A tale of two clients: criminal justice system failings in addressing the needs of South Asian communities of Surrey, British Columbia, Canada Gary S. Thandi*

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South Asians are the largest immigrant group in Canada, yet criminal justice system interventions have failed to adequately address the needs of this population. The experiences of South Asian families in Surrey, British Columbia, Canada, who become involved with the criminal justice system as a result of an incident of intimate partner violence, are described by front-line practitioners who deal with them in the days, weeks and months following the incident. These front-line workers argued that long court waits and long waits for counselling, coupled with South Asian cultural values around marriage and the tendency to reconcile after criminal justice system involvement, are creating additional stressors upon the victim. They envision changes that would make criminal justice system interventions more responsive to the needs of South Asian families.

Keywords: South Asian; Indo-Canadian; intimate partner violence; criminal justice system; culture

Introduction

South Asians are the fastest growing immigrant group in Canada and by 2031, their numbers could grow to between 3.2 and 4.1 million (Statistics Canada 2010; Tran, Kaddatz, and Allard 2005). A South Asian may trace their heritage (whether it is one generation or several) back to nations such as India, Pakistan, Bangladesh, Bhutan, Nepal or Sri Lanka (Ahmad et al. 2004; Assanand et al. 2005; Kallivayalil 2007; Maiter 2003; Merali 2009; Tran, Kaddatz, and Allard 2005; Vittala and Poole 2004).

There are significant linguistic and religious differences between South Asian com- munities in Canada from one region to another (i.e. Western Canada and Eastern Canada). For example, in 2001, in British Columbia (BC) and Ontario, the provinces with the largest South Asian populations, 60% of South Asians in the Greater Vancouver region were Sikh, while more than 33% in Toronto were Hindu and 25% were Muslim. In Surrey, BC, a suburb of Greater Vancouver, 27.5% of the population in 2001 were South Asian; over 84,000 households spoke Punjabi and 32,000 spoke Hindi (City of Surrey 2008; Lindsay 2001; Tran, Kaddatz, and Allard 2005; Walton- Roberts 2003).

There are also significant differences within these communities (the term South Asian 'communities' is used here throughout, as it reflects the diversity found within this population). While it is crucial to not generalize and stereotype when describing these communities, it is equally important to recognize the commonalities found within South Asian communities in order to best serve their needs. For example, South Asians are among 'the most unified when it comes to the value they attach to family interaction, the maintenance of social networks within their cultural group, and the preservation of ethnic customs, traditions and heritage languages' (Tran, Kaddatz, and Allard 2005, 20).

The South Asian family unit typically extends beyond the western concept of a nuclear family to include grandparents, siblings and their families, and interdependence is highly valued. Given the interdependent nature of South Asian families, they can generally be considered to hold a collectivist worldview, where the needs of family members are given priority over individual needs – though such a worldview is flexible, i.e. a traditionally collectivist family that lives in an individualistic society may use elements of individualism in order to function in that particular society. A marriage is often not seen as a union of a couple, but rather of two families. Having children as a part of marriage is expected (Abraham 2000, 2005; Ahmad et al. 2009; Assanand et al. 2005; Choudhry 2001; Izzidien 2008; Maiter 2003; Pillay 2004; Rastogi 2009; Shariff 2009; Singh and Hays 2008; Singh, Nath, and Nichols 2005).

Bhanot and Senn (2007) suggest that South Asian men's gender role attitudes influence their attitudes on violence towards an intimate partner. While a South Asian immigrant male may be quick to adopt some Western values, his belief system regarding gender roles may take considerably longer to change (Sharma 1998). While not all South Asian men subscribe to such rigid patriarchal attitudes, many benefit from them (Balzani 2010). It is important to recognize that it is not familism and collectivism values themselves, but rather 'the exploitation of these values through dynamics of unequal power in the trusted relationship' (Ahmad et al. 2009, 620), which can result in instances of intimate partner violence. In fact, familism and collectivism can be protective factors, 'as shared responsibility can make a woman less vulnerable, because an attack on her could be seen as an attack on the whole family' (Izzidien 2008, 22).

Little research exists on the statistical prevalence of intimate partner violence in South Asian communities in North America. One study in Boston of 165 female South Asian respondents found that 35% reported violence at the hands of their partner (Dasgupta 2007; Raj and Silverman, 2002). Silverman (2002; cited in Almeida, 2009) found 48.8% of 160 South Asian women had been physically or sexually abused by their partner. In Ontario, two separate focus groups (one with 12 women, one with 15 men) were conducted and 200 surveys were completed (100 women, 100 men) to elicit opinions and experiences of intimate partner violence among primarily Punjabi-speaking Sikh men and women. In both the focus groups and surveys, male participants reported experiencing high levels of emotional and verbal abuse, while females reported experiencing high levels of physical, verbal, emotional, psychological and emotional abuse (Mutta and Kaur 2010).

Dasgupta (2007) suggests the fact that minimal statistical data exists on rates of intimate partner violence in South Asian communities 'itself speaks volumes about the invisibility that shrouds the topic' (14). While there is little research on the frequency of intimate partner violence in South Asian communities, considerably more is known about the experiences of South Asian victims of this violence. The South Asian victim's desire for safety may be constrained by her desire to uphold marital and cultural expectations. Placing family over self, she may concern herself more with the impact an instance of battering has on extended family or in the community than on the emotional impact it has on her (Almeida 2009; Ayyub 2000; Dasgupta 2007; Rastogi and Wadhwa 2006; Sharma 1998; Singh 2009; Singh and Hays 2008). Izzidien indicates:

Two very pertinent social and cultural patriarchal constructs used to control and silence women are lzzat (honour) and Sharam (shame). Both men and women are supposed to uphold family and community honour, but the responsibility tends to fall mostly on women; they retain their honour through conforming to prescribed roles and practices and may attain dishonour through their transgressions. (2008, 21)

In their study of African American, Hispanic and South Asian victims/survivors, Yoshioka et al. (2003) found that amongst the three groups, the South Asian women were in greater proportions still married to or had been married to their abuser.

There are limited services in Canada that are able to work with South Asian families impacted by violence and other public health issues. Maiter (2003) observes that mainstream agencies, because they are not able to meet these needs, are turning to ethno-specific agencies 'to provide more culturally relevant services. But these alternative services are not always adequately funded and therefore continue to function on the margins, in comparison to mainstream services' (376). Of equal concern, as the author notes, is a lack of appropriate resources to refer South Asian families to that can result in interventions (i.e. child protection) that are more intrusive than warranted.

And while there is substantial research on men who batter, there is little that focuses on South Asian males who have perpetrated intimate partner violence, particularly looking at effective intervention and

prevention strategies with this population. Intimate partner violence programmes for assaultive men, with few exceptions, remain culturally neutral and only recently have scholars noted the role of race, culture and ethnicity in assessments and interventions (Bent-Goodley 2005).

The gap in this area has meant that, in terms of culturally appropriate services, South Asian men have been denied the opportunities presented to their white counterparts, and South Asian women and families have not benefited from any of the advantages that may subsequently. (Guru 2006, 158)

This exploratory study attempts to address some of this gap. It was undertaken by the Centre for the Prevention and Reduction of Violence (CPRV) at the Justice Institute of BC. CPRV supports an applied research programme that builds on the experience of front-line practitioners. The Centre's mandate is 'to make a substantive contribution to the prevention and reduction of violence, supporting those who are called to respond to the suffering of those caught in the causes and consequences of violence'. This standpoint research provided the opportunity to learn about the male perpetrators and the victims (the women and children) from the standpoint of front-line workers who intervene with them in the minutes, days and months following an incident of intimate partner violence, and it solicited the participants' opinions, based on their experiences, of what they consider are effective intervention and prevention strategies in reducing intimate partner violence in South Asian communities.

This study looks more specifically at participant observations about the experiences of South Asian families impacted by intimate partner violence as they go through the criminal justice system in BC, and what changes they feel are needed to better serve the needs of these families.

Research methodology

Once an ethics review was submitted and approved, the process of recruitment could begin. An interview guide was developed based on background interviews with key South Asian front-line practitioners, some of whom were later interviewed. As the focus of the larger research project was on how to work more effectively with immigrant South Asian men who have perpetrated intimate partner violence, many of whom were not fluent in English or could not speak it at all, only South Asian practitioners – and those who spoke Punjabi, Hindi or Urdu – were included as research participants. These same practitioners also provided names of other potential participants that they identified as having considerable experience in this area.

The qualitative interviews are based on the principles of critical ethnography and action research, both of which are within the tradition of the interpretivist/constructivist paradigms out of which the transformative paradigm has arisen. The transformative paradigm understands research as an ethical and systematic inquiry embedded in social relations and beginning from the standpoint of those living and working within particular communities – communities that are shaped by, but not determined by, values arising out of the intersection of culture, gender, geography, generation and other individual and collective attributes (Mertens 2009). And critical ethnography research has the ability to accommodate cultural diversity and has transformative potential (Hilton et al. 2001).

A total of 17 front-line practitioners of South Asian ethnicity in Surrey, Abbotsford, Vancouver, Burnaby and Delta were interviewed. These counsellors, probation officers, child protection workers, victim support workers, police officers and elders had a combined experience of over 200 years working with South Asian male perpetrators of intimate partner violence. They had worked directly with thousands of men and many of them had also worked with women and children from the same families. Ten participants were male, and seven were female. Eight belonged to the first generation (they immigrated to Canada as adults), five were born and raised in Canada and the remaining four were born in South Asia but moved to Canada at a young age (most of their socialization occurred in Canada). Each interview lasted 90 min to 2 h. Participants talked about situations of violence and how these situations unfolded, what the assaultive men said they wanted to happen once the police were called, and what

the men said as they went through the legal system and participated in court-mandated programmes. They also talked about how, as front-line practitioners and community members, they envisioned more effective criminal justice system intervention in working with the men and their families.

Data analysis

Audiotaped interviews were transcribed by an external professional transcriber. These transcripts were then reviewed by the researcher to ensure accuracy, as well as to 'clean' them (remove names and any references that could identify participants). Prior to beginning the analysis, each transcript was reviewed several times. Using three particularly rich transcripts, prominent themes were identified by two separate coders (the researcher and a project coordinator) and a codebook was developed. NVIVO software was used to code the identified themes. Additional themes were identified as analysis progressed and were added as necessary. The researcher produced a new document for each theme, with key phrases and quotes placed in the appropriate document. These documents were reviewed by the project coordinator. A thematic analysis was then conducted for each major theme. One of these themes concerned the observations that the criminal justice system did not adequately meet the needs of South Asian families in BC, Canada.

Results

All 17 participants believed that South Asians view marriage differently than other communities. A child protection worker suggested that couples may remain in a marriage even when it is not healthy, and this may be one reason that violence occurs within that household.

There's quite a bit of pressure on South Asian men to keep their marriages together, even if they're not necessarily happy in that marriage. Sometimes I think that in itself becomes a source of violence – the lack of a solid relationship but with the pressure to keep it together – they're not healthy relationships but they kind of just keep at it. I would say that's different on a cultural level.

All 17 participants believed that an overwhelming majority of South Asian men and women also want to reconcile after an instance of intimate partner violence that led to the arrest of the man by police and thereafter criminal justice system involvement, and frequently the only thing keeping the couple from doing so is a court order. It was reported that these men want to reconcile for several reasons: because of the stigma they attached to being separated, because they love their children and want to keep their family together for the sake of their children, and because they were being encouraged to reconcile by family members, who themselves may have been concerned about stigma and how separation may affect their family name within their community. All 17 participants argued that both a male and female, when considering reconciliation, also are concerned about the needs and wishes of their extended kin, given their collectivist orientation. It was noted that while some men may also want to reconcile because they love their spouse, many will also reconcile but have little interest in having a meaningful relationship with that person.

Whatever the reason for reconciling, participants observed that, in their experiences, this desire to reconcile was considerably stronger than the Caucasian Canadian clients they worked with. A counsellor with decades of experience working with both South Asian and Caucasian male perpetrators of intimate partner violence noted:

With South Asians, in 12 people, ten will be with the same partners, and two are separated or there's a no contact order ... but mostly people are with the same partner. And, and mostly it's their first marriage and the only marriage. Sometimes rarely you get second marriage With South Asians, we are getting mostly people who are married and most of them have children. In mainstream we're getting people who are girlfriend/boy- friend, they are not married yet, and

violence happened and they were charged. Some- times the violence happened early on, when they were building that relationship, so generally they [Caucasian couples] don't want to continue in that relationship.

A probation officer observed that most men would say 'I want my family back. I want my wife back.... How do I do this.... What course do I need to take so that the courts are satisfied that I can go back home?' Several participants indicated that the desire to reconcile, by both the male and female, is so strong that both are willing to violate a court order that prohibits them from having contact, and, the probation officer noted, 'within a week or two weeks, they will be together. That's huge, you can see the difference between the mainstream community and our community.' Another probation officer advised that even men that initially indicated they were done with the relation- ship will later reconsider their decision.

I've even had cases where men will say 'that's it. I'm done. No more. Natta'. And then, they're going through the group and you see them and they'll say 'well, I talked to so and so and I think he's going to try to see if they can talk to my wife's family'.

Whatever the motivation for reconciling, participants advised that the current criminal justice system intervention in BC – from the time the men are charged to when they are sentenced in court and placed on a probation court order mandating counselling – created undue hardships for these couples – and even placed the victim at great risk – and they envisioned changes that could better serve these families' needs.

Court delays

All participants believed that current pro-arrest police policies are effective and that without such interventions, the violence would continue and even likely escalate in severity. A participant who counsels South Asian men suggested that another benefit of police intervention is that it 'exposes men to a number of resources that they were not aware of, that they didn't know they could have access to,' such as counselling programmes. This participant spoke less positively of the criminal justice system process that follows the man's arrest, indicating 'I think what needs to be different is that the system needs to move faster for men and women both.' Another counsellor of South Asian men described a typical scenario that occurs in court: the man is arrested. He is then taken to jail and released within 24 h with bail order conditions that require that he is to not return home, and to not have contact with his wife and children. He then lives with relatives, and goes to court, where he is 'asked to bring a lawyer, and some people don't even know that they can defend their case themselves. So, they go and spend \$6000 or \$7000 to hire a lawyer', who will continue to put the matter over in court. The participant argued that 6 months or longer will have passed where the couple has been living separately, and the

frustrations start happening, and the girl's parents or relatives will take her to the Crown [the prosecuting attorney] and she will write something saying, okay, 'I'm sorry, I want him back because my children miss him', kind of thing – excuses, you know.

The man's lawyer may then ask that his client receive a court order that does not give him a criminal record, a request which is often granted. This court order also requires the man to report to a probation officer and attend for counselling. Depending on the location, the wait for counselling can take from a few months to well over a year. This counsellor of men advised:

By the time they come to the [counselling] program nine months have passed ... so the system is not very effective, it's not working right away when they need it. So they need it right away, when

violence occurs in the family. They need it at that time. Men need somebody to talk to, to go to a counsellor right away. And the woman can go to a counsellor right away, and then make sure the children are safe [The men] lost so much, they lose their job, they lose their prestige, they lose their respect in the community, they lose a lot of things in the community, right? So, they are more angry after that. They don't treat their wife with respect after that, or her family. So, it's really a very, very dangerous situation, to stop the violence this way.

A report prepared by BC judges, entitled 'Justice Delayed: A Report of the Provincial Court of BC Concerning Judicial Resources', was released in December 2010; this report confirms that there are significant court backlogs in BC, which is adversely affecting all British Columbian families impacted by crime. This report indicates the Surrey courthouse (where the largest number of South Asian families in the province resides), in particular, is significantly underfunded. It is one of two cities in the province with the highest backlogs; the report notes there is a 15-month wait for a half-day adult criminal trial and that it would take three additional criminal court judges working full-time for 2 years just to reduce wait times to levels that the report's authors deem reasonable. In addition to more judges, the report indicates there is a need for more Crown Counsel, criminal defence lawyers, clerks, sheriffs and court space for trials to reduce the backlog not just in Surrey but in other cities in the province (Ferguson The Surrey North Delta Leader, December 31, 2010, 2; Nagel The Surrey North Delta Leader, March 18, 2011a, 1; Nagel The Surrey North Delta Leader, March 25, 2011b, 1). While intimate partner violence cases are considered high priority, they too can take up to 6 months; when the time for the police investigation is figured in, the time from the assault to the court date can take up to a year (Nagel The Surrey North Delta Leader, March 25, 2011b, 1).

A probation officer advised that most of the immigrant South Asian families he worked with were not aware of the time it would take from when the man was arrested to when he was sentenced in court:

Most of the first generation [immigrant men] that I dealt with, didn't know what the process was going to be like at all. You know, and I don't think even anyone until they're in it, really knows the length of it, like, the amount of time it can take to do pro- grams and to deal with court matters. Even before it gets to probation, all the time it takes to get to that point. I mean, I don't think anybody knows it until they're really part of it or they've worked in that area and they see it.

While women of all ethnicities may not be fully aware of what will happen once police are called, 'of additional concern are women who are aware of the implications of police intervention and so do not call in emergency situations, thus increasing danger to themselves' (Alaggia and Maiter 2006, 108). In Surrey, given such court delays, it has been observed that 'many battered women are simply giving up on seeking justice' (Nagel The Surrey North Delta Leader, March 18, 2011a, 1; Nagel The Surrey North Delta Leader, March 25, 2011b, 1).

A counsellor of South Asian men argued:

People get heartache, discouraged and they know that so and so's husband was away for 6 months. Had to stay somewhere else. They almost lost the house or they lost their job or cause them more drinking, whatever. They may not call the police. Other people may not call the police. I think there should be better ways of handling it.

Lack of counselling options

All 17 participants also noted that there are few if any counselling options available to male perpetrators of intimate partner violence in BC, other than those funded by BC Corrections – and which are only available to men who are placed on a court order.

Furthermore, they noted that there are even fewer options for those who cannot attend during the day,

or who have cultural or linguistic needs. A probation officer observed:

There are only so many services in the community and often they're during the day and the reality is both people are working and may not be able to come. Again, those are often issues with mainstream as well but with mainstream there are so many more services available and they know where they are. Or they can easily find out, whereas someone might not be able to do that if they've got those language and cultural barrier issues.

Participants noted that after a long court wait, there may be another long wait to enter into a BC Corrections – funded South Asian batterer intervention group programme, which is facilitated in Punjabi. A counsellor of men, suggested that with long court waits and long waits for counselling, the victim is doubly victimized.

It's too late when they come to the counselling program. They already, women were already feeling guilty, they have already said sorry to the man, her parents or other relatives have already made commitments to the man's family, 'okay, our daughter is not going to call the police again, you can come back home'. So it's too long a process, you know, and then by the time they come to the counselling program, everything is maintained out there. There's no need for that.

Furthermore, another counsellor of South Asian men noted that with such long waits, the man may be able to minimize his actions.

Sometimes men, they maybe will be involved in the program after six months or one year later from the incident and they think that 'oh I'm not abusing my wife. Everything is fine now'. Their participation will be different, right?

While participants spoke positively of the BC government-funded South Asian batterer intervention group programme, in particular that it was facilitated in the men's first language and that it was culturally relevant to their experiences, and they advised that as long as a man is willing to change, he can benefit greatly from such a programme, they expressed concern that such a programme did not provide services to victims. They considered this a major gap in services, given the tendency for South Asian couples frequently reconcile. Participants believed that counselling should also be made available to the victims who want it, and potentially to other family members as well. A counsellor of South Asian men argued:

In the South Asian [communities], 95 per cent they will want to continue with the relationship. So we need to have or design a program to look at their needs because that woman and man, they are after the incident, all those things, still they are going to continue to live together.

Several participants suggested a separate group should be offered to the victims, where they could learn about some of the same skills discussed in the programme, which could improve how they communicate with their partners; furthermore, they believed that such a group could also be an empowering process for the women. A counsellor of both South Asian women and men advised:

You can't force them into counselling, but if we can give the resources and use some of the same techniques ... so that they know what their rights are, what to look for in a healthy relationship. That they do have a choice to leave and that they have support. Because I think that's how you're going to get change, is if you empower the victim.

Participants also suggested that the men's group should be expanded to include some sessions with

couples who have reconciled or plan to reconcile. A counsellor of men advised:

Those couples that are ready, where there's been enough work, the woman has done her work and the man has been in treatment, I think some flexibility to program service delivery model where you bring in some kind of co-joint therapy where ... where you actually bring couples together who may be interested in dealing with issues like communication patterns, dealing with issues around conflict that continues to emerge.

Conclusion

This exploratory study looked at criminal justice system interventions and how they are not adequately meeting the needs of many South Asian families in BC, Canada. It is part of a larger qualitative research study aimed at determining effective intervention strategies for any front-line professional that work with South Asian men, as well as determining effective prevention strategies aimed at policy-makers and members of South Asian communities. This study is based on the observations of a relatively small number of practitioners, it does not involve the actual clients (the South Asian male perpetrators of intimate partner violence, and their victims), and it does not include the true numbers of South Asian, Caucasian or other ethnic couples that reconcile after criminal justice system involvement (as such data does not exist). Future studies should look at such areas, to gain a better understanding of the experiences of South Asian and other British Columbian families impacted by intimate partner violence. While it is recognized that a 'coordinated community response that includes the criminal justice system as well as services for offenders and victims, is the most effective approach to reducing recidivism' (Light et al. 2008, 21), the reality is immigrant South Asian families continue to experience a fragmented criminal justice system that fails to adequately meet their needs. Both South Asian immigrant men who have perpetrated intimate partner violence and are arrested, placed on a probation order and referred to a South Asian batterer intervention programme, and their victims, frequently wish to reconcile. In the current study, no participant believed that a victim should reconcile with a perpetrator whose risk to the victim is high; many pointed out, however, that the majority of the clients they work with were not involved in such high-risk relationships. All participants believed that a strong criminal justice system response to intimate partner violence is necessary; at the same time, they believed that long court waits and long waits for counselling/limited counselling opportunities often increased a South Asian woman's experiences of feeling further victimized. A concern is that if the couple reconciles and there is further violence, she may hesitate to involve the police again.

While Canada has some of the most progressive criminal justice system responses to intimate partner violence in the world, reform is needed. Participants by no means argued for a separate criminal justice system for South Asian families in BC; they instead indicated faster court times and quicker access to counselling is beneficial for all British Columbian families impacted by intimate partner violence. The same argument has been made by BC's judges: that governments need to invest greater financial resources to improve current court wait times. Victim's advocates as well have continuously called for increased resources in order to expand services to victims. While pro-arrest and prosecution policies work, a more inclusive criminal justice system that considers the needs of all British Columbian families is needed.

Notes on contributor

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