Double risk: Immigrant mothers, domestic violence and public child welfare services in New York City

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ABSTRACT

This paper examines the experiences of Mexican immigrant mothers living in New York City who become involved with public child welfare services because of domestic violence and makes recommendations for evaluation of program services to immigrant mothers. A case study and the results of a focus group interview will be presented to illustrate the often conflicting cultural, social and political issues confronted by immigrant mothers as they negotiate the organization of services designed to address specific forms of domestic violence, i.e., the protection of children and the protection of women. Emergent themes point to the double risk faced by immigrant women—first at the hands of their partners and then by service providers who do not understand the cultural issues that surround domestic violence nor the implications that immigration status has for victims of abuse. After intervention, participants in this research study describe feeling both like 'bad mothers' who fail to protect their children and 'bad women' who turn family members over for deportation. Evaluation of services to immigrant mothers requires consideration not only of cultural and social issues that affect program outcomes but must also consider the larger implications that immigration status has on utilization of services by immigrant women. Immigrant women often face multiple risks when seeking help for family problems.

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1. Introduction

Immigration status, more than cultural issues or language barriers, is emerging as the most significant factor in determining how, or even if, domestic violence is addressed when it occurs in immigrant families. Immigrant women are doubly at risk – not only at the hands of their intimate partners, but they also risk multiple sanctions by the state should it intervene – these can range from the denial of services based on their status to separation from family members upon whom they depend economically to the loss of their children because they are perceived as having failed, as a parent, to adequately protect them. This paper examines the experiences of several Mexican immigrant mothers living in New York City who encountered state intervention into their lives in the form of public child welfare services. Their voices, as presented here, speak to the multiple and conflicting cultural, social and political issues that they confront as they negotiate the organization of services designed to address family violence. They also speak to the overall lack of awareness by most formal services providers of how immigration status impacts access to services for immigrant families and their children.

What emerges is not only the need to understand how multiple identities affect individuals who interact with systems of care, but also the need to examine social policies through the lens of intersectionality, i.e., how do we resolve competing mandates in addressing highly complex and interrelated social problems? Nowhere is this more evident than in addressing violence within the family—one set of laws, mandates and services are designed to protect children; another to address the violence between partners. How do you protect children when there is violence between their parents? And how do you address violence between parents in the context of child welfare? And lastly, how do you address family violence when the political climate now demands that undocumented immigrants, once identified, be turned over to immigration authorities? Do we look for one answer or are there multiple solutions that are acceptable on a continuum of care framework that do not violate social norms or undermine our sense of social justice and equal protection? Recommendations examine the use of collaborative partnerships between public child welfare services and community-based organizations to address family violence and the emphasis on developing protocols and staff training. Evaluation of the effectiveness of such programs and protocols also requires taking into consideration...
the cultural and political considerations involved in domestic violence.

2. The immigration debate—a focus on restricting access to benefits and services by immigrants

As the debate on immigration intensifies in the United States, the response in the political arena has placed emphasis on passing increasingly stringent controls on access to social benefits based on immigration status—a sort of negative immigrant policy whose intended outcome is, presumably, to make it difficult for immigrants, specifically the undocumented, to stay and hopefully, make them go back to wherever they came from. The problem with this policy paradigm is that it makes a huge assumption that most immigrants are single individuals. They may start out that way but it is quite clear that immigrants, like most adults, do form families. In fact there is ample evidence that immigrants are more likely to form families at an earlier age and have more children than the native born (Capps, Passel, Perez-Lopez, & Fix, 2003). Demographic data in the U.S. now indicates that one out of five children have parents who are foreign-born; and 85% of immigrant children reside in mixed status families, i.e., one or more parent is a non-citizen; one or more sibling are not citizens. For immigrant families as a whole, the unintended consequences of decreasing access to social benefits are legion and include increasing economic hardship, inadequate food, lack of access to health care and stress (Capps et al., 2002). These are the very risk factors often identified as correlating with increases in family violence.

Despite ample evidence that immigrants, whether documented or not, underutilize government benefits the legislative trend has been to increasingly curtail access to public benefits and services by the foreign-born (Hernandez, 1999). In 1996 the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) which largely targeted single mothers dependent on public assistance, also included language that for the first time spelled out restrictions on access to government benefits and services based on immigration status. This federal law created categories of ‘qualified’ aliens and established waiting periods of up to 7 years before eligible foreign-born aliens could access certain services. The effect of PRWORA has been linked to creating a ‘chilling’ effect on immigrants accessing any type of government benefits and services. In recent studies by the Urban Institute (Capps et al., 2002; Passel, Capps, & Fix, 2004) it was clear that immigrant populations, despite eligibility and need, did not access services that would ameliorate problems such as lack of access to food and health care. In families, this could effectively place children at risk and bring the attention of public child welfare services. While PRWORA applies only to federal benefits including Food Stamps, Medicaid and Social Security, similar initiatives at the state level are seeking to restrict immigrants’ access to state-funded benefits and services. This type of legislation could effectively restrict immigrant women’s access to such basic domestic violence services such as shelters and counseling.

3. Domestic violence and child welfare

Domestic violence is of considerable concern in the field of child welfare. Studies have attempted to document the connection between spousal abuse and child abuse and the effects that exposure to domestic violence has on children, yet there is little agreement in the literature (Edleson, 1999). However, these correlations are important to consider for several reasons, most notably for the impact they have on policymakers determining the direction and focus of government funded interventions designed to address family violence. Historically, child welfare and domestic violence services have differed fundamentally in philosophy and preferred approach in dealing with violence in the home. In child welfare the primary focus has been, and remains, on assessing risk to the child and taking steps to ensure child safety and well-being. Within that framework, if a mother remains in contact with her abuser she may be charged with “failure to protect” her children and risks having them taken from her by the state (Postmus, 2005).

In contrast, domestic violence services providers often approach practice from an empowerment and harm reduction perspective that focuses on encouraging victims to work towards their goals. Service providers are keen to support victims as they struggle with the process of leaving their abuser, which is often time consuming and difficult. There is widespread recognition that while leaving an abuser is optimal, it may also not be feasible given economic constraints and the fact that mothers with children often have no place to go when they do leave (Child Welfare Watch, 2003).

The debate on best practices in addressing family violence is best placed in relationship to funding—domestic violence is a relatively new field, provides services on a voluntary basis, lacks adequate funding and consequently has few service options to offer clients. Child welfare services, on the other hand, are mandated by federal and state laws; practitioners have considerable legal clout to intervene and require clients to follow through with service plans. In this context beliefs about the rights to children from domestic violence drive child welfare’s policy weight and determine how, what types of services are provided and to whom. Of particular concern then are assumptions prevalent within the field of child welfare that place the primary responsibility for addressing domestic violence on mothers involved with abusive partners (Aron & Olson, 1997). In effect, creating a scenario where it is easy to perceive mothers who are victims of abuse as also being ‘bad’ mothers. Examples (as cited in Postmus, 2005) include beliefs that victimized mothers are more likely to abuse or neglect their children (Kaufman & Little, 2003), that domestic violence is a form of child maltreatment (Mills et al., 2000), that children who witness domestic violence are more likely to become either perpetrators or victims (O’Keefe, 1995) and that the only way to keep children safe is for the battered mother to leave the abusive relationship (Child Welfare Watch, 2003).

Concern about the risks to children in families where there is domestic violence has led several states to pass legislation requiring child welfare services to become involved with these families. In many other states there are mandatory prosecution laws, i.e., even if the battered spouse does not pursue legal action, the state can. With little training, few guidelines or protocols and perhaps out of fear or frustration in dealing with the dynamics of abusive families, child welfare caseworkers began to routinely remove children from homes where there were reports of domestic violence. By 1999 in New York City one in four children were removed from parents and kin based on reports of domestic violence (Child Welfare Watch, 2003).

The practice of removing children from homes where they were exposed to domestic violence was sharply repudiated in 2002 as a result of a landmark class action lawsuit, Nicholson vs. Scoppetta. The court ruled that “government may not penalize a mother, nor otherwise unfit, who is battered by her partner, by separating her from her children; nor may children be separated from the mother, in effect visiting upon them the sins of their mother’s batterer” (Postmus, 2005). The effect of this lawsuit resulted in many states re-examining their procedures and protocols in handling family violence when children were in the home and developing strategies on how to develop alternative practices that would meet the criteria for ensuring child safety and at the same time not penalize the mother (Child Welfare Watch, 2003).

While these developments were hailed by advocates, there was little attention paid to what the unintended consequences were when child welfare caseworkers now embarked on practices to
address family violence by focusing their attention on encouraging mothers to leave abusive relationships by encouraging shelter use, offering access to public housing and other services. For undocumented immigrant women this approach was next to useless given their immigration status and the barriers it raised in their being able to comply with such service plans. Mandatory prosecution of batterers also meant that the spouses of undocumented immigrant women would be exposed to greater risk of deportation as a result.

4. Immigrants and child welfare

Child welfare services operate as an important arena for interaction with immigrant families. However, no data currently exists to document the numbers of immigrants who come to the attention of the child welfare system in New York City or anywhere else in the United States for that matter. That these families do interact with the child welfare system is evident from anecdotal data and local studies where large communities of immigrant populations reside (Vericker, Kuehn, & Capps, 2007).

Studies suggest that immigrant families experience significant problems in their encounters with child welfare services. Among the common barriers are the lack of translators for those with limited English ability, immigration status issues that impede access to resources and culturally insensitive interventions by child welfare workers (Dettlaff & Earner, 2007). This cultural insensitivity includes a lack of understanding on the part of many child welfare workers that many recent immigrants have arrived from countries where the state is generally perceived to be inept, corrupt and dangerous or perhaps even an agent of terrorism (Potocky-Tripodi, 2002). How this fundamental perception and understanding of the state impacts interventions between immigrant families and the provision of services in this country has not been thoroughly examined (Brandon, 2001).

Outcomes for immigrant families involved with the child welfare system are affected by the challenges families present to the system as well as the barriers they encounter within it (Pine & Drachman, 2005). Immigrant parents who have had their children removed from their care may not be able to complete service plan mandates and lack of compliance with service plans is often deemed a reason to terminate reunification processes and initiate termination of parental rights. Immigrant families may also encounter legal restrictions based on their immigration status in accessing services and/or entitlements. For immigrant families who are unable, because of immigration status issues, to meet the requirements for reunification this may result in greater disruption, separation and fragmentation of families (Wexler, 2002).

5. Immigrant mothers, domestic violence and child welfare

5.1. Methodology

To examine the multiple issues faced by immigrant women involved with the New York City child welfare system a series of in-depth interviews and a focus group were conducted with 19 Mexican immigrant mothers between 2003 and 2004. These women represent a sample from a larger study conducted to investigate perceptions about the role of the state in family life among immigrant mothers, some of whom had experienced intervention by child welfare and others who had not (Earner, 2004). This larger study, conducted with Institutional Review Board approval, recruited immigrant mothers via fliers and notices posted at several faith and community-based organizations in New York City to voluntarily participate in both in-depth interviews and a focus group about their experiences with state intervention into family life. The women who responded to this request were guaranteed confidentiality and prior to being interviewed signed a voluntary agreement (in both Spanish and English) to participate. All interviews were conducted in Spanish. After gathering demographic data, participants were posed a series of open-ended questions designed to prompt them to talk about their life experiences growing up in their home country; did they have opinions about the appropriate role for the state in relationship to the family, under what circumstances did they think the state should intervene in family life and what their own experience with state intervention had been like in New York City. While domestic violence was not the sole focus of these interviews it became clear in the course of the conversations that nearly half of the women (48%) had some history of domestic violence. This figure corroborates with Tjaden and Thiennes (1998) national study on the prevalence of violence in the lives of women: 52% of all women experience some form of physical or sexual violence in their lifetime. In nine cases the domestic violence prompted intervention of child welfare services providers and three of the mothers interviewed had experienced having their children taken from them because they did not comply with service mandates that required them to leave their abuser. In no case did the mothers indicate that the children were ever targets of abuse.

The mothers who participated in these interviews, while not a representative sample of Mexican immigrants in New York City, were diverse across socio-economic status, age, education, marital status, number of children and immigration status. Age of participants ranged from 25 to 66 years with an average age of 37; the majority were legally married; the average length of stay in the United States was 15 years. Of significant difference between those who had legal immigration status (6) and those who did not (13) was education and income. Those with legal status had all completed high school with several either having some college or additional career training. Their average income was reported as $28,000 or above. In contrast those who did not have legal status had less than 9 years of education and either depended on their spouse for financial support or else worked part-time as housekeepers, doing factory work or working in restaurants. None reported an annual household income over $20,000 per year.

Also of some difference between the women whose immigration status was legal and those who were not was that most of the women with legal status had come from urban environments in Mexico; their families were either civil servants or in business. The undocumented women largely reported growing up in rural pueblos (villages) in southeastern Mexico where they had extended family networks engaged in agricultural production.

5.2. Analysis of data (coding)

Interviews of study participants were taped, transcribed and translated. The author and a graduate student research assistant, who was a native of Mexico and spoke Spanish fluently, then each read through the transcripts coding the respondents’ answers to uncover themes about personal identity, social role and descriptions of experiences with child welfare intervention. Using a poststructural lens allows researchers to move away from adherence to dominant cultural values and supports understanding meaning within the given cultural context (Denzin & Lincoln, 1994). In this case the author and research assistant were looking for words and groups of words that conveyed the mother’s sense of themselves as mothers, as women, as immigrants and how they perceived what happened when the state, embodied as a child welfare caseworker, stepped into their lives. Both the author and research assistant read through the transcripts several times, much as though on an archeological expedition, to delve ever deeper into discourse patterns. The findings presented here represent the author’s subjective interpretation of the respondents’ narrative in describing their experience.
5.3. Results: mother’s rights and women’s rights

One particularly prominent theme that emerged was how immigrant mothers experienced the intersection between domestic violence and the response of public child welfare services, based on the descriptions of these mothers’ experiences, both appear to pose numerous risks to immigrant mothers.

The case of “Celina” [not her real name], one of the research study participants, vividly illustrates how immigrant mothers become not only victims of domestic violence at the hands of their spouses, but are then further victimized by a system of services designed to ‘protect’ their children:

Celina was a 28-year-old mother from Puebla, Mexico now living with her husband and three children in East Harlem, New York. Celina did not work outside of the home, her youngest child was 6 months old. Celina reported that recently her 19-year-old niece arrived to live with them in a one bedroom apartment. Based on Celina’s description of events it was apparent that before long her husband and niece were having an affair; this caused what Celina described as “many problems” between her and her husband and she said that on several occasions when they argued the police were summoned by neighbors. One night her husband went out and did not return; neither did her niece. After 3 days a SWRD arrived at her home and swarmed through her apartment.

“Where is the gun they demanded?” – Celina did not know that her husband kept a gun in a suitcase under the bed. The police found it and child welfare authorities who were standing in the hallway, then took her three children away.

Celina discovered that her husband was in jail, accused by the niece of rape; the niece was in foster care, claiming she was 15 years old. Celina was charged with failure to protect a minor child in her house because of the allegations of domestic violence and the alleged rape. Within days the niece ran away from foster care when a medical report indicated that she had not been raped and that she was not 15 years old; the niece recanted her claim of rape and Celina’s husband was released from jail and criminal charges were dropped. However, Celina’s children remained in foster care. Child welfare authorities, focusing on the prevalence of domestic violence in the household, demanded that before Celina could be reunified with her children she would have to order her husband out of the house, get a job, get a larger apartment, take parenting classes and attend regular counseling. Celina did not accept this plan and refused to comply. Celina was also an undocumented immigrant and therefore unable to get the necessary work training to be a better mother and not just come and take the children away.

The argument for state intervention into a family’s private life when there was domestic violence was countered however, with an example provided by one participant who described a Mexican mother she knew who had her children removed because she left them alone while she was with her boyfriend in an adjoining apartment.

Franciscia, 32 years old, unemployed, two children:

“I know a woman that they took the children away just because she went with the boyfriend and left the children alone. She was with the boyfriend next door... later she became pregnant, she had the baby and they took it. They took it even though it was not included in that case... they should have given her some training to be a better mother and not just come and take the children away... they violated her rights... they violated her mother’s rights. But of course, she is Mexican, she doesn’t speak English well, she is not a resident, then of course they pick on them. They don’t listen to her. They just don’t listen.”

Out of the 19 women interviewed only three stated emphatically that the state should never intervene in the family. Others proposed that intervention was necessary sometimes but again, the purpose of the intervention should be to provide help to the family and that more thorough investigations should be done before decisions are made to undertake drastic actions such as removing children from their mothers.

Maria, 25 years old, charged with failure to protect; three children in out-of-home care:

“Yes, I think it [state intervention into family life] is appropriate when there is abuse... like when a husband hits his wife, abuses the children... abuse of animals. I think they should investigate more before taking a child out of the home – my children were not raped or hurt, those were lies, but they took them anyway. I brought letters from the hospital, from the school’s principal
and they all said I was a good mother. I took that letter to the judge and she said it was just a piece of paper, it doesn't mean anything to her. She [the judge] has too much power. That's abuse too."

Celia, age 66, charged with failure to protect, caring for mentally ill daughter and her two children; custody of children granted to another daughter after 4 years in foster care:

"The family is something that can take care of itself...maybe if the government wanted to be involved with families then they should help them feed the children and pay rent or something like that...then it would be helpful."

Josefa, 34 years old, charged with physical abuse, child returned after 1 month, allegations dismissed:

"Well, I think the state should care about children...but, [out of consideration] for the children's family [before they remove a child], they should talk to someone who really knows that family and those children. That's what they should be doing, really paying attention...they should investigate the cases very carefully...they should look first to see if it really is abuse or just a fall. What they [child welfare] are doing now is not very efficient."

Inocencia, age 53, charged with failure to protect; four children in out of home care:

"I don't really think the government should be involved with families, there is too much opportunity for the government employees to lie, lie shamelessly because no one is there to watch over them. What I want from them is help; I want them to help me and my family. Not hurt us. But I don't think that they will do that."

Rosa, age 33, mother of three children, charged with inadequate supervision:

"I think the government should do more for families; economically; the city did not help us that way at all."

6. Discussion

The literature is replete with assertions that immigrant women often have disparate views of married life, i.e., that they are more often accepting of abusive behaviors on the part of their husbands and do not generally see this as a reason to separate or to seek help from outside authorities (Pyles & Kim, 2006). Likewise, other factors that have been identified as silencing immigrant women from outside authorities (Pyles & Kim, 2006). Likewise, other and do not generally see this as a reason to separate or to seek help often have disparate views of married life, i.e., that they are more legitimate, even obligatory role of the state to protect women from the violence of their spouses; yet what they feared most was that if they asked the state to intervene it would not support them in their role as mothers. It was clear that for the women interviewed being a mother was a role they felt gave them power and status: a mother was somebody; a wife belonged to somebody.

In discussing their families of origin the Mexican immigrant mothers described witnessing their mothers, aunts and married sisters hit by men; some talked about this violence as a 'normal' aspect of married life; one that you could only hope to avoid by marrying a man who would not beat you. Turning to outside help, agencies or the police was described as ‘useless’; not only would the police not respond, they may even subject you to further humiliation. One woman, raped in a field at the age of 13 years, told of her mother and aunt deciding that it was useless to report this to the police.

Gordon (1994) makes the argument that standard critiques of the regulatory (i.e., social control) aspects of the state have failed to include gender analysis. She points out that both the political left and the right have raised the issue of the violation of civil liberties as one of the dangers of state intervention into family privacy. She goes on to ask, “Whose privacy? Whose liberties?” a question that makes the notion of the home as private and inviolable, on the whole does not generally protect women and children from subordination within the family. However, on the other hand, once social control agents do gain access to the home, there is no guarantee that they will not cause further hurt. At best, they may redefine your rights in a way that you did not want or recognize; and they do not generally leave upon request either.

In this context it is not surprising that the immigrant Mexican mothers in this study responded as they did. In Mexico, they recognize that being a woman is to occupy a vulnerable, subordinate category; and being in such a category it is not surprising that one would welcome protection. On the other hand, being a mother confers an identity that entitles one to get support (economic support) and confers the status of a role that is recognized as socially useful (reproduction); to have that taken, by the government wanted to be involved with families then they expressed that they wanted the state to protect their rights as women, but not violate their rights as mothers. It is important to look at this link.

The limitations of the study

The limitations of this study are numerous. The sample size is small and not representative of immigrant Mexican women. The question then of course becomes, 'whose story is being told?'—to which Denzin and Lincoln (1994) respond, “The story that is finally told becomes the researcher's accomplishment, his or her self-fashioned narration of the subject's story.” This study is in fact my interpretation of both the phenomenon I observed in my years spent working with a population of immigrant mothers in New York City who had family problems and the filtering of the data that was generated by the responses of this population of immigrant mothers to my questions as research subjects.

In addition, constraints on the range and scope of the interview data were constructed and implemented by the Institutional Review Board (IRB) on the basis of protecting human subjects. In the final IRB approval of the study research questions were restricted to only the actual experience of the child welfare intervention without probing into the basis of the intervention; also subjective questions regarding the research subjects’ family life and formative experiences in Mexico were restricted to generalized descriptions. The effect was that the interview data produced did not provide significant information into the research subjects’ personal characteristics or intrinsic details regarding
their own family life that may have generated additional insight into the basis of their views and opinions.

Because of the newness of the recent Mexican immigrant population, the rapidity of its growth, the low profile maintained by its members and the tendency to lump all Hispanics together, relatively little is known about Mexicans in the literature (Brown, 1991). Even less is known about their beliefs about the family and state intervention into family life. This study contributes to social work knowledge in this area. However, it is recognized that its generalizability is limited given the small sample size and exploratory design. Nonetheless, it is hoped that it will be an inspiration to further, more rigorous research concerning this population.

It is also expected that the findings and recommendations contained in this study will be of value to the formulation and analysis of policy. Awareness of the presence and attributes of this distinct group should also influence review of existing policies in child welfare regarding all new immigrants and the implementation of new policies responsive to the needs and characteristics of new immigrants. Moreover, the study should also serve to call attention to the experiences of this generally unnoticed population in New York City in its encounters with mainstream social service institutions.

### 8. Policy, program and practice recommendations

A number of new program and policy frameworks have been developed that reveal both the connections and contradictions that arise from a diverse society where there are multiple and intersectional identities. These are especially important to consider as global migration continues. These models have focused on the development of community-state partnerships to promote approaches in dealing with domestic violence that both serve to protect the safety of family members but at the same time emphasize a cultural change within communities that make such violence unacceptable—in other words, encourage self-regulatory behavior. Braithwaite’s (2002) theory of responsive regulation whereby “governments should be responsive to the conduct of those they seek to regulate in deciding whether a more or less interventionist response is needed” – has an explicit preference for taking the least punitive approach whenever possible – a pyramid whose base encourages change in behavior through persuasion and then narrows to increasingly coercive state involvement. Kelly’s (2004) model of state–community partnership is based on a triangular formulation with the state, family and community each occupying a corner and re-structuring the meaning of public and private on a case-by-case basis. Each of these paradigms is quite useful in eroding the traditional dichotomous and dualistic approaches – the either or – so prevalent in interventions to address human problems. The views expressed by the women in this study would support efforts in this direction—and had these options been available the experiences many of the women had with state intervention into the lives of their families may have been less punitive.

In New York City the Nicholson decision prompted a re-evaluation of child welfare practice in cases involving domestic violence. A strategic plan, released in 2003, details a greater emphasis on training, better evaluation tools and improved coordination between the public child welfare agency, the criminal justice system and neighborhood-based service providers. These are excellent steps in the right direction and there are preliminary indications that families are being better served (Child Welfare Watch, 2003). For immigrant mothers however, the process of leaving an abusive relationship is complicated by special needs and challenges. Culture, language, social isolation, economic position and immigration status all factor prominently in shaping the lives of immigrant mothers. For systems to be responsive to the needs of immigrant mothers, the issue of how immigration status affects options must be considered and addressed, otherwise, immigrant mothers will continue to shoulder greater risks than non-immigrant mothers in the arena of domestic violence.

### References


