

## How the Social Construction of “Child Abuse” Affect Immigrant Parents: Policy Changes That Protect Children and Families

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### ABSTRACT

*Immigrants who move to the United States often face the challenge of interpreting new laws and social norms (e.g., parenting norms), which may vary greatly from their native culture. Acceptable parenting practices are socially constructed beliefs, rooted in cultural context. What is acceptable in one culture may be labeled as child abuse in another. Thus, immigrant parents are at risk for having their parenting practices defined as child abuse by mainstream culture. Defining child abuse in a multicultural society is difficult. In the court system, a cultural defense brings culture into the courtroom, questioning the intent in “abusive” cultural parenting practices. This article offers suggestions that alter the response of social services and the legal system to abuse cases involving immigrant families. These changes to policy and education have potential to protect immigrant parents and families.*

**Keywords:** Immigration, parenting practices, cultural beliefs, social work, legal

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## **Introduction**

The United States is becoming increasingly diverse, with more and more immigrant families arriving each year (U.S. Department of Homeland Security [USDHS], 2006). Immigrants face the task of learning the rules and norms of a new culture, which may vary greatly from their native culture (Fontes, 2005). Immigrant families bring to the U.S. the cultural reality of their original country, including parenting practices. Acceptable and unacceptable parenting practices are socially constructed beliefs and values. What behaviors and practices constitute child abuse vary greatly by culture (Korbin, 1981). Some immigrant families find themselves under investigation by Child Protective Services (CPS), or in court, for allegations of child abuse (Brelvi, 1997; Carlson, 2004; LaCayo, 1993; *State v. Kargar*, 1996; Zhao, 2002).

This article will be organized in to four main sections. First, background information will discuss current immigration statistics in the U.S., recent examples of immigrant parents faced with allegations of child abuse, and potential cultural disparities immigrant families face in the U.S. child welfare or legal systems. Second, the social construction of culture and norms will be discussed to gain an understanding of how parenting practices and definitions of child abuse are deeply rooted in cultural values. Third, the use of a cultural defense in the U.S. courts and its relation to child abuse will be examined, including the cultural defense's role in protecting children and determining intent in cases of child abuse. Finally, recommendations will be made that social service programs and social workers should distribute culturally sensitive information to immigrant families that contains information about the U.S. legal system and overarching norms and values of mainstream U.S. parenting practices immigrant families may encounter. Recommendations will also be made for social workers' to adjust their interactions with immigrant families. Such efforts will help protect immigrant parents and families.

## **Immigration, Parenting Practices and the U.S. Legal System**

### *Immigration Statistics*

According to the USDHS (2006), between the years 2004-2005, 1.3 million unauthorized immigrants arrived in the United States. That number increased to over 2 million between the years 2005-2006. Currently, an estimated 11.6 million unauthorized immigrants live in the United States. In

addition, over 400,000 immigrants were granted lawful permanent residence in 2006, including almost 200,000 children.

As the U.S. becomes increasingly diverse, the definition of acceptable child rearing practices is being challenged more often. Each immigrant family arrives in the U.S. with a set of beliefs and cultural practices, which may vary from the beliefs and cultural practices of mainstream U.S. society (Futterman, 2003). Due to these cultural differences, practices of immigrant families are at risk of being unfairly interpreted as child abuse by mainstream American culture.

### *Differing Opinions of Parenting Practices*

To illustrate what may occur when parenting practices of immigrant parents are interpreted as child abuse by mainstream American culture, consider the following cases: In 1990, a South American immigrant in Georgia was investigated for stroking her 4-year-old son's genitals in an effort to put him to sleep (LaCayo, 1993). The woman claimed this as acceptable behavior between a mother and son in her native culture. Charges against her were never brought, however.

In 2002, in New York City, a Chinese immigrant beat her 8-year-old son with a broomstick because he was not doing his homework. The mother was acting within the realm of acceptable parenting for Chinese culture, but when the boy's teacher noticed the welts on his skin, she notified authorities. The mother was surprised to learn of the American child abuse laws, and the family's two children were placed in foster care while she and her husband were investigated for child abuse (Zhao, 2002).

In 2004, a Vietnamese family brought their 6-week-old infant to a routine visit with the pediatrician. The visit revealed fourteen bone fractures in the infant's body. Despite testimony from the child's pediatrician about what wonderful and caring parents they were, CPS removed the infant and her 3-year-old sister from the home while the parents were investigated for child abuse. It was discovered that the two children were sleeping on floor mats, a common sleeping arrangement in Vietnamese culture. The 3-year-old had been playing with the 6-week-old infant on the floor mats in such a way that it caused the fractures. After several months, the parents were reunited with their children (Carlson, 2004).

These examples clearly illustrate the misunderstandings that arise when immigrant families' parenting practices are interpreted by mainstream

America as child abuse. What constitutes acceptable child rearing practices and what constitutes child abuse vary by culture. The occurrence of child abuse is universal in all cultures (Behl, Crouch, May, Valente, & Conyngham, 2001), but there is no cross-cultural standard that specifically defines child abuse (or proper parenting practices) (Korbin, 1981). This often causes a clash between mainstream culture and minority cultures. For example, mainstream American culture may misinterpret immigrant parents' motives if they opt for traditional medical remedies to care for a sick child (as opposed to standard U.S. health care) and label their behavior as neglectful (Fontes, 2005). Likewise, minority cultures may misinterpret the mainstream culture's parenting practices. For example, some mainstream American parenting practices are considered child abuse by other cultures (e.g., requiring an infant to sleep in a separate bed or room than the parents, forcing the child to wait until a scheduled time to eat, and allowing an infant to cry himself to sleep; Korbin, 1981). These cultural differences sometimes lead to interactions with child welfare or legal systems.

### *Immigrant Families and the Welfare and Legal Systems*

Research has shown that ethnic minorities are overrepresented in the family court and foster care systems (Hughes, 2006). According to the Child Welfare League of America (CWLA) (2004), children of color (defined as African American, Latino/Hispanic, American Indian/Alaskan Native, Asian, or Hawaiian/Other Pacific Islander) make up 42% of the U.S. population of children, but make up 57% of the children in foster care. Further, for every 1,000 Hispanic children, 10 were victims of abuse or neglect in 2004; the same exact statistics were found for White children. Interestingly, despite these similar statistics, Hispanic (as well as African American and Asian/Pacific Islander) children have a disproportionately higher rate of investigations of child abuse and neglect than White children (CWLA, 2004). It is understood that not all the children included in CWLA's (2004) statistics are from immigrant families, however, the statistics highlight potential cultural disparities in the U.S. legal and foster systems. While national statistics are scarce, some "local surveys of community-based service providers" have shown an increase in child protective investigations in portions of communities with new immigrant families (Earner, 2007, p. 65).

Immigration in the U.S. is rising steadily, creating an increasingly diverse society. As discussed above, parenting practices of immigrant families are frequently questioned by mainstream culture, and in some cases, the legal

system. Immigrant families face potential biases in child abuse investigations. A social construction perspective will provide a framework for a discussion of how cultures develop a socially shared common reality, guiding behaviors and practices through traditional beliefs and norms. Through the social construction of culture, parenting practices and definitions of child abuse are shaped.

## **The Social Construction of Culture, Norms and Parenting Practices**

### *Social Constructionism*

Berger and Luckmann (1966) discuss the reality of society as something that is socially constructed. Subjective and objective meanings are pieced together to build a framework of reality. Social interactions are merely a series of reactions; people react to one another by interpreting behavior and adjusting their own behavior accordingly. This constructs an interaction that is based on shared meaning. Individuals sometimes find it necessary to negotiate and bargain with others' constructions. Therefore individuals influence the experiences and realities of other people, creating a shared reality. Each society socially constructs reality in a unique way, creating a cultural meaning system (i.e., reality) that is unlike another culture's meaning system (Nussbaum, 2000).

Reality is possible because of objects that have subjective meaning applied to them (Berger & Luckmann, 1966). Frustration can arise when one does not know how to interpret an object. For example, language is a series of sounds and gestures that have subjective meaning. If one does not understand how to interpret the sounds and gestures of a language, interactions will be difficult and confusing. Likewise, if an immigrant family does not apply the same subjective meaning to "good parent" as the majority culture, conflict may ensue.

The cultural meaning system of a society is a motivating force and, as such, it can be difficult to fully comprehend its impact on thoughts and behavior (Levine, 2003). For example, emotions and fears do not come from within individuals; emotions are something that society helps to construct, varying by culture (Nussbaum, 2000). A child is not innately born with a fear of spiders, but may be taught by her parents and society what attributes should be applied to spiders (such as creepy and scary), making them something to fear. Even dealing with an emotional experience, such as the death of a loved one, is a socially constructed experience (Nussbaum, 2000). Social constructs help individuals guide how they feel, in the form of socially

constructed rules (Hochschild, 1979). In American culture, grieving is handled quietly. Other cultures display loud hysterical crying or positive emotions such as laughter because their culture has socially constructed the meaning of death and grief in that specific way (Nussbaum, 2000).

Just as with concepts of fear and death, parenting practices are socially constructed. Cultures construct the meaning of “proper” and “improper” practices for parents. Society imposes these constructs on individuals from the time they are children, creating deeply ingrained values and beliefs of what parents “can” and “cannot” do with or to their children. For example, Fumiko Kimura, a Japanese immigrant, took her 6-month-old daughter and 4-year-old son to the beach in Santa Monica, California, to commit *oya-ko shinju* (i.e., parent child suicide) after her husband admitted having an affair. Kimura was so overcome with shame that she felt she had no other choice for her and her children. Kimura was rescued, but her two children died (*People v. Kimura*, 1985). The Japanese community asked the U.S. courts to make her sentence light because Japanese law would treat the case lightly (Wu, 2003). Kimura was charged with two felony counts of child endangerment and two counts of murder (*People v. Kimura*, 1985). Cultural practices (such as *oya-ko shinju*) are socially constructed beliefs that are perceived differently between cultures.

As society constructs a cultural meaning system, a shared reality is created for members of society. In order for society to function and remain stable within the reality that has been constructed, people must adhere to social norms.

### *The Social Construction of Norms*

Social norms are a framework for society (Critto, 1999). Social norms create collective ways of thinking, feeling, and behaving; this provides a consistent and predictable reality (Hochschild, 1979). Social norms dictate behaviors for various types of interactions, from dining in a restaurant to punishing a child in public. Social norms are also responsible for dictating proper displays of emotion in response to certain situations (Hochschild, 1979). For example, in American culture it is the norm for young children to express emotions of frustration over household chores. In some areas of Sub-Saharan Africa, children are expected to provide labor to the household in order to ensure the family’s survival (LeVine & LeVine, 1981), and similar emotions may not be tolerated.

The foundation of social norms is consistency (Critto, 1999). Consistency allows people to share a common reality, and feel a sense of security and predictability in life. The norms that have been socially constructed by society provide a common reality for all those who live in it. Thus, families who immigrate to the U.S. may view American culture from the cultural perspective (i.e., reality) of their country of origin. They now face the challenge of interpreting a new common reality comprised of new social norms established by Americans. Their behaviors and practices may not be consistent with the majority culture. Consequently, others may evaluate the behavior as a violation of social norms. Some cultural norms are implicit, leaving immigrant families unaware of societal expectations (Fontes, 2005). Acceptable and unacceptable childrearing practices in the U.S. are socially constructed norms that immigrant parents may or may not have knowledge about. For example, it is the social norm in the U.S. to touch an infant's genitals only in the instance of bathing or diaper changing, not for affection. If an immigrant family holds a different social norm for appropriate genital touching, conflict will surface (as in LaCayo, 1993; *State v. Kargar*, 1996).

Early researchers, Sellin and Park, analyzed the social consequences of conflicting cultural norms coming together. The merging of differing social norms is the basis of cultural conflict. Sellin (1938) described cultural conflicts as the result of the clashing between different norms. He believed that some situations "are governed by such conflicting norms that no matter what the response of the person in such a situation will be, it will violate the norms of some social group concerned" (Sellin, 1938, p. 60). Disturbances result from contradictions among differing social norms. Feelings of anger and frustration arise out of lack of consistency (Critto, 1999). Park (1928) described the process of cultures combining as having strong effects within the individual. If culture shapes individuals perception of reality, and becomes part of their personality (Taylor, 1997), then unavoidable problems will arise when social norms are violated.

Cultural practices are socially constructed and reflect specific culture-bound norms. Some understandings and emotions are so specific to a culture that an outsider may be incapable of comprehending the beliefs. Likewise, outsiders may not understand the meanings and purposes of some cultural practices because the practices are deeply rooted in the cultural context (Edgerton, 2000). Conflicts associated with parenting practices arise when behaviors and practices of the minority in society clash with the norms of mainstream society. These conflicts have the potential to make their way into the legal system.

*Culture and Parenting Practices*

Culture is a powerful motivating force in all behaviors, including parenting practices (Taylor, 1997). Cultures all across the globe have different views on parenting practices. The following examples will illustrate some of the worldwide differences found among parents and societies. Socially constructed norms and parenting practices each serve a unique purpose specific to each society (Korbin, 1981).

In regions of Sub-Sahara, Africa, children are the most highly valued possession of their parents (LeVine & LeVine, 1981). Mothers are extremely concerned with physical infant nurturance because of high infant mortality rates. As a result, older siblings perform the role of socializing the younger children because their mothers are often busy with infant care. Children as young as three are also expected to contribute to the housework. Interestingly, while outsiders may perceive this as a form of child labor, this practice is functionally relevant to the Sub-Saharan familial social structure (LeVine & LeVine, 1981).

In regions of native South America, it is the social norm for mothers to display warm parenting behavior when infants are first born. When infants are 8-months-old, the mothers must return to work and their parenting style changes. It becomes the social norm for mothers to be cold and resentful; babies are scolded and hit for crying (Johnson, 1981). In other regions, the Machiguenga hold a socially constructed value of the ability to endure pain in a dignified manner. Children are given scalding baths and at puberty and adolescents are scraped with dogfish teeth (Basso, 1973 as cited in Johnson, 1981; Gregor, 1977 as cited in Johnson, 1981).

It is easy to see how the parenting practices in these examples have the potential to be labeled as child abuse under American social norms. In the U.S. it is not socially acceptable to strike infant children or scrape adolescents with teeth. But what if parents immigrate to the U.S. unaware of these social norms? What if they do not know that these are unacceptable practices to mainstream society? For example, a cultural misunderstanding resulted in a case in which the children of immigrant Albanian parents were permanently removed from their home because their father was accused of molesting his 4-year-old daughter in public (Brelvi, 1997). In Albania, it is a social norm for parents to touch and fondle their children's genitals, mainly because the idea that someone would touch a child with ill sexual intent is so incomprehensible that all touching is considered natural and normal. There is no social construction of child sexual abuse (Brelvi, 1997).

Conflicts over acceptable parenting practices can easily escalate into the legal system. When conflicts surface, the courts and society must make decisions about culture and acceptability. The use of a cultural defense in the courtroom, and attempts at defining universal acceptable parenting practices, demonstrate the interwoven connections between culture and parenting practices, further illustrating the situation immigrant parents may face if their cultural practices are challenged by mainstream American society.

## **The Cultural Defense as Applied to Child Abuse**

### *Definition and Use of the Cultural Defense*

In the U.S. court system, the defendant has the option of submitting cultural evidence to help explain why he or she committed the accused crime (Lyman, 1986). This form of “cultural defense” is applicable when the defendant was raised and socialized in another country, where social and legal norms differ from those of American culture. If the defendant is able to prove that his or her actions were within reason and acceptability of his or her own culture, level of responsibility for the crime may be reconsidered (Lyman, 1986). The U.S. courts do not formally recognize the cultural defense (in contrast to defenses such as the insanity defense, which is a formally recognized defense); defendants are simply allowed to defend themselves by presenting cultural evidence that relates to their case (Hoeffel, 2006).

As much as the U.S. courts strive to remain free of cultural biases when administering justice, specific examination of culture is needed when culture is a factor in justifying the accused crime (Levine, 2003). For example, in *State v. Kargar* (1996), Kargar, an Afghani immigrant, was charged with two counts of gross sexual assault for kissing his 18-month-old son’s penis. Kargar defended the action of kissing his son’s penis based on the acceptability of this practice in his native Afghani culture; it is a common way to show love for a child. Cultural evidence was submitted to defend Kargar’s lack of malicious intent in kissing his son’s penis. Krager was initially convicted, but the Maine Supreme Court vacated the decision.

In *People v. Wu* (1991), Helen Wu, a Chinese immigrant, was charged with second-degree murder for strangling her 8-year-old son directly after her own suicide attempt (from which she was revived). Wu, along with a Chinese cultural expert, argued that her actions were a sign of altruism, because a Chinese mother who leaves her child behind after committing

suicide is seen as selfish. A cultural defense was used to explain the emotions Wu was experiencing at the moment she killed her son. Wu was initially convicted of intentional killing, but after reviewing cultural evidence, the appellate court reduced her sentence to involuntary manslaughter. Both *State v. Kargar* (1996) and *People v. Wu* (1991) are cases in which a cultural defense was successfully used to demonstrate lack of malicious intent. Cases that call parenting practices into question ask mainstream society to make decisions regarding the definition of acceptable parenting practices.

*Is it Possible to Universally Define Acceptable Parenting Practices?*

Child abuse is readily defined as something that violates human rights in Western culture, and this conceptualization of abuse is gaining worldwide consensus (Littlewood, 1997). However, while most cultures would agree that children should not be mistreated, the problem centers on actually defining what parenting practices and social norms specifically constitute mistreatment. If each culture views their parenting practices and social norms as productive and beneficial to children, perhaps it is not possible to universally define acceptable parenting practices and child abuse. Complications arise because feelings about parenting practices and child abuse are very personal due to their deep roots in cultural tradition. Thus, in a large and diverse society such as the U.S., would it be appropriate for the social norms of one culture to define the norms of all cultures? That is, does the majority culture (i.e., mainstream Americanism) have the “right” to enforce its own socially constructed beliefs? May (1998) discusses this question in terms of child abuse:

*We ask, ‘Whose morality or whose culture is to be imposed?’ The underlying assumption is that there are many different cultures, realities, and moralities...and that different people have their own cultural values, which are all equally valid. But are they? (p. 297)*

May’s statements raise a debatable question: Should the U.S. give equal value to all cultural parenting practices and traditions? On one hand, in order to truly promote multiculturalism in a society, all cultural “realities and moralities” must be accepted and validated. On the other hand, cultural practices that are perceived as violent and harmful by mainstream society (i.e., child abuse) are difficult to cognitively interpret as valid.

Unfortunately, academic research does not assist in providing direction for universally defining acceptable parenting practices and child abuse in a

multicultural framework. Almost all knowledge and research studies of child abuse have been based on Western nations (Korbin, 1981). This only provides a limited view of the effects of child abuse and variants across cultures. Even the use of terms such as “abuse” and “neglect” are Western impositions (LeVine & LeVine, 1981). In 2001, a review of 1,133 articles in journals such as *Child Abuse & Neglect*, *Child Maltreatment*, and *Journal of Child Sexual Abuse*, found that only 6.7% of articles had any focus on ethnicity (Behl et al., 2001).

Some scholars have proposed a universal test which could be applied to help determine if a practice is defined as child abuse: If the practice compromises the physical and emotional health of a child, despite cultural acceptability, it should be defined as child abuse (Futterman, 2003). This test might have some merit in situations of comprised physical health, which is easily observable and measurable. However, this seemingly concise and simple test is difficult to apply to emotional health. As Hochschild (1979) discusses, emotions are bounded by social rules and norms specific to each society. For example, sexual abuse of a child, as it is constructed under U.S. culture, could easily damage the emotional health of an American child. As such, mouth to genital contact (as in *State v. Kargar*, 1996) and genital rubbing (as in Brelvi, 1997) are defined as child abuse under U.S. constructs. In contrast, these same practices are defined differently under Afghani and Albania constructs; they lack malicious intent and thus do not pose the same emotional risks to children in those cultures.

Perhaps it is impractical to universally define acceptable parenting practices. Cultures vary so greatly in their values, norms, and practices that it may be impossible to come to a collective agreement on what parenting practices specifically constitute child abuse. Lack of a universal definition of child abuse creates struggles in the legal system.

### *Implications of the Cultural Defense in the Case of Parenting Practices*

Under the assumption that it is virtually impossible to universally define acceptable parenting practices and child abuse, it can be difficult for U.S. courts to hold all cultural practices and traditions as equal, while at the same time protecting all children equally under U.S. law. Perhaps cultural relativism does not equal cultural sensitivity (May, 1998). One can be culturally sensitive in practice, but upholding cultural behaviors and practices that justify harming children (under U.S. constructs) may not always be tolerated by U.S. social and legal systems (May, 1998). The U.S. legal system has created definitions of what constitutes child abuse and

maltreatment in order to have the legal grounds to prosecute offenders and protect children. Typically, a cultural defense is used in the defense of an immigrant parent, rather than a mainstream American parent (because, presumably, the mainstream American parent shares the same cultural constructs as the courts and is fully aware of the social norm that has been violated) (Wu, 2003). This has the potential to send a message to minority children that they are not valued by U.S. culture and therefore not eligible for the same protection as other American children (Wu, 2003). If practices that harm children (under U.S. constructs) are continually upheld as acceptable because of their cultural origins, the children experiencing the practices (who are simultaneously being socialized in their culture of origin and mainstream U.S. culture) may question why the same laws do not apply to them.

Under U.S. constructs, in cases of harsh physical abuse, it may be easier to advocate for equal protection of children, despite cultural tradition. This is because wounds and scars to children's bodies are physical and visible. However, other situations may not be directly harmful to the child, but could perhaps pose problems later in the child's life. As discussed earlier, the same actions can produce different effects under different constructs. For example, a parent rubbing his 4-year-old daughter's genitals is something that causes no emotional distress in Albanian culture because of how the behavior is defined (Brelvi, 1997). While it is important to be culturally sensitive to the practice, because it would be considered emotionally and sexually abusive in U.S. culture (despite the lack of malicious intent), it arguably needs to be prevented. The emphasis here is on prevention, not punishment. Children of immigrant families are being socialized not only under the cultural constructs their parents provide, but also under the constructs of U.S. society. Children of immigrant parents are socialized in U.S. society through the education system, peers, and the media, exposing them to the values and constructs of mainstream U.S. society. It could be conflicting for a child of immigrant parents to learn that practices he or she was exposed to are defined as immoral and wrong in U.S. culture. Thus, the behavior could be *potentially* and *indirectly* harmful emotionally.

Because there is no universal definition of abuse, it is inevitable that some parenting behaviors will be labeled as such by the majority culture, even though the parent had no malicious intent. The following recommendations are made to address such situations.

## Recommendations for Immigrant Families and Social Workers

Two categories of recommendations are made to address the concerns over culturally based behavior which is considered child abuse in mainstream America. The first is to educate immigrants so they will be aware of the U.S. laws and customs. The other is for education and policy changes within the social work and legal systems.

### *Education for Immigrants*

Arriving in a new country is undoubtedly disorienting and confusing for many immigrants. To ease their transition, steps could be taken to provide immigrant families with information about cultural norms and parenting practices. It would be unfair to outright punish immigrant parents for practices that are acceptable in their culture without providing them with any information about the new culture they are facing. It is not intended for this information to be culturally insensitive to immigrant families, or to discredit their existing practices. Multiculturalism and cultural diversity are features that draw many immigrant families to the U.S., and are characteristics that many American citizens see as crucial to the concept of American society. Thus, the information would simply describe some of the overarching norms and constructs of U.S. parenting practices that immigrant parents will come in contact with through interactions with mainstream American culture.

In some countries, the government plays no part in parenting or family issues (LeVine & LeVine, 1981). As such, many immigrants would be surprised if their parenting practices were questioned. Immigrant families would be better prepared for an encounter with the legal system if they already had background knowledge about U.S. child protection laws and procedures, including the role the government plays in family issues.

Immigrant families who arrive through legal means could be provided with informational pamphlets when they are presented with their visa. Importantly, the pamphlets must be written in the family's native language. They should describe what generally constitutes acceptable and unacceptable parenting practices in mainstream U.S. culture in a way that presents the information as simply information (rather than persuasion to conform). Background information should be presented that explains why certain laws and practices are banned. For example, mainstream U.S. culture generally disproves of physical punishment in dealing with poor academic performance in children. In the larger context, the reasoning behind this

norm is that a mainstream U.S. value is individual and internal motivation in education, which generally cannot be attained through dominating force. Placing information in context of larger society provides families with the purpose behind certain norms. Whether or not immigrant parents incorporate the information into their parenting practices is an entirely personal decision. The point is that the parents were presented with the information in a “what you might encounter” format.

Upon immigrants’ arrival in the U.S., parent meeting groups could be offered as a resource to immigrant families. Parent groups tailored to specific cultures could provide immigrant families with support (in their native language) from individuals who have already had some experience in U.S. culture. It would provide a forum for open discussion and questions. Cultural differences among parents need to be examined by all U.S. states in a manner that provides education to professionals and families (Futterman, 2003).

A crucial message contained in these pamphlets and groups is the message that parents should familiarize themselves with the cultural parenting practices in the U.S. Because the U.S. does not support some practices (e.g., kissing children’s penises), doing these behaviors in public puts them at risk of prosecution, even though such practices may be acceptable in their native country. Further, parents should be aware that their children may grow up to question these practices. As children become acculturated, they may learn that the U.S. culture considers such behavior abuse. As a result, the children may adopt these American norms and come to believe that they have been abused. Thus, parents may wish to discontinue or alter their parenting practices to protect their children. For instance, parents may develop alternate ways of showing affection (e.g., kissing the child’s non-sexual body parts), so as to avoid some of these issues.

In sum, immigrant parents should be provided with education about the U.S. legal system and parenting norms. This will help parents learn the risks associated with their cultural practices. Ultimately, education will help parents make the decisions that are best for their families.

### *Education and Policy Changes*

In addition to educating immigrant parents, changes within the policies and practices of social workers can help promote the well being of immigrant families. First, social workers who deal with immigrant families should seek education about cultural differences. Second, policy changes should alter

social workers' approach to handling such cases. Third, social workers should take an active role in the legal system.

*Education.* If an immigrant family is faced with an allegation of child abuse, it is important that the social worker involved is properly educated about cultural differences in norms, values, and parenting practices. This knowledge will help the social worker be culturally sensitive to the family and their beliefs. Additionally, the social worker must be able to communicate to the family that their cultural beliefs will be respected throughout the investigation process. In some instances, this may require the aid of a translator. A recent study found that lack of knowledge about immigration status, mutual cultural misunderstandings, and lack of language access were immigrant families greatest obstacles while working with a social worker during a child protection investigation (Earner, 2007). As a result of this study, multiple suggestion for social worker training were generated: increased awareness of community-based programs or support as an alternative to public benefits, collaboration with faith-based organizations familiar to immigrant families, and increased training in the immigration process and its influence on family dynamics (Earner, 2007). It should also be noted that immigrants are a heterogeneous group with many specific cultural differences. Interactions with immigrant families need to be tailored to each cultural group. Education should be provided to social workers concerning the characteristics of each culture that may make certain types of parenting practices more common.

Education for social workers, specific to the evaluation of child abuse research, will help professionals make informed decisions regarding the welfare of children and families. Given the lack of cultural considerations in current child abuse research, it is hard to generalize empirical studies to all ethnicities in order to make the best conclusions (Behl et al., 2001). The ability to properly critique academic research will help social workers transform the best research in to actual practice. Social workers will also be able to reject poorly conducted and culturally biased research, avoiding integration of such research in to actual practice.

In addition, social workers should be taught to examine their own cultural biases and to confront myths and stereotypes they may have about other ethnic groups in order to be culturally sensitive when working with families (May, 1998). Classes and trainings should be readily offered to social workers in the areas of research and cultural sensitivity. For example, in 2007, a national videoconference workshop was held in San Francisco to discuss immigration and the child welfare system (Lincroft, Borelli, &

Velásquez, 2007). Events such as this specifically address the needs of immigrant families and provide social workers with current information. In addition, the Public Health Agency of Canada published *A Booklet for Service Providers Who Work with Immigrant Families*. This 2001 publication outlined challenges immigrant families face when dealing with welfare officials and the police. National publications such as this can help distribute information to multiple areas of social services.

*Policy Changes.* Prosecutions of child abuse can have serious consequences for parents and families. Specifically, formal legal actions have the potential to separate children from their parents, require parents to be listed as sex offenders, and lead to deportation (e.g., Brelvi, 1997; Carlson, 2004; *State v. Kargar*, 1996; Zaho, 2002). Some courts have expressed displeasure at these outcomes, noting that some immigrant parents do not intend any harm and pose little harm to society (*State v. Kargar*, 1996). Thus, these serious consequences are inappropriate. The Supreme Court of Maine vacated Kargar's conviction, noting that, in "virtually every case the assumption that a physical touching of the mouth of an adult with the genitals of a child under the age of fourteen is inherently harmful is correct. This case, however is the exception that proves the rule. Precisely because the Legislature did not envision the extenuating circumstances present in this case...Kargar's conviction [must] be vacated (*State v. Kargar*, 1996)."

The Kargar court recognized some of the harms that could result from legal actions against immigrant parents, suggesting that hasty legal decisions are not in the best interests of parents or children. Such outcomes could be prevented with education described above, and with changes in policy.

The most substantial policy change is the increase in tolerance of culturally based parenting practices. Simply put, the legal system, including social workers, should not be so quick to determine that abuse has occurred. This is likely to result in the removal of the child from the home and criminal prosecution. Instead, the situation should be fully investigated before such steps are taken. In order to accomplish this goal, a comprehensive manual of instructions for social workers would be developed and would set guidelines for handling such cases. It would instruct social workers to determine the intent of the parent's behavior, taking culture into account. The analysis would resemble that of the Maine Supreme Court in the Kargar (1996) case. Social work as a field will have to set these standards, much like American Psychological Association has set standards that guide psychologists' decisions (e.g., whether to report a homicidal or suicidal client to authorities). Below are general suggestions for social workers.

If an immigrant family is investigated for child abuse, the social worker needs to work with the family (with the aid of a translator if necessary) to determine the intent of the questioned parenting practice. Researchers have suggested that child welfare agencies implement written protocols for assessing immigration status and eligibility of services (Earner, 2007). Additionally, access to a translator to ensure clear communication is necessary (Earner, 2007). Cultural evidence should be assessed by the social worker to gain a better cultural perspective of the situation. For instance, social workers should determine whether there is malicious intent, or whether the parents are simply demonstrating practices that are defined as socially acceptable in their native culture. If malicious intent is involved, proper legal actions must be taken as it would in any mainstream case of child abuse. If the parents are merely acting within the realm of their culture, and no malicious intent is involved, the same legal actions do not need to be taken immediately. The family could be mandated to work with a social worker, translator, and parent meeting groups to discuss how to respectively balance their parenting beliefs within the legal boundaries of U.S. law. A fine balancing act must be made between respecting a family's culture and respecting the government's right to protect its children. The social worker, translator, and parent meeting groups can work together with a family to achieve a balance. Ultimately, parents are not encouraged to simply "hide" their parenting practices; nor are they encouraged to fully give up their practices. Instead, they are encouraged to adapt their behaviors, if possible, so as to be within both their culture and the U.S. law.

The goal of these proactive measures is to keep immigrant families intact and out of the court system. Providing as much information as possible about social norms and U.S. culture before entry into the U.S. can give parents time to consider their own parenting practices and how they might conflict with U.S. laws. Culturally sensitive and culturally educated social workers and parent meeting groups can provide immigrant families with community support and a place to seek answers and advice. Ultimately, social workers should take steps to determine whether the case is truly "abuse" or just a cultural difference in parenting practices.

Social workers may argue that they are not legal decision makers, as are judges and legislators. Thus, some may feel that they should not decide what behavior constitutes abuse. However, this is ultimately a change in their role that is necessary to protect immigrants and their families from suffering legal injustices.

*Role of the Social Worker within the Court System.* Though this plan promotes tolerance, there are limits, however. If an immigrant parent is repeatedly reported as abusive (after multiple interactions with a social worker) the U.S. legal system will become involved. At this stage, the social worker's role would be to communicate to the family why the law is becoming involved, and the purpose behind the legal action. The social worker needs to communicate to the family that, through the legal process, their cultural practices will be discussed in a respectful manner. The traditional trial process is a culturally challenging situation for a family unfamiliar with the U.S. legal system (Weller, Martin, & Lederach, 2001). In court, cultural evidence in the form of a cultural defense must be considered in order to provide the judge or jury with accurate information about the family's culture and parenting practices.

It should be stressed that motivation of parents' actions should never be minimized and should be carefully examined in every allegation of child abuse (Taylor, 1997). A cultural defense should certainly have weight in examining intent and motive in a case concerning child abuse. A cultural defense should not be used in a manner that would prevent children of minority or immigrant families from receiving the same protection as all children in mainstream culture. For example, in *State v. Kargar* (1996), it was determined through examination of cultural evidence, that the intent behind Kargar's action were not malicious. In a case such as *Kargar* (1996), preventative measures could have been in place to keep the situation from escalating into the courts and breaking up the family.

## **Conclusion**

As American society becomes increasingly diverse, cultural clashes between different parenting practices are sure to arise. Different cultures have different morals and values in regards to acceptable and unacceptable parenting practices. Unfortunately, for immigrant families, their parenting practices are scrutinized by mainstream American culture. Looking at culture and norms from a social construction perspective provides a framework for understanding the deep roots of culturally held beliefs. Reality is something that is socially constructed by each society through the enforcement of social norms, influencing everything from expression of emotions to parenting practices (Berger & Luckmann, 1966; Hochschild, 1979; Nussbaum, 2000). Culture becomes such a motivating force in behavior (Taylor, 1997), that it is difficult to universally define what constitutes acceptable and unacceptable parenting practices. The use of a cultural defense in the U.S. court system provides immigrant families with a way to

let judges and jurors learn about their cultural background, and has important weight in determining the intent of a parent accused of child abuse. To prevent immigrant families from entering the U.S. court and child welfare system, information and resources should be offered to help immigrant families be aware of some of the overarching social norms and values of mainstream America. This information will help them understand what they might encounter and have time to consider whether or not their parenting practices put them at risk of being prosecuted, and whether they want to change their practices. Social workers need education and training so they understand the deep socially constructed roots of parenting practices. Policy changes that support tolerance will prevent unnecessary break-up of families. Changes in education and policy can protect families from being torn apart, while encouraging parents to consider the impact of their behaviors on their children. Such steps will best serve immigrant parents and their families.

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