

## **Intimate Partner Sexual Abuse:**

### **DISCUSSION GUIDE FOR FACULTY**

#### **STATE V. VED MIRCHANDANI**

##### **Q1.**

**Is there any probative value to such evidence in a case where the battered woman is not herself on trial?**

Social science testimony setting forth the current and best understanding of the dynamics of domestic violence is necessary to help jurors understand how a pattern of coercion and control can erode the victim's independence of thought and action.

Originally introduced to support the defense of justification when a battered woman was charged with the homicide of her abuser, use of expert testimony to explain battered women's responses to their experiences has since expanded. Prosecutors may seek to introduce such an expert to provide the jury with important knowledge about how to view the evidence.

Particularly where consent is an issue, it is important for the jury to hear how a victim can be affected by long-term exposure to such abuse.

##### **Cultural Defense:**

The defendant seeks to introduce expert testimony concerning marriage traditions and the respective roles and duties of husband and wife in the Mirchandani's culture of origin.

##### **Q2.**

**Should such testimony be allowed to explain the defendant's behavior?**

"Cultural competency" is an important area of knowledge for any judge considering cases involving immigrants who continue to identify with their culture of origin. Understanding why a defendant may have acted in a manner that might be acceptable in a home country is not the same, however, as a defense to a criminal charge.

Particularly in cases that result in bodily and emotional injury to a victim, it is important that the victim receive the same level of support as would any other victim. A victim living in a closed community may have undertaken considerable risk in reaching out for help outside of her cultural group. To fail to hold an offender accountable to our society's standards would send a disheartening message to immigrant victims.

Depending on the facts of a case, a court might want to consider cultural beliefs that colored the defendant's intent during the offense in question when considering the appropriate disposition. However, such accommodation should be granted with caution,

as many abusers can offer a reason why they feel their conduct was justified. That is a typical batterer characteristic.

**[over]**

In the Mirchandani case, consideration of cultural defenses is not appropriate. Cultural defenses are described in detail in the National Judicial Education Program's Web course, *Intimate Partner Sexual Abuse: Adjudicating the Hidden Dimension of Domestic Violence Cases*, [www.njep-ipsacourse.org](http://www.njep-ipsacourse.org) in Module XI: Cultural Defenses and Cultural Evidence.