



THE VOICE OF JUSTICE: INTERPRETING DOMESTIC VIOLENCE CASES

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“I work mainly in Queens Family Court, which has the largest number of South Asian-speaking clients and one of the largest numbers of other Asian languages. And what I have seen has been so much less than satisfactory. The Family Court is an intimidating place – like any court. In some ways it’s even more so. They are asking for orders of protection, custody, support – very important matters, vital matters for them. And if they don’t have an adequate interpreter, they are voiceless before the court.”
— Florence Roberts, Queens Legal Services in *Creating Community Change*, a film by Sakhi for South Asian Women

Survivors of violence seek justice as a way to heal from their experiences and gain support for the future. In their journey to safety, survivors of domestic violence often turn to the courts to be the arbiter in issues related to orders of protection, child custody, maintenance, and/or divorce.

The criminal justice system plays a crucial role in the lives of many immigrant survivors of domestic violence, sexual assault and child abuse. Survivors who are unable to communicate directly in English must convey their traumatic experiences through court interpreters in the hope of obtaining relief through the courts. In our experience as advocates who accompany survivors to court, we have seen many court interpreters who work hard to do their complex jobs well. We have witnessed the positive impact that a trained, professional interpreter can play in ensuring that a case proceeds and that the judge and relevant parties have the fully-translated information needed to make the critical decisions they deliver for families confronting violence. Yet we have also witnessed interpreters who do not speak the language fluently and others who offer legal advice, break ethical standards, or harass survivors of abuse.

In this article we will provide background on domestic violence, describe barriers that may stand in the way of accurate interpretation, and suggest ways to enhance the professional capacity of interpreters who work on such cases. We hope that this information will encourage all courts to rise to the professional standards that NAJIT espouses and ensure that immigrant survivors can receive fair and equal treatment when seeking legal remedies.

The context of domestic violence

Domestic violence can be defined as a pattern of behavior, exerted by one member of an intimate or familial relationship over another, designed to coerce and control. Domestic violence can take many forms, including physical, sexual, emotional and economic abuse. It is well-documented that domestic violence is rampant in the United States, with more than 1.3 million women abused each year.¹

Domestic violence is not a problem unique to the United States. Around the world, at least one in every three women has been beaten, coerced into sex, or otherwise abused during her lifetime.² A recent study by the World Health Organization found that intimate partner violence is a worldwide epidemic, and that women are more likely to be injured, raped, or killed by an intimate partner than by a stranger.³ All survivors of violence face barriers: shame, fear, and diverse social stigmas. Immigrant women, in particular, face additional hurdles to pursuing lives free of fear: they are especially vulnerable for many reasons, including a lack of awareness of their rights and options in this country; a lack of understanding and fear of our judicial and legal systems; limited English proficiency (LEP); the absence of social or family support networks; and the tendency of batterers to use immigration status and threats of deportation as tools of isolation and abuse.

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These barriers have profound impacts. A recent study on femicide in New York City found that immigrant women are at a higher risk of being murdered at the hands of their intimate partners: 51% of intimate partner homicide victims were foreign-born, while 45% were born in the United States.⁴ Thus, it is critical to address the barriers that prevent immigrant survivors of violence from accessing services and safety.

Language access is one key element of this response. The array of non-native English speakers in the United States is not to be taken lightly. New York City alone possesses 2.9 million foreign-born residents as of the 2000 census. According to census data analysis presented in the Department of City Planning's *Newest New Yorkers 2000: Immigrant New York in the New Millennium* report, the city's foreign-born population rose from 28% percent in 1990 to 38% in 2000. In addition, the report indicates that more than half the city's residents speak a language other than English at home and that approximately one in four city residents has difficulty with English. Not only is the immigrant population rising, but language access can so often become a central issue in the everyday lives of immigrants.

Language access is critical for any limited-English-proficient immigrant who may need health, housing, legal, or other services. Navigating these systems can be difficult enough for native-born residents: for those who face language barriers, the process can be even more daunting. In our work with immigrant survivors of abuse, we have seen that language access plays a central role in the ability of survivors to progress in their journeys to safety.

Court interpreters: a vital service

For immigrant women caught in abusive relationships, reaching out for help and services is a tremendous act of courage. Many survivors of violence are threatened by their abusers if they speak out – threatened with further violence, deportation, or retaliation. Attempts at control or intimidation can extend to the courtroom. We have routinely seen abusers manipulate the legal system by filing false orders of protection or complaints with various agencies in order to trap women and/or discredit them. Through more than 20 years of work with immigrant survivors of domestic violence, we have seen firsthand that immigrant women often have little access to information about their legal rights and options or the court process. Unfortunately, abusers tend to have much more information and familiarity with U.S. laws and agencies and often use this knowledge – as well as their language abilities – to further jeopardize an already vulnerable population.

Immigrant women who do take the brave step to address the abuse in their lives are faced with a number of significant challenges. *Justice Speaks*, the Domestic Violence Advocates' Task Force for Court Interpretation, was originally formed as a working group of the Coalition of Battered Women's Advocates, in response to an outcry of coalition members whose clients were being denied justice due to a lack of effective and appropriate interpretation in court. A survey of domestic violence service providers was conducted in 2001 to assess the needs of survivors with limited English proficiency. Survey data clearly showed that while access to services overall was

often a concern for this vulnerable population, problems associated with court interpretation were the most severe – an area in which advocates felt they had little or no ability to effect change.

Concerns identified included the limited availability of interpreters; lack of proficiency in certain languages (especially given the expanding array of language groups in New York City); inadequate or incorrect interpretation; interpretation marred by cultural or gender bias; insufficient training, lack of support and supervision of interpreters; and a disturbing number of stories of intimidation, threats, and sexual harassment of clients by interpreters.

One survivor indicated that she believed the interpreter would translate in favor of whichever party paid him the most money: "He didn't translate in an accurate manner. He'd tell me the wrong thing. But I understood a little bit – that's how I knew. I think he was in conspiracy with my husband. It seemed like they were involved in a scam – it seemed like a money thing. He'd translate in favor of whoever gave him money."

Another survivor described an interpreter who spoke to the opposing party for a long time, where it was unclear what the content of the discussion was or why it took place. She summarized her experience by saying, "Of the five interpreters that I used, one was good, another okay and three were bad. One of the three kept speaking in English. He wouldn't translate in Bengali."

Finally, another survivor attested to her mixed experiences by saying, "The first two translators were not professional. One of them spoke Punjabi and that is not my language. So I couldn't understand the translator. The third translator was professional and translated everything."

In a sample study which Sakhi conducted of 7 women with 12 different court cases, 3 out of the 7 indicated their cases had been delayed due to interpretation. The delays were up to 9 months. None of the 7 women knew how to file a complaint against a court interpreter. We believe that if more extensive research were conducted, additional disheartening findings would be discovered.

Recommendations

The National Center for State Courts, in its publication *Court Interpretation: Model Guides for Policy and Practice in the State Courts*, sets forth extensive training guidelines and a comprehensive canon of ethics to enhance the professionalism and quality of court interpretation. These best practice guidelines are a wonderful basis for ensuring professionalism but are not sufficient to addressing the unique needs of survivors of violence. In particular, any model guidelines should also highlight issues of maintaining safety, confidentiality and neutrality in cases of domestic violence.

As many of us speak the languages in question, in addition to English, we have heard testimony by domestic violence survivors in court when their stories have not been fully and accurately interpreted – whether due to the abhorrent nature of the experiences recounted or for reasons of bias or limited interpreting skills, it is hard to tell. What is painfully clear is that if a court interpreter does not accurately reproduce a survivor's testimony, her whole life – and that of her children – can be adversely affected.

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We offer the following recommendations to ensure more accurate and adequate interpretation for survivors of violence:

- It is essential that the courts implement clear testing, training and monitoring for all court interpreters, as well as grievance procedures for users of the service. With adequate testing and training, court interpreters would be assessed for proficiency and understand the full impact of their legal and ethical obligations.
- It is imperative that court interpreters be provided with specialized training in issues of domestic violence, sexual assault, and child abuse. Such training should underscore the need for confidentiality of survivors' stories and the importance of not divulging information about any ongoing case to other community members, since the safety of the survivor and children may be at risk. Training should also put into context the ways that batterers can use the court process to continue to abuse partners, even after they have left the relationship. This will help to prevent interpreters from being used as one of the abuser's tools for manipulation and control.
- It is not only survivors who are traumatized by their experiences. Court interpreters who hear and relay the horrific experiences of survivors of domestic violence, sexual assault or child abuse may experience vicarious or secondary trauma. Without adequate training and supervisory support, this work can take too heavy a toll, to the point of impeding an interpreter's ability to keep performing such an essential job. Therefore, court interpreters need comprehensive training in sensitivity to these difficult issues as well as a clear supervisory channel for professional development and support.
- Judges and attorneys should be given specialized training in how to utilize and monitor interpreters effectively. In addition, such training should include tips for preventing interpreter bias in cases involving domestic violence, sexual assault, or child abuse. Such training would assist judges in fulfilling their duties in the courtroom and attorneys in ably representing their clients. While enhancing the interpretation process overall will take time, this kind of training can help individual judges and attorneys ensure language barriers do not prevent access to legal remedies for survivors of violence.
- All court interpreters should undergo background checks to identify any history of domestic violence, sexual assault, or child abuse, or any possible conflict of interest.

We are glad to report that as a result of many years of advocacy and the partnership of the Task Force on Women and the Courts with the New York City Bar Association, the New York State Office of Court Administration (OCA) released an action plan in April 2006 to enhance their court interpretation services. Key elements of the plan include a much-needed pay increase for interpreters, a mandated test in English for all interpreters, and required training for per diem interpreters. We will continue to support OCA as it implements the work plan and also continue to advocate special recommendations for cases of domestic violence, sexual assault and child abuse.

Court interpreters need a tremendous amount of skill to do their work well. When interpreting for a survivor of violence,

honed skills need to be combined with specialized knowledge and information. Otherwise, survivors of violence may unwittingly face additional trauma from a system being utilized to protect them and help them obtain justice.

Through implementing consistent strategies such as those recommended above, we can work to limit cultural or gender bias, mitigate the cruel nature of experiences which are difficult to translate and recount, and avoid the conflicts of interest that arise when a court interpreter knows the survivor or her batterer.

By proactively seeking training and workable strategies to address the complex needs of survivors of violence, we can ensure that those who have not yet mastered English are able to access their legal rights. We know that we all have the right to live free of domestic violence. What remains is for us to see this right become a reality for all who yearn to live in safety. ▲

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References:

- 1 Tjaden, Patricia and Nancy Thoennes. 2000. Extent, Nature and Consequences of Violence Against Women: Findings from the National Violence Against Women Survey. The National Institute of Justice and the Centers for Disease Control and Prevention. Retrieved April 23, 2006. <http://www.ncjrs.org/pdffiles1/nij/183781.pdf>
- 2 Heise, L., Ellsberg, M. and Gottemoeller, M. *Ending Violence Against Women. Population Reports, Series L*, No. 11, December 1999.
- 3 World Health Organization (WHO), 2005. *WHO multi-country study on women's health and domestic violence against women: summary report of initial results on prevalence, health outcomes and women's responses*. (The study is based on interviews with more than 24,000 women from rural and urban areas in 10 countries: Bangladesh, Brazil, Ethiopia, Japan, Namibia, Peru, Samoa, Serbia and Montenegro, Thailand, and the United Republic of Tanzania.)
- 4 Wilt, S. *Femicide in New York City: 1995-2002*. Published by New York City Department of Health and Mental Hygiene, October 2004.

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