A Perspective on S4.5 Residence Category for Victims of Domestic Violence (VDV) Policy:
Addressing Domestic Violence against ‘Ethnic’ Women

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The profile of domestic violence against women of migrant and refugee background has been noted to be distinct and different from those of non-migrant women. This essay examines the immigration-specific factors which makes the domestic experiences of these women unique. In doing so, it highlights where there are gaps in knowledge of and responses for domestic violence for women of refugee and migrant background. Interventions and responses to domestic violence in these communities is also discussed. The essay argues for strategies that emphasises intersectional approach and critical mobilisation of culture.

Domestic violence in Aotearoa/New Zealand: the case of migrant and refugee background women

The high prevalence of domestic violence in New Zealand is now well established. While there are men in domestic violence situations, the overwhelming burden is borne by women. Women from across cultures, socio-economic backgrounds, and relationship circumstances (both heterosexual and homosexual relationships) experience domestic violence on a regular basis (Swarbrick, 2018). One research found that 1 in 3 women in New Zealand have experienced forms of sexual and/or physical violence in their lifetime (Fanslow & Robinson, 2011). The Family Violence Death Review Committee reported an increase in the number of deaths as a result of family violence, with 194 deaths between 2009 and 2015. The majority of these were caused by intimate partner violence (IPV), mostly perpetrated by men against women. In 2016, police reported an increase in family violence related investigations, with 118,910 incidents compared to about 110, 910 incidents probed in 2015 (New Zealand Family Violence Clearinghouse, 2017). The number of crisis calls received by women’s refugee across the country has also increased over the years, as well as the number of women accessing community advocacy services and/or staying in safe houses (Shakti Community Council Inc, 2011). While these are useful statistics, they do not present the full picture of domestic violence in New Zealand. They are based on reported cases, while research shows that domestic violence remains an under-reported crime (New Zealand Family Violence Clearinghouse, 2017). For all women who have experienced domestic violence, the health and developmental consequences are extensive with both short and long-term negative impacts (Fanslow & Robinson, 2011). Consequently, there is an increasing demand for effective responses at the micro and macro levels, through appropriate programmes and legislation. While women from across backgrounds and status may have similar experiences of domestic violence, research shows that women of migrant and refugee background have unique and distinct experiences. This is mainly because violence in these communities take specific cultural forms, and stems from a constellation of risk factors (Simon-Kumar, 2019). Specific factors linked to migration status worsen their already vulnerable position in domestic violence situations (Kapur, Zajicek, Hunt, & Policy, 2017; Menjívar & Salcido, 2002).

Demographically, New Zealand is a multicultural society. The 2013 population census identified at least 213 ethnic groups living in New Zealand, with ethnic populations representing almost 13% of the country’s total population. Since the mid-1980s, the country has experienced significant migration. In fact, extant statistics show that about I in 4 people currently living in New Zealand was born overseas. With regards to ethnic minority groups, diverse ‘Asian’ groups represent the fastest growing population, doubling in size between 2001 and 2013. Consequently, cultural and ethnic diversity is now an evitable part of society and should be considered in addressing domestic violence. Yet there is limited research on domestic violence among migrant and refugee background communities in New Zealand (Rahmanipour, Kumar, & Simon-Kumar, 2019). This dearth of research has also been noted in other countries (Menjívar & Salcido, 2002). Because of this, there are no official figures showing the prevalence of domestic violence in these communities (Simon-Kumar, 2019). However, various community advocacy groups working with migrant and refugee background women have highlighted the frequency and negative wellbeing impacts of domestic violence among these groups. Domestic violence experiences of migrant and refugee background women are unique. This is primarily because their lives and experiences are compounded by intersecting factors such as ethnic minority location, immigration status, cultural norms, and economic situation. These issues increase the vulnerability of these women to domestic violence (Mayeda & Vijaykumar, 2015; Simon-Kumar, 2019).

The definition and understanding of domestic violence among migrant and refugee background communities is significantly informed by their diverse cultures. For instance, while IPV has been noted to be the most common form of domestic violence experienced by indigenous and Anglo-European/white women, domestic violence against migrant and refugee background women is likely to be perpetrated by other members of the family including parents and in-laws, brothers, uncles, and sisters-in-law. Older women, such as mothers-in-law, occupying power positions in the household, can be responsible for domestic violence against younger women in the household (Nair, 2017; Simon-Kumar, 2019; Simon‐Kumar, Kurian, Young‐Silcock, & Narasimhan, 2017). Amendments to the definition of domestic violence in the Domestic Violence Act (1995) recognises this lived reality (Swarbrick, 2018). Domestic violence can also take other cultural forms, including forced and arranged marriages, dowry and honour related violence (Akpinar, 2003; Iskander, 2015).

Domestic violence is perceived against societal structures of gender inequality. In particular, women are traditionally constructed as inferior to men and men as the head of households and communities. Consequently, absolute obedience is expected from women. Failure to obey or uphold these cultural expectations can lead to violence. As Simon-Kumar (2019) observes that these cultural expectations may even be stronger upon resettlement as communities try very hard to maintain their ‘cultural identity’. However, the tendency to stereotype domestic violence among migrant and refugee background communities as an inherent part of culture has also been noted (Erez, Adelman, & Gregory, 2009). This perspective reinforces the notion that domestic violence does not require professional intervention because it is a ‘way of life for these people’, and therefore nothing can be done about it. This view not only minimizes the seriousness of domestic violence, but also portray migrant and refugee background communities in a manner suggesting that they are pathologically prone to violence (Menjívar & Salcido, 2002).

A number of other factors associated with domestic violence experiences among migrant and refugee background communities have been identified in research and literature. The first of these is language, which has been shown to hinder women’s learning and accessing social and support services in host communities. Women who are already fluent in the official language(s) of the receiving communities may be an exception. Those who lack language skills tend to live in communities with coethnics, and are likely to access services that cater for their needs in their native languages. This factor, language, exert greater influence when combined with other factors such as employment, isolation, and immigration status. Without language skills people of refugee and migrant background are only able to find employment in the lower levels of the economy (Menjívar & Salcido, 2002). Accordingly, lack of employment or underemployment has been found to be associated with men’s perpetration of domestic violence (Nair, 2017). For the women who gain employment, this may increase their bargaining power. However, it can also make them more vulnerable to abuse by their partners if it perceived as a threat to the man’s authority (Menjívar & Salcido, 2002).

In addition to isolation experienced as a result of leaving behind family and loved ones, lack of or limited language skills and employment may further isolate the women, making them dependent on the abuser for social support. This gives the abuser the opportunity to control the woman both emotionally and physically. Leaving the relation and/or disclosing abuse may result in further isolation from their family and ethnic communities (Mayeda & Vijaykumar, 2015). Menjívar and Salcido (2002) also observed that migrant and refugee background women often use their country of origin as a frame of reference when deciding whether or not to seek help and/or disclose domestic violence experiences. The majority arrive from countries where domestice violence is ‘normalised’ and/or women in such situations lack legal protection. This may leave the women to assume initiatilly that the same applies in the host country.

Women from refugee and migrant background in New Zealand hold different legal status, including as citizens, asylum seekers, permanent residents, humanitarian protection (mainly people of refugee background), temporary and seasonal work visas, and student visas (Simon-Kumar, 2019). Immigration status is noted to be a key risk factor (Erez et al., 2009). Globally, violence against women has been a subject of debate particularly with regards to the making of laws and policies. In seeking to prevent, eradicate, and punish violence against women, most countries have drafted specific laws and national policies and/or ratified certain international conventions. The effectiveness of these laws and policies should be measured by their ability to address important factors associated with domestic violence against women, and reduce personal and social consequences of domestic violence (Dugan, 2003; Sifaki, 2017). A study investigating domestic violence in a number of countries found that out of the 173 countries covered, 127 countries passed specific domestic violence laws. Countries that had not passed specific laws were found to still offer some form of increased protection for people experiencing domestic violence. However, the majority of these legislations were found to be incomplete or weak in implementation (Sifaki, 2017). In New Zealand, the Domestic Violence Act 1995, which replaced the Domestic Protection Act 1982, exists for this purpose (Swarbrick, 2018). In addition to this Act, New Zealand has also sought to address domestic violence among migrant and refugee background communities through changes in immigration policy (included in the Immigration Act 2009). In particular, section 23 (1a) of the Act on ‘residence instructions’ deals with the provision of work or residence visas for some women experiencing domestic violence. The details of such provisions are further specified in the Immigration New Zealand Operational Manual S4.5 (New Zealand Immigration, 2018).

A number of research, mainly originating from the USA, Canada, and Australia, establish that immigration status increases women’s vulnerability to domestic violence (Harzig, 2003; Kapur et al., 2017). In New Zealand, the risk heightens if the woman relies on their abusive partner for sponsorship. The immigration policy was amended to protect women caught in such situations. Prior to 2002, women sponsored by their partners were not able to leave the relationship until after a two-year probation period (Burman & Chantler, 2005). For instance, some women who decided to leave violent relationships after years of abuse became illegal. Consequently, front-line practitioners working with women from migrant and refugee background, and in particular those who were in violent relationships but not able to leave because of their visa conditions, advocated for changes to this policy (Harper, 2012). The Domestic Violence Rule was passed in response to these campaigns (Mayeda & Vijaykumar, 2015). It particularly catered for migrant women living with abusive partners, and not yet residents. Their situation made them vulnerable to their partner’s control and abuse, mostly threatening to report them to Immigration New Zealand (INZ) or the Ministry of Social Development (MSD) (The New Zealand Psychological Society, 2015).

S4.5 Residence Category for victims of domestic violence (Operational Manual – Immigration New Zealand) – VDV policy provide protection for migrant women experiencing domestic violence. It enables women whose partners are New Zealand citizens or hold a residence class visa to remain in New Zealand if the relationship breaks down as a result of domestic violence. However, they are required to provide evidence showing that: they intended to apply for residence class visa on the basis of the ended abusive relationship; and that they are unable to return to their country of origin because of resultant stigma, or because they would have no means of independent financial support. A woman in such a situation is eligible to apply for a six-months special work visa, which can be extended for a further 3 months if she has also lodged an application for residence. The woman is required to provide additional evidence, including proof of the relationship with the abusive partner and evidence that domestic violence really occurred. Financial evidence is also required as proof that the woman need to work to support themselves (Operational Manual – Immigration New Zealand, 2018).

However, VDV policy remains ineffective for a number of reasons. First, many women from migrant and refugee background are unaware of this policy. Second, many are not eligible because they cannot meet the requirements. This is because either their partner is not a New Zealand resident or citizen or they are unable to show proof of domestic violence. Cost is an issue for women who do not meet the requirements, hindering them from accessing legal aid and pay for Protection Order. The process is further complicated for women with limited or without English language skills. Moreover, without residency women experiencing domestic violence are not eligible for accommodation supplement or immediate financial assistance. It is also likely that their partner may withdraw financial support if they leave the relationship. (Marlene, 2011). Third, global research continues to show that providing evidence for domestic violence can be tricky and highly traumatic for women who have experienced it (Kapur et al., 2017; Menjívar & Salcido, 2002). INZ only accepts limited types of evidence which may be impossible to gather (Dew, 2017). Consequently, women caught in such situations may choose to stay in abusive relationships to avoid deportation.

Assessment and Intervention: Intersectional Approach and Community-Based Approach

A number of global studies have found an intersectional framework useful for understanding and assessing domestic violence among migrant and refugee background women (Erez et al., 2009; Sokoloff, 2008). The discussions so far have demonstrated that at the individual and household level, domestic violence is tied to experiences of migration. In addition to commonly identified individual male factors linked to perpetration of violence, pre and post-migration factors such as racism and discrimination, perceived loss of authority, self-esteem and status, lack of employment or under-employment are potentially associated with men’s perpetration of domestic violence against women. Migration can be accompanied with isolation, loss of social support, language barrier which limits access, and increased dependence on their husbands (Menjívar & Salcido, 2002; Simon-Kumar, 2019). Tensions can also arise when women’s ‘legal consciousness’ increases (Menjívar & Salcido, 2002), and are perceived to be destabilising traditional male-female power relationships. Immigration status also places women at risk at the micro level, especially if their legal status is tied to that of their husband.

In view of the risk posed by the woman’s immigration status, the New Zealand government amended its policies to issue visas to women in some migration categories who are exposed to domestic violence. However, as discussed earlier a number of issues need to be addressed to ensure the effectiveness of this policy. Because this law only applies to women whose partners are either New Zealand citizens or hold a residence class visa, migrant women experiencing domestic violence and are in relationships with partners holding temporary visas are not eligible for this protection and therefore disadvantaged. For instance, women whose partners are on temporary visas, such as a student visa, may be unwilling to go to relevant authorities to make a statutory declaration that domestic violence has occurred. Many argue that these women should be protected and made eligible for social and financial support regardless of their partner’s legal immigration status. It is not right that a woman in danger should pay, for Protection Order, to seek safety for themselves and their family (Dew, 2017). Therefore, further policy change is required at the macro level. However, the lack of adequate research could result in policies which neglect the situations of migrant and refugee background women experiencing domestic violence. Accordingly, further research with larger population samples is also urgently needed to inform effective policies (Menjívar & Salcido, 2002; Simon-Kumar, 2018).

An intersectional framework is valuable for understanding the reasons why migrant and refugee background women under-report domestic violence. Research shows that they only sought help when there were severe physical and mental health impacts (Ahmad, Driver, McNally, & Stewart, 2009). Even then, many were reluctant to disclose domestic violence experiences. At the micro level, these women may not be aware of their rights under the law and/or the legislations and processes around domestic violence against women. However, even if they are aware of these, ability to report and/or disclose is complicated by other factors. For instance, because of cultural obligations and expectations women may choose ‘family’ over their wellbeing and safety. Lack of trust in the system has also been identified as a barrier to disclosure and help-seeking. Shame and stigma linked to ‘broadcasting’ private family matters in public is also a barrier for some women of migrant and refugee background (Menjívar & Salcido, 2002; Simon‐Kumar et al., 2017). Disclosing experiences of domestic violence may also be perceived as rupturing established cultural standard of purity, which may lead to negative perceptions of the woman and stigmatisation from within their community. Maintaining family and social honour is important, and could be permanently ruined if the woman were to leave her husband. Women may also fear that outsiders will perceive their community in a negative manner, which may have material consequences. Moreover, some of these women are economically dependent on their husbands, and therefore leaving may not be considered the best option (Nair, 2017; Rahmanipour et al., 2019; Simon-Kumar, 2019).

Broader system factors also pose barriers to woman reporting domestic violence. Research has shown that in some instances women of migrant and refugee background have found practitioners, such as social workers, doctors, and counsellors to be racist. This includes the police. For instance, these officials in the system may frame domestic violence within these communities as a ‘cultural’ issue and thus not needing intervention. From this perspective, domestic violence is constructed as a problem of a particular cultural group rather than a problem affecting women across cultures. Women are also likely to see an overlap with their experiences of other government departments, such as immigration services. They may want to avoid official intrusion into their family lives, especially in cases where either her or the husband still hold temporary visas (Simon-Kumar, 2019; Simon‐Kumar et al., 2017).

Intervention and responses to domestic violence affecting women of refugee and migrant background

It is important that programs for intervention recognise the intersectional locations of women from migrant and refugee background experiencing domestic violence. Particular attention should also be given to women from refugee background. In addition to issues associated with domestic violence linked to their location as migrants, their experiences are further compounded by trauma they may have experienced pre-migration (leaving their countries of origin and during the time spent waiting for resettlement) which may continue to impact on their wellbeing even after resettlement. Conventionally, interventions typically entail individual therapy, government, and community-based responses.

Research shows that ‘mainstream’ responses remain ineffective in addressing domestic violence against migrant and refugee background women (Menjívar & Salcido, 2002). For instance, one research found that at the individual level commonly used counselling models and frameworks in New Zealand are incongruent to the counselling needs of women from migrant and refugee background. Debatably, they are mostly based on ‘western’ ethos which tends to be individual-centric in theory and practice. This may conflict with collectivist ideology, which informs the worldview of the majority of women from refugee and migrant background communities, and mostly places family wellbeing as supreme over individual wellbeing. Consequently, a woman wanting to leave an abusive relationship may be seen as being selfish, and individualistic. The collectivist expectation is that she should continue to be a wife, and should honour family over self. Not all counsellors may be able to relate to the trauma which may result from leaving a relationship in such collectivist contexts (Sokoloff, 2008). The resultant social isolation and stigmatisation are enormous. Such a shunned woman would be considered ‘mentally ill’ or weak if her family or community knew that she was seeking counselling. This could have a significant impact on individual self-esteem. Counsellors may lack cultural competence, when attempting to advice women from these backgrounds to alienate themselves from their oppressive partners and communities without fully understanding the impact of such actions. This is not to deny the ethical dilemma presented by such situations, where counsellors are expected to keep the women safe and at the same time enable their empowerment. Rather, it demonstrates the need for an ethnic cultural perspectives to work with women from collectivists background experiencing domestic violence and living in western nations (Nair, 2017).

Simon-Kumar (2019) reporting on a research project observed that community-based practitioners working with women from migrant and refugee background who have experienced domestic violence utilise a range of culturally-oriented intervention methods. Most of these take a preventative and family safety approach, in addition to the dominant individual safety approach. Primarily, these diverse techniques seek to ‘mobilise culture’ and its strengths for domestic violence intervention, rather than erasing culture. It has been noted that in most account of domestic violence among migrant communities, culture is often portrayed as the root cause of violence and from which women need exoneration and refuge. Consequently, domestic violence interventions are often constructed around challenging, resisting, and changing ‘oppressive’ cultures (Sokoloff, 2008). However, a new perspective has emerged, which perceives culture to be potentially transformatory. It is based on the recognition that culture has many implications for women experiencing domestic violence, and that not all of these is negative.

Accordingly, practitioners use a range of strategies including working with the entire family, engaging men in designing and delivering interventions, using ‘micro-interventions’ tailored to the women’s individual needs and focusing on empowerment (such as driving lessons, English-language classes and catering programs), and utilising cultural elements such as spirituality as a strategy (Simon‐Kumar et al., 2017; Sokoloff, 2008). The emphasis is on empowerment, education, gaining skills and knowledge, and providing appropriate information to help families and the entire community manage the various stresses in their lives which may be directly or indirectly associated with domestic violence perpetration (Marlene, 2011). However, the ‘mobilising culture’ approach is not supported by everyone. Some argue that culture-based approaches may prioritise the needs of abusive men and/or force women to reconcile and continue in abusive relationships (Simon‐Kumar et al., 2017).

Cultural sensitivity and immigrant language skills are important in engaging with women from refugee and migrant backgrounds. They shape practitioners’ ability to provide adequate information and/or enable them to access relevant justice and social support services. Additionally, the language used by practitioners to frame and handle domestic violence is equally crucial (Kapur et al., 2017). For instance, women are unlikely to seek support if the language used rationalises, justifies, and excuses the abuser’s actions, such as implying that he just lost control (Menjívar & Salcido, 2002). Shakti is an example of an organisation in New Zealand providing culture-specific support services. A unique feature of Shakti is its staffing, which is mainly comprised of former clients and women of migrant and refugee background, who can relate to the women’s cultural backgrounds and the challenges they are facing (Mayeda & Vijaykumar, 2015).

Conclusion

This essay has shown that the needs of migrant and refugee background women experiencing domestic violence differ from those of the mainstream population. These women face a range of social, economic, cultural, and legal challenges linked to their location as migrants. Challenges discussed include lack of familiarity with relevant legislations and policies, fear of losing social status and stigma from family and wider ethnic community, immigration status, and lack of or limited cultural competency among professionals. It is argued that an intersectional framework and analysis is important in both policy formulation and in developing strategies for engaging with women of migrant and refugee background experiencing domestic violence. Practitioners working with women from these backgrounds require appropriate training in cross-cultural values or experience in working with women from refugee and migrant background experiencing domestic violence. Overall, ideal methods of addressing domestic violence in these context must address the intersecting factors associated with domestic violence in migrant and refugee background communities. There is a need for more research, particularly involving large samples, to inform practice and policy.

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