

Research Article

Experiences of Immigrant Women Who Applied for Violence Against Women Act (VAWA) Self-Petition in the United States: Analysis of Legal Affidavits

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ABSTRACT

Intimate partner violence (IPV) is a significant human rights and public health issue. In particular, immigrant woman may face more challenges than non-immigrant woman when trying to leave an abusive partner. The Violence Against Women Act (VAWA) in the United States (U.S.) allows spouse-sponsored immigrant women who have experienced IPV to self-petition for legal status without assistance from their abusive partner. The purpose of this study is to explore the experiences of abused immigrant women and their interaction with VAWA. Seventy affidavits from the victims' legal immigration self-petitions were qualitatively analyzed. Results showed that women who applied for VAWA feared being in a worse position if they did leave and as such often delayed their leaving from an

abusive relationship. Some women were unaware of available resources for leaving an abusive relationship. Additionally, community resources were not always beneficial for these women. Because of the added complication surrounding the documentation status for immigrant female victims of IPV, this study suggests that more care and resources should be dedicated to this vulnerable population of women. Educational opportunities for immigrant women and community organizations are essential so immigrant women experiencing IPV can escape their harmful situation and achieve positive health outcomes.

Keywords: Intimate partner violence; Immigrants; Violence against women act; Legal affidavits; USA

Introduction

Immigrant women are the most vulnerable group of women to face Intimate Partner Violence (IPV) in the United States (U.S.) [1,2]. Some immigrant women who experience IPV before and/or during their immigration legal process will not seek help due to fear of deportation and limited access to social services [1]. A perpetrator of IPV who is a U.S. citizen or permanent resident can threaten and control his immigrant spouse using her uncertain legal status [3]. A sponsoring spouse has almost complete control over his immigrant wife [1]. Controlling tactics include limiting the contact women have with U.S. and non-U.S. family, prohibiting American friendships, and demeaning women based upon a lack of acculturation success [1].

The Violence Against Women Act (VAWA) was passed by the United States Congress in 1994 [4,5]. VAWA seeks to ensure civil rights by enhancing the protection of women [5]. VAWA does this by legally protecting abused women who are not citizens or lawful permanent residents [6]. Instead of the immigrant women depending upon their abusive spouses to apply for her lawful permanent residency, women can apply on their own and their children's behalf. The spouse plays no role in the process and does not need to know that their wife is applying for permanent residency [7].

The U.S. Citizenship and Immigration Services is a part of the U.S. Department of Homeland Security. This agency oversees U.S. immigration and is source of information for the rights of abused immigrant women. According to this agency, immigrant women who are victims of IPV have the same civil and criminal law protections as non-immigrant women. Immigrant women who have experienced IPV have three options according to this federal agency: self-petition for legal residency through VAWA, cancellation of removal under VAWA, and U-nonimmigrant status-which applies to women who are victims of crime [8]. A vital component to note within VAWA is that the entire process is anonymous in an effort to maintain the safety of these abused women [8].

This study concentrated on one aspect of VAWA-the VAWA self-petition which can be used by abused immigrant women who seek adjustment of their legal status. These women must be married to either U.S. citizens or lawful permanent residents. Instead of relying on the abusive spouse, an immigrant woman who files a VAWA self-petition must document evidence of abuse, good faith marriage, good moral character, and residence with abuser in the U.S. in the form of a legal affidavit [9].

VAWA 2000 and 2005 further enhanced protection of immigrant women who experienced intimate partner violence (IPV). Under VAWA 2000, the conditional permanent resident

status of immigrant women can be removed allowing the women to become a lawful permanent resident without assistance from an abusive spouse [10]. VAWA 2005 increased confidentiality protections to ensure that an abusive partner cannot use the immigration system to further abuse or control an immigrant woman [10]. The VAWA self-petition is a replacement of I-130 (petition for undocumented spouse filed by a sponsoring spouse described in legal milestones above) with I-136 (self-petition) because the abused immigrant women cannot get help from their abusive spouse to complete the immigration process. In addition, VAWA self-petitioners can request a fee waiver for filing fees.

IPV is a preventable public health issue [11]. Despite this, few programs focused on diverse populations such as immigrant women have been effectively implemented and evaluated [11]. There is still an urgent need to develop programs for immigrant women at risk for IPV and intervene before IPV causes extreme harm. Prevention and early intervention programs have the potential to reduce the health risks associated with IPV [11]. To incorporate prevention and intervention programs into the legal process, it is important to explore and develop theories on how each legal milestone is associated with the etiology of IPV.

Historically, one of the main purposes of immigration law has been family unification [14]. Immediate relatives of U.S. citizens and family-based immigration admissions account for 69% of lawful permanent admissions in 2004 [12]. Immigration policies such as the *Quota Law of 1921* or the *Immigration and Nationality Act Amendments of 1965* exempted immediate relatives of U.S. citizens from the cap or the total number of immigrants. The second largest category of immigrant admissions is employment-based (16%), followed by refugee and asylum seekers (8%) and diversity-based (5%). The *Refugee Act* was enacted in 1980 while diversity-based immigration category was added by the *Immigration Act of 1990*.

VAWA seeks to address the unique circumstances of immigrant women who experience IPV [1]. Women who file VAWA self-petition are married to either a U.S. citizen or lawful permanent resident who is supposed to willingly sponsor for their immigrant spouse's petition for lawful permanent residency for family unification. However, this sponsorship may be threatened if the U.S. citizen or lawful permanent resident abuses their immigrant spouse. Generally, a perpetrator does not help his spouse's petition for lawful permanent residence. As a result to ensure immigration status, the immigrant women need to seek self-petition under VAWA.

Despite the significant interaction between IPV and immigration legal procedures, little is known about how the legal immigration process affects behaviors of abused immigrant women and their perpetrators. More research is necessary to determine whether each legal milestone affects the regularity of IPV. The purpose of this study was to describe the experiences of female immigrant victims of IPV in relation to immigration legal procedures in order to provide a better understandings for improving their situation.

Method

Data

This study was determined as non-human subject research by the IRB. Qualitative analysis of 70 affidavits from VAWA self-petition applicants obtained from a legal service program in Salt Lake City, Utah, specifically focusing on immigrant victims of IPV. An affidavit is one of the required documents for VAWA self-petition application. This study included all affidavits written between September 2009 and September 2010 in the legal service program. Affidavits include detailed information from the applicant about the relationship or marriage, values or morals related to family, the nature of their partner's abusive conduct, and how they hoped to rebuild their life in the U.S. All affidavits were released to the research team without any identifying information. The research team did not have a way to identify or contact VAWA self-petition applicants from the affidavits.

Data analysis

Seventy five affidavits were randomly selected by an assistant of the law firm. The affidavits were imported from MS Word into NVivo software for data management and analysis. NVivo is specifically developed for qualitative data analysis [13]. All affidavits were initially reviewed to develop a spreadsheet that included demographic information. In total, five of the affidavits were excluded because two of them were cases of a female perpetrator (husband victim), two more were duplicates, and one had insufficient information. While the case of the female perpetrator is also relevant to research, it did not align with the methodology of this particular study.

To ensure validity and reliability, multiple steps were taken [14]. First, data were organized and prepared for analysis. Second, two researchers reviewed the data, developed codes separately, and discussed how to merge the codes. Third, the first author (MS) organized the data based on the themes and reviewed the codes and the data with the other author (AK) when she encountered a new theme. After careful review, the new codes were added to the code-book. The first author (MS) then chose representing descriptions. Finally, all authors verified the accuracy and consistency of the data analysis and codes. Specifically, for validity, strategies such as "use a rich, thick description to convey the findings," "present negative or discrepant information," and "use peer debriefing" were used [14]. For reliability, the consistency of the codes, the communications among the coders and cross-checking codes were used [14].

Results

Participant characteristics

The characteristics included 70 women representing 16 countries (Table 1). The most common country of origin was Mexico (31.4%) followed by El Salvador (15.7%) and Peru (8.6%). Sixty percent (60%) of the women reported experiencing a threat of deportation from their partner.

Table 1: Demographic characteristics.

	Frequency	%
Victim's country of origin (Top 3)		
Mexico	22	31.4
El Salvador	11	15.7
Peru	6	8.6
Threat of deportation	42	60.0
Type of IPV (Multiple answers)		
Emotional	70	100.0
Physical	64	91.4
Sexual	34	48.6
Community resources that a victim contacted (Multiple answers)		
Police	44	62.9
Protective order	23	32.9
Shelter	9	12.9
Religious organization	8	11.4
YWCA	8	11.4
Abuser had behavioral issues (e.g. aggression towards others, self-harm, mental illness)	21	30.0
Abuser's legal status		
US born Citizen	46	65.7
Naturalized US Citizen	12	17.1
Permanent Resident	12	17.1
	Mean	
Years living with the abuser	4.04	
Number of children before marriage to the abuser (with a different partner)	1.50	
Number of children with the abuser	1.95	

N=70.

Over 90% of the women respondents reported experiencing emotional and physical IPV. The most common resource that the women used was the police (62.9%) followed by protective orders (32.9%) and living in a shelter (12.9%). Approximately one third of the women's spouses had behavioral issues such as aggression toward others, self-harm, and/or mental illness. More than 60% of the spouses were U.S. citizens. On average, the women lived with their spouses for four years and had two children.

Immigration related threatening

Most of the woman reported that their husbands often threatened them with halting or stopping their immigration process. Common threats included contacting immigration or withholding the woman's green card. Because these women were dependent upon their spouse for their legal status, these threats coerced many women into obedience and silence in abusive situations. For example, despite these women being abused mentally, physically, and/or sexually, the women often delayed reporting their abuse-if they ever decided to report their abuse. Some women, when confronted directly by a police officer or social worker about potential abuse, would fabricate stories to explain away any bruises or mistreatment for fear of more abuse or having nowhere else to turn to. For example, one woman stated:

He would threaten me about my legal status. He would say, "I will take the children away from you and call Immigration because you don't have any papers here." This is why I never called the police when he abused me.

Another woman said:

When my baby was born, a social worker showed up and asked me if I had domestic violence in the home and if I wanted them to take my husband away. I felt very nervous and afraid thinking where was I going to go with two children. So I told her no.

Threat of immigration with children

Many of the women had children with their spouses. As such, when threatened with deportation, the women showed reluctance to leave the abusive relationship for fear of having to leave their child (ren) with their abusive parent. Oftentimes, husbands would explicitly threaten to withhold the children from the victim in order to force their silence and obedience. One woman described:

He continued threatening me that he would call Immigration so that they would deport me. He threatened that he would take my baby from me. Due to fear and these threats, I never called the police about the physical abuse.

In addition to the fear of being abused, many women stayed with their spouse due to financial dependency. Their financial dependency often stems from where they were in the immigration process and their inability to obtain work visas; without being able to legally obtain work and their fragile legal status through their spouse, many of the women had to stay with their spouse and endure the abuse as a means to provide for their children. One woman reported: *"I had thought about leaving home a few times before, but [the daughter] was not healthy. I had little money and no family in the U.S. to help me so it took longer [to leave]."*

Physical threats

Oftentimes the women were faced with physical threats. The physical threats could slow the process of leaving the relationship. One example of such threat is:

I recall one day in September, 2007, I told him that I was leaving, but he pulled out a sharp small knife and he broke my suitcases and he punched my left muscle. He told me some very bad things such as he was [going] to kill me if I left...

Desire to improve marital relationship

Despite abuse, many women stayed with their spouse in hopes of the situation improving. But their efforts to improve their relationship did not work. One woman stated: "...I moved back in with [my spouse] to give him a chance. Now that we had a baby, I thought we could start over. He promised not to do drugs anymore. But it was only a trick." Another woman wrote that "Although I was in a very bad situation, I still had faith and hope that he could change and spoke to a bishop about therapy to save our marriage."

Financial dependency on spouse

The immigrant women were not only legally, but also often financially dependent on their spouse. Some of them were not legally eligible to work. Other women chose not to work because they believed their spouse might become more abusive if they did not stay at home. One woman described her experience:

To date, we are still sharing a household with [my spouse] since there is nowhere else for us to turn. I don't have the opportunity to work right now, but am in desperate need of a way to get out of this relationship. I hoping that [VAWA] will provide us with the help that we need to escape this abuse.

Lack of emotional support to leave relationship

Divorce was seen as taboo for many of these women not only in their own families, but also within the communities which they lived in. As a result, when women revealed problems of IPV either to their families or to a religious leader, for example, they were often met with resistance. One woman wrote:

[My mother] told me to just keep going on like normal with him, because what could she tell my family if I got a divorce? She told me just to accept him as he was, because I wasn't going to change him and to put up with things the way they are.

Another woman stated:

I was sure that I was not going back with him but since I was going to the Christian church, even the pastor of the Church asked me to give my husband another chance... Due to some of the pressure from family and the community like the pastor, I decided to forgive him yet again.

Positive outcomes from community resources

Some women received help sources from various sources. The most widely cited resources were the police, religious organizations, and shelters. These resources helped the women by aiding escape from abusive homes, referral to

other organizations (i.e. shelters, attorneys, therapists etc.), and providing information to the women. The aforementioned community resources were cited by women as the most helpful for getting out of their abusive relationship. One woman pointed out help from a church: "Through the efforts of my church, I was connected with the Multi-Cultural Legal Center where I learned that I could self-petition for legal residency through the Violence Against Women Act (VAWA)." Another woman noted that the police were very helpful:

The police arrived about 5 minutes after I called. I was still crying. I told them what happened. The officer saw that my cheek was red and my left arm was also red and had a few scratches. He also saw the broken plate in the kitchen. Then he told me they were taking (spouse) under arrest for domestic violence. A female officer stayed with me, had me write a report and said that she would stay until the person in charge of taking picture would get there... [Afterwards, the] police officer gave me the blue paper with phone numbers where I could find help.

Another positive experience with the police was described:

The police did not arrest him because he was not there, but they helped me move me into a shelter for women who are victims of domestic violence. The shelter helped me out a lot. They gave me a roof, clothing, food and even helped me find an apartment where I was able to get ahead alone.

Negative outcomes from community resources

Although often helpful, some women reported negative reflections of community resources. The most common negative experiences included a lack of police protection and religious leaders encouraging the victim to try to stay with her spouse and work on their marriage. One woman wrote that:

I was never able to call law enforcement because the only time I did call, they never did anything to him. He had threatened me with a gun and they had said that I was a wet back, and that he was the owner of the home and that he had papers and I didn't and so they never did anything to him, not even a write a report.

Lack of knowledge of resources

While more than half of the women sought help, there were women who did not report any mistreatment due to the belief that they did not have rights or power. Because some women did not know what resources were available to them, they had not successfully escaped their IPV situation. For example, women would try to call the police, only to be told by their spouse that the police would do nothing and they would be the one to go to jail, regardless of any abuse. One woman's experience was: "I would tell him that if he didn't calm down, I would call the police. (spouse) would say that the same police would not do anything to him because he was the authority and the police as well." (spouse was an Immigration Officer). Another woman wrote that "I would tell him that I was going to call the police and he would say that they would take me because I was illegal and deport me because he was American."

Discussion

This analysis explored the narratives of the women who applied for VAWA. There are three main findings based on the experiences of these women. First, community resources can positively or negatively affect women's situations. While there were women who were helped, there were also women who were obstructed by the same resources. Second, most women who applied for VAWA feared being in a worse position if they did leave and as such often delayed their leaving from an abusive relationship. Third, some women were unaware of resources that could help them escape their abusive situation.

Community resources aided some women in escaping IPV situations and hindered others. In a study that examined the willingness of Latina women to report to law enforcement, many women reported a high level of concern surrounding reporting to police, being treated fairly by police, and excessive police force [15]. Because local forms of government can choose whether or not they will investigate documentation status of the population they are working with, women could face potential deportation if they request assistance from local law enforcement [16,17]. Community resources such as health clinics, shelters, law enforcement, immigration-focused nonprofits, pre-hospital and inpatient emergency medical services should have more education on how to adequately assist immigrant women facing IPV. For example, continued training and education would help providers recognize that they could help inform multi-faceted marginalized women [18]. In addition to providers, general community resource education could translate to more assistance for these women.

The second finding was that women delayed ending their relationship due to fear of worsening their situation. In fact, many IPV victims "may be reluctant to report the violence due to the lack of understanding of their legal rights and their undocumented immigrant status, resulting in fear of detection and deportation" [19]. The narrative of fear in this study was especially prevalent for the women with children as they were often threatened with the possibility of their child(ren) being taken away. The finding is consistent with a previous study that found fears of losing custody of their children, being labeled as bad mothers, and failed pursuits of help-seeking among immigrant women, which would result in their inability to escape their abusive relationship, and living with worse conditions [20].

Additionally, a lack of knowledge is one of the major obstacles that immigrant women face when trying to obtain help within the justice system; research has shown that a lack of knowledge of available resources is common amongst immigrant women [19,21]. It is important to develop strategies so such women become familiar with the rights and benefits available to IPV victims [19]. A study which conducted interviews with survivors of IPV suggested that the majority of the participants supported having IPV hotline numbers on flyers/posters in waiting rooms and bathrooms in health care settings [22]. Although the aforementioned study only interviewed specifically about the health care setting, the same information may be helpful in

other pertinent areas, such as police stations, shelters, and/or counseling offices.

While this study contributes to increasing the knowledge about immigrant women's experiences related to IPV, limitations exist. Because the data was taken from narratives, there was inconsistency in information provided. For example, not every affidavit stated the all of the following: victims' ages, country of origin, potential language barriers, and years living with spouse. Since the affidavits were released without any identifiers, there was no way to follow-up to obtain missing information. The language ability of abused immigrant women was not examined in this study. This is one interesting factor that may also contribute to IPV outcomes. Further, there are potential biases and errors of interpretation of the documents because the data generated in these documents might be influenced by a political and social context and also the retrospective design, which is often subject to biases (errors that affect in the collection of data).

Despite the limitations, this study has a significant strength. This current analysis was similar to other studies in regards to finding that the women's legal status complicated their ability to obtain help [23,24]. However, unlike other studies, this analysis explored the narratives that these women provide in the legal process. Thus, this study was able to delve deeper into how immigrant women came to the legal process.

Conclusion

Because of the added complication for immigrant female victims of IPV surrounding their documentation status, this study suggests that more advocacy is needed for these women. Educational opportunities for immigrant women and community organizations are essential so immigrant women can access proper resources. Future research should look at differences within various geographical locations as each region may have different available resources for immigrant women. Furthermore, future studies should examine health trends of abused women during their self-petition process, as well as conduct in-person interviews in order to have consistent data. Finally, future projects should be developed to follow-up on the well-being of women after VAWA self-petition was granted. These future projects should include multiple data sources using quantitative as well as qualitative methods.

Ethical Approval

The University of Utah Institutional Review Board (IRB) reviewed the protocol of this study and determined that this study was not human subject research.

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