interview by Sujata Barai, 21 Jan. 1998
[37] Ibid.

the Commission on Women Immigrants of the National Immigration Project. Although the Women's Commission no longer exists, the initial effort to devote some of the NIP's talents and resources to immigrant women's issues was far from in vain: the NIP co-sponsored the 1991 national conference mentioned earlier, became one of the founding member groups of the National Network on Behalf of Battered Immigrant Women (NNBBIW), and represented an initial joining of domestic violence and immigration experts on a national level.

Even viewed through the lens of general advocacy for immigrant women's needs, the need for specific policy reform to protect the welfare of battered immigrant women was beginning to be seen and urged by grass-roots service providers as well as national-scale activists. For example, as a result of the IMFA, the "New York Asian Women's Center reported working with more than a hundred battered alien women whose husbands refused to cooperate with the joint petitioning process."[38] Though such service providers at the local level witnessed firsthand the effects of national policies, they had not previously been directly involved in the policy formulation process, according to Leslye Orloff, director of Clinica Legal Latina/Ayuda, Inc. and a founding member of the National Network on Behalf of Battered Immigrant Women.[39] Advocacy for battered immigrant women, while simultaneously initiated in important ways at the community level in pockets across the country, was able to affect national policy in 1990 through a type of top-down approach. The process was one of centralization, led by a small group of activists, if only for the sake of pooling legal expertise and concentrating influence and access to law-makers in Washington, DC. That is, regional organizing in reaction to

[38] Calvo, 595, see footnote 9.
[39] Leslye E. Orloff, interview by Sujata Barai, 18 Nov. 1997.

immigration law changes in 1986 did not necessarily logroll directly into national policy advocacy. It did, however, play a crucial role in increasing general awareness of immigrant women's needs and laying the foundation for the growth of an immigrant women's political agenda. No coherent national advocacy had yet come together when reforms began to be proposed to the IMFA in the 1990 Immigration Act.[40] Advocacy for the 1990 amendment to the IMFA was concentrated in the strategic hands of a few key activists and was primarily based on the interest and conviction of one member of Congress, Representative Louise M. Slaughter.

National Action – The 1990 Immigration Act: Legislating for Battered Immigrant Women

By 1990, the need to reform the IMFA was well-recognized. The INS, the main proponent of the fraud regulations, agreed. In 1991, INS spokesman Duke Austin admitted, "The two-year conditional requirement became equated to indentured servitude. We needed to make corrections. We hadn't considered this abuse situation."[41] "Corrections" ultimately took the form of the battered spouse waiver and other amendments to the IMFA. Congresswoman Slaughter was courted to sponsor the battered spouse waiver and changes to the good faith/good cause waiver because she had a history of "being good on women's issues" and she had had some involvement in crafting the original waivers of the IMFA.[42] In fact, Slaughter had tried to introduce abuse as a consideration that ought to be taken into account in determining the 1986 extreme hardship waiver. When approached to introduce the 1990 battered spouse

[40] Leni Marin, Program Director, Battered Immigrant Women's Rights Project, Family Violence Prevention Fund, telephone interview by Sujata Barai, 17 Dec. 1997.
[41] As quoted in Wendy Lin, "Is INS Hindering Abused Wives?" *Newsday,* 8 July 1991.
[42] Sandra Sobieraj, telephone interview by Sujata Barai, 17 Feb. 1998.

waiver, her prior involvement was capitalized upon, although she had to be shown that her earlier efforts had not successfully addressed the problem, as she thought.[43] The main activists who spearheaded this political effort were Bill Tamayo, Ignatius Bau, Debbie Lee, and Deanna Jang from the San Francisco area and Janet Calvo, Martha Davis (NOW Legal Defense and Education Fund, New York City), Pat Reusse (NOW Legal Defense and Education Fund, Washington, D.C.) and, later, Leslye Orloff (Ayuda) from the east coast. The efforts of this group were catalyzed by the west coast coalition, and relied heavily on the relationships with law-makers and access to them cultivated by the east coast corps.

The preliminary task for this group was one of deciding on basic strategy and choosing from which angle an agenda of immigration law reform for battered immigrant women would be pursued. Though Tamayo and Bau were immigration attorneys, they both urged that the need for protections for battered immigrant women be posited primarily as a domestic violence issue rather than an immigrants' rights cause.[44] This strategy was pursued both to capitalize on growing awareness and sympathy for domestic violence issues and to avoid controversy in a milieu that they perceived as relatively unsympathetic to immigrant rights. In essence, the goal was to provide relief for immigrant domestic violence victims and to demonstrate that such protection was due under the law without regard to a victim's immigration status.

This choice of strategy was reflected in some of the actual roles that the different advocates played. The Legal Defense and Education Fund of the National Organization

[43] Ibid.
[44] Leslye E. Orloff, interview by Sujata Barai, 27 Feb. 1998. Also, Bill Tamayo, telephone interview by Sujata Barai, 2 March 1998.

for Women (NOWLDEF) was the first mainstream women's organization to become involved in lobbying on behalf of battered immigrant women. Orloff explains that some other major anti-domestic violence groups who lobbied in Washington resisted including specific issues of immigrant women or women of color in their agenda.[45] Getting the weight of NOWLDEF behind this initiative was critical in "getting advocates through the doors" of Congress because NOWLDEF activists were both able to access law-makers based on previous interactions.[46] Pat Reuss, chief lobbyist for NOW, was well-known in Congress, as is generally the name and reputation of NOWLDEF. These lobbyists routed the interests of battered immigrant women into the mainstream of women's advocacy and the anti-domestic violence movement. The immigration attorneys tended to play a less visible role, but were critical "behind the scenes" in their role as technical experts because the changes being proposed were, after all, changes in immigration law.

A few key immigration lawyers – Bill Tamayo, Ignatius Bau, and Janet Calvo – took the lead drafting the legislation containing the battered spouse waiver and changes to the IMFA's good faith/good cause waiver. The process was concentrated and centralized – not geographically, but in terms of a locus of control. Sometimes drafts of legislation were circulated back to New York City groups for comment, according to Sujata Warrier.[47] Whether the same was done in other regions is unclear, and the link that facilitated such communication between national efforts and regional activists in the

[45] Leslye E. Orloff, interview by Sujata Barai, 18 Dec. 1998. Orloff requested that specific names of other organization and individuals remain anonymous.
[46] Sandra Sobieraj, telephone interview by Sujata Barai, 17 Feb. 1998.
[47] Sujata Warrier, interview by Sujata Barai, 24 Nov. 1997.

case of New York City was presumably Janet Calvo. The activists from California represented the San Francisco region, and it seems that no additional outreach in the form of circulation of drafts on the west coast was pursued. In the Chicago area, Berta Hinojosa states that neither she nor Mujeres Latinas nor other major activists in the area, to her knowledge, engaged in national policy lobbying.[48] The activists who were involved at the national level effectively spoke on behalf of all local service providers. This was not inherently problematic in terms of creating an activist elite separated from other activists and other constituents because almost all of the national activists themselves were practitioners and service providers in their home localities, and thus could draw upon real-world experiences to inform their political actions. Moreover, the mix of activists from the east and west coasts helped ensure that a variety of perspectives and experiences were taken into account.

There were few activists involved hands-on in the 1990 effort. Those who were active provided technical assistance in the crafting of policy at the request of Representative Slaughter and her staff members, of whom Sandra Sobieraj, a Legislative Assistant, was the office point person on this issue. There was no wide-spread canvassing of law-makers involved. Furthermore, the fact that there were few activists permitted intensive one-on-one interaction for the provision of technical assistance. For example, Sobieraj recalls "spending hours on the phone with Janet Calvo," who coached her on the relevant intricacies of immigration law.[49] Sobieraj utilized the help of other

[48] Berta Hinojosa, interview by Sujata Barai, 31 Oct. 1997. Also, it must be remembered that domestic violence had largely been a policy issue in the purview of state and local government until the passage of the 1994 Violence Against Women Act. Thus, it is not unseemly or unusual for local activists to be focusing their efforts on domestic violence issues at the state and local level and for national activists to have simultaneously sprung up to address the national-scale issue of immigration policy.

[49] Sandra Sobieraj, telephone interview by Sujata Barai 17 Feb. 1998.

activists to master the policy concepts at hand so that she could then present proposals to Representative Slaughter. Orloff remembers the many personal meetings with Sobieraj.[50] Also, she recalls much informal discussion. For example, in response to objections to a certain aspect of the proposed bill, Orloff often used hypothetical situations, pointing out that if that section of the bill were cut, a woman with in situation X with conditions Y and Z would not be protected.[51]

Orloff found such counter-challenges to be an effective method of persuasion as they tugged at legislators' heartstrings and senses of sympathy and justice. Sobieraj searched for real-life examples to use in anticipation of legislators' possible objections, and tried to locate examples of a battered immigrant whom this legislation would help from individual Representatives' districts by calling upon local service providers to furnish cases.[52] The use of documented, real-life stories of immigrant spouses who had suffered abuse proved an effective weapon against the objection that immigrants might fabricate stories of abuse to obtain a battered spouse waiver, one of the common challenges to the proposed changes. Overall, this use of personal stories was not actually widely needed when advocating for the 1990 changes, but it was a strategy that was later used more extensively to convince Congress of the need for the larger-scale 1994 changes.

Working to secure the passage of the 1990 changes was marked mostly by straightforward education efforts. Activists' primary and fundamental job at the time was to educate legislators on the way abusive spouses could use immigration law as a trap, and that this problem resulted directly from previous Congressional action in the form of

[50] Leslye E. Orloff, interview by Sujata Barai, 18 Dec. 1997.
[51] Ibid.

the 1986 Immigration Marriage Fraud Amendments. Politics scholar Barbara Nelson, describing this stage of "issue adoption" in social agenda setting, explains that, "[D]ecision makers must share [with activists] a perception of the legitimacy of governmental responsibility for action on the issue."[53]

Slaughter also needed a better explanation of the problem and justification of the proposed remedy. According to Sobieraj, Representative Slaughter had difficulty accepting the fact that the beneficiaries of the proposed changes would be immigrants without proper documentation; in principle, creating avenues for "illegal" aliens to gain legal status was something Slaughter was unwilling to do.[54] Congressional scholar R. Douglas Arnold explains in *The Logic of Congressional Action* that lobbyists' efforts in Congress frequently entail "strategies of persuasion" which often involve "creating, activating, or changing the policy preferences of legislators."[55] Through the education efforts and "strategies of persuasion" of the activists, though, Slaughter and her staff members came to see that these women were not "illegal" in the conventional sense of the word, and that they *would* have legal status in the U.S. were it not for the fact of an abusive partner who would not participate in the joint petitioning process. In other words, battered immigrant spouses were inadvertently made undocumented immigrants.

Representative Slaughter adopted the cause of legislating protection for battered immigrant spouses because she had a commitment to domestic violence issues, and, through the education of activists, understood how immigration law was being used by

---

[52] Sandra Sobieraj, telephone interview by Sujata Barai, 17 Feb. 1998.
[53] Nelson, 23.
[54] Sandra Sobieraj, telephone interview by Sujata Barai, 17 Feb. 1998.
[55] R. Douglas Arnold, *The Logic of Congressional Action* (New Haven, CT: Yale University Press, 1990) 92.

abusive spouses as a manipulative tool. As Nelson explains, though, legislators also "must believe that an appropriate response could be found if the issue were to be adopted."[56] After the issue education, provision of technical expertise, and offering of viable policy options offered by activists that began in June of 1989, Slaughter introduced in Congress the Marriage Fraud Act Amendments, which were subsequently included by Representative Bruce Morrison in his version of the 1990 Immigration Act.[57] At the subcommittee level, Slaughter did not face intense opposition, primarily because these provisions were relatively minor ones which affected a small proportion of the immigrant population, and because of her good working relationship with Congressman Romano Mazzoli (D-KY), who sat on the International Law and Immigration Subcommittee of the House Judiciary Committee. Slaughter was originally from Kentucky, the state from which Mazzoli was a Congressman, and this commonality helped establish comraderie and support that helped her move the proposal through the subcommittee with relative ease.[58]

The efforts by activists just described in the preceding paragraphs centered around providing technical assistance to Representative Slaughter. Orloff recalls that much lobbying of other members of Congress, was not really required for the 1990 changes.[59] Because these changes were relatively minor in the context of the other immigration law changes being proposed at the time, because they were eventually included in a much larger act, the Immigration Act of 1990, and most particularly because Slaughter was able to negotiate her relationships with key legislators to the benefit of getting this legislation

[56] Nelson, 23.
[57] U.S. Congress, *House Report 723 Part 1*, 101st Cong., 2nd Sess. (1990).
[58] Sandra Sobieraj, telephone interview by Sujata Barai, 17 Feb. 1998.
[59] Leslye Orloff, interview by Sujata Barai, 27 Feb. 1998.

through the appropriate channels, the 1990 amendments became law. Orloff states that due to Slaughter's efforts, the 1990 changes "sailed through because of the way the political dynamics were structured."[60] While the battered spouse waiver marked a significant step forward for battered immigrant women, it did not receive great attention in the grand scheme of the 1990 immigration changes, prompting Sobieraj's comment cited in the chapter epithet that it became law with little notice.

Practice Distorting Intent: INS Implementation of the Battered Spouse Waiver 

What perhaps made a bigger splash than the law itself was the INS's regulatory implementation of the battered spouse waiver. It is somewhat ironic that Congress adopted the battered spouse waiver as a way to clarify a protective intent for battered immigrants that was not made clear in the waivers offered in the IMFA;[61] yet, INS regulations of the battered spouse waiver would distort what was supposed to be a clarification.

As explained in Chapter 2, the INS regulations regarding the proof required for claims of mental abuse were not only prohibitively strict, but skewed Congressional intent. Duke Austin, spokesman for the INS, justified the agency's evidentiary requirement for proof of extreme mental cruelty by contending that "[t]he INS is made up of people who are schooled in immigration law. We have no doctors or psychologists. We can't make a determination of mental abuse."[62] Thus, proof of mental abuse was required from certain certified professionals. While seemingly logical, this proof requirement finds no precedent in INS protocol. In fact, "[t]he INS does not require

[60] Ibid.
[61] *House Report 723 Part 1*, 51.
[62] As quoted in Lin, "Is INS Hindering Abused Wives?"

evidence from licensed professionals in any other type of immigration adjudication."[63] For example, when determining whether to grant political asylum or not, the INS standard to be met is whether a "reasonable fact finder would have to conclude that the requisite fear of persecution existed,"[64] implying an ability to determine the mental state of the asylum-seeker without requiring professional evidence.

Even without analogizing the situation of battered immigrant spouses to asylum-seekers, service providers feared that the undue burden the regulations created would effectively bar battered immigrant spouses from taking advantage of the waiver if the abuse they suffered was primarily mental or emotional rather than physical.[65] In response to INS interim regulations, published on May 16, 1991 and open to comment from the public, in just one month

> the INS received 180 written responses..., most from organizations serving battered women and immigrants. Each opposed the evidentiary requirements for proving extreme mental cruelty on the grounds that these curtailed the benefits Congress intended the waiver to provide. The comments emphasized the burden that having to obtain evaluation by a mental health professional placed on an abused immigrant spouse.[66]

Activists also objected to the requirements because they focused on the mental state of the victim rather than the actions of the abuser. For example, if one woman is more emotionally resilient and less expressive than another, she may be deemed as not having suffered enough mental or emotional abuse to qualify for the waiver. Activists did not anticipate that the INS might write such regulations, and thus were in a position only to pursue change reactively. Many of those same activists, would, however, refine their

---

[63] Sandra D. Pressman, "The Legal Issues Confronting Conditional Resident Aliens Who Are Victims of Domestic Violence: Past, Present, and Future Perspectives," 6 *Maryland Journal of Contemporary Issues* 129 (1995) 144.
[64] Ibid., citing *INS v. Elias-Zacharias,* 112 S. Ct. 812, 815 (1992).
[65] Leslye E. Orloff, interview by Sujata Barai, 18 Dec. 1997.
[66] Pressman, 143.

strategy in anticipation of the regulatory implementation of the 1994 Violence Against Women Act's provisions for battered immigrant women, as explained in Chapter 4. In the case of the VAWA, advocates proactively sought to ensure that the regulations would fulfill the spirit of the law.

Sympathetic law-makers also reacted to the harsh 1991 regulations. While service providers mostly emphasized the practical hurdles the regulations created for those abused immigrants who could not afford to pay to see a mental health professional or those who could not speak English well and had difficulty finding bilingual professionals,[67] legislators remarked on the skewing of Congressional intent represented by the regulations. "The House Report made it clear that a wide variety of types of evidence should be accepted to support the waiver application, and that the waiver should be liberally granted."[68] Representative Bruce Morrison, who co-sponsored the 1991 changes with Representative Slaughter, commented on the unduly strict evidentiary requirements by declaring that, "We [the Congress] directed the INS to write protection regulations, not fraud regulations."[69] Though the regulations were recognized as problematic in 1991 because they diverged from the spirit of the law in a way that effectively barred battered immigrants from obtaining the protection of the waiver, the premise of the evidentiary requirements would not change until 1994, when the Violence Against Women Act explicitly directed the INS to consider "any credible evidence."

[67] Ibid. See also Chapter 2, footnote 55.
[68] Calvo, 632.
[69] Anderson, 1419.

Conclusion: Laying the Groundwork for More Extensive National Activism and Action

"[I]t took two acts of Congress, and eight years, to remedy the harsh, yet apparently unconsidered, impact [of the IMFA] on women,"[70] and the provisions for battered immigrant spouses in the 1990 Immigration Act was the first of such steps. The legislation was preceded by a growing recognition at the grass-roots level of the trap that the IMFA's policies laid for battered immigrant spouses, and was catalyzed by a few key activists from domestic violence and immigration law backgrounds who came together at the national level. The gathering of these activists did not represent a model of coherent and consistent national activism, which would begin to form only after 1990. However, the coalition did set a precedent for the roles that the two camps of anti-domestic violence and immigrant rights would play in national advocacy for battered immigrant women's rights.

Of intrinsic importance to the success of the efforts in both 1990 and 1994 was the fact that the battered spouse waiver was a policy reaction growing out of concerns about domestic violence rather than a loosening of immigration regulations. Advocates' efforts to secure the 1990 changes involved intensive education efforts that highlighted the problematic intersection of domestic violence and immigration concerns in the lives of battered immigrant spouses, but not any wide-spread or extensive canvassing or lobbying. Persuading and arming Congresswoman Slaughter and her staff with the necessary information and arguments proved to be the bulk of the work, as Slaughter was able to include the changes in the 1990 Immigration Act with relatively little hoopla or opposition. These changes, characterized by Representative Slaughter as "small but

[70] Kevin R. Johnson, "Public Benefits and Immigration: The Intersection of Immigration Status, Ethnicity, Gender, and Class," 42 *UCLA Law Review* 1509 (Aug. 1995) 1551.

significant,"[71] were minor in the grand scheme of immigration law changes, and thus went unnoticed by many law-makers. While the 1994 changes gained more attention on Capitol Hill, the strategy of including the changes in a larger, overshadowing piece of legislation was again employed by including provisions for battered immigrant women in the landmark Violence Against Women Act (VAWA).

The battered spouse waiver was pursued as a hopeful remedy; indeed, "[s]upporters of women's rights and immigration reform had high expectations for the new amendments' ability to cure the problems created and perpetuated by the IMFA."[72] Activists soon began to realize, though, that while the battered spouse waiver marked an important first step in enacting immigration relief specifically for battered immigrants, it did not go far enough. Besides the problematic INS regulations which would not be reformed until 1994, activists realized that a more fundamental problem existed:

> The legislation and subsequent regulations...fail[ed] to respond to what is likely the larger population of battered women – those immigrants whose husbands never filed petitions for their legal status....The Family Violence Prevention Fund raised this issue with Representative Louise Slaughter, but she felt that the political climate was not sympathetic to these concerns.[73]

Advocates were forced to wait until a later time when they would be able to pursue immigration remedies that took into account the situation of the immigrant spouse who was completely undocumented because of her abusive spouse's refusal to file her initial papers. The 1990 provision did lay a policy foundation from which activists proceeded in pursuing the 1994 VAWA remedies. That is, activists were able to argue for more

---

[71] Statement of Representative Louise M. Slaughter, 136 *Congressional Record* (daily ed. 2 Oct. 1990).
[72] Jones, 686.
[73] Anderson, 1417 (including footnote 101). Congressional scholar R. Douglas Arnold theorically explains legislative caution and conservatism such as Slaughter's: "Legislators are often willing to take a few small steps toward some distant goal, but they are usually reluctant to attempt the whole distance in a single leap. Small steps are less risky than grand leaps," in *The Logic of Congressional Action* (New Haven, CT: Yale University Press, 1990) 109.

comprehensive protections for battered immigrant spouses by calling on the specific inadequacies of the existing 1990 law.

The formation of a national political agenda to address the needs of battered immigrant women was necessitated by the severe effects of the IMFA. The agenda was broached in the 1990 Immigration Act, and would become more developed through advocacy for the 1994 legislation, signaling an incremental, step-by-step pattern of reform to protect battered immigrant women. Advocacy for the VAWA would be marked by more coherent and extensive national-scale activism, represented by formal mechanisms such as the National Network on Behalf of Battered Immigrant Women, and would require the provision of technical assistance to greater numbers of Congress-persons. VAWA activists would also engage in more overt strategizing and lobbying, which would include more evidence of the problems remaining for battered immigrant spouses, even after the enactment of the battered spouse waiver. The tale of how and why legal protections for battered immigrant women have become a part of U.S. immigration policy grew more intricate as activists began to respond to the 1990 Immigration Act.

> ***"We're only getting what we're getting because it's seen as a domestic violence issue."*** Gail Pendleton, Director of the National Immigration Project of the National Lawyers' Guild, describing how and why advocates were able to include provisions for battered immigrant women in the Violence Against Women Act of 1994 and the logic of efforts to include improved provisions in the upcoming Violence Against Women Act of 1998.[1]

CHAPTER 4

ORGANIZING NATIONALLY FOR THE VAWA: Bigger and Better Connections, Bigger and Better Provisions, 1991-1996

By some estimates, the self-petitioning and cancellation of removal provisions in the Violence Against Women Act of 1994 (VAWA) are the most significant of all developments because they are available to a larger number of battered spouses than is the battered spouse waiver.[2] As one advocate explains in this chapter, though advocates celebrated the passage of the battered spouse waiver, it soon became clear to them that this provision did not go far enough. The bigger and better provisions in the VAWA were born of bigger and better connections in the arenas of advocacy and politics. After the passage of the 1990 battered spouse waiver, not only did advocates for battered immigrant women come to realize that national agenda setting for this marginalized group was possible, but also that if they were to bring battered immigrant women's concerns to the national forefront, they would have to be better organized and connected

[1] Gail Pendleton, Director, National Immigration Project of the National Lawyers' Guild, interview by Sujata Barai, 21 Jan. 1998.

[2] Ursula Levelt, consultant to the Center for Immigrants' Rights, presentation at workshop *Women's Realities: Understanding Violence Against Immigrant Women,* co-sponsored by Manavi and the Center for Immigrants' Rights (New Brunswick, NJ: Rutgers University campus, 20 March 1998), attended by Sujata Barai.

within their own world of advocacy. Stronger links were necessary among immigrants and women's rights advocates, for each had something essential to offer to the cause. In working to secure VAWA provisions, advocates planned to mainstream the issue of battered immigrant women as much as possible into larger anti-domestic violence efforts. Advocates for battered immigrant women called upon others in the women's community to support their effort, and forged new relationships with these activists.

Equally important for the passage of the VAWA were the relationships forged with government officials. Working with members of Congress entailed intensive, one-on-one education and strategizing efforts by advocates, similar to those employed for the passage of the battered spouse waiver. However, for the VAWA, both the provision of technical assistance to members of Congress who requested it and the lobbying undertaken by women's and anti-domestic violence groups were much more extensive. Contrary to the 1990 waiver, people in Congress *did* notice these provisions. In addition to using the personal stories of battered immigrant women to persuade lawmakers, this time around, advocates had powerful evidence for their cause in the form of the quantitative data from the Ayuda survey described in Chapter 1.

Even after the VAWA provisions for battered immigrant women were passed, the job of advocates was far from over. They pursued a working relationship with the Immigration and Naturalization Service (INS) so that they could educate the INS officials crafting the regulations implementing the VAWA about the dynamics of domestic violence. Activists, with Leslye Orloff at the helm in Washington, D.C., sought to educate the INS on the various ways that immigration policies shape the options available to immigrant women who are victims of domestic violence. Educating the INS entailed

emphasizing the confluence of the many factors that complicate the lives of battered immigrant women, and then dissecting the nuances of the intersection of immigration and domestic violence concerns.

The story of how these bigger and better provisions came about is inextricably linked to the bigger and better connections that advocates were forming. The effort continues after the passage of the battered spouse waiver, and picks up steam with a first-of-its-kind gathering in Berkeley, California in 1991.

Convening Activists Formally at the National Scale: The 1991 "Dreams Lost, Dreams Found" Conference

Although activists and service providers had been reacting to the 1986 Immigration Marriage Fraud Amendments (IMFA) at the regional level and a small handful of advocates had converged at the national level to advance the 1990 battered spouse waiver, no formal gathering of activists across the United States had yet occurred. Acting on the emergence of several policy issues which greatly impacted immigrant women, the Family Violence Prevention Fund (FVPF) and the Coalition for Immigrant and Refugee Rights and Services (CIRRS), both San Francisco-based groups, joined forces to sponsor a national conference.

Emily Goldfarb of the CIRRS and Leni Marin of the FVPF express in the conference welcome letter (see Figure 2) their hopes that the approximately 300 attendees would participate in a process of "learning from one another and forging new relationships as [they] together tackle the challenging day-to-day issues faced by immigrant and refugee women."[3] Held in October of 1991 in Berkeley, California, the

[3] See Figure 2.

conference was entitled, "Dreams Lost, Dreams Found: Women Organizing for Justice" and was described as "A National Conference on Immigrant and Refugee Women." Although the conference was devoted to a spectrum of immigrant and refugee women's issues, it did include a full day of training specifically on the issue of domestic violence (see Figure 3). As such, this conference was the first national-scale event to formally convene activists and service providers to address the needs of *battered* immigrant women.

Terry Helbush, a San Francisco immigration attorney who chaired the National Immigration Project (NIP) of the National Lawyers' Guild in the early 1990s, describes the conference as "the first look at the intersection of immigration and domestic violence."[4] Represented by the composition of the two conference sponsors, a mainstream immigrant rights' group (CIRRS) and a mainstream anti-domestic violence organization (FVPF), the approach of the training about battered immigrant women's needs is what can be thought of as "cross-issue education." Through this approach, family law attorneys and domestic violence advocates received intensive education about the immigration aspects of battered immigrant women's problems and immigration attorneys and advocates received extensive training about the dynamics of domestic violence against women. The one-day training consisted of parallel meeting tracks for these two advocate groups.[5] In addition to the parallel meeting tracks, a general overview of domestic violence was provided for all participants at the start of the day, and a session on service provision, community-organizing strategies, and policy initiatives for battered

[4] Terry Helbush, telephone interview by Sujata Barai, 3 March 1998.
[5] See Figure 3.

Figure 2[6]

Dreams Lost, Dreams Found
Women Organizing for Justice
A National Conference on
Immigrant and Refugee Women
October 5 – 7, 1991 Berkeley, California



Sponsored by:
Family Violence Prevention Fund
Coalition for Immigrant & Refugee Rights & Services

October 5, 1991

Welcome!!

On behalf of the members of the national and local planning committees, we extend a warm welcome to the over 300 participants attending this first-time event — "Dreams Lost, Dreams Found: Women Organizing for Justice; A National Conference on Immigrant and Refugee Women."

This pioneering event brings together a diverse and impressive group of immigrant and refugee women and their advocates, from all parts of the country, from so many parts of the world. Conference participants represent a wide range of professions, interests, and activities: we are grassroots community organizers, labor union activists, lawyers, domestic violence counselors, social workers, health care providers, teachers, volunteers, and more. Each of you has extensive experience in your field and brings valuable perspectives from your personal and political lives. And each of us bring a strong commitment to meeting the needs of immigrant and refugee women and to justice and respect in and for these communities.

We feel confident that these next three days will be full of dynamic, enlightening, intimate, and — at times — controversial dialogue. Altogether we have the ingredients to ensure a successful and *fun* conference.

We are very excited about the prospect of learning from one another and forging new relationships as we together tackle the challenging day-to-day issues faced by immigrant and refugee women in the United States. Your presence here is encouraging proof of the desire so many of us have to work in closer cooperation to strengthen the movement to defend and expand the rights of all immigrant and refugee women.

We especially want to thank, and to welcome, those women who have shared their lives and struggles and wisdom with us and who continue to inspire us all in our work.

Welcome to the Bay Area and thank you so much for your participation and support.

Warmly,

Emily Goldfarb
Coalition for Immigrant & Refugee Rights & Services

Leni Marin
Family Violence Prevention Fund

[6] Excerpts from conference program, *Dreams Lost, Dreams Found: Women Organizing For Justice.*

Figure 3[7]

Monday, October 7—Seminars

Domestic Violence and the Rights of Immigrant and Refugee Women

8:00-8:30	Local Registration
8:30-11:45	Morning Session: General Overview of Domestic Violence Problems and Issues *Grand Ballroom*
11:45-1:00	Lunch (on your own)
1:00-3:30	Afternoon Session: Track I—For Family Law & Domestic Violence Advocates *Grand Ballroom*
	Track II—For Immigration Attorneys and Immigrant & Refugee Advocates *Bancroft Parlor*
3:30-5:30	Final Session: Service & Community Organizing Strategies and Policy Initiatives *Grand Ballroom*

Labor & Employment Issues

8:30-9:00	Local Registration
9:00-1:00	Part I—Alternative Employment Strategies for Immigrant & Refugee Women *Haste Room*
1:00-2:00	Lunch (on your own)
2:00-5:00	Part II—Employer Sanctions Employment Discrimination and Labor Rights *Haste Room*
12:15-1:15	Press Conference

Training Seminar: October 7, 1991 8:30 am - 5:00 pm

Domestic Violence and the Rights of Immigrant and Refugee Battered Women

Family Law, Domestic Violence and Immigration Law Issues

Battered immigrant and refugee women face particular obstacles in overcoming the violence in their lives, particularly given the complications of their immigration status, as well as economic, cultural and linguistic barriers.

This one-day training seminar will address the following:

- Cross-over issues of family law, immigration law and domestic violence as they impact immigrant and refugee battered women.
- The battered spouse waiver under the Immigration Marriage Fraud Act.
- A general overview of immigration law and family law pertaining to immigrant and refugee battered women.
- Strategies for our communities to collectively respond to these issues.

This seminar is geared for advocates, organizers, trainers, service providers and attorneys who have expertise in domestic violence, immigration law, family law, and/or providing services to immigrant and refugee communities. We encourage the registration of multi-disciplinary teams of 2-4 persons from the same geographical area.

Seminar Costs: Private Attorney $75; Non-profit rate-one/first person $30, each subsequent person $20 (Scholarships not available for training seminars)

Training Seminars are limited to 75 participants.

Registration Deadline: August 28, 1991
(to guarantee accommodations)

Complete the registration form in the conference brochure.

Co-Sponsored by: Coalition for Immigrant and Refugee Rights and Services, Family Violence Prevention Fund, Asian Law Caucus, Asian Women's Shelter, Legal Aid Society of San Mateo, National Immigration Project of the National Lawyers' Guild, San Francisco Lawyers' Committee for Urban Affairs and San Francisco Neighborhood Legal Assistance Foundation.

[7] Ibid.

immigrant and refugee women concluded the day.[8] This "advocacy among advocates" that crossed and connected issues was a recognition of the confluence of complications in battered immigrant women's lives, with an emphasis on the dangerous intersection of domestic violence and immigration issues.

In addition to setting a standard of "cross-issue education" that puts into practice intersectionality analysis, the conference served as a meeting ground for those who served battered immigrant women. Debbie Lee, of the FVPF, explains that many advocates came to the conference to celebrate the new tool they had to help battered immigrant women, the battered spouse waiver.[9] As Beckie Masaki, Executive Director of the Asian Women's Shelter, states of the significance of the battered spouse waiver, "These women have a choice now."[10] For many activists who would later collaborate on policy initiatives for battered immigrant women and join the National Network on Behalf of Battered Immigrant Women (NNBBIW), this was the first time they were meeting. In this way, the conference was a literal intersection of activists, and led to the formation of relationships that would later contribute to the drafting of the Violence Against Women Act of 1994. In addition to fostering personal interactions that would shape professional collaborations, the conference provided a forum in which to address substantive issues of policy advocacy for battered immigrant women. Though activists were thankful to have a mechanism such as the battered spouse waiver to help some battered immigrant women escape their abusive marriages, already in 1991, activists recognized that the waiver

---

[8] Ibid.
[9] Debbie Lee, Associate Director of Health Issues, Family Violence Prevention Fund, telephone interview by Sujata Barai, 25 Feb. 1998.
[10] As quoted in James Leung, "Laws Benefiting Immigrant Wives Means More Work for Shelter," *The San Francisco Chronicle*, 20 Feb. 1991.

"only half-way addressed the issues the policy ultimately should."[11] That is, the battered spouse waiver was a remedy of limited applicability because it did not help battered immigrant women without conditional residency and because its regulations were prohibitive. The three years following the conference would be devoted to securing the passage of provisions for battered immigrant women in the VAWA. [12] Activists recognized, though, that a formal mechanism of interaction and collaboration was necessary to advance an effective and extensive agenda for battered immigrant women at the national level.

Encouraging Coherency and Coalition-Building: The National Network on Behalf of Battered Immigrant Women

Gail Pendleton, Director of the National Immigration Project (NIP), contends that a divide between domestic violence and immigration advocacy was the norm until the 1991 conference.[13] As described in Chapter 3, Deeana Jang, a domestic violence advocate in California, was the initial and only contact for the NIP in the domestic violence community before the Berkeley gathering. The interaction between these advocacy communities changed as a result of the event, and "at the 1991 conference, a core group started coming together." [14] This gathering of a core group of activists dedicated to battered immigrant women was the precursor to the National Network on Behalf of Battered Immigrant Women (NNBBIW). The Network sought to bring together and "educate domestic violence advocates, women's rights activists, immigrant rights

[11] Leni Marin, Program Director, Battered Immigrant Women's Rights Project, Family Violence Prevention Fund, telephone interview by Sujata Barai, 17 Dec. 1997.
[12] Ibid.
[13] Gail Pendleton, telephone interview by Sujata Barai, 21 Jan. 1998.
[14] Ibid.

advocates, legal services workers and other social service providers."[15] From the 1991 gathering, through the early evolution of the NNBBIW, and still today, a small group of activists have been at the policy helm while the NNBBIW's membership roster has grown. Representing the three co-chairs of the group, three of the lead advocates and voices for the NNBBIW are Leslye Orloff of Ayuda, Inc., Leni Marin of the Family Violence Prevention Fund, and Gail Pendleton, of the National Immigration Project of the National Lawyers' Guild.

Kimberle Crenshaw articulates the need to consider intersectional, multi-dimensional identities uniquely, and the NNBBIW represents a space to do just that. Symbolically, the joining of forces that the NNBBIW denotes is a "coming together [that] is the foundation for working on common issues."[16] The political effort to attend to the needs of battered immigrant women has meant that "[i]mmigrants' rights activists, the domestic violence movement, women's rights organizations, and service providers are increasing their efforts to build networks and coalitions."[17]

The members of the NNBBIW gather annually to discuss policy issues affecting battered immigrant women and come primarily from the fields of domestic violence, immigrant rights, service provision, and legal advocacy.[18] The leadership structure – the co-chairs being Ayuda, the FVPF, and the NIP – itself represents the intersection of battered immigrant women's domestic violence and immigration concerns. The relationships formed through the structure of the NNBBIW encourage both the coherent

[15] Deeana L. Jang and Leni Marin, "Introduction" in Deeana L. Jang, Esq., Leni Marin, and Gail Pendleton (eds.) *Domestic Violence in Immigrant and Refugee Communities: Asserting the Rights of Battered Women 2nd Ed.* (San Francisco: Family Violence Prevention Fund, 1997) 3.
[16] Sharon Parker, "Understanding Coalition," 43 *Stanford Law Review* 1193 (July 1991) 1194.
[17] Leti Volpp, Leni Marin (ed.) *Working With Battered Immigrant Women: A Handbook to Make Services Accessible* (San Francisco: Family Violence Prevention Fund, June 1995) 48.
[18] Jang and Marin, "Introduction," 3.

to legislators and administrative agency staff, upon their request, about policy issues affecting battered immigrants, and using its member base to lobby Congress.

"Until 1991, there was no organized mechanism to get the word out to people working at the community level on behalf of battered immigrants," explains Orloff.[22] Beginning with the gathering of activists at the conference, the linkages between advocacy communities ensured that activists across the nation would be aware of all major developments on the national policy front.[23] Moreover, the NNBBIW helps identify and refer individuals to point-persons or agencies across the U.S. that serve as clearinghouses for information or advice on a particular aspect of a policy. Immigration policy is a complex maze which service providers, often not versed in the intricacies of the law, must get through in order to help their clients. The nuances of already complicated issues, such as the effect of divorce on a woman with a certain residency status applying for a particular immigration remedy, are not common knowledge. The procedures regulating the availability of provisions, such as self-petitioning or cancellation or removal, are complicated enough to require an immigration attorney at the least, possibly also a family law attorney.[24] For that reason, the NNBBIW identifies legal experts around the country who can advise advocates who have little legal experience.[25]

This system of referrals is critical because misinformation or lack of information about the provisions for battered immigrant women may harm the interests of the client.

---

[22] Leslye Orloff, Director, Clinica Legal Latina/Ayuda, Inc., interview by Sujata Barai, 27 Feb. 1998.
[23] State and local providers, if involved in political advocacy, are often involved exclusively on local or state level policy issues, as in the case of Mujeres Latinas en Acción, described in Chapter 3. Through their membership in the NNBBIW, these activists have a source of information about national developments and can participate in the policy and strategy planning process at annual NNBBIW meetings.
[24] Orloff explains that battered immigrant women who seek protection orders in family court need the assistance of attorneys who can help them obtain "full and creative" remedies that meet their special needs and will help their immigration case.
[25] For an example of such referral, see Volpp, 44.

Orloff explains that family lawyers may miss opportunities in certain family court proceedings, like protection order cases, to obtain certain types of documentation that could facilitate a swift adjudication of the battered immigrant's self-petition case. Orloff also offers the example of immigration attorneys who were not connected with the Network and did not know how to file sequentially for different parts of the self-petition. If they had filed properly, their clients may have been able to obtain temporary work authorization through an immigration provision called "deferred action." Now, however, these clients are stuck with pending applications and without work authorization because their attorneys were not aware of the most beneficial course in the procedural maze.[26]

Also on a substantive level, the NNBBIW engages its members in national advocacy. In 1993, in preparation for the push to include provisions for battered immigrants in the VAWA, certain member groups of the NNBBIW – namely the FVPF, Ayuda, and Main Street Legal Services at CUNY Law School – joined forces to collect cases from across the United States of battered immigrant women married to U.S. citizens or legal permanent residents whose husbands had never filed initial papers for them. These women could not qualify for the 1990 battered spouse waiver, but could avail themselves of protection if the provisions in the VAWA were passed. The cases were collected in a booklet called "Untold Stories," which was used to assist members of Congress who were promoting the VAWA provisions and in order to persuade other members of Congress to support the provisions. This persuasive strategy, of personalizing the policy at stake, is something for which the NNBBIW is again enlisting

[26] Leslye Orloff, interview by Sujata Barai, 27 Feb. 1998.

member support with regard to Section 245(i) of the Immigration and Nationality Act, explained in Chapter 5.

In addition, the NNBBIW encourages its members to offer feedback on policy issues at hand. The distance between members across the U.S. makes it difficult for them to actually discuss together, especially when policy in Washington, D.C. moves quickly and often needs immediate reaction. Nevertheless, "the Network gets people involved; I fax out a memo about an issue and expect comments back,"[27] explains Orloff, who is often responsible for the day-to-day responses the Network provides to members of Congress who seek its counsel. If certain member groups consistently offer policy feedback, Orloff then identifies them as particularly active members to whom she knows she can call on for feedback. Also, this practice of asking for reactions to policy from the spokes, or member organizations, of the hub, or key NNBBIW activists, enables Orloff to get a range of different perspectives, spanning from radical to conservative, and then to balance and mediate them in the formulation of political strategy.[28]

Certain key NNBBIW member organizations – Ayuda, NOWLDEF, and the FVPF – played an active role in securing the passage of a VAWA that contained provisions for battered immigrants. With the passage of the VAWA, the NNBBIW has become more active in its own right and provides a forum, both symbolic and substantive, for the discussion of policy issues affecting battered immigrant women and their myriad interests, ranging from domestic violence to immigration law to ethnic or cultural considerations, that inform these issues. Not only is the NNBBIW a realization of intersectionality analysis, but it is also a coalition of practical political value. Law

[27] Ibid.
[28] Ibid.

professor Kevin R. Johnson advises that "[b]road-based coalitions, founded on mutuality of intersecting interests, may be the only hope for a disenfranchised group marginalized in multiple ways attempting to exert influence in the political process."[29] While the joining of various advocacy communities that served battered immigrant women contributed greatly to the coherency and prominence of advocacy specifically for battered immigrant women, it is important to realize that much of the actual lobbying for the Violence Against Women Act was led by NOWLDEF and anti-domestic violence groups that downplayed the immigration facets and emphasized the domestic violence aspects of the plight of battered immigrant women.

Securing the Passage of the VAWA: Mainstreaming the Issue of Battered Immigrant Women

The events of the early 1990s laid the groundwork for the provisions for battered immigrant women in the Violence Against Women Act in several ways. The battered spouse waiver laid the legislative groundwork for the VAWA in that it set a precedent for enacting legislative provisions that specifically address battered immigrants, and in that it testified to the ability of battered immigrant women's activists to craft an effective national-level policy agenda.[30] Leslye Orloff contends that the 1991 conference fed directly into organizing for the VAWA, though it was not necessarily the aim of the conference.[31] Furthermore, the recognized problems of the battered spouse waiver – namely the evidentiary requirements and that it left without recourse abused immigrant

---

[29] Kevin R. Johnson, "Public Benefits and Immigration: The Intersection of Immigration Status, Ethnicity, Gender, and Class," 42 *UCLA Law Review* 1509 (Aug. 1995) 1518.
[30] Bill Tamayo, former Managing Attorney, Asian Law Caucus, telephone interview by Sujata Barai, 2 March 1998.
[31] Leslye E. Orloff, interview by Sujata Barai, 27 Feb. 1998.

women whose husbands had not filed their initial papers – "informed the VAWA debate."[32]

Other changes in the political landscape during the early 1990s also influenced the course of advocacy for the VAWA's provisions for battered immigrant women. Leslye Orloff, the Washington, D.C. liason for the NNBBIW, became the point-person for advocates' VAWA efforts due to a shift in the larger anti-domestic violence advocacy community. Shortly after 1991, Mary Pat Brigger, the lead anti-domestic violence lobbyist for the National Women's Abuse Project, left Washington, D.C. and thus left a void in the anti-domestic violence lobby. Orloff, then a staff attorney with Ayuda, Inc. with substantial experience in anti-domestic violence law, received permission from Ayuda to fill this void.[33]

Moreover, attitudes in political arenas toward domestic violence were shifting -- awareness of domestic violence as a significant political issue was growing, as was an openness on the part of politicians to enact policy remedies to combat it.[34] As Deeana Jang and Leni Marin, long-time anti-domestic violence activists who are also involved in immigrant communities, explain, "During the [early 1990s], the battered women's movement in the United States, started in the 1970s by a grassroots movement of formerly battered women and women's and civil rights activists, succeeded in making domestic violence a national issue."[35] As a result, "[P]olicy makers responded to the

[32] Kathleen Sullivan, former Chief Majority Counsel, U.S. Senate Immigration Subcommittee, Office of Senator Edward Kennedy, telephone interview by Sujata Barai, 19 Feb. 1998.
[33] Leslye Orloff, interview by Sujata Barai, 18 Dec. 1997.
[34] Leni Marin, telephone interview by Sujata Barai, 17 Dec. 1997.
[35] Jang and Marin, "Introduction," 2.

increase in public awareness of domestic violence and jumped on the bandwagon in support of battered women."[36]

Coincident with the recognition that domestic violence had become an issue that legislators would be willing to address was a judgment on the part of advocates of a strong and growing anti-immigrant sentiment.[37] The co-existence of anti-immigrant sentiment and sympathy for domestic violence directly and significantly shaped the approaches and strategies of activists when it came to advocating for battered immigrant women's provisions in the VAWA. Advocates acted on the need to "persuade legislators that a policy proposal is simultaneously a good idea *and* that it is unlikely to generate electoral problems for them," as explained by Congressional scholar R. Douglas Arnold.[38] The result was that, in large part, the provisions for battered immigrant women were presented as a subset of the larger anti-domestic violence movement and mainstreamed as a women's issue. This strategy of representative mainstreaming required substantive mainstreaming. That is, battered immigrant women's advocates formed strong links with women's and anti-domestic violence groups and enlisted their support in the lobbying efforts for battered immigrant women, a move that was critical precisely because of anti-immigrant sentiment, according to Jang and Marin.[39] NOWLDEF, the lobbying arm of the National Organization for Women located in Washington, D.C. and headed by Pat Reuss, was the first major women's group to commit to these changes for battered immigrant women.[40]

---

[36] Ibid.
[37] Debbie Lee, interview by Sujata Barai, 25 Feb. 1998.
[38] R. Douglas Arnold, *The Logic of Congressional Action* (New Haven: Yale University Press, 1990) 93.
[39] Deeana Jang and Leni Marin, "Immigrant Women's Rights Organizing" in Margaret A. Schuler (ed.) *From Basic Needs to Basic Rights: Women's Claim to Human Rights* (Washington, D.C.: Women, Law and Development International, 1995) 502.
[40] Leslye Orloff, interview by Sujata Barai, 18 Dec. 1997.

Reuss and NOWLDEF played a role in the advocacy for the 1990 battered spouse waiver, but as the VAWA lobbying was more extensive, so, too, was NOWLDEF's role. In fact, the partnership between battered immigrant women's advocates and NOWLDEF, is described by Leni Marin as the "key" political partnership that facilitated success.[41] According to Orloff, Reuss was a highly effective lobbyist on Capitol Hill for battered immigrant women's interests because she understood that without the provisions for battered immigrant women, the VAWA, as a practical matter, would exempt from its criminal enforcement provisions men who chose to batter non-citizens. "Pat...organized other mainstream domestic violence organizations to see it [a VAWA with provisions for battered immigrant women] as a package deal."[42] Reuss took advantage of the fact that a primary goal of the VAWA was "to deter and punish violent crimes against women."[43] She helped emphasize that VAWA's provisions for battered immigrant women were required for criminal justice concerns to be addressed. She and other advocates argued that if legislators did not allow battered immigrant women a way to free themselves from the control of their abusive husbands, their husbands were likely never to be caught and prosecuted for the crime of abuse they were committing. To this end, Reuss "got almost all prosecutors from every state to write letters supporting VAWA's provisions for battered immigrant women as a law enforcement issue."[44]

In addition to couching the provisions for battered immigrant women in the larger women's and anti-domestic violence movement, advocates simultaneously engaged in a strategy of de-emphasizing the "immigrant aspect" of battered immigrant women's needs.

---

[41] Leni Marin, telephone interview by Sujata Barai, 17 Dec. 1997.
[42] Leslye Orloff, interview by Sujata Barai, 18 Dec. 1997.
[43] U.S. Congress, House of Representatives, *Violence Against Women Act of 1993. House Report 395,* 103rd Cong., 1st Sess. (1993) 25.

Given the perceived anti-immigrant sentiment and following the political logic that Edward V. Schneier and Bertram Gross outline in *Legislative Strategy: Shaping Public Policy,* that "rational actors, confronted by the necessity of gaining allies, will create 'coalitions just as large as they believe will ensure winning and no larger,'"[45] it is no surprise that advocates "didn't actively engage the support of many immigrant advocacy groups."[46] While attorneys with extensive immigration law experience, such as Bill Tamayo, Terry Helbush, Janet Calvo, and Ignatius Bau were vital for the drafting of the immigration language of the VAWA, they most often were not involved in up-front efforts. The exception was Tamayo who, at the beginning of the VAWA efforts, did attend meetings with Orloff and Reuss on Capitol Hill. However, the support of large, formal immigration or immigrant rights organizations, such as the American Immigration Lawyers' Association or the National Council of La Raza, was not necessarily sought. Advocates for battered immigrant women prioritized their coalition relationships with women's and anti-domestic violence groups because members of Congress were most responsive and sympathetic to those advocacy communities. As Steven J. Brams asserts in *Game Theory and Politics,* "[C]oalitions qua coalitions have no value themselves; it is only the outcomes they can bring about which have empirical significance."[47] In other words, advocates for battered immigrant women joined forces with the women's and anti-domestic violence lobby because they knew, based on their experience and political judgment, that if the issue of battered immigrant women was taken on by mainstream

[44] Leslye Orloff, interview by Sujata Barai, 18 Dec. 1997.
[45] Edward V. Schneier and Bertram Gross, *Legislative Strategy: Shaping Public Policy* (New York: St. Martin's Press, 1993) 145.
[46] Leslye Orloff, interview by Sujata Barai, 27 Feb. 1998.
[47] Steven J. Brams, *Game Theory and Politics* (New York: The Free Press, 1975) 214.

women's groups, they would win victories for their constituency.

The fact that "Congress could allow this issue as a domestic violence issue, but not as an immigration issue"[48] came to bear on the actual interactions of advocates with individuals in Congress. The very fact that the immigration law provisions for battered immigrant women were included in a major piece of legislation like the Violence Against Women Act meant that the provisions flew on a larger political wing. While the provisions were not "snuck in," they did benefit from being a relatively small section of a large, landmark piece of legislation.[49] When drafts of the VAWA were being written in 1992, Orloff integrated provisions for battered immigrant women without much resistance into the legislation proposed by the Domestic Violence Coalition on Public Policy, an advocacy group of all state domestic violence coalitions, by writing in "underserved population" language throughout the bill.[50]

The Violence Against Women Act was being taken up simultaneously in the House of Representatives and in the Senate. On November 20, 1993, the House passed H.R. 1133 whose Subtitle D was "Protection for Immigrant Women."[51] The House intended the provisions of this section to "prevent the citizen or resident from using the petitioning process as a means to control or abuse an alien spouse,"[52] according to the accompanying House Report. The House bill contained the basic framework for the self-

[48] Gail Pendleton, telephone interview by Sujata Barai, 21 Jan. 1998.
[49] Kathleen Sullivan explains that there were several generations of VAWA legislation, telephone interview by Sujata Barai, 19 Feb. 1998. Orloff states that it had been an on-going effort for almost eight years, interview by Sujata Barai, 18 Dec. 1997.
[50] Leslye Orloff, interview by Sujata Barai, 18 Dec. 1997.
[51] Janet M. Calvo and Martha F. Davis, "Congress Nears Approval of Legislation to Protect Abused Aliens," 70 *Interpreter Releases* (20 Dec. 1993) 1665.
[52] *House Report 395,* 103rd Cong., 1st Sess. (1993) 37.

petitioning and suspension of deportation provisions. The Senate version of the VAWA, however, did not contain any provisions for battered immigrants.

When the two VAWA's came to the Conference Committee to be reconciled into one bill, both drafts were considered "base texts" from which to work on the final bill.[53] Although the Senate base text did not include immigration provisions, it was expected that the Senate side would agree to at least some of the immigration provisions because Senator Edward Kennedy wanted them and because Senator Alan Simpson said he would "work with us," explains Kathleen Sullivan, Kennedy's staff member and majority legal counsel for the subcommittee. The mere fact that the original Senate version of the VAWA did not contain provisions for battered immigrant women did not mean that Senate leaders would oppose their inclusion in the final bill. The challenge for advocates, according to Sullivan, was to secure the best possible immigration provisions possible, which meant improving upon the House provisions by getting the Senate side to offer the improvements in the Conference Committee.[54]

As in the case of the battered spouse waiver, advocates worked with key legislators who were sympathetic to their cause and who were in a position to affect change.[55] Senator Edward Kennedy (D-MA), noted liberal, supporter of the overall VAWA, and Chair of the Subcommittee on Immigration and Refugee Affairs of the Senate Judiciary Committee, was a prime candidate for acting as a vehicle for battered immigrant women's advocates. Senator Joseph Biden (D-DE), Chair of the Senate Judiciary Committee, was a target for advocates, too. He had been a long-time supporter

[53] Kathleen Sullivan, telephone interview by Sujata Barai, 19 Feb. 1998.
[54] Ibid.
[55] Schneier and Gross, 148.

provisions that could be included in the final version of the VAWA.[59] Orloff recalls speaking with Strom some weeks three times a week;[60] advocates' involvement was intensive and detailed, as the language of the provisions would make all the difference.

Cordia Strom's own reluctance to accept the immigration provisions mirrored Senator Simpson's – it stemmed from a conservatism on immigration issues. As such, advocates put into practice their approach of mainstreaming battered immigrant women's needs. It was critical that Strom see the issue of battered immigrant women as a victim's issue, as an issue of a battered woman who happened to be an immigrant, not an immigrant woman who had been battered. Thus, in certain meetings with Strom, Leslye Orloff and Pat Reuss were joined by mainstream advocates representing organizations like NOW, the National Coalition Against Domestic Violence, the Domestic Violence Coalition on Public Policy, and the National Network to End Domestic Violence.[61] Also, Orloff and Reuss were able to organize the Coalition Against Domestic Violence in Wyoming, Simpson's home state, to make calls and write letters criticizing his opposition to the provisions and urging him to support the rights of battered immigrant women as a matter of the rights of victims of domestic violence.[62] Orloff also sought to get Strom to see the issue as one of law enforcement against men committing the crime of abuse, thus appealing to conservative criminal justice sentiments.[63]

---

[59] Sullivan also contends that Gene Pugliese, Majority Chief Counsel for the House Immigration Subcommittee and the person primarily responsible for the House bill's language that included provisions for battered immigrant women, took great pride in his language and was therefore very reluctant to incorporate Senate-side suggestions. Meetings thus often included Pugliese. Kathleen Sullivan, telephone interview by Sujata Barai, 19 Feb. 1998.

[60] Leslye Orloff, interview by Sujata Barai, 18 Dec. 1997.

[61] Ibid.

[62] Kathleen Sullivan, telephone interview by Sujata Barai, 19 Feb. 1998.

[63] Leslye Orloff, interview by Sujata Barai, 18 Dec. 1997.

Orloff, Sullivan, and Reuss were eventually successful in presenting the provisions for battered immigrant women to Strom as remedies for victims of domestic violence and as ways to ensure that the perpetrators of the abuse do not get away with it. However, Strom still retained her focus on the immigration aspect of the issue and forced advocates' to compromise on certain aspects of the provision. Ursula Levelt, of the Center for Immigrants Rights, describes the extreme hardship requirement in the self-petitioning process as "a little devil in the details."[64] She asserts that "the law should have been passed law without it, but it was included to please some people who didn't want the law passed at all."[65] Gail Pendleton concurs, and explains that from an immigration practitioner's perspective, it was "a bad idea to have extreme hardship. However, Cordia didn't want to give it up."[66]

Still, though, advocates for battered immigrant women got the bulk of what they wanted through Congress.[67] Advocates targeted the law-makers that were critical to their efforts, and worked intensively to persuade and educate them. Leni Marin explains that "there was no Congressional hearing on this issue, but advocates made sure that key players and their aides knew what was going on."[68] Once the advocates had Kennedy as a proponent for their proposal, they were able to rely on his skills as a politician to help carry the proposal through. Although Kennedy and Simpson disagreed on certain provisions and held different political leanings, they had a very amicable working relationship.[69] Schneier and Gross, in *Legislative Strategy: Shaping Public Policy*,

---

[64] Ursula Levelt, presentation at workshop *Women's Realities: Understanding Violence Against Immigrant Women*, 20 March 1998.
[65] Ibid.
[66] Gail Pendleton, telephone interview by Sujata Barai, 21 Jan. 1998.
[67] Bill Tamayo, telephone interview by Sujata Barai, 2 March 1998.
[68] Leni Marin, telephone interview by Sujata Barai, 17 Dec. 1997.
[69] Kathleen Sullivan, telephone interview by Sujata Barai, 19 Feb. 1998.

contend that "[l]egislative leaders succeed only by reaching accommodations with other members of the legislative system with whom they have an ongoing collegial relationship,"[70] a hypothesis that proved true earlier in the case of Congresswoman Slaughter's friendly relationship with Congressman Mazzoli. In this case, Kennedy and Simpson's relationship facilitated efforts to include extensive provisions for battered immigrant women in the final version of the VAWA, according to Sullivan. Their friendly relationship was even more critical in this case because Kennedy and Simpson were members of different political parties, unlike Slaughter and Mazzoli.[71]

However, when more extensive lobbying was necessary to convince members and aides of the need for provisions for battered immigrant women, several strategies of persuasion were used. The first was the use of a booklet compiled by the NNBBIW called "Untold Stories: Cases Documenting Abuse by U.S. Citizens and Lawful Residents on Immigrant Spouses." These real-life stories of battered immigrant women, gathered from service providers across the United States, were alone a testament to the prevalence of the problem.[72] These stories highlighted the specific need for the self-petition provision – all cases were of women whose husbands had not filed their conditional residency papers, and who thus could not apply for the battered spouse waiver. These stories detailed the type of abuse the women suffered, horrifying many

[70] Schneier and Gross, 147.
[71] Kathleen Sullivan, telephone interview by Sujata Barai, 19 Feb. 1998.
[72] The groups that contributed stories to this compilation were: Asian Law Caucus; Asian Women's Shelter; Ayuda, Inc.; Coalition for Immigrant and Refugee Rights and Services/Immigrant Women's Task Force; Family Violence Prevention Fund; Lawyer's Committee for Civil Rights of the San Francisco Bay Area, Main Street Legal Services, Inc./CUNY School of Law; National Immigration Project of the National Lawyers' Guild; NOW Legal Defense Fund; San Francisco Neighborhood Legal Assistance Foundation, and Sakhi for South Asian Women. See "Untold Stories," (San Francisco: Family Violence Prevention Fund, Nov. 1993).

people in Congress.[73] This strategy of personalizing the need for provisions "dramatize[d] the need for governmental action."[74]

Although advocates did not have powerful quantitative data at the time of lobbying for the battered spouse waiver, they did have such evidence when lobbying for the VAWA. The survey of Latina immigrant women by Ayuda, Inc., described in Chapter 1, was used in Congress. In fact, it was conceived of primarily for the purpose of "collect[ing] information that could be used to change public policy."[75] Orloff explains that Ayuda researchers sought to replicate the survey by Chris Hogeland and Karen Rosen, also described in Chapter 1, but to expand the domestic violence section.[76] Ayuda's finding of a rate of abuse of 62% among the immigrant women surveyed helped to establish the seriousness of the issue. That 71% of batterers failed to file immigration petitions for their spouses, and thus rendered the women undocumented,[77] bolstered the argument for a provision allowing these women who did not qualify for the battered spouse waiver to file an immigration petition for themselves.

Advocates based the use of such "shock-value" persuasion tactics on solid legal arguments, though. While they would not necessarily often employ highly technical and legalistic reasoning, especially when the emotionally persuasion of "Untold Stories" and the Ayuda survey proved sufficient, advocates could turn to a solid legal foundation for the proposed changes. At the time the Managing Attorney at the Asian Law Caucus, Bill Tamayo drafted the memo that gave advocates "the legal hook for self-petitioning."[78]

---

[73] Leni Marin, telephone interview by Sujata Barai, 17 Dec. 1997.
[74] Arnold, 96.
[75] Leslye E. Orloff and Nomi Dave, "Identifying Barriers: Survey of Immigrant Women and Domestic Violence in the D.C. Metropolitan Area," *Poverty & Race* 6:4 (July/Aug. 1997) 9.
[76] Leslye Orloff, interview by Sujata Barai, 18 Dec. 1997.
[77] Orloff and Dave, 9.
[78] Bill Tamayo, telephone interview by Sujata Barai, 2 March 1998.

What Tamayo sought to demonstrate was that the notion of self-petitioning was not an unprecedented one, even though it seemed like a drastic change in immigration procedures to many law-makers. Tamayo showed that U.S. immigration law allows undocumented widowers, under certain circumstances, to petition for their own immigration status after the death of their husband.[79] The argument was that for battered immigrant women, the husband was also, effectively, non-existent. The woman could not count on him to file her immigration papers, nor could she be expected to remain in the abusive relationship.

Also, the presence of previous legislation for battered immigrant women, the battered spouse waiver of 1990, provided a base on which advocates could argue for further changes. Arguing for change based on flaws of previous policies is what political scientist R. Douglas Arnold terms a "strategy of modification."[80] He explains that "[s]trategies of modification involve altering the various components of a policy....The aim is to mold a policy so that it conforms better to legislators'...preferences and potential preferences."[81] Advocates argued that while Congress intended to protect immigrants who were battered by U.S. citizen and legal permanent resident spouses, it did not go far enough because the battered spouse waiver could not help women whose husbands had never filed initial papers. The more expansive self-petitioning and cancellation of removal remedies would come closer to covering the population that Congress intended to protect.

Advocates employed a variety of tactics to urge members of Congress, especially

---

[79] Ibid..
[80] Arnold, 108.
[81] Ibid.

in the Senate, to include provisions for battered immigrant women in the Violence Against Women Act. For the aides and legislators who exerted the most influence over the process and who were thus the prime targets for advocates' efforts, the activists engaged in intensive contact, education, and persuasion. The strategy that proved to be most important was that of casting the plight of a battered immigrant woman as primarily that of a victim of domestic violence. The support of a group like NOWLDEF, which was large and whose reputation was well-established, was critical for the small group of battered immigrant women's advocates who had no such similar political leverage. In the end, the provisions for battered immigrant women were, indeed, included in the Violence Against Women Act. However, the job of advocates was only half-done – the battle to ensure favorable INS regulations lay ahead.

Pursuing Protective Regulations: Dissecting the Issue of Battered Immigrant Women

"The problem of continuity and adequate follow-up is a critical one in public policy," states June Inuzuka, a long-time political activist for women's issues. "Legislative change is meaningless if public interest groups do not have the capacity to monitor and enforce the implementation of the law."[82] Advocates for battered immigrant women remembered well the problematic regulations implementing the battered spouse waiver. Referring to the INS evidentiary requirements for proving extreme mental cruelty, immigration attorneys Lee Teran and Barbara Hines report, "In the past, the agency [INS] faced widespread criticism for its incomplete and ambiguous definitions of key

[82] June K. Inuzuka, "Women of Color and Public Policy: A Case Study of the Women's Business Ownership Act," 43 *Stanford Law Review* 1215 (July 1991) 1233.

provisions of earlier legislation to protect battered immigrant women."[83] This time around, advocates wanted to "ensure that the INS promulgated regulations that would interpret the intent of the VAWA to provide relief for immigrant women"[84] rather than writing regulations with the intent of deterring fraud.[85]

The Violence Against Women Act was signed into law on September 13, 1994, and as early as November 2, 1994, advocates had drafted a letter to Kathleen Sullivan, who planned to stay involved on Senator Kennedy's behalf in the implementation process, regarding "Implementation of the Violence Against Women Act Protection for Battered Immigrant Women Provisions Through Regulations."[86] In this letter, Leslye Orloff, Janet Calvo, and Bill Tamayo expressed their desire "to assist the Attorney General in determining what processing system will be most effective for the Agency [i.e., the INS]." Moreover, they offered to "provide the Agency as it approaches this problem with the views of judicial experts who work with battered women."

Advocates' goal was to ensure that the VAWA regulations conformed to Congress' protective and generous intent, and that the regulations reflected the spirit of the law in ways maximally favorable for battered immigrant women. Learning from the situation of the 1990 battered spouse waiver regulations, when they could only critique the INS reactively, advocates were motivated to proactively pursue a working

---

[83] Lee Teran and Barbara Hines, "Suspension of Deportation as Relief for Battered Immigrant Women and Children," *Immigration Newsletter* 23:1 (July 1995) 12.
[84] Family Violence Prevention Fund, "Battered Immigrant Women's Rights Project: Final Report," submitted to the Public Welfare Foundation (April 1997) 4.
[85] Bill Tamayo contends that the stringent regulations implementing the battered spouse waiver were written out of fear of fraud. The INS worried that women would fabricate stories of abuse in order to obtain legal permanent residency. Tamayo points to the fact that almost all battered spouse waivers were granted as evidence that the concern about fraud did not pan out, that the battered spouse waiver was a legitimately employed remedy. Bill Tamayo, telephone interview by Sujata Barai, 2 March 1998.
[86] Leslye Orloff (Ayuda), Janet Calvo (Mainstreet Legal Services – CUNY Law School), and Bill Tamayo (Asian Law Caucus). Letter to: Kathleen Sullivan, Senate Committee on the Judiciary, 2 Nov. 1994.

relationship with the INS that would enable them to "make recommendations on the regulations and administration."[87] To this end, members of the National Network on Behalf of Battered Immigrant Women met in December of 1994 "to discuss issues surrounding the implementation of the immigration provisions of the Violence Against Women Act." [88]

When it came to actually being in close contact with INS officials, though, such access was the purview of mainly two people. Primarily, it was Leslye Orloff, who, being in Washington, D.C., was well-situated to attend meetings and conduct briefings with INS officials. Gail Pendleton, Director of the National Immigration Project (NIP) became more actively involved with the Network's efforts to ensure good regulations than she had been with lobbying for the VAWA. Her role was an important one in dealing with the INS because she and the other NIP members on whom she could draw had "the immigration law expertise necessary to craft effective policy."[89] While Gail offered technical immigration law advice, it was Orloff's job "to infuse immigration memos with domestic violence information,"[90] establishing her as the liason between INS and the domestic violence community, as she was asked to be by Alex Aleinikoff, Executive Associate Commissioner of the INS at the time.[91]

Room for the influence of advocates was allowed for by ambiguous legislative language. For example, evidentiary standards, such as accepting "any credible evidence," provided advocates with an arena in which to help define what criteria for

---

[87] Family Violence Prevention Fund, "Battered Immigrant Women's Rights Project: Final Report," 5.
[88] Leslye Orloff, Janet Calvo, Bill Tamayo, Rosa M. Fregoso, Terry Helbush, and Gail Pendleton. Letter to: Alex Aleinikoff, INS General Counsel. Re: Implementation of Interim Measures for Battered Immigrant Women Provisions of the Violence Against Women Act," 27 Dec. 1994, 1.
[89] Family Violence Prevention Fund, "Battered Immigrant Women's Rights Project: Final Report," 2.
[90] Leslye Orloff, interview by Sujata Barai, 18 Dec. 1997.
[91] Ibid.

"credible" should be and what types of evidence would be included under the rubric of "any."[92] Advocates urged the INS to consider the difficulties of gathering evidence for battered women, who often flee in a hurry and would be in danger if they returned to the home to collect documents for evidence.[93] Advocates also educated officials about what the different categories of documentation in cases of domestic violence, such as protection orders, police reports, civil court records, and affidavits, should mean in their consideration of a self-petition case.[94]

In addition, terms such as "extreme hardship" and "good moral character" are open to wide-ranging interpretation by INS officials. Advocates sought to inform officials' regulatory discretion by educating them to take into account the ways that domestic violence can distort the availability or applicability of an immigration remedy. In particular, advocates argued that "Congress intended extreme hardship to be interpreted in the context of abuse."[95] Thus, advocates introduced as criteria of extreme hardship certain situations a battered woman might face if deported, such as lack of legal protection from domestic violence, fear that her husband who might follow her there, or facing shame and reprimand from family and community members for speaking out

[92] See Orloff, Calvo, and Tamayo. Letter to: Kathleen Sullivan, 2 Nov. 1994, 6, 9, 11.
[93] See Leslye Orloff and Leni Marin, on behalf of the National Network for Battered Immigrant Women. Letter to: Rita Bouie Arthur, Immigration and Naturalization Service. Re: "Self-Petitioning Regulations and the Difficulties Faced by Battered Women in Providing Documentary Evidence," 17 March 1995, 3, 13.
[94] Leslye Orloff, Leni Marin, and Deborah Weissman. Letter to: Amy Jeffress. Re: "Evidentiary Concerns in Battered Immigrant Women Proceedings," 23 May 1995.
[95] Janet Calvo, "The Violence Against Women Act: An Opportunity for the Justice Department to Confront Domestic Violence," 72 *Interpreter Releases* (10 Apr. 1995) 490.

about the abuse.[96] Such factors were not ones that the INS would have normally included in its conception of extreme hardship, but advocates for battered immigrant women got them to understand that the women applying for these remedies were unlike other immigrants, that they faced special barriers related to their status as victims of domestic violence.

A second major regulatory issue about which advocates were greatly concerned was the granting of work authorization to women applying for the VAWA remedies. By explaining in domestic violence terms the importance of financial independence for battered women leaving their abusers, advocates urged the INS to create special guidelines for granting work authorization to battered immigrant women. The usual immigration procedure for an immigrant applying for legal permanent residency is to receive work authorization upon receipt of his or her green card. For spouses of legal permanent residents, the wait in the visa queue can often be four years.[97] During these four years, if a battered immigrant woman is unable to get a job because she does not have work authorization, her ability to leave her abuser is effectively non-existent. Advocates argued that an exception should be carved out in work authorization regulations for battered immigrants, whose unique needs as victims of domestic violence merit special consideration.

---

[96] See Leslye Orloff. Letter to Amy Jeffress. Re: "Discussion of Concerns Regarding the Regulations," 6 July 1995. See also Leslye E. Orloff, for the National Network on Behalf of Battered Immigrant Women. Letter to: Bonnie Campbell, Violence Against Women Office; Lisa Sorkin, Office of Policy Development, Justice Department, and Amy Jeffress, Office of the Deputy. Re: "Summary of the Most Significant Concerns About the Immigration Regulations Implementing the Violence Against Women Act," 7 Dec. 1995, 1: "In making extreme hardship decisions in VAWA cases, immigration judges and INS officers must accept and consider evidence of the history, context and consequences of abuse."

[97] Ursula Levelt, presentation at workshop *Women's Realities: Understanding Violence Against Immigrant Women*, 20 March 1998.

Advocates urged that "work authorization should be granted when the self-petition filed contains credible evidence that they have been a victim of battering or extreme cruelty perpetrated by a U.S. citizen [or] lawful permanent resident spouse."[98] INS officials have been encouraged by the agency's central office "to utilize voluntary departure and deferred action in order to provide approved VAWA self-petitioners with employment authorization pending the availability of a visa number."[99] These two immigration categories can be understood in the following way for battered immigrant women:

> For women who are married to LPRs, their only...options are to request... voluntary departure (which requires the person to leave the country, but avoids the stigma of deportation, and most importantly, it facilitates the possibility of immediate return to the United States) or deferred action (where the INS determines that 'adverse action would be unconscionable because of the existence of appealing humanitarian factors,' the INS will take no action to disturb the immigration status so that departure from the United States is deferred indefinitely), and to request work authorization under those statutes. [100]

However, other changes in immigration law, embodied in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRAIRA), have since made voluntary departure unavailable as a roundabout remedy. Deferred action is the only remaining status in immigration law into which battered immigrant women can be placed in order to receive work authorization more quickly than normally possible.[101] Although the INS

---

[98] Family Violence Prevention Fund, "Battered Immigrant Women's Rights Project: Final Report," 5.
[99] Paul W. Virtue (Acting Executive Associate Commissioner). Letter to: Regional Directors, District Directors, Officers-in-Charge, and Service Center Directors. Re: "Supplemental Guidance on Battered Alien Self-Petitioning Process and Related Issues," 6 May 1997, 3.
[100] Tien-Li Loke, "Trapped in Domestic Violence: The Impact of United State Immigration Laws on Battered Immigrant Women," 6 *Boston Public Interest Law Journal* 589 (Winter 1997) 609, footnote 145.
[101] T. Alexander Aleinikoff (Executive Associate Commissioner). Letter to: All Regional Directors, District Directors (Including Foreign), Service Center Directors, and Officers in Charge (Including Foreign). Re: "Implementation of Crime Bill Self-Petitioning for Abused or Battered Spouses or Children of U.S. Citizens or Lawful Permanent Residents," 16 April 1996, 5: "A person who has been placed in deferred action status may request employment authorization under 8 C.F.R. 274a.12(c)(14) if the person shows an economic need to work."

central office "strongly encouraged" district offices to grant all such women deferred action status,[102] some preliminary spot-checking on the part of activists reveals that all women have not been granted deferred action.[103] Thus, there is no guarantee that battered immigrant women will receive the work authorization that they need in order to successfully establish independence. The issue of guaranteeing work authorization for immigrant victims of domestic violence is one that activists are still pushing for, as described in Chapter 5.

The ability of activists to bring their concerns directly and frequently to the INS was facilitated by the sympathetic ears of INS leaders. Doris Meissner, the Commissioner of the INS, cared greatly about women's issues in general, and specifically about domestic violence. Walter Laramee, supervisor at the INS Service Center in Vermont, which eventually took over the handling of all VAWA self-petitions, was also receptive to activists' efforts to educate INS officials and willing to incorporate a recognition of domestic violence issues into interpretations of immigration policies. Both of these high-ranking INS officials understood, or at least wanted to understand, the ways that domestic violence and immigration concerns intersect to make the situation of battered immigrants more problematic and sensitive than that of most other immigrants. In Orloff's words, these officials "got it" – that is, they understood the dynamics of domestic violence and the role the INS should play in providing the protection Congress envisioned for battered immigrant women.[104] Orloff and others in the women's advocacy community also contacted officials in the Violence Against Women Office almost

[102] Virtue. Letter re: "Supplemental Guidance on Battered Alien Self-Petitioning Process and Related Issues," 6 May 1997, 3.
[103] Levelt.
[104] Leslye Orloff, interview by Sujata Barai, 27 Feb. 1998.

immediately after the VAWA was passed; they wanted to put these Department of Justice officials' influence behind their efforts to gain access to another Department of Justice branch, the INS.[105]

The INS regulations implementing the immigration provisions of the VAWA were not published until March 26, 1996, even though the VAWA went into effect on January 1, 1995. Activists were not concerned about the delay itself, but more about whether effective interim regulations would go into effect while the final regulations were being worked out. Activists felt that the length of time it took the INS to publish the regulations was not due to any intentional stalling or delay tactic on the agency's part, but arose genuinely from the agency's preoccupation with other pressing matters and from the amount of time it might take for officers to gain the understanding of the dynamics of domestic violence necessary to write comprehensive regulations. [106] Advocates preferred that the INS took the time it needed to write well thought-out regulations that reflected the recognition that victims of domestic violence need special consideration in immigration policies.[107] As Leslye Orloff wrote in a letter to Amy Jeffress, Special Assistant Deputy Attorney General in the Department of Justice, "INS will need time to gain an understanding of the dynamics of domestic violence and to be able to evaluate the effect that the regulations they contemplate will have on the battered women...who were the Congressionally intended beneficiaries of this legislation."[108]

One of the primary manifestations of an understanding of the dynamics of

[105] Kathleen Sullivan, telephone interview by Sujata Barai, 19 Feb. 1998.
[106] Ibid. and Leslye Orloff, interview by Sujata Barai, 27 Feb. 1998.
[107] Leslye Orloff, interview by Sujata Barai, 18 Dec. 1997 and Kathleen Sullivan, telephone interview by Sujata Barai, 19 Feb. 1998.
[108] Leslye Orloff. Letter to: Amy Jeffress. Re: INS Cable, 26 Jan. 1994.

domestic violence on the part of the INS was the centralization of self-petition applications in the INS Regional Service Center in Vermont. Advocates' concern was that although the Congress had passed a law that could theoretically help all qualifying battered immigrants escape abuse, the application of the legal remedies would be inconsistent across INS offices. The battered spouse waiver has always been filed through INS district offices. The cancellation of removal remedy, because it is invoked in deportation hearings, is handled by the immigration judge presiding over the case. The self-petition remedy, however, is the one that could potentially help the greatest number of battered immigrant women, and its administration was thus a focus for advocates. As explained by Leslye Orloff, "We knew we needed to have a corps of people whom we could train in domestic violence issues."[109]

Orloff and others broached to INS officials the idea of centralizing the administration of self-petitions. Many INS officials recognized that "[t]he nature of domestic violence and the sensitivity needed in dealing with victims are topics to which few INS officers will have had exposure."[110] When Alexander Aleinikoff sent a memorandum to all regional service centers posing the idea of centralization, the Vermont center responded and expressed a willingness to take on the role of the self-petition clearinghouse. Walter Laramee, supervisor at the Vermont Service Center and Bill Yates, the Center's Director, seemed to have an awareness and understanding of the problem of domestic violence, and recognized the need for such a corps.[111] The centralized adjudication of self-petitions was "motivated...by the goal of having a small

[109] Leslye Orloff, interview by Sujata Barai, 18 Dec. 1997.
[110] Virtue. Letter, 6 May 1997, 7.
[111] Leslye Orloff, interview by Sujata Barai, 18 Dec. 1997.

corps of officers well-trained in domestic violence issues,"[112] and was the result of advocates' efforts to ensure that battered immigrant women's applications would receive consistent treatment that was sensitive to their situation as victims of domestic violence.

As explained earlier, Leslye Orloff was the primary link between INS and the advocacy community. According to Sullivan, Orloff was an effective advocate amongst officials because she "established a relationship with the INS that gave her good access to them"[113] and because she represented primarily domestic violence concerns. Gail Pendleton, of the National Immigration Project, describes the caution that was required of certain advocates when dealing so closely with the INS. Because the VAWA provisions for battered immigrant women were "supposed to be a domestic violence issue," activists and attorneys in the immigration community had to be careful not to play too prominent of a role in dealing with the INS.[114] Overall, though, Sullivan describes the relationship among advocates and the INS on the issue of policies for battered immigrant women as "as intensive of a give-and-take on regulation writing as I've ever seen." She explains that "most of the time, the advocacy community doesn't get anywhere near the agencies."[115] However, Orloff and others were successful in establishing an unprecedented level of access to the INS, partly through their vigilance in pursuing contacts within the INS and partly because the INS *could* be responsive to the issue when posed as a domestic violence concern.

---

[112] Virtue. Letter, 6 May 1997, 7.
[113] Kathleen Sullivan, telephone interview by Sujata Barai, 19 Feb. 1998.
[114] Gail Pendleton, telephone interview by Sujata Barai, 21 Jan. 1998.
[115] Kathleen Sullivan, telephone interview by Sujata Barai, 19 Feb. 1998.

Conclusion: Doing What Works

Along with the realization that they needed to organize more effectively in order to pursue national-scale policy reforms for battered immigrant women, advocates were also becoming aware in the early 1990s of what exactly those policy reforms should be. Based on the inadequacies of the battered spouse waiver, select activists began to craft legislative provisions for battered immigrant women within the framework of the Violence Against Women Act. The landmark gathering of immigrant and women's rights activists in 1991 made such collaboration on policy initiatives possible and probable. The *Dreams Lost, Dreams Found* conference, as a first-ever meeting ground for these activists from diverse advocacy backgrounds, established a model of cross-issue education and coalition-building. The coalition-building and education efforts eventually snowballed into the National Network on Behalf of Battered Immigrant Women, a federation of activists and service providers from immigration law, family law, immigrant rights advocacy, and anti-domestic violence advocacy backgrounds. Greater coherency in the advocacy community, the result of bigger and better connections, enjoyed a symbiotic relationship with more consistent and extensive political efforts for the bigger and better provisions of the VAWA. That is, the NNBBIW's membership both facilitated better lobbying and more extensive provision of technical assistance to members of Congress, and grew as a result of the VAWA victory.

The VAWA victory was a two-step process for advocates. They first focused their efforts on what it would take to secure the passage of a VAWA with provisions for battered immigrant women and strategized to enlist the lobbying support of mainstream women's and anti-domestic violence groups. The coincidental anti-immigrant sentiment

and sympathy for domestic violence made such coalition-building critical to the success of advocates' efforts on behalf of battered immigrant women. Meanwhile, advocates were themselves forging close relationships with Congressional aides, such as Kathleen Sullivan and Cordia Strom, to provide them with technical assistance in the crafting of the language of the provisions. Some political action was out of advocates' hands, though. They benefited from, but had no control over, the personal relationship between Senator Kennedy and Senator Simpson, friendly colleagues with opposing political views. Those who opposed the provisions or harbored doubts about them were urged to consider them as remedies for victims of domestic violence and not necessarily as expansionary immigration changes. This argument purposefully cast battered immigrant women on a single-axis of domestic violence concerns, not at the intersection of domestic violence and immigration. Also, these officials' attention was directed toward the many true stories of battered immigrant women as well as the statistical evidence of the severity of the problem.

The second aspect of successful political advocacy for the VAWA consisted of establishing strong and close links with the INS in order to ensure the proper implementation of the VAWA remedies. To INS officials, advocates also presented the domestic violence-related obstacles in battered immigrant women's paths. However, the education of INS officers more often involved the dissecting and close examination of the ways immigration concerns were exacerbated by their intersection with domestic violence problems, rather than the portrayal of battered immigrant women as part-and-parcel of the mainstream constituency of battered women.

Kimberle Crenshaw, the originator of intersectionality analysis, herself admits

that sometimes, "People can only demand change in ways that reflect the logic of the institutions they are challenging. Demands for change that do not...will probably be ineffective."[116] The demands for change of advocates for battered immigrant women were effective precisely because they reflected the character of each group to which the demands were made. When advocates began to come together and demand from themselves and others in the advocacy community that activism for battered immigrant women become more consistent, coherent, and just plain bigger and better, they employed advocacy methods, such as cross-issue education, that represented the intersection of the many issues pertinent to battered immigrant women. When advocates demanded policy reforms from a Congress that seemed hostile to pro-immigrant issues but sympathetic to anti-domestic violent efforts, they effectively mainstreamed battered immigrant women's concerns and pursued policy changes under the auspices of the larger Violence Against Women Act. And, when advocates demanded from the INS that the regulations not only capture the spirit of the law, but also reflect a detailed understanding of the dangerous confluence of domestic violence and immigration complications, they were tireless in their efforts to bring to light for the INS the myriad considerations of immigrant women who are victims of domestic violence. In short, at each step in the advocacy process for these provisions, advocates have needed to figure out how to negotiate, in their presentation to the different audiences, the intersection of battered immigrant women's interests. Policy success required that advocates for battered immigrant women utilize whichever methods will result in the best protection in the end for their constituency, that they do what works.

---

[116] Kimberle Crenshaw, "Race, Reform and Retrenchment: Transformation and Legitimation in Antidiscrimination Law," 101 *Harvard Law Review* 1331 (1988) 1367.

> ***"At this point in time, advocacy efforts are critical to defend the legal and economic options of battered immigrant women. For most legislators, judges, and policy makers, battered immigrant women remain a faceless population."***
>
> Louisa Gilbert, Columbia University School of Social Work, presentation at conference: *Domestic Violence Among South Asian, East Asian and Arab Immigrant Women,* 17 October 1997.[1]

CHAPTER 5

FINDINGS AND CONCLUSIONS: Negotiating the Intersection

The story of political advocacy in pursuit of policy reforms that this thesis has presented must be understood as a slice of history and certainly not as the whole pie. Advocacy for battered immigrant women is very much an on-going effort, and stronger today than at any time described in the previous chapters, as indicated by Louisa Gilbert's declaration above. The strength of current advocacy is derived from its past success, beginning formally with organizing for immigrant women's rights in the late 1980s, and leading to a culmination of sorts with the passage of the provisions for battered immigrant women in the Violence Against Women Act of 1994. Far from resting on their laurels, advocates for battered immigrant women are already busy pursuing policy initiatives to improve the protection that federal laws can offer their constituency. Continuing and expanded efforts are based on a realization of the implications that myriad immigration and social welfare policies have for battered immigrant women, beyond the major and most directly

[1] Louisa Gilbert, Social Intervention Group, Columbia University School of Social Work, conference paper: "Scope of the Problem: Domestic Violence Among South Asian, East Asian and Arab Immigrant Women." Conference title: *Domestic Violence Among South Asian, East Asian and Arab Immigrant Women: Challenges and Solutions,* October 17, 1997, New York City.

relevant laws outlined in this thesis.

Presented in this chapter are a few key policy reforms, which advocates are pursuing in the upcoming months and years that hold great import for battered immigrant women. They expose the nexus of considerations that must be taken into account in order to address their plight: The policies delineated here have been showcased not only because they are among the major recent or upcoming initiatives, but also because they illustrate well the intersection of concerns that symbolizes the plight of battered immigrant women and the ways that advocates must negotiate this intersection in the policy advocacy process. While illustrative, this set of policy considerations is not exhaustive.

Advocates for battered immigrant women plan to propose a number of changes in the upcoming Violence Against Women Act of 1998, popularly known as VAWA II, which will be introduced in Congress this year by Senator Kennedy and other sponsors. Some changes are minor, some are major, but certainly, they cannot all be presented here. The reforms being pursued are primarily modifications to the provisions for battered immigrant women in the Violence Against Women Act of 1994.[2] At the next meeting of the National Network on Behalf of Battered Immigrant Women in April of 1998, advocates will decide on policy priorities and political strategies with regard to VAWA II. Another initiative that will not be elaborated in detail here, but is another example of continuing policy innovation for battered immigrant women, is the use of gender asylum

[2] See Ayuda, Inc., "Topical Index and Explanation of VAWA II, Battered Immigrant Women Subtitle C," version that was updated 10 Dec. 1997.

policies to enable battered immigrant women to remain in the United States legally.[3] In sum, then, there are many policies with many implications for battered immigrant women, but presented here are just a few, which highlight intersectional problems to which advocates are devoting their time and energy.

The second part of this chapter presents political findings and conclusions drawn from the story told in this thesis. Functioning as a summary and highlights of the political advocacy for battered immigrant women that was responsible for making provisions for battered immigrant women a part of U.S. immigration policy, these findings locate political advocacy for battered immigrant women at the intersection of interests that is necessarily a part of their constituency's lives. Advocates recognize this intersection, and are compelled to pursue protections for battered immigrant women precisely because these nonresidents are in a uniquely precarious position due to their intersection of vulnerabilities as immigrants and as women. These findings are not just a matter of political history, though. Many of the strategies that proved successful in the past with Congress, the Immigration and Naturalization Service, and among fellow advocates are currently being employed in advocacy efforts, or will be put to use in the future. Political advocacy for battered immigrant women is characterized both by the

[3] Adopted by the U.S. in 1995, gender asylum policies are a modification of existing asylum policy. Gender asylum recognizes factors contributing to actual persecution or a well-founded fear of persecution based on an applicant's gender, such as rape, domestic violence, or other sexual torture, coupled with the government's inability or unwillingness to protect women from such abuse, as legitimate reason to grant asylum status. Though directed toward women fleeing gender-based persecution in their home countries, gender asylum policy is being used by some advocates for battered immigrant women in the U.S. Gender asylum may be invoked for a woman who does not qualify for the battered spouse waiver, self-petitioning, or cancellation of removal – for example, a woman who is married to an abusive husband who is not a U.S. citizen or legal permanent resident, or an immigrant woman who is not married at all -- but can prove that she will face gender-related persecution if she returns to her country of origin. Gender asylum policy is certainly more complex than this footnote. For more information, see: Patricia A. Seith, "Escaping Domestic Violence: Asylum as a Means of Protection for Battered Women," 97 *Columbia Law Review* 1804 (Oct. 1997) 1804-1843; Pamela Goldberg, "Anyplace but Home: Asylum in the United States for Women Fleeing Intimate Violence," 26 *Cornell International Law Journal* 565 (1993) 565-604.

actual policy reforms that it catalyzed and by the internal growth of this advocacy into a well-defined and broad-based movement for the rights of battered immigrant women.

Policy Implications: A Nexus of Considerations

As demonstrated throughout this thesis, the situation of battered immigrant women is incredibly complicated – an intersection of myriad factors that reflect their unique vulnerabilities as foreign-born, nonresident women dominated by abusive partners. While the laws and regulations that are the focus of this thesis are the most directly relevant to helping battered immigrant women free themselves of their husbands' control, this population's contingent vulnerabilities demand an examination of other immigration and social welfare policies that can help or hurt their well-being. Indeed, for battered immigrant women, the nexus of considerations requires advocates to be vigilant and highly attuned to the needs of their constituency in all spheres of law and policy.

- ***Improving the Process*** → See 2000 VAWA II

  The following policy changes are currently being pursued by advocates in order to improve the process by which battered immigrant women receive protection from the Violence Against Women Act of 1994 remedies. These are two of many procedural improvements that advocates plan to pursue, but they are being highlighted in this section because they are two major changes, and they seem prominent on the reform priority list of many advocates. Furthermore, these changes clearly reflect the intersection of domestic violence and immigration concerns, and are being pursued based on arguments about the complications that these immigrant women encounter by virtue of being victims of domestic violence.

245(i)

Extending 245(i): Section 245(i) of the Immigration and Nationality Act of 1952 allowed immigrants who were in line for becoming legal permanent residents to remain in the United States instead of returning to their home country while awaiting their green cards. Often the wait for a green card can be between three and five years. Immigrants who wished to remain in the U.S. for the wait were required to pay a $1,000 fine.[4] This provision expired on January 14, 1998, and Congress chose not to extend its life.[5] No exception was made for battered immigrants: any battered immigrant woman who has or will successfully utilize any of the VAWA remedies after January 14 will be required to return to her country of origin to await her visa processing.

Advocates cite the non-extension of this policy as one that could have disastrous effects for battered immigrant women, and moreover, that contradicts both the purpose and practice of the VAWA remedies. Janet Calvo and Martha Davis explain that "many abused women and children could not return to their home countries even to process a visa application because they would be in danger from their spouses or parents or their spouse's families, and the law of their home countries would not protect them."[6] If a woman has obtained an order of protection in the United States against her husband, it will not protect her once she leaves the U.S. Moreover, some countries do not have laws forbidding spousal abuse, as noted in Chapter 1, and women could thus be at the mercy of their individual husbands who could follow them to the country, and of the system in general. On a legal note, activists argue that not allowing women the protection of 245(i) contradicts the protective intent and procedure of self-petitioning and cancellation of removal. In order to avail herself of either remedy,

[4] This payment is considered a "fine" because the immigrants awaiting their visa are paying the U.S. government for the privilege of staying in the United States even though they are technically undocumented. (An immigrant remains classified as 'undocumented' even if he/she has a pending visa application.)

[5] Dena Bunis, "Rohrbacher Opposes Immigration Extension," *The Orange County Register*, 27 Sept. 1997.

[6] Janet M. Calvo and Martha F. Davis, "Congress Nears Approval of Legislation to Protect Abused Aliens," 70 *Interpreter Releases* (20 Dec. 1993) 1668.

a battered immigrant woman must demonstrate that being returned to her country of origin would cause extreme hardship to herself or her children. The non-extension of section 245(i) is inconsistent with the VAWA in that "all VAWA applicants will have already demonstrated to INS that they will suffer extreme hardship if returned to their home country, but they will still be forced to leave anyway,"[7] possibly for several years, until their place in the green card queue becomes current.

Advocates have already enlisted the support of Representative Constance Morella (R-MD) to introduce legislation that would allow battered immigrants to invoke the protection of 245(i). The plan is for Representative Morella to introduce this exemption for battered immigrant women soon, in the form of a small technical amendment to immigration law, which Leslye Orloff predicts should be "relatively easy to fix."[8] If this amendment passes, it will be subsumed by the larger Violence Against Women Act II, which will be introduced in Congress later in 1998. Moreover, this policy issue will serve as a political litmus test for the VAWA II. Orloff explains that based on Congress members' reactions to 245(i), activists "will know who our friends are, and will ask them to sign onto VAWA II."[9]

Though Orloff predicts that this exemption will get through Congress with relatively little opposition, she and other advocates are nonetheless pursuing a lobbying effort. Organized by the National Network on Behalf of Battered Immigrant Women, member groups across the United States are gathering true stories from their own files and from other service providers of women who would be forced to return to a dangerous situation in their home country if they are not able to avail themselves of 245(i). As a letter from the Urban Justice Center, one of the organizations aiding in the story-gathering effort, to fellow

[7] Ayuda, Inc. "Action Alert: Help Battered Immigrant Women by Sending Stories of Women Harmed by November Changes to Immigrant Laws," approximate date Jan./Feb. 1998.
[8] Leslye Orloff, interview by Sujata Barai, 27 Feb. 1998.
[9] Ibid.

advocates explains, "[I]f this exception is going to pass, we need to bring the reality of immigrant battered women's lives to Washington."[10]

Allowing deferred payment of fine: In addition to arguing for an extension of 245(i) for battered immigrants, advocates will also insist that the INS allow an installment method of payment of the $1,000 fine. As Leslye Orloff and Minty Siu Chung, both of Ayuda, Inc., explain in a letter to INS officials,

> VAWA applicants [should] be allowed to pay the adjustment penalty at the time of the adjustment interview, rather than at the time of filing....There is no reason to demand payment up-front from a group of individuals already suffering economic pressures to return to violent relationships. Instead these applicants need time and work authorization to build up the economic resources necessary to escape violence."[11]

A true story of the difficulty such fees can create for battered immigrant women that advocates have repeated cited in letters to the INS about 245(i) is the following:

> In one Washington, D.C. case last year, a battered woman returned to her abuser after discovering that she would have to pay $780 up-front to the Service in order to file a VAWA application. Having just left her abuser, she did not have enough resources to pay the penalty, forsook her immigration case, returned to her abuser, and subsequently had her nose broken.[12]

Advocates will thus be using strategies of persuasion which have been successful in the past – the use of personal stories and enlisting the support of an ardent supporter in Congress. Moreover, their argument for extension of 245(i) to battered immigrants is based on the complications that domestic violence creates for an immigrant, thus justifying that as a battered immigrant, a woman should be offered special protective provisions that might not otherwise be necessary for ordinary immigrants.

---

[10] Katya Frischer (Committee for Immigrant Battered Women, Urban Justice Center). Letter to: Dear Colleague. Re: collecting stories about the negative effects of not having a 245(i) exception for battered immigrant women, 1 March 1998.

[11] Leslye Orloff and Minty Siu Chung (both of Ayuda, Inc.). Letter to: Immigration and Naturalization Service. Re: Proposed Rule Implementing Portions of IIRAIRA 62 Fed. Reg. 444-517, exact date not listed, but is post-IIRAIRA.

[12] Orloff and Chung. Letter, post-IIRAIRA.

- *extreme hardship*

A second major change that advocates hope to include in the Violence Against Women Act II is the elimination of the extreme hardship requirement in self-petitioning cases. In cases of cancellation of removal, or suspension of deportation, the elimination of this requirement would not be possible, as demonstrating extreme hardship if forced to return to the country of origin is tied to the very notion of suspending deportation.[13] However, in the case of self-petitioning, many advocates feel that extreme hardship should not have been included as a requirement in the first place, as noted in Chapter 4. In the processing of the application itself, it creates a burden that is unnecessary and lengthens the procedural time, as explained by Gail Pendleton in Chapter 2. Also as noted in that chapter, the extreme hardship requirement can arbitrarily impact women from different countries differently. A battered immigrant woman from Iran will more easily be able to prove that she would suffer under a system that does not protect her interests than a battered immigrant woman from a Western European country.[14] Most importantly, activists believe that it "waters down the ameliorative intent of VAWA."[15] If the purpose of the self-petitioning remedy is to provide immigrants who have been battered with a way to free themselves from the control that their abusive spouses have over their immigration status – immigrants who have suffered extreme hardship in the U.S. at the hands of citizens and legal permanent residents – then a burdensome requirement to prove extreme hardship in the country of origin is pointless and misguided.

Advocates' argument to extend 245(i) to battered immigrants is based upon the fact that women ought not be forced to return to the extreme hardship they have already demonstrated they will suffer in their country of origin. If the extreme hardship requirement in self-petitioning is eliminated, this legalistic argument for extending 245(i) will no longer be relevant, but the reality of the problems that a return to the country of origin could cause for a battered immigrant woman will

[13] Leslye Orloff, interview by Sujata Barai 27 Feb. 1998.
[14] Leni Marin, interview by Sujata Barai, 17 Dec. 1997.
[15] Ibid.

not change. Thus, advocates are pursuing both reforms, and ideally, these changes would co-exist to improve the process by which battered immigrant women can avail themselves of the VAWA remedies.

- ***Completing the Picture***

Although the laws detailed in this thesis that allow battered immigrant women to leave their abusive husbands without fear of deportation – the battered spouse waiver, self-petitioning, and cancellation of removal – are tremendous advancements in immigration policy for victims of domestic violence, they are actually just a first step in helping battered immigrant women free themselves of their husbands' control. Advocates have not ended their efforts at the passage of the VAWA, which provides the most extensive remedies for battered immigrant women. They realize that these remedies are but half of the picture, and that the major component necessary to complete a picture of independence for battered immigrant women is their ability to financially support themselves and their children. The Family Violence Prevention Fund reports that "[e]conomic dependence of women upon their abusive partners is one of the ***primary*** reasons they remain in violent relationships."[16] Moreover, research indicates that "[t]he level of economic resources available to an abused woman is the best indicator of whether or not she will permanently separate from her abuser."[17] Immigrant women are no different from other battered women who are forced to weigh the challenge of establishing financial independence against the horror of remaining in an abusive home. In the Ayuda survey of Latina immigrant women, cited in Chapters 1 and 4, it was shown that "the main reason immigrant women remain in abusive relationships is because of money, and that the main barrier these women face after leaving their abusers is money."[18] For battered immigrant women who have left their abusers and are in dire financial straits, the avenues to finding financial support outside of the abusive home are usually two-fold: getting a

[16] Leni Marin. Letter to: Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service." Re: "Proposed Rule Implementing Portions of IIRAIRA 62 Fed. Reg. 444-517," 4 Feb. 1997 (bold and italics in original).
[17] Ibid.
[18] Leslye E. Orloff and Nomi Dave, "Identifying Barriers: Survey of Immigrant Women and Domestic Violence in the D.C. Metropolitan Area," *Poverty & Race* 6:4 (July/Aug. 1997) 10.

job or receiving public benefits (which may also entail employment). However, both avenues harbor obstacles for immigrants that advocates have devoted themselves to removing.

- ***work authorization***

  Guaranteeing work authorization: Ursula Levelt, a consultant to the Center for Immigrants' Rights, in a workshop presentation to social workers and service providers, stated in her explanation of how to help battered immigrant women once their visa applications have been approved, "I don't even have to tell you how important work authorization is for these women."[19] Case after case in the National Network on Behalf of Battered Immigrant Women's "Untold Stories" booklet, described in Chapter 4, demonstrates the need of the victims for work authorization, and their reluctance to leave the abusive relationship for that reason. Levelt's statement encapsulates well the importance that advocates attach to this policy provision. In fact, the granting of work authorization to battered immigrant women whose visa petitions are pending is perhaps the most important issue for advocates because of its significance in for victims of domestic violence.

  The implications of the U.S. immigration work authorization policy for battered immigrant women are great. Indeed, "[w]ithout work authorization these women remain economically dependent on the U.S. citizen or lawful permanent resident batterer and are unable to leave their abusive relationship."[20] Those women who need to support themselves and their children independently, with or without work authorization, are "likely to find only the jobs that are offered by unscrupulous employers who subject their workers to low wages and poor working conditions and threaten deportation if the workers resist."[21]

---

[19] Ursula Levelt, conference presentation, Women's Realities: Understanding Violence Against Immigrant Women.

[20] "Introduction" in "Untold Stories: Cases Documenting Abuse by U.S. Citizens and Lawful Residents on Immigrant Spouses" (San Francisco: Family Violence Prevention Fund, Nov. 1993).

[21] Deeana L. Jang, "Caught in a Web: Immigrant Women and Domestic Violence," *National Clearinghouse* (Special Issue 1994) 404.

As noted in Chapters 2 and 4 and earlier in this chapter, even after a battered immigrant woman's self-petition or cancellation of removal is approved, she may have to wait years until she obtains a visa. As a general rule, immigrants "cannot request work authorization until they have properly filed an adjustment of status, but they cannot file to adjust their status until a visa is issued."[22] Moreover, the VAWA itself "does not direct the [Immigration and Naturalization] Service to provide employment authorization based solely on the filing or approval of a self-petition."[23]

Due to the urging of advocates during the VAWA regulation-writing process, the INS has, to an extent, recognized the dire need for work authorization for an immigrant woman leaving her abusive husband. That is, merely getting a self-petition approved is not enough; she must be able to effectively self-sustain. As a result, as explained in Chapter 4, the INS has tried to expedite the process of granting work authorization in an indirect manner, by placing battered immigrant women in immigrant categories, "voluntary departure" and "deferred action," that allow them to file for authorization earlier than is normal. However, the 1996 IIRAIRA eliminated this process of granting voluntary departure. The only remaining category for these women to be placed into is "deferred action." Though INS officers have been directed to grant deferred action status to enable battered immigrants to obtain work authorization, this practice may not be being carried out on a consistent basis, as Ursula Levelt's recent informal checking of applications, cited in Chapter 4, reveals. Moreover, even if INS officials in all district offices happened to be granting work authorization through deferred action status, the fact still remains that work authorization is not guaranteed for battered immigrant women.

---

[22] Tien-Li Loke, "Trapped in Domestic Violence: The Impact of United States Immigration Laws on Battered Immigrant Women," 6 *Boston Public Interest Law Journal* 589 (Winter 1997) 608.

[23] Immigration and Naturalization Service, "Petition to Classify Alien as Immediate Relative of a United States Citizen or as a Preference Immigrant; Self-Petitioning for Certain Battered or Abused Spouses or Children," 61 *Federal Register* 13061 (26 March 1996) 13070.

In recognition of the importance of establishing financial independence for victims of domestic violence and the uncertainty in INS procedures, advocates in the VAWA II will pursue reforms that would either *guarantee,* through law, the granting of deferred action status for self-petitioners and those seeking cancellation of removal, or would create a special work authorization category for battered immigrants that would enable women to obtain the authorization directly if they can establish that they have in fact suffered abuse at the hands of a U.S. citizen or legal permanent resident to whom they were married,[24] a system whereby "all VAWA applicants [could] apply for work authorization simultaneously with their self-petition."[25] Advocates hope to convince members of Congress and the INS that a battered immigrant woman's needs as a victim of domestic violence outweigh the desire of government officials to preserve immigration work authorization policies as they are.

- ***public benefits***

Benefits provided by the government for general sustenance can be critical components to battered immigrant women's independence. Without the guarantee that they will receive help if they leave their husbands, battered immigrant women may choose not to leave after all, in spite of the immigration provisions such as the battered spouse waiver or the self-petition, which enable them to gain legal independence. As explained by Louisa Gilbert, an Investigator with the Columbia University School of Social Work who is currently conducting research on battered immigrant women in New York City, "The erosion of the public safety net for immigrant women in abusive relationships essentially closes their option of moving out."[26] Two important public benefits, the Legal Services Corporation and welfare, are outlined below, both of which are central to the ability of battered immigrant women to leave their batterers.

---

[24] Note that in this case, the woman would not have to have an actual approved self-petition or cancellation of removal, but would just have to successfully file the portion of her application that requires proof of physical abuse or extreme mental cruelty.
[25] Loke, 618-619.
[26] Gilbert.

Allowing use of the Legal Services Corporation: The Legal Services Corporation (LSC) is "a nonprofit, quasi-governmental organization created in 1974 to provide legal aid to the disadvantaged."[27] As the nation's leading pro bono legal agency, the LSC has long served many immigrants in need of legal representation who have few financial resources. However, in a budget appropriations bill in 1996,[28] Congress cut funding for the LSC and "barred local Legal Services offices from using even private donations to represent immigrants who are not lawful permanent residents."[29] Advocates for battered immigrant women reacted to this change with great concern. Any battered person, irrespective of immigrant status, is entitled under law to pursue an order of protection and other legal remedies to protect them from a batterer. If unable to turn to the LSC, however, many battered immigrant women will not be able to seek the protection they need from their abusers, advocates have argued.

Advocates won a victory for battered immigrant women in the 1996 IIRAIRA, which created an exception to the LSC restriction to "allow legal services agencies to assist many undocumented abused women in related legal matters without jeopardizing their funding."[30] Although advocates urged this change, the exception was in large part prompted by the real-life case of a Cuban immigrant woman, Mariella Batista, who was being beaten by her common-law husband, went to a local Legal Services office to seek an order of protection and was denied help because the office was prohibited from aiding immigrants who were not legal permanent residents. Just one week later, she was shot to death by her husband.[31] This change to the LSC restrictions clearly exemplifies the ways in which the dynamics of domestic violence render immigrant women even more vulnerable than other immigrants, a difference that represents the intersection of domestic violence and immigration concerns.

---

[27] Barbara Vobejda, "Congressional Curbs on Legal Aid Programs Challenged in Court," *The Washington Post*, 10 Jan. 1997.
[28] The Omnibus Consolidated Recissions and Appropriations Act of 1996, P.L. 104-134.
[29] "A Test of Congressional Conscience," *The New York Times*, 9 June 1996.
[30] Family Violence Prevention Fund, "Battered Immigrant Women's Rights Project: Final Report," submitted to the Public Welfare Foundation (April 1997) 3.
[31] "A Test of Congressional Conscience."

Guaranteeing welfare benefits: Martha Davis of the National Organization for Women, a leading advocacy group for battered immigrant women, explains that battered women "without skills or education who flee a batterer must often rely on the social welfare safety net for support."[32] The revolutionary Personal Responsibility and Work Opportunity Act of 1996[33] (PRAWORA), popularly termed "welfare reform," restricted the eligibility of many immigrants, including those who are in the United States lawfully, for federal public benefits such as Temporary Assistance to Needy Families, Food Stamps, and Medicaid, and Supplemental Security Income, and left the option of providing most public benefits to this population to individual states. The only immigrants who are currently eligible for welfare benefits are those that can meet the criteria of a "qualified alien."[34] Although the Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA),[35] passed later in 1996, contained many provisions that immigrant rights' activists considered hostile to immigrants, it did create an important welfare benefits exception for battered immigrants. The IIRAIRA expanded section 431 of the PRAWORA, which defines "qualified alien," to include certain categories of battered aliens.[36] Battered aliens with approved applications for one of the VAWA remedies or with petitions pending that demonstrate a prima facie case and aliens whose child has been battered, all of whom must demonstrate a "substantial connection" between their abuse and the

[32] Martha F. Davis, "Feminist Strategies and Welfare Reform: The Domestic Violence Dilemma," draft presented at Princeton University in 1997, 7.
[33] P.L. 104-193.
[34] The PRAWORA criteria that define "qualified alien" are complicated and extensive, including factors such as when the immigrant entered the United States, how long the immigrant has been in the United States, whether the immigrant has a child who is a U.S. citizen, etc. As this explication is long and is not central to this section, which explains advocates' efforts to guarantee welfare benefits for battered immigrant women, it will not be outlined here. However, for general information on immigrants' eligibility for welfare benefits under the PRAWORA, see Ayuda, Inc., "Public Benefits Access for Battered Immigrant Women and Children," (Feb. 1998).
[35] P.L. 104-208.
[36] Violence Against Women Office, U.S. Department of Justice, "Welfare Reform Law – Battered Immigrant Provision," at http://www.usdoj.gov/vawo/welf501.htm.

need for certain public benefits,[37] are eligible for certain federal benefits. Furthermore, states have the option of providing other public benefits to them.

Also, the PRAWORA included a provision for victims of domestic violence seeking public benefits from which battered immigrant women who qualify can benefit. Called the Family Violence Option (FVO) and sponsored by in Congress by Senator Paul Wellstone (D-MN), Congresswoman Lucille Roybal-Allard (D-CA), and Senator Patty Murray (D-WA), the provision was originally a mandate for states, but was later changed by the Conference Committee to a state option. It "invite[s] states to: (1) screen applicants for domestic violence while maintaining confidentiality; (2) provide referrals to counseling and supportive services; and (3) make good cause waivers for certain welfare program requirements, including time limits and work requirements."[38] As explained by advocates in a summary of the impact of these changes on battered immigrant women,

> The Family Violence Option was intended to address the special hurdles that battered immigrant women face in successfully moving from welfare to work. In 'Dear Colleague' letters and statements on the floor of Congress, the legislators supporting the measure emphasized that large numbers – from 50 to 80 percent – of women currently receiving AFDC were current or past victims of abuse.[39]

These amendments to welfare laws are the result of diligent advocacy on the part of battered immigrant women's activists and activists in the larger women's rights and anti-domestic violence community. This example of advocacy is another one that highlights the impact that joining forces with larger, mainstream movements can have on the policy reform process. The work of these advocates is not, however, finished. Though these changes do indicate that public benefits will be available for battered immigrant women who qualify, and that they will thus be able to find temporary financial support for themselves and their children once

[37] Department of Justice, "Guidance on Standards and Methods for Determining Whether a Substantial Connection Exists Between Battery or Extreme Cruelty and Need for Specific Public Benefits," 62 *Federal Register* 65285 (11 Dec. 1997) 65285.
[38] Davis, 17.
[39] Ibid., 13-14.

> they leave their batterers, these changes are not universal nor are they guaranteed. Because states have the option of including battered immigrant women in their plans, advocates are now focusing their energies at the state-level to ensure that each state does in fact adopt eligibility for battered immigrant women as well as the Family Violence Option in their welfare programs.[40]

Efforts at policy changes on behalf of battered immigrant women have been very focused. Due to perceptions of anti-immigrant sentiment, the usual apprehension of policy-makers to attempt large-scale, comprehensive reform in one sitting, and the need to analyze the impact of current policies before pursuing changes to them, advocates have pursued policy reform in increments. At each stage in the progression of provisions for battered immigrant women, advocates have used the inadequacies or negative effects of previous policies as a reason to enact changes. Moreover, advocates have remained focused on their constituency, arguing for protective provisions and exemptions specifically for battered immigrant women rather than for all immigrants or all battered women. For example, though many advocates' political leanings might compel them to support the reinstatement of 245(i) for all immigrants, they realize that at this time, such a comprehensive change is unlikely. They thus focus arguments on why battered immigrants constitute a special category that merits extension of this provision. The focus of these efforts reflects an understanding of the role that political considerations in the process of crafting public policy. These strategies have served advocates and their constituency well thus far, and are likely to continue resulting in successful reforms of

---

[40] Ayuda, Inc., "Public Benefits Access for Battered Immigrant Women and Children," (Feb. 1998) 21. Also, in the Balanced Budget Act of 1997, Congress "amended the [PRAWORA] to vest the authority for making substantial connection determinations in benefit providers, rather than the Attorney General" [62 Fed. Reg. (11 Dec. 1997) 65285]. Benefit providers, under the decentralized bloc-grant system, are state and local providers of public benefits.

the policy nexus that impacts battered immigrant women. The story underneath the actual policy reforms and in between the lines of the strategies is a story of successful political advocacy and the maturing of a movement for a specific constituency. The political findings about this advocacy are just as important as the implications of the actual policies, and highlight the crux of this successful effort: advocacy at the intersection.

Political Findings: Advocacy at the Intersection

In their advocacy efforts, activists for battered immigrant women, almost always actual attorneys or service providers who have worked with battered immigrant women rather than professional lobbyists or political consultants, have always been cognizant of the complicated confluence of variables that affect the lives of their constituency. However, they have needed to advocate in different ways at different times for different audiences. While advocacy has always been grounded in the intersection of interests, it has taken different forms for different reasons.

One major variable influencing the type and tone of advocacy has been the audience. Advocates for battered immigrant women have taken their reform efforts to three audiences: members of Congress and their aides; the Immigration and Naturalization Service; and fellow advocates in the fields of immigrants' rights, women's rights, and the anti-domestic violence movement. In response to perceptions of certain political attitudes or limitations, in order to target each audience, and in order to achieve different goals, national advocates for battered immigrant women used different approaches and strategies at different times. Collectively, these efforts constitute advocacy for battered immigrant women, and as a whole, have been successful. The success is not based only

on the fact that favorable policies have been enacted for battered immigrant women, but also on the growing and discernible awareness of battered immigrant women's needs on the part of fellow activists and service providers and government officials. This success has been achieved through three primary forms of activities, which are outlined below. Each employs different strategies and has different end goals.

- ***Lobbying and Providing Technical Assistance***

  Among members of Congress, the emphasis of the advocacy has been first on raising awareness of this problem, voicing the existence of an unseen, unheard, and politically un-empowered population within the borders of the U.S. The next step has been to convince members that they should and could help solve the problem – that the problems of battered immigrant women are tragic and thus deserve a humanitarian response, and that their problems can be effectively remedied through changes in immigration law, which Congress has the power to enact. Advocates for battered immigrant women often relied on large, mainstream groups such as NOWLDEF to handle most lobbying efforts, and they themselves provided intensive technical assistance in the crafting of legislation.

  Acting according to prevailing political sentiments: The co-existence of two important political sentiments shaped advocates' lobbying efforts for the 1990 and 1994 provisions for battered immigrant women: simultaneous hostility to immigrants and sympathy for domestic violence. Extensive lobbying was not, however, required for the battered spouse waiver. More extensive lobbying was required for passage of the VAWA provisions, and this strategy of emphasizing a singular aspect of the plight of battered immigrant women, their status as victims of domestic violence, was the primary lobbying approach employed. Advocates for battered immigrant women chose to join forces with women's rights and anti-domestic violence groups, and intentionally chose not to enlist extensive support from immigrant rights' groups. Advocates were playing to win, and the winning strategy indeed was to present battered immigrant women primarily as battered women, and not as immigrants in

search of immigration policy expansions. A perfect vehicle for mainstreaming the issue of battered immigrant women was available in 1994 – the Violence Against Women Act. Although battered immigrants lives are in reality the intersection of numerous factors, *political* realities compelled activists to choose this strategy, to do ultimately what would work to get battered immigrant women the provisions they needed.

Arguing for change using strategies of modification: A secondary, but also very important approach, was arguing for these provisions as modifications. Advocates were careful not to scare away or turn off legislators by proposing large, new innovations. The safer course was to present these changes as necessary based on the inadequacies or flaws of earlier legislation. By basing arguments for future legislation on the effects of past legislation, advocates were able to instill a sense of responsibility in members of Congress for the problem at hand – in other words, they tried to demonstrate that it was federal legislation that contributed to the problem, so it must be federal legislation that helps to solve it. In the case of the battered spouse waiver, advocates could clearly demonstrate that it was the very basis of the 1986 IMFA, which trapped battered women in abusive relationships. When arguing for self-petitioning and cancellation of removal, advocates showed that the battered spouse waiver was not available to many battered immigrant women because their husbands had never filed their initial papers.

Employing strategies of modification necessarily means that change will be incremental. Such a course seemed necessary in this case, as advocates were able to gather evidence of the effects of previous policies at each stage. Furthermore, law-makers, when acting on a politically controversial issue such as immigration policy, may very much have preferred to act in small, relatively unknown steps rather than support sweeping reform.

Taking advantage of how Congress works: In Congress, most of the substantive work on bills occurs in committees and subcommittees – in other words, amongst a relatively small group of people. Because of the intimate size of the working group,

relationships between members of the group are extremely important. In both the cases of the 1990 battered spouse waiver and the 1994 VAWA provisions, advocacy efforts benefited from the collegial relationships among key members of Congress. Congresswoman Slaughter was able to include the battered spouse waiver and changes to the 1986 Immigration Marriage Fraud Amendments in the 1990 Immigration Act with relative ease because of her personal friendliness with Congressman Mazzoli. With regard to the 1994 Violence Against Women Act's provisions for battered immigrant women, although Senators Kennedy and Simpson held radically different political views, especially on the matter of immigration, their collegial relationship facilitated the process of reconciling opposing views.

Furthermore, the fact that much substantive work on issues actually occurs in individual Congressional offices, among aides, proffered advocates a line of constant communication with Capital Hill. A lobbyists such as Pat Reuss of NOWLDEF who had established relationships in Congress was able to open doors for other advocates. After being ushered in, key advocates quickly established working relationships with key Congressional aides, and stayed in regular and frequent touch with them. These personal relationships were just as important as the relationships between members of Congress. It was by arming aides with the necessary information to provide to their bosses, as in the cases of Sandra Sobieraj and Kathleen Sullivan, or by convincing the aide of an opponent of the value of a proposal, as in the case of Cordia Strom, that advocates established their pipeline to the members of Congress who were influential in passing provisions for battered immigrant women.

Persuading by presenting evidence of the problem: In addition to joining forces with mainstream women's and anti-domestic violence lobby groups, arguing for reform based upon the negative effects of Congressional legislation, and capitalizing upon personal relationships in Congress, advocates also bolstered their efforts by persuasive evidence that presented, in raw and basic form, the problem of battered immigrant women. For legislators who had no idea that such a population existed, reading case after case of severe abuse and abuser control of immigration status in "Untold Stories" or being presented with statistics documenting alarming rates of

abuse among Latina women in their very own Washington, D.C. was eye-opening. Advocates realized that not only may members of Congress be relatively isolated from "the trenches," but that they may have had no reason to come into contact with or know about this particular disadvantaged group. They presented persuasive evidence of the problem motivated by the belief that "Congress-people need to hear real-life stories."[41] The problem was thus personalized, rather than intellectualized, in the form of evidence from which members of Congress would have a difficult time turning away or dismissing.

- ***Educating***

Efforts to educate individuals about the existence of this problem and its nuances were directed primarily at two audiences: other advocates and officials at the INS Advocates in mainstream immigrants' rights and women's rights groups who had not previously considered the particular needs of the battered immigrant women needed to know that this problem existed and that the concerns of battered immigrant women are unique. Officials at the INS needed to develop a good understanding of the problem in order to write effective, detailed regulations putting the provisions into effect. In these cases, the intersectional nature of battered immigrant women's problems was usually emphasized and explained, not downplayed, as was the case with Congressional lobbying.

Building awareness and understanding: Beginning with regional organizing in the late 1980s and early 1990s, advocates for battered immigrant women sought to reach two important advocacy groups that had not, to date, given significance to this marginalized group. Battered immigrant women belong to the constituency of women's and anti-domestic violence groups as well as immigrant rights group. However, advocates for battered immigrant women asserted that many immigrants' groups had not paid proper attention to the issue of gender and to immigrant women's

[41] Sujata Warrier, presentation at conference, *Women's Realities: Understanding Violence Against Immigrant Women.*

experiences. Furthermore, advocates felt that many mainstream women's groups and anti-domestic violence organizations were unaware of or insensitive to the needs of immigrant women, most often women of color. By simply making these advocacy communities aware of the urgent needs of a portion of their constituency that was not receiving the attention it needed, advocates hoped to take a first step towards enlisting the support of broader advocacy communities for political efforts.

Within the INS as well, there was a need to simply educate officers about the existence of battered immigrant women and their unique vulnerability. The need to convince them of the worthiness of policies was not as much of a concern as it was with Congress – after all, the INS is mandated to implement the laws that Congress passes. However, conservative sentiment in the INS made fraud-prevention, rather than protection, the underlying directive of many regulations. This was the case with the evidentiary rules for proving mental abuse when applying for a battered spouse waiver. Advocates had to balance the INS's concern that fraudulent claims would be made by immigrants in order to invoke these provisions with the need for INS to write protective regulations so that women can benefit from the legal provisions as intended. Thus, advocates tried hard to demonstrate to the INS that most cases were legitimate.

Explaining the intersection: For both of these audiences, fellow advocates and INS officials, the crux of successful education lay in explaining the intersectional nature of battered immigrant women's problems, not diminishing the importance of conflating factors. In order to reach fellow advocates in immigrants' rights and women's advocacy communities, the type of education that activists for battered immigrant women have engaged is cross-issue education. That is, fellow advocates were educated in the issue that crossed their path, but that they were least familiar with: immigrants' groups were sensitized to issues of gender, and women's and anti-domestic violence organizations were made aware of the particular concerns of racial discrimination, cultural factors, and language proficiency with which immigrant women contend. An early example of such an effort was the training seminar at the 1991 Berkeley conference. A recent example is found in the Family Violence

Prevention Fund's state-level program called "Training of Trainers," which was conducted by the FVPF to "improve their [various service providers working in domestic violence shelters, advocates in the immigrants' rights and anti-domestic violence movement, and immigration and family law attorneys] response to the needs of battered immigrant women."[42] In the education of fellow advocates, it has been important to define the intersection, and explain its many nuances.

With the INS as well, advocates have realized how critical it is for the INS to fully understand the dynamics of the problems of battered immigrant women so it can create regulations that take their unique vulnerability into account. For example, the INS was heavily criticized for its mental cruelty evidentiary requirements for the battered spouse waiver based on intersectional concerns: advocates pointed out that cultural barriers to reporting abuse, for instance, may prevent battered immigrant women from gathering documentation as easily as another immigrant providing documentation to the INS could. Yet, such efforts with the INS sometimes presented a tricky political scenario for advocates, especially when it came to the intensive and unprecedented exchange between INS officials and advocates for the writing of regulations implementing the 1994 provisions. The political climate at the time, which permitted the provisions as remedies for victims of domestic violence who happened to be immigrants but not necessarily as independent immigration law changes, required that contact with the INS also be posited as domestic violence education for immigration officers. Thus, immigration experts often had to play a less visible role, lest they attract negative attention to the access that advocates commanded. As a result, Leslye Orloff was the primary "interacter" with the INS as a domestic violence attorney, though the expertise of immigration experts such as Gail Pendleton and Janet Calvo was greatly utilized.

[42] Family Violence Prevention Fund, "Battered Immigrant Women's Rights Project: Final Report," submitted to the Public Welfare Foundation (April 1997) 7.

- ***Coalition- and Movement-Building***

Although the heart of help for battered immigrant women will always lie at the local level, with individual counselors and service providers who help the women take advantage of the provisions fought for at the national level, the heart of political advocacy for immigration law changes has necessarily been national in character. [43] The pioneer national advocates for battered immigrant women have sought to expand the national movement, and the current mechanism for doing so is the National Network on Behalf of Battered Immigrant Women (NNBBIW). The three co-chairs of the NNBBIW – Ayuda, Inc., the Family Violence Prevention Fund, and the National Immigration Project of the National Lawyers' Guild – represent the intersection of relevant policy arenas, and seek to draw members from the areas of immigrant advocacy, women's rights, the anti-domestic violence movement, and ethnic activists.

The nature of national level changes demands that a small corps of advocates, with key actors in Washington, D.C. be at the helm. However, the support of advocates and service providers from across the United States continues to prove critical as the national policy agenda for battered immigrant women grows. The growth of national networking and the policy success in the political arena appear to have a symbiotic relationship. Winning larger policy victories has helped attract more advocates to the NNBBIW, and enlisting the support of more advocates and service providers continues to fuel successful policy advocacy. The pioneer advocates have thus sought to build coalitions with other advocacy communities and to expand the size and scope of advocacy specifically for battered immigrant women.

Defining a distinct national-level agenda: At the regional level, a policy agenda representing the interests of battered immigrant women has often been created by local service providers and advocates. At the national level, it has taken the efforts of a key group of activists to articulate the specific concerns of battered immigrant

[43] Margaret Abraham, "Speaking the Unspeakable: Marital Violence Against South Asian Immigrant Women in the United States," sent by Abraham to author as a rough draft of article that was forthcoming in *Indian Journal of Gender Studies* 5:2 (June-Dec. 1997) 12.

women in the halls of Congress or in the offices of the INS. The immigration law changes delineated in this thesis required a national advocacy effort, as immigration policy is under the purview of the national government. However, the articulation of a national-level agenda for battered immigrant women is currently not being limited to immigration policy. Advocates seek to voice the interests of battered immigrant women with regard to all policies that have implications for their well-being, as the first section of this chapter illustrates. A distinct national agenda for battered immigrant women, then, is not just about the provisions for battered immigrant women in U.S. immigration law, but about the impact that all domestic policies have on their lives.

Pursuing policy consistently: The articulation of a distinct national agenda for battered immigrant women, one that may employ the support of mainstream groups but is ultimately not subsumed by them, has required the consistent pursuit of policy initiatives. Both in reaction to policy reforms that affect battered immigrant women and proactively in pursuit of laws and regulations that can be crafted to protect their constituency, advocates have succeeded when they have been vigilant. Leslye Orloff, for example, has been able to react effectively to changes in Washington, D.C. by immediately initiating contact with the INS or other relevant officials. Across the United States, activists aid the consistent pursuit of policy by immediately responding to lobbying initiatives with phone calls to members of Congress and with letters that, though from different groups and service providers, highlight the same concerns and priorities.[44] The articulation of shared priorities and the vigilant reaction to and pursuit of policy has contributed to more consistent advocacy, which speaks in a unified and powerful voice for the interests of battered immigrant women.

Drawing upon broader support and experience: The growth in sheer size of the advocacy community for battered immigrant women, as represented by the NNBBIW, enables the key advocates at the helm to draw upon a larger set of

[44] The NNBBIW encourages this practice of a uniform and widespread national response from its member organization by distributing model letters or comments that these activists can replicate and send to Washington, D.C.

experiences and a broader base of support. The NNBBIW has enabled the formal joining of east and west coast advocates, and other activists and service providers in between. The building of a large-size coalition of a variety of activists makes the NNBBIW inherently more representative. The value of such a coalition is seen in the NNBBIW-initiated effort to collect real-life stories of battered immigrant women from across the United States and compile them into the lobbying tool "Untold Stories." Also, the lobbying role that the NOW chapter in Wyoming played in urging Senator Simpson to support the VAWA provisions for battered immigrant women demonstrates the benefits of being able to draw upon numerous and varied actors.

These findings about the political advocacy to date for battered immigrant women highlight the various ways in which activists have acknowledged and presented the intersection of interests and problems inherent in the situation of battered immigrant women. Advocacy for battered immigrant women has always stemmed from this intersection, but depending on the needs of the audience and the goals of the particular advocacy effort, advocates have adjusted their presentation of the problems of battered immigrant women. It sometimes proved important to de-emphasize the intersection and mainstream the problems of battered immigrant women in the interests of political realism. Other instances, though, demanded a thorough explication of the intersection of concerns in order to build awareness and sensitivity. These are the daily efforts that have made the policy reforms presented in this thesis at all possible.

Conclusion

An "intersection" can be understood in definitional terms as a place where two or more things meet or cross. Both a theoretical concept and a practical reality when it comes to battered immigrant women, the intersection of their myriad concerns creates a situation of unique vulnerability and a policy arena of complicated understanding. Political

advocacy for battered immigrant women, the effort for greater awareness of the problems of this constituency and the pursuit of policy reforms to protect it, has grown from this intersection. This story of successful political advocacy and substantial policy reform is particularly compelling considering how vulnerable and voiceless the constituency is.

The pioneer advocates were the ones who understood early on the uniquely vulnerable situation of battered immigrant women and the nuances of policy that must address this vulnerability. Along the way, they sought to build bridges across various advocacy communities, creating strong and prominent coalitions. In Washington, D.C. advocates for battered immigrant women strategized, educated, and convinced government officials of the need for protective provisions for battered immigrant women. In each instance, advocates were compelled to negotiate successfully the confluence of concerns that informed their motivations and policy goals. It was successful advocacy negotiation that resulted in successful policy reform.

Political advocacy for battered immigrant women, as a distinct and established arena, has experienced great growth in the past eleven years, and promises to become even more prominent and strong. The story that is told in this thesis will surely need to be continued. However, as described in this thesis, the major thrust of the political advocacy to date has been to change U.S. immigration law. As a result of advocates' efforts, that continually negotiated the intersection from whence they grew, battered immigrant women now have remedies in immigration law available to them that allow them to leave, without fear of deportation, abusive husbands who are U.S. citizens or legal permanent residents and are in control of their wives' immigration status. The changes that Leslye Orloff and others suspected might not be possible when they began

their advocacy efforts, as suggested by her quote in the thesis introduction, were not only possible, but were greatly successful. The kind of successful advocacy and resulting policy reform that defines the movement for battered immigrant women's rights – what "just doesn't happen" – did, in fact, happen, and is continuing to happen, making the intersection that characterizes the lives of battered immigrant women significantly less dangerous.

APPENDIX: Fieldwork and Methodology

This senior thesis was born of my strong personal and academic interest in gender and immigrant issues, and grew from my involvement (as a legal clinic volunteer and a Gujarati-English translator) with Manavi, a New Jersey-based South Asian women's organization that serves many battered immigrant women. A mere personal passion for the topic was not enough, though. My thesis advisor, Professor Marta Tienda, thankfully forced me to ask myself: "Is there actually a thesis to be written here?"

In a conversation with Dr. Shamita Das Dasgupta, co-founder of Manavi and a well-known scholar on South Asian immigrant women in the U.S., as I was probing her about the critical issues to be teased out on the topic of battered immigrant women, she said something to the effect of, "Yes, ask the advocates and service providers what needs to be done. They struggle and negotiate day-in and day-out with these policies and problems. They know what is needed and why!" A simple and obvious fact. But suddenly it became clear to me that the story was not just in the details of the actual policies for battered immigrant women, but perhaps even more so in *how* and *why* this powerless and vulnerable population has come to avail itself of considerably protective, though imperfect, federal provisions.

Research for the thesis began with the gathering of many articles (most of them law and sociology related) about the legislation and about the dynamics of domestic violence in immigrant communities. This text-based research in journals, books, and newspapers spanned from October of 1997 to March of 1998, and was often done on a "snowball" basis. That is, after obtaining a critical mass of articles on my own, I continued to obtain articles by referencing works cited by other authors. Information

from articles forms much of the substantive backdrop of the thesis, Chapters 1 and 2. But I knew that if this thesis was going to be about *how* and *why* these policy changes came about, I would need to speak with the advocates responsible for the changes. Besides, the story of political advocacy that I hoped to tell had not been documented in any source that I knew of; hence, it had to come from the mouths of advocates themselves.

Over the Princeton fall break in October of 1997, while I was at home near Chicago, I met with three activists and service providers working with battered immigrant women at the local level in Chicago: Berta Hinojosa, Vimi Gupta, and Lubna Latif. From them, I gained a sense of the challenges facing relatively small, community-based organizations as they attempt to build a presence and rapport with key community actors (including the police, INS officers, and community elites). Additionally, I used Manavi as a launching pad for research, from where the staff generously gave me access to information and articles, shared their experiences with me, and put me in touch with others in the field. Of particular help were Shalini Gujavarty, Legal Program Coordinator, and Sujata Warrier, President.

Through Shalini I learned of a conference at Columbia University in October of 1997 entitled, *Domestic Violence Among South Asian, East Asian and Arab Immigrant Women* (see included copy of conference program). This conference, besides its substantive content, was very valuable for the contacts established. Most presenters were either academics or activists (or both) in the New York City area working on the issues of domestic violence and immigrant women's rights. I later contacted several of them to avail myself of their expertise and gather any information they could offer. The contacts that proved fruitful were: Sunita Rampersad, Margaret Abraham, and Louisa Gilbert.

An extensive interview with Sujata Warrier in New York City in November of 1997 yielded much valuable information, and along with the conference, was a major source for identifying and contacting activists directly responsible for the policy reforms. Although Sujata was heavily involved at the New York City level, she was able to provide starting points for my national focus, and named many of the key players in the National Network on Behalf of Battered Immigrant Women. It became clear to me that although there are hundreds of individuals at the grass-roots level working with battered immigrant women, there was a key group of national-level pioneers who catalyzed the policy changes discussed in the thesis.

One woman almost everyone I contacted urged me to speak with was Leslye Orloff, of Ayuda, Inc. Being based in Washington, D.C. and having years of experience in domestic violence policy, Leslye played a critical role in national policy advocacy and, along with Pat Reuss of the NOW Legal Defense and Education Fund, handled most meetings with Capitol Hill and INS personnel. In my interviews with her, Leslye painted a picture rich with details, dates, times, people, and places, and was able to provide for me a framework for the political history behind the legislation. My interview with Leni Marin, of San Francisco's Family Violence Prevention Fund, was also very helpful in building an overall understanding of the course of events. In addition, Leslye provided names of several Capitol Hill aides who were crucial to activists' efforts for the 1990 amendments and the 1994 VAWA.

From Leslye (and somewhat from Leni) I obtained a number of important primary documents – mostly memoranda and letters – that she and other advocates had written to government officials or amongst themselves. The information in these paper sources

represents the involvement of activists and was another way for me to learn about their motivations and actions. For example, when Leslye and Gail Pendleton described to me how they worked with the INS to ensure favorable regulations implementing the VAWA, I was able to get an actual sense of that involvement from the many letters between Leslye, other activists, and the INS. Even when they have not been directly cited, these documents played a critical role in shaping the contours of the story told.

In January, February, and early March, the interviewing continued, as did the text research. In addition to a second interview with Leslye, I spoke with other key activists and former members of Congressional staffs. Speaking with west coast activists such as Debbie Lee, Bill Tamayo, and Terry Helbush supplemented my interview with Leni Marin, and complemented my interviews with east coast actors such as Leslye, Gail, Sujata, Sandra Sobieraj, and Kathleen Sullivan. Even into early and mid-March, I continued to try to set up interviews with key activists such as Janet Calvo, Pat Reuss, Deeana Jang, Emily Goldfarb, and Ignatius Bau, but without success in these cases. The more interviews from involved people I had the better – the nature of constructing the details of political events is one that benefits from many, and hopefully all, relevant voices. Although most of the people whom I contacted were overwhelmingly responsive and receptive, a few did not respond to my requests at all, or did not have time to grant me an interview. For that reason, the story I narrate is imperfect; I would have liked to have included the first-hand experiences of all the key players. But I did try to discern the role of the activists with whom I was not able to speak based on information from other activists with whom they had worked closely. While imperfect, the story is hopefully not inaccurate.

The process of finding contacts, then, has also been one of snowballing: Each person with whom I have spoken suggested others with whom I should speak, and I was able to use the suggestor's name in order to gain access to the person whom I was contacting. The activists were not selected randomly, and even in the snowballing process, I tried consciously to balance the amount of information from east and west coast activists, and from those involved at different periods in the history of the advocacy. (There were more activists involved with the passage of VAWA, which itself is telling. Moreover, because it is the most recent legislation, advocates remembered the events surrounding its passage better.)

I also sought in the process of researching to increase my first-hand knowledge of the subject matter. I did this by attending several free-of-charge workshops and conferences. These events not only gave me a chance to learn directly about battered immigrant women, but also provided an excellent opportunity to see advocates and service providers "in action." Manavi invited me to participate in two workshops held for its counselors: one session in mid-September of 1997 on recent changes in immigration law and another four-part workshop in November of 1997 entitled, *Understanding Violence in the South Asian Context.* This workshop included general policy information related to battered immigrant women as well as training specific to South Asian women's cultural and linguistic needs.

A second conference I attended in March of 1998 (at the invite of Manavi) was entitled, *Women's Realities: Understanding Violence Against Immigrant Women* (see included copy of conference agenda). Held at Rutgers University in New Jersey, it was co-sponsored by Manavi and New York City's Center for Immigrants Rights (CIR);

Sujata Warrier and Shamita Das Dasgupta were the Manavi presenters and Ursula Levelt spoke from the CIR. In addition to explaining the effects on battered immigrant women of recent legislation such as the 1996 PRAWORA and IIRAIRA, this conference realized the idea expounded in Chapter 5, "Advocacy at the Intersection." The presenters, whose experience was in immigrant communities, were speaking to an audience consisting overwhelmingly of mainstream domestic violence service providers, social workers, and police officers who had little, if any, background in immigrant or ethnic minority issues, but who did find themselves serving many battered immigrant women. As the conference provided an education for these mainstream service providers about the basics of immigration law as well as cultural and linguistic barriers facing battered immigrant women, it perfectly exemplified the idea of cross-issue education among advocates.

It is interesting to note, and purely coincidental, that the October conference, which was a starting point for my research, focused on certain ethnic minority communities. At the beginning of my research I was considering focusing on a particular group, South Asian immigrant women. The conference in March, at the end-point of my research, reflected the focus that my thesis actually ended up taking: negotiating the intersection.

Table 2

LIST OF INTERVIEWEES

NAME	POSITION/AFFILIATION	I – DATE[1]	I – TYPE[2]
Shamita Das Dasgupta	Assistant Professor of Psychology, Rutgers University; Co-founder, Manavi	10 Nov. 1997	P
Louisa Gilbert	Investigator, Social Intervention Research Group, Columbia University School of Social Work; Board Member, Sanctuary for Families	24 Nov. 1997	P
Vimi Gupta	Counselor and Licensed Social Worker, Asian Human Services	31 Oct. 1997	P
Terry Helbush	attorney, Former Director, National Immigration Project of the National Lawyers' Guild	3 March 1998	T
Berta Hinojosa	former Domestic Violence Program Coordinator, Mujeres Latinas en Acción[3]	31 Oct. 1997	P
Lubna Latif	Legal Advocate, Apna Ghar	31 Oct. 1997	P
Debbie Lee	Associate Director of Health, Family Violence Prevention Fund	25 Feb. 1998	T
Leni Marin	Program Director, Battered Immigrant Women's Rights Project, Family Violence Prevention Fund	17 Dec. 1997	T
Leslye E. Orloff	attorney, Director, Clinica Legal Latina, Ayuda, Inc.	18 Dec. 1997	P
--------	--------	27 Feb. 1998	P

[1] I — DATE = Date of Interview
[2] I – TYPE = Type of Interview; P = Personal, or In-Person; T = Telephone
[3] Berta Hinojosa retired at the end of 1997 after 18 years with Mujeres Latinas. At the time of the interview, though, she was still the acting program coordinator.

Gail Pendleton	attorney, Director, National Immigration Project of the National Lawyers' Guild	21 Jan. 1998	T
Sunita Rampersad	attorney, Center for Battered Women's Legal Services, Sanctuary For Families	24 Nov. 1997	P
Sandra Sobieraj	former Legislative Assistant, Office of Representative Louise M. Slaughter	17 Feb. 1998	T
Kathleen Sullivan	attorney, former Chief Majority Counsel, U.S. Senate Immigration Subcommittee, Office of Senator Edward Kennedy	19 Feb. 1998	T
William R. Tamayo	attorney, former Managing Attorney, Asian Law Caucus	2 March 1998	T
Sujata Warrier	Program Specialist, New York State Office for the Prevention of Domestic Violence; President, Manavi	24 Nov. 1997	P

Table 3

LIST OF CONTACT ORGANIZATIONS

Apna Ghar, Inc.
4753 N. Broadway Ave., Suite 502
Chicago, IL 60640
Tel: 773/334-0173

Asian Human Services
4753 N. Broadway Ave., Suite 700
Chicago, IL 60640
Tel: 773/728-7225

Asian Law Caucus
720 Market St., Suite 500
San Francisco, CA 94102
Tel: 415/391-1655

Ayuda, Inc.
1736 Columbia Rd., N.W.
Washington, D.C. 20009
Tel: 202/387-4848

Center for Battered Women's Legal Services, Sanctuary for Families
P.O. Box 1406
Wall Street Station
New York, NY 10268-1406
Tel: 212/349-6009

Center for Immigrants Rights, Inc.
48 Saint Marks Place
New York, NY 10003
Tel: 212/505-6890

Family Violence Prevention Fund
383 Rhode Island Street, Suite 304
San Francisco, CA 94103-5133
Tel: 415/252-8900

Manavi
P.O. Box 2131
Union, NJ 07083-2131
Tel: 908/687-2662

Mujeres Latinas en Acción
1823 W. 17th St.
Chicago, IL 60608
Tel: 312/226-1544

National Immigration Project of the National Lawyers' Guild
14 Beacon St., Suite 602
Boston, MA 02108
Tel: 617/227-9727

NOW Legal Defense and Education Fund
119 Constitution Ave., N.E.
Washington, D.C. 20002
Tel: 202/544-4470

Northern California Coalition for Immigrant Rights
(formerly the Coalition for Immigrant and Refugee Rights and Services)
995 Market St., 11th Floor
San Francisco, CA 94103
Tel: 415/243-8215

Social Intervention Group, Columbia University School of Social Work
(also, Immigrant Women's Health Project)
622 W. 113th St.
New York, NY 10025
Tel: 212/854-3035

Why a Conference on Domestic Violence Among Immigrant Populations?

Recent changes in the structure of health care and welfare support, as well as in demographic, social, and economic factors are causing human service workers and social science researchers to reconceptualize approaches to domestic violence. Community groups have identified domestic violence as a significant challenge among immigrants. Researchers are committed to working with community organizations to develop culturally-specific prevention and intervention strategies. Stronger links between community groups and research institutions can facilitate the expansion and improvement of services for immigrants who have suffered from abuse.

Conference Objectives

A key objective of our conference is to create dialogue between community organizations and researchers in order to more effectively meet the needs of immigrant women who face domestic violence.

The Immigrant Women's Health Project

The conference is an outgrowth of an inter-disciplinary research project at Columbia University School of Social Work Social Intervention Group on domestic violence in the immigrant community. The Social Intervention Group conducts research on HIV/AIDS, substance abuse, and domestic violence. The founding members of the Immigrant Women's Health Project are: **Nabila El-Bassel**, D.S.W; **Marianne Yoshioka**, Ph.D. both of the School of Social Work, Columbia University; **Malahat Baig-Amin**, M.S.; **Louisa Gilbert**, M.S. Social Intervention Group, Columbia University; and **Anne B. Waters**, Ph.D. Department of Anthropology, Mount Holyoke College.

Institute for Research on Women & Gender (IRWAG)

The IRWAG is the locus of inter-disciplinary feminist scholarship and teaching at Columbia University. IRWAG administers the undergraduate Women's Studies Major; helps develop courses for graduate students that supplement disciplinary studies on gender; organizes workshops, lectures, conferences and various issues in feminist scholarship and

Srijata Barai

DOMESTIC VIOLENCE

AMONG SOUTH ASIAN, EAST ASIAN AND ARAB IMMIGRANT WOMEN:

CHALLENGES AND SOLUTIONS

A One-Day Conference

Friday, October 17, 1997

9:00 am - 4:30 p.m.

Union Theological Seminary
3041 Broadway at 121st. Street
New York, NY

Sponsored by the
Columbia University
Social Intervention Group
Immigrant Women's Health Project
&
Institute for Research on Women & Gender

OUTLINE FOR MARCH 20, 1998 WORKSHOP
WOMEN'S REALITIES: UNDERSTANDING VIOLENCE AGAINST IMMIGRANT WOMEN

PART I: IMMIGRATION & WELFARE LAWS:

- Overview Of Immigration Laws
- Violence Against Women Act-Self Petitioning
- Battered Women's Spouse Waiver
- Personal Responsibility Act Of 1996/Welfare Reform
- Welfare Issues Of Battered Immigrant Women
- Questions And Answers

PART II: WORKING THROUGH CASE STUDIES

- Immigration Issues Particular To South Asian Battered Women
- Issues Regarding Gender Asylum In The U.S.
- Legal Facts About Women From Pakistan, India, Sri Lanka, And Bangladesh
- Case Vignettes
- Questions And Answers

LITERATURE ENCLOSED:

- *Chart*
- *CIR Fact Sheet*
- *Appendix A: Requirements For Self-Petitioning*
- *Text VAWA Section On Immigrants*
- *Tex Battered Spouse Waiver*
- *Interpreters Releases On Ins Guidance Dd. June 16, 1997*
- *Pre-Screening Questionnaire*
- *Documenting The Evidentiary Requirements*
- *Sample Affidavit Regarding Extreme Hardship Requirement*
- *Article: New Immigration Relief....*
- *Attorney General List*
- *CIR Quick Reference Chart For Federal Public Benefits*
- *Legal Text Battered Aliens Exemption*
- *New Jersey Fact Sheet Benefits To Immigrants*
- *Overview Of Verification And Reporting Requirements*
- *Special Issues In Domestic Violence*
- *Issues Regarding Gender Asylum*
- *Legal Facts From Pakistan, India, Bangladesh, And Sri Lanka*
- *Format Of Affidavit*
- *Case Vignettes*

BIBLIOGRAPHY

ARTICLES

Abraham, Margaret. "Ethnicity, Gender, and Marital Violence: South Asian Women's Organizations in the United States," *Gender & Society,* 9:4 (Aug. 1995) 450-468.

--------. "Speaking the Unspeakable: Marital Violence Against South Asian Immigrant Women in the United States," manuscript of article that was forthcoming in *Indian Journal of Gender Studies* 5:2 (June-Dec. 1997) 1-16 (manuscript page numbers).

Anderson, Michelle J. "A License to Abuse: The Impact of Conditional Status on Female Immigrants," 102 *Yale Law Journal* 1401 (April 1993) 1401-1430.

"A Test of Congressional Conscience," *The New York Times,* 9 June 1996.

Babcock, Julia C., J. Waltz, Neil S. Jacobson, and John M. Gottman. "Power and Violence: The Relation Between Communication Patterns, Power Discrepancies, and Domestic Violence," *Journal of Consulting and Clinical Psychology* 61:1 (1993) 40-50.

Banales, Jorge. "Abuse Among Immigrants; As Their Numbers So Does the Need for Services," *The Washington Post,* 16 Oct. 1889.

Bonilla-Santiago, Gloria. "Latina Battered Women: Barriers to Service Delivery and Cultural Considerations" in Albert R. Roberts ed. *Helping Battered Women: New Perspectives and Remedies,* New York: Oxford University Press, 1996, 229-233.

Calvo, Janet M. "Spouse-Based Immigration Laws: The Legacies of Coverture," 28 *San Diego Law Review* 593 (1991) 593-644.

--------. "The Violence Against Women Act: An Opportunity for the Justice Department to Confront Domestic Violence," 72 *Interpreter Releases* (10 April 1995) 485-491.

-------- and Martha F. Davis. "Congress Nears Approval of Legislation to Protect Abused Aliens," 70 *Interpreter Releases* (20 Dec. 1993) 1665-1669.

Capellaro, Catherine. "Help for Battered Immigrant Women," *The Progressive,* July 1997.

Chin, Ko-lin. "Out-of-Town Brides: International Marriage and Wife Abuse Among Chinese Immigrants," *Journal of Comparative Family Studies* XXV:1 (Spring 1994) 53-69.

"Congress Passes Sweeping Crime Bill With Immigration Provisions," 71 *Interpreter Releases* (1 Sept. 1994) 1177-1183.

Crenshaw, Kimberle. "Beyond Racism and Mysogyny: Black Feminism and 2 Live Crew" in Mari J. Matsuda, Charles R. Lawrence III, Richard Delgado, and Kimberle Williams Crenshaw (eds.) *Words that Wound: Critical Race Theory, Assaultive Speech, and the First Amendment.* Oxford: Westview Press, 1993, 111-132.

--------. "Feminism in the Law: Theory, Practice and Criticism," *University of Chicago Legal Forum* (1989) 139-169.

--------. "Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color," 43 *Stanford Law Review* 1241, 1241-1299.

--------. "Race, Reform and Retrenchment: Transformation and Legitimation in Antidiscrimination Law," 101 *Harvard Law Review* 1331 (1988) 1331-1387.

Das Dasgupta, Shamita. "Women's Realities: Defining Violence Against Women by Immigration, Race, and Class," draft, forthcoming in 1998, R.K. Bergen (ed.) Issues in Intimate Violence (Sage Publications, Inc.).

Das Dasgupta, Shamita and Sujata Warrier. "In the Footsteps of 'Arundhati': Asian Indian Women's Experience of Domestic Violence in the United States," *Violence Against Women* 2:3 (Sept. 1996) 238-259.

Davis, Martha F. "Feminist Strategies and Welfare Reform: The Domestic Violence Dilemma," presentation at Princeton University, 1997.

-------- and Janet M. Calvo. "INS Interim Rule Diminishes Protection for Abused Spouses and Children," 68 *Interpreter Releases* (3 June 1991) 665-670.

Fellom, Nancy A. "Fear and Loathing in America: Alien spouses held hostage under threat of deportation are rescued from abusive partners by amendments to Immigration Act," *The Recorder,* 15 Aug. 1991.

Ferraro, Kathleen J. "An Existential Approach to Battering" in Gerald T. Hotaling, David Fineklhor, John T. Kirkpatrick, and Murray A. Straus (eds.) *Family Abuse and Its Consequences: New Directions in Research.* Newbury Park, CA: Sage Publications, 1988, 126-138.

Fitzpatrick, Joan. "The Gender Dimension of U.S. Immigration Policy," 9 *Yale Journal of Law and Feminism* 23 (1997).

Garcia, Dawn. "The Lonely Struggle of Alien Women," *The San Francisco Chronicle,* 8 March 1991.

Gardner, Marilyn. "When US, Newcomers' Values Clash," *Christian Science Monitor,* 16 July 1997.

Goldberg, Pamela. "Anyplace but Home: Asylum in the United States for Women Fleeing Intimate Violence," 26 *Cornell International Law Journal* 565 (1993) 565-604.

Hiatt, Shobha. "Ending the Violence," *India Currents* 11:7 (Oct. 1997) 25-26.

Hogeland, Chris. "Immigrant Women in U.S. History" in Deeana L. Jang, Leni Marin and Gail Pendleton eds. *Domestic Violence in Immigrant and Refugee Communities: Asserting the Rights of Battered Women, 2nd Ed.* San Francisco: Family Violence Prevention Fund, 1997, 33-49.

Holland, Beth. "Struggle for Asylum: Judge Holds Rita's Future," *Newsday,* 29 Sept. 1996.

Howe, Marvin. "Battered Alien Spouses Find a Way to Escape an Immigration Trap," *The New York Times,* 25 Aug. 1991.

Huant, Thomas and Frank Trejo. "Immigrant Spouses Put Hopes in New Law: Wives Can Remain in U.S. If They Can Prove Abuse," *New Orleans Times-Picayune,* 11 May 1995.

"INS Responds to Marriage Fraud Questions," 67 *Interpreter Releases* (19 March 1990) 314-315.

"INS Reveals Basis for Fraud Claims," 65 *Interpreter Releases* (11 Jan. 1998) 26-27.

Jang, Deeana L. "Caught in a Web: Immigrant Women and Domestic Violence," *National Clearinghouse* (Special Issue 1994) 397-405.

-------- and Leni Marin. "Immigrant Women's Rights Organizing" in Margaret A. Schuler ed. *From Basic Needs to Basic Rights: Women's Claim to Human Rights.* Washington, D.C.: Women, Law and Development International, 1995, 495-505.

-------- and Leni Marin. "Introduction" in Deeana L. Jang, Leni Marin and Gail Pendleton eds. *Domestic Violence in Immigrant and Refugee Communities: Asserting the Rights of Battered Women, 2nd Ed.* San Francisco: Family Violence Prevention Fund, 1997, 1-4.

Johnson, Kevin R. "Public Benefits and Immigration: The Intersection of Immigration Status, Ethnicity, Gender, and Class," 42 *UCLA Law Review* 1509 (Aug. 1995) 1509-1575.

Jones, James A. "The Immigration Marriage Fraud Amendments: Sham Marriages or Sham Legislation?" 24 *Florida State University Law Review* 679-700.

Lee, Maxine Yi Hwa. "A Life Preserver for Battered Immigrant Women: The 1990 Amendments to the Immigration Marriage Fraud Amendments," 41 *Buffalo Law Review* 779 (1993) 779-805.

Leung, James. "Law Benefiting Immigrant Wives Means More Work for Shelter," *The San Francisco Chronicle,* 20 Feb. 1991.

Lilienthal, Ryan. "Old Hurdles Hamper New Options for Battered Immigrant Women," 62 *Brooklyn Law Review* 1595 (Winter 1996) 1595-1633.

Lin, Wendy. "Helping the Abused Cope in a Foreign Land." *Newsday,* 3 Nov. 1991.

--------. "Is INS Hindering Abused Wives?" *Newsday,* 8 July 1991.

Loke, Tien-Li. "Trapped in Domestic Violence: The Impact of United States Immigration Laws on Battered Immigrant Women," 6 *Boston Public Interest Law Journal* 589 (Winter 1997) 589-628.

Martin, Del. "Domestic Violence: A Sociological Perspective" in Daniel Jay Sonkin, PhD., Del Martin, and Lenore E.A. Walker Ed.D. (eds.) The Male Batterer: A Treatment Approach. *New York: Springer Publishing Company,* 1985, 1-32.

Matsuda, Mari J. "Beside My Sister, Facing the Enemy: Legal Theory Out of Coalition," 43 *Stanford Law Review* 1183 (July 1991) 1183-1192.

Moyce, David. "Petitioning on Behalf of an Alien Spouse: Due Process Under the Immigration Laws," 74 *California Law Review* 1747 (Oct. 1986) 1747-1776.

Narayan, Uma. " 'Male-Order' Brides: Immigrant Women, Domestic Violence and Immigration Law," *Hypatia* 10:1 (Winter 1995) 104-119.

"New U.S. Rules for Female Asylum Seekers," *Chicago Tribune,* 27 May 1995.

Orloff, Leslye E., Deeana Jang, and Catherine F. Klein. "With No Place to Turn: Improving Legal Advocacy for Battered Immigrant Women," *Family Law Quarterly* 29:2 (Summer 1995) 313-329.

-------- and Nomi Dave. "Identifying Barriers: Survey of Immigrant Women and Domestic Violence in the D.C. Metropolitan Area," *Poverty & Race* 6:4 (July/Aug. 1997) 9-10, 12. (see also, "Ayuda Survey" below in "Other Materials" section)

Park, Anna Y. "The Marriage Fraud Act Revised: The Continuing Subordination of Asian and Pacific Islander Women," 1 UCLA Asian American Pacific Islands Law Journal 29 (Feb. 1993) 29-48.

Parker, Sharon. "Understanding Coalition," 43 *Stanford Law Review* 1193 (July 1991) 1193-1196.

Pendleton, Gail. "Immigration Relief for Women and Children Suffering Abuse" in Deeana L. Jang, Leni Marin and Gail Pendleton eds. *Domestic Violence in Immigrant and Refugee Communities: Asserting the Rights of Battered Women, 2nd Ed.* San Francisco: Family Violence Prevention Fund, 1997, 65-98.

Pressman, Sandra D. "The Legal Issues Confronting Conditional Resident Aliens Who Are Victims of Domestic Violence: Past, Present, and Future Perspectives," 6 *Maryland Journal of Contemporary Issues* 129 (1995) 129-154.

Rae, Karen L. "Alienating Sham Marriages for Tougher Immigration Penalties: Congress Enacts The Marriage Fraud Act," 15 *Pepperdine Law Review* 181 (1988) 181-205.

Ramirez, Raul. "Violence at Home Grips Alien Women," *San Francisco Examiner,* 10 March 1991.

Rimonte, Nilda. "Domestic Violence Against Pacific Asians," in Asian Women United of California ed. *Making Waves: An Anthology of Writings By and About Asian American Women.* Boston: Beacon Press, 1989.

Seith, Patricia A. "Escaping Domestic Violence: Asylum as a Means of Protection for Battered Women," 97 *Columbia Law Review* 1804 (Oct. 1997) 1804-1843.

Teran, Lee and Barbara Hines. "Suspension of Deportation as Relief for Battered Immigrant Women and Children," *Immigration Newsletter* 23:1 (July 1995).

Vobejda, Barbara. "Congressional Curbs on Legal Aid Programs Challenged in Court," *The Washington Post,* 10 Jan. 1997.

Walt, Vivienne. "Immigrant Abuse: Nowhere to Hide," *Newsday,* 2 Dec. 1990.

Weaver, Nancy. "New Political Asylum Rules Give Abused Women Hope," *Sacramento Bee,* 12 June 1995.

Whalen, Christine and Marsha King. "Abuse in a New Land – Immigrant Wives Often Isolated, Vulnerable," *The Seattle Times,* 8 Aug. 1994.

Zorza, Joan. "Women Battering: High Costs and the State of the Law," *Clearinghouse Review* (Special Issue 1994) 383-395.

BOOKS

Arnold, R. Douglas. *The Logic of Congressional Action.* New Haven, CT: Yale University Press, 1990.

Immigration and Naturalization Service. *Statistical Yearbook.* Washington, D.C.: U.S. Government Printing Office, 1988.

--------. *Statistical Yearbook.* Washington, D.C.: U.S. Government Printing Office, 1989.

Nelson, Barbara J. *Making an Issue of Child Abuse: Political Agenda Setting for Social Problems.* Chicago: University of Chicago Press, 1984.

Schneier, Edward V. and Bertram Gross. *Legislative Strategy: Shaping Public Policy.* New York: St. Martin's Press, 1993.

Shupe, Anson D., William A. Stacey and Lonnie R. Hazlewood. *Violent Men, Violent Couples: The Dynamics of Domestic Violence.* Lexington, MA: Lexington Books, 1987.

INTERVIEWS, CONFERENCES, and WORKSHOPS

Das Dasgupta, Shamita. Interview by Sujata Barai, 10 Nov. 1997.

--------. Presentation at workshop attended by author, *Women's Realities: Understanding Violence Against Immigrant Women* (see citation below), 20 March 1998.

Domestic Violence Among South Asian, East Asian and Arab Immigrant Women: Challenges and Solutions, a conference sponsored by the Columbia University Social Intervention Group, Immigrant Women's Health Project, and Institute for Research on Women and Gender. Columbia University, New York, NY – 17 Oct. 1997 (attended by Sujata Barai).

Gilbert, Louisa. Interview by Sujata Barai, 24 Nov. 1997.

Gupta, Vimi. Interview by Sujata Barai, 31 Oct. 1997.

Helbush, Terry. Telephone interview by Sujata Barai, 3 March 1998.

Hinojosa, Berta. Interview by Sujata Barai, 31 Oct. 1997.

Latif, Lubna. Interview by Sujata Barai, 31 Oct. 1997.

Lee, Debbie. Telephone interview by Sujata Barai, 25 Feb. 1998.

Levelt, Ursula. Presentation at workshop attended by author, *Women's Realities: Understanding Violence Against Immigrant Women* (see citation below), 20 March 1998.

Marin, Leni. Telephone interview by Sujata Barai, 17 Dec. 1997.

Orloff, Leslye E. Interview by Sujata Barai, 18 Dec. 1997.

--------. Interview by Sujata Barai, 27 Feb. 1998.

Pendleton, Gail. Telephone interview by Sujata Barai, 21 Jan. 1998.

Rampersad, Sunita. Interview by Sujata Barai, 24 Nov. 1997.

Sobieraj, Sandra. Telephone interview by Sujata Barai, 17 Feb. 1998.

Sullivan, Kathleen. Telephone interview by Sujata Barai, 19 Feb. 1998.
Understanding Domestic Violence in the South Asian Context, a workshop series held by Manavi. Manavi, Union, NJ – 10 Nov. and 17 Nov. 1997. (attended by Sujata Barai)

Tamayo, William R. Telephone interview by Sujata Barai, 2 March 1998.

Warrier, Sujata. Interview by Sujata Barai, 24 Nov. 1997.

--------. Presentation at workshop attended by author, *Women's Realities: Understanding Violence Against Immigrant Women* (see citation above), 20 March 1998.

Women's Realities: Understanding Violence Against Immigrant Women, a workshop co-sponsored by Manavi and the Center for Immigrants' Rights, Rutgers University campus, New Brunswick, NJ – 20 March 1998 (attended by Sujata Barai).

OTHER MATERIALS
(note: the designation "internal document" refers to a document that is a primary source and probably generally unavailable to the public; all on file with author)

Aleinikoff, T. Alexander, (INS Office of Programs). Memorandum to "All Regional [INS] Directors, All District Directors (including Foreign), All Service Center Directors, All Officers in Charge (including Foreign)." Subject: "Implementation of Crime Bill Self-Petitioning for Abused or Battered Spouses or Children of U.S. Citizens or Lawful Permanent Residents," 16 April 1996. (internal document)

American Bar Association (ABA) Center on Children and the Law. "Special Groups: Immigrant Women and Children" in *The Impact of Domestic Violence on Children: A Report to the President of the American Bar Association.* ABA, Oct. 1994, 19-20.

"An Immigration Glossary" in National Immigration Project of the National Lawyers' Guild packet: *Resources on New Rights for Battered Immigrants*; packet updated 17 June 1997.

Anonymous personal affidavit of a battered Indian immigrant woman, written to the Immigration and Naturalization Service in support of her application for gender asylum; the woman is a client of Manavi, the organization from whom this affidavit was obtained by author; affidavit dated March 1996. (internal document)

Ayuda, Inc. "Action Alert: Help Battered Immigrant Women by Sending Stories of Women Harmed by November Changes to Immigrant Laws," 1998, obtained by author from Leslye E. Orloff. (internal document)

--------. "Public Benefits Access for Battered Immigrant Women and Children," Feb. 1998, obtained by author from Leslye E. Orloff. (internal document)

--------. "Summary of Some Preliminary Data from Ayuda Survey," presented 5 April 1997. Washington, D.C.: Ayuda, Inc, 1-8. (internal document)

Butler, Alice. "Domestic Violence: Data, Programs and Funding," *CRS Report for Congress 97-675 EPW,* 3 July 1997.

Congressional Information Service, Inc. *Legislative History of P.L. 99-739: Immigration Marriage Fraud Amendments of 1986.*

Dale, Charles V. "Sexual Harassment and Violence Against Women: Developments in Federal Law," *CRS Report for Congress 96-862 A,* 12 May 1997.

Department of Justice. "Guidance on Standards and Methods for Determining Whether a Substantial Connection Exists Between Battery or Extreme Cruelty and Need for Specific Public Benefits," 62 *Federal Register* 65285 (11 Dec. 1997) 65285-65286.

Derwinski, Bonnie (Acting Director, Congressional and Public Affairs, INS). Letter to: Congresswoman Louise M. Slaughter. Re: "response to...letter of September 14, 1989...concerning the waiver provisions of the Immigration Marriage Fraud Amendments of 1986," 19 Oct. 1989, as reprinted in Appendix III of 66 *Interpreter Releases* (18 Dec. 1989) 1428-1430.

"*Dreams Lost, Dreams Found: Women Organizing for Justice* – A National Conference on Immigrant and Refugee Women, Oct. 5-7, 1991, Berkeley, California," conference program, obtained by author from Leni Marin. (internal document)

Family Violence Prevention Fund (FVPF). "Battered Immigrant Women's Rights Project: Final Report," submitted to Public Welfare Foundation (April 1997), obtained by author from Leni Marin. (internal document)

--------. "Domestic Violence in Civil Court Cases." San Francisco: FVPF, 1992.

--------. Memorandum/Press Release: "How California Can Make Welfare Reform More Sensitive to the Needs of Battered Women," exact date unknown, but is post-PRAWORA of 1996, obtained by author from the Family Violence Prevention Fund.

--------. Untitled document, pages 17-18 of a larger source, describing the activities of the Battered Immigrant Women's Rights Project of the FVPF, date unknown, obtained by author from Leni Marin.

Frischer, Katya (Committee for Immigrant Battered Women, Urban Justice Center). Letter to: Dear Colleague. Re: 245(i) exemption for battered immigrant women, 1 March 1998. (internal document)

Gilbert, Louisa. Text of conference presentation at: *Domestic Violence Among South Asian, East Asian and Arab Immigrant Women: Challenges and Solutions* (see conference citation), 17 Oct. 1997. (internal document)

Hogeland, Chris and Karen Rosen. *A Needs Assessment of Undocumented Women.* San Francisco: Coalition for Immigrant and Refugee Rights and Services, 1990.

Immigration and Naturalization Service. "Fact Sheet: INS Implements Direct Mail of Form I-360 for Self-Petitioning Battered Spouses and Children." Washington, D.C.: INS Office of Public Affairs, 9 April 1997.

--------. "Immigrant Admitted by Region of Birth and Type and Class of Admission, Fiscal Year 1996." Washington, D.C.: Immigration and Naturalization Service, Statistics Division, Demographic Statistics Branch.

Kelly, Linda (St. Thomas University School of Law Immigration Clinic). Letter to: Richard Kellner, Assistant District Director, Immigration and Naturalization Service, Miami, FL. Re: "INS Compliance With Law by Basing Adjustment Applications on Pending Spousal Visa Petitions for Battered Spouses," 24 Jan. 1996. (internal document)

Lewen, Donna E. Letter to: Officer Joe Moore, U.S. Immigration and Naturalization Service, Seattle, WA. Re: "Requests for Voluntary Departure and Work Authorization for Self-Petitioners," 23 May 1996, on file with author. (internal document)

Manavi, "In Visible Terms: Domestic Violence in the Asian Indian Context – A Handbook for Intervention," 2nd. Ed. Union, NJ: Manavi, 1997.

Marin, Leni (Family Violence Prevention Fund). Letter to: Director, Policy Directives and Instruction Branch, Immigration and Naturalization Service, Washington, D.C. Re: "Proposed Rule Implementing Portion of IIRAIRA 62 Fed. Reg. 444-517," 4 Feb. 1997, obtained by author from the FVPF. (internal document)

National Immigration Project of the National Lawyers' Guild. "New Immigration Relief for Women and Children Suffering Abuse" in *Stopping Violence Against Women: Using New Federal Laws.* American Bar Association, 1996, 104-123.

NiCarthy, Ginny. *Getting Free: A Handbook for Women in Abusive Relationships.* Seattle: Seal Press, 1986.

NOW Legal Defense & Education Fund. "Action Alert: Help Battered Immigrant Women by Contacting Conferees," Washington, D.C.: NOW, 1998. (internal document)

--------. "National Task Force on Violence Against Women: VAW Update and Meeting Announcement," Washington, D.C.: NOW, date unknown. (internal document)

Orloff, Leslye, for the National Network on Behalf of Battered Immigrant Women. Letter to: Bonnie Campbell (Violence Against Women Office), Lisa Sorkin (Office of Policy Development, Justice Department), and Amy Jeffress (Office of the Deputy). Re: "Summary of the Most Significant Concerns About the Immigration Regulations Implementing the Violence Against Women Act," 7 Dec. 1995, obtained by author from Leslye E. Orloff. (internal document)

--------, Janet Calvo (Main Street Legal Services, CUNY Law School), and Bill Tamayo (Asian Law Caucus). Letter to: Kathleen Sullivan, Senate Committee on the Judiciary. Re: "Implementation of the Violence Against Women Act Protection for Battered Immigrant Women Provisions Through Regulations," 2 Nov. 1994, obtained by author from Leslye E. Orloff. (internal document)

--------, Janet Calvo (Main Street Legal Services, CUNY Law School), Bill Tamayo (Asian Law Caucus), Rosa M. Fregoso (Legal Aid Foundation of Los Angeles), Terry Helbush (National Immigration Project of the National Lawyers' Guild), and Gail Pendleton (National Immigration Project of the National Lawyers' Guild). Letter to: Alex Aleinikoff, INS General Counsel. Re: "Implementation of Interim Measures for Battered Immigrant Women Provisions of the Violence Against Women Act," 27 Dec. 1994, obtained by author from Leslye E. Orloff. (internal document)

-------- and Leni Marin (Family Violence Prevention Fund) on behalf of The National Network for Battered Immigrant Women. Letter to: Rita Bouie Arthur, Immmigration and Naturalization Service. Re: "Self-Petitioning Regulations and the Difficulties Faced by Battered Women in Providing Documentary Evidence," 17 March 1995, obtained by author from Leslye E. Orloff. (internal document)

-------- Leni Marin, and Deborah Weissman for the National Network on Behalf of Battered Immigrant Women. Letter to: Amy Jeffress. Re: "Evidentiary Concerns in Battered Immigrant Women Proceedings," 23 May 1995, obtained by author from Leslye E. Orloff. (internal document)

--------. Letter to: Amy Jeffress. Re: "Discussion of Concerns Regarding the Regulations," 6 July 1995, obtained by author from Leslye E. Orloff. (internal document)

--------. Letter to: Amy Jeffress, Special Assistant Deputy Attorney General, Office of the Assistant Attorney General, Department of Justice. Re: INS Cable, 26 Jan. 1994, obtained by author from Leslye E. Orloff. (internal document)

--------. Letter to: Domestic Violence Advocates, Family & Immigration Lawyers, Immigrant Advocates & Interested Persons. Re: "Preparing VAWA Self-Petitions That Meet the Prima Facie Evidence Test Required for Access to Public Benefits and Work Authorization," 3 Feb. 1998, obtained by author from Leslye E. Orloff. (internal document)

--------. Letter to: Immigration Conferees. Re: urging immigration conferees to join with women's groups to help monitor language of upcoming Immigration Bill as it pertains to battered immigrant women, 9 Sept. 1996, obtained by from Family Violence Prevention Fund. (internal document)

-------- and Minty Siu Chung (Ayuda, Staff Attorney). Letter to: Director, Policy Directives and Instruction Branch, Immigration and Naturalization Service, Washington, D.C. Re: "Proposed Rule Implementing Portions of IIRAIRA 62 Fed. Reg. 444-517," date unknown, obtained by author from Leslye E. Orloff. (internal document)

National Network on Behalf of Battered Immigrant Women: membership roster, current as of 27 Feb. 1998, obtained by author from Leslye E. Orloff. (internal document)

Statement of Representative Louise M. Slaughter. 136 *Congressional Record – House* (daily ed. 2 Oct. 1990) 27084-27085.

"Topical Index and Explanation of VAWA II: Battered Immigrant Women Subtitle C," 10 Dec. 1997, obtained by author from Leslye E. Orloff (internal document)

"The Interaction of Domestic Violence and Immigration Concerns" in National Immigration Project of the National Lawyers' Guild packet: *Resources on New Rights for Battered Immigrants;* packet updated 17 June 1997. (internal document)

"The Intersection of Domestic Violence and Immigration Concerns" in National Immigration Project of the National Lawyers' Guild packet: *Resources on New Rights for Battered Immigrants;* packet updated 17 June 1997. (internal document)

Virtue, Paul W. (INS Office of Programs). Memorandum to: "Regional Directors, District Directors, Officers-in-Charge, Service Center Directors. Subject: "Supplemental Guidance on Battered Alien Self-Petitioning Process and Related Issues," 6 May 1997. (internal document)

"Untold Stories: Cases Documenting Abuse by U.S. Citizen and Lawful Residents on Immigrant Spouses." San Francisco: Family Violence Prevention Fund, Nov. 1993.

U.S. Congress. House of Representatives. *Bill Summary & Status: Public Law 99-639.* 99th Congress, H.R.3737 (10 Nov. 1986).

--------. House of Representatives. *Violence Against Women Act of 1993.* House Report No. 395, 103rd Congress, 1st Session (1993).

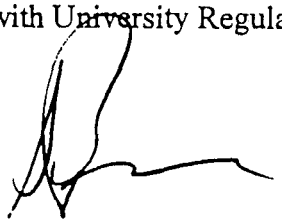
--------. House of Representatives. *Family Unity and Employment Opportunity Immigration Act of 1990.* House Report No. 723 Part 1, 101st Congress, 2nd Session (1990).

--------. Senate. *Bill Summary & Status: Public Law 101-649.* 101st Congress, S.358 (29 Nov. 1990).

--------. Senate. *Amending the Immigration and Nationality Act to Deter Immigration-Related Marriage Fraud and Other Immigration Fraud.* Senate Report 491, 99th Congress, 2nd Session (1986).

Volpp, Leti. *Working with Battered Immigrant Women: A Handbook to Make Services Accessible.* San Francisco: Family Violence Prevention Fund, 1995.

This thesis represents my own work in accordance with University Regulations.



Sujata B. Barai