

1-1-2008

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### Recommended Citation

Antoinette M. Sedillo Lopez, *Culturally Effective Legal Interviewing and Counseling for the Mexican Immigrant - A Case Study*, *The Voice: The Journal of the Battered Women's Movement* 14 (2008).  
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# Culturally Effective Legal Interviewing and Counseling for the Mexican Immigrant—A Case Study

By Antoinette Sedillo Lopez

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*A bilingual lawyer, who is a fifth generation Mexican-American, interviews a Mexican immigrant who comes to the law clinic through a referral from a community service partner, an organization assisting immigrants.<sup>1</sup> The client tells the lawyer that her husband is a good man. He brought her and her children to the United States after raising money to do so by living in the United States for three years and working as a field hand. He is a legal permanent resident, but she is undocumented. During the last harvest cycle, he was involved in an injury on the job. Employers who hire field workers are not required to purchase workers compensation insurance in New Mexico.<sup>2</sup> Thus, the accident was a devastating blow to the family's financial situation. At a neighbor's suggestion, the client began to clean houses and take in ironing to help deal with the precarious financial situation. However, in the past few months her husband has begun to drink too much.<sup>3-4</sup> He has begun to yell at her in front of the children and most recently, after a few drinks, he hit her.*

*The client does not want a restraining order or a divorce. She does not want to fill out the petition under the Violence Against Women Act.<sup>5</sup> (VAWA) and apply for residence status, which would give her a temporary work permit. This is because the act requires her to describe the abuse and her intention to leave her husband. Instead, she wants the lawyer to talk to her husband and to help him get a job that would accommodate his work injury. The lawyer is frustrated, because she has been trained about the remedies offered by the legal system such as a restraining order, a divorce or separation, or a VAWA petition.<sup>6</sup> She cannot understand why the client would try to protect her husband.<sup>7</sup> While the lawyer speaks Spanish very well, she worries about whether the client understands her.<sup>8</sup> She thought that her own background as a Mexican-American would help her in the representation of this client and is disappointed about the apparent communication gap with her.*

Immigrant women's legal representation is affected by their language, race, culture and legal status.<sup>9</sup> The lawyer reads about the limitations of the Violence Against Women Act and discusses prior cases with other supervisors and community activists who have worked with immigrant women. The Law Clinic has represented immigrant women from Latin American cultures that are in abusive marriages seeking relief through the Violence Against Women Act and in obtaining temporary restraining orders in the past so others she has contacted have experience in this type of case. The standard approach is to interview the client, obtain evidence of the abuse and prepare a petition for filing. For many women, this conversation is extremely difficult and the women seem to have very little support for their decision to leave their abusive husbands. Within many Latino communities, marriage is sacred and not easily dissolved.<sup>10</sup> Many Latina immigrants do not actually want to end the marriage; they want the violence to stop.<sup>11-12</sup> In addition, some of the women seem to think that in some cultures, a mild level of violence is not considered "abusive," but rather, appropriate discipline.<sup>13</sup> Further, the dissolution of the family will ultimately put more strain on their financial situation. The fact that the husband is unable to support his family is a deep wound to his sense of worth.<sup>14</sup> That wound may be causing the anger that may result in the violence. Perhaps some assistance to the husband in seeking employment and some culturally appropriate counseling would help the husband stop the violence. The VAWA petition has the unintended consequence of breaking up immigrant families by encouraging divorce and separation. Further, the language barrier they often experience isolates immigrant women. There are not enough attorneys to communicate with them effectively.<sup>15-16</sup>

The lawyer has the advantage of being able to communicate with the client directly and that is commendable. However, the lawyer needs assistance in learning to suspend judgment about the client and to approach her with respect and understanding while gathering information about her.<sup>17</sup> She needs to develop self-awareness about the effect her feelings have on her client. The Latin American woman requires linguistically appropriate and culturally sensitive counseling so that the attorney can truly understand her objectives. The lawyer must also guard against the client's potential deference to authority, which might lead her to follow the attorney's objectives rather than her own.<sup>18</sup> The lawyer should refer the client to social services that will meet her needs and those of her children before she is required to decide what to do about her marriage.<sup>19</sup> The lawyer should work with culturally sensitive social workers and counselors to support the client<sup>20</sup> and should communicate with the client so that she can have a better understanding of the legal implications of the limited tools for assisting with domestic violence.<sup>21</sup> The client's stated goal of stopping the violence and preserving the family is not consistent with the American legal system's goal of stopping the violence by separating the husband from the family, and she needs to understand that in the United States, striking a spouse violates the law. The lawyer should

develop effective language, communication and listening skills to understand the client's needs and to communicate the limitations and possibilities of the legal system. She should also be creative in seeking multi-disciplinary solutions that might address the client's objectives more effectively than filing a VAWA petition at the time of seeking help. If she begins a VAWA petition and does not complete it, she may suffer adverse immigration consequences.

If the lawyer is uncomfortable with her knowledge of some of the cultural issues, she can meet with social workers and others who know about the specific Latino cultural context in her case. The lawyer can be coached to become more empathetic about the client's dilemma and urged to keep the client relationship intact so that if and when the client is ready to use the tools of the legal system, she will consider coming back. The most important goal in interviewing a domestic violence survivor is to make the client (or potential client) feel comfortable enough to come back.<sup>22-23</sup>

Thus, a lawyer should strive to develop an understanding of the client's cultural background; to develop a respectful relationship with the client; and, to develop effective listening and communication skills to address the client's needs.<sup>24</sup> The lawyer should view herself as part of a multi-disciplinary team that can help the client address all of the barriers she faces in making the best decision for her future. This will make the potential representation more effective.

## References

- <sup>1</sup> A slightly different version of this case study is included in *Making and Breaking Habits: Teaching (and Learning) Cultural Context, Self-Awareness and Intercultural Communication Through Case Supervision in a Client-Service Legal Clinic*, Washington University Journal of Social Policy & Law 28 (forthcoming). The case study grows out of various cases handled over the years by the UNM Clinical Law Program and is not based on any particular client's case.
- <sup>2</sup> NMSA 52-1-6 (B) (2007).
- <sup>3</sup> Caetano, Raul. *Acculturation and Drinking Patterns Among U.S. Hispanics*. Addiction 82 (1987): 789.
- <sup>4</sup> Zemone, Sarah E.. *Re-examining Whether and Why Acculturation Relates to Drinking Outcomes in a Rigorous National Survey of Latinos*. Alcoholism Clinical & Experimental Research 29 (2005): 12.
- <sup>5</sup> 8 U.S.C. 1641 (b) (2000).
- <sup>6</sup> Translating legal terminology has its own challenges. Lopez, Antoinette Sedillo. *Translating Legal Terms in Context*. Legal Reference Services Quarterly 17 (1999): 105 (describing difficulties of translating legal terms from one legal culture and language into another).
- <sup>7</sup> The lawyer understands from the clinic's training that the client may not be ready to leave her husband. Buel, Sarah M. *Fifty Obstacles to Leaving, aka. Why Abuse Victims Stay*. The Colorado Lawyer 28 (1999): 19. However, the client's strong desire to protect him is difficult for the lawyer to understand.
- <sup>8</sup> Cunningham, Clark D. *A Tale of Two Clients: Thinking About Law As Language*. Michigan Law Review 87 (1989): 2459 (discussing difficulty in representing a Spanish speaking client and discussing whether there was a shared understanding of the meaning of the Spanish term "culpable").
- <sup>9</sup> Erez, E.. *Immigration, Culture Conflict and Domestic Violence/Woman Battering*. Crime Prevention & Community Safety: An International Journal 2 (2000): 27.
- <sup>10</sup> Perilla, Julia. *Domestic Violence as a Human Rights Issue: The Case of Immigrant Latinos*. Hispanic Journal of Behavioral Science 21 (1999): 107, 123-124 (describing some of the cultural issues faced by Latinas).
- <sup>11</sup> Goodmark, Leigh. *Law is the Answer? Do We Know That for Sure? Questioning the Efficacy of Legal Interventions for Battered Women*. St. Louis university Public Law Review 23 (2004): 7.
- <sup>12</sup> Espenosa, Cecelia M. *No Relief for the Weary: VAWA Relief Denied for Battered Immigrants Lost in the Intersections*. Marquette Law Review 83 (1999): 163.
- <sup>13</sup> Perilla, *supra* note 9 at 108.
- <sup>14</sup> Bacon, David. *Children of NAFTA: Labor Wars on the U.S./Mexico Border*. Berkeley: University of California Press, 2004 (describing the desperate economic plight of Mexican workers).
- <sup>15</sup> *The Erlenborn Commission Report: The Legal Services Corporation*. Georgetown Immigration Law Journal 15 (2000): 99, 132 (language barriers for Spanish speaking clients are formidable).
- <sup>16</sup> Rearick, Daniel J. *Reaching Out to the Most Insular Minorities: A Proposal for Improving Latino Access to the American Legal System*. Harvard Civil Rights-Civil Liberties Law Review 39 (2004): 543, 545 (it will require a coordinated response by law schools including accessible language training to serve non-English speaking communities).
- <sup>17</sup> Hurder, Alex J. *Negotiating the Lawyer Client Relationship: A Search for Equality and Collaboration*. Buffalo Criminal Law Review 44 (1996): 71 (describing the need for lawyers to negotiate a lawyer client relationship of collaboration and equality resulting in joint decision-making).
- <sup>18</sup> Bauer, H.M., Rodriguez, M.A., Rodriguez, Quiroga, S.S. & Flores-Ortiz, Y.G. *Barriers to Health Care for Abused Latina and Asian Immigrant Women*. Journal of Health Care for the Poor and Underserved 11 (2000): 33.
- <sup>19</sup> Enlace Comunitario is an Albuquerque social service organization that provides holistic and culturally appropriate services to immigrant women. See <http://www.enlacenm.org>.
- <sup>20</sup> Zuniga, Maria E. *Latinos: Cultural Competence and Ethics*. Culturally Competent Practice, Skills, Interventions and Evaluations. Eds. Rowena Fong and Sharlene Furuto. Allyn & Bacon, 2001.
- <sup>21</sup> Weisz, Arlene N. *Legal Advocacy for Domestic Violence Survivors: The Power of an Informative Relationship*. Family Service America. 1999. National Center on Domestic and Sexual Violence. March/April 1999 [http://www.ncdsv.org/publications\\_legal.html](http://www.ncdsv.org/publications_legal.html).
- <sup>22</sup> Strube, Michael J., Barbour, Linda S. *The Decision to Leave an Abusive Relationship: Economic Dependence and Psychological Commitment*. Journal of Marriage & Family 45 (1983): 785.
- <sup>23</sup> Strube, Michael J., Barbour, Linda S. *Factors Related to the Decision to Leave an Abusive Relationship*. Journal of Marriage & Family 46 (1984): 837.
- <sup>24</sup> *Making and Breaking Habits: Teaching (and Learning) Cultural Context, Self-Awareness and Intercultural Communication Through Case Supervision in a Client-Service Legal Clinic*. Washington University Journal of Social Policy & Law 28 (forthcoming).