

Hmong Americans and the Legal System in Minnesota

April 19, 2016, 12:00pm - 1:00pm
Minnesota Judicial Center, Room 230
25 Rev. Dr. Martin Luther King Jr. Blvd.

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I. Video clip of Grand Torino movie

- a. What are some historical accuracies?
- b. What are some generalizations of the portrayal of Hmong Americans?
 1. Role of young Hmong American men and women
 2. Perpetuate stereotypes of young Hmong American men
 3. Promotes image of Asian Americans as foreigners

II. Who are Hmong Americans?

- a. Asian Americans have been in this country since 1800's (Chinese, Filipinos and Japanese Americans), however the Hmong are a more recent refugee/immigrant group.
- b. All Hmong in Minnesota and the USA are originally from China, Laos or Thailand.
- c. Hmong are an ethnic minority group, no "Hmong country"
- d. Not Mongolia
- e. Hmong Americans distinguished from other SEA groups (i.e. different in language, history, culture, etc.).
- f. Vietnam War the political/historical factor which led the Hmong to come to MN/USA
- g. First wave arrived after 1975, post-Vietnam War
- h. Second big wave of refugees came from Wat Tham Krabok camp in Thailand in 2005
- i. 64,000 Hmong Americans live in MN home today
- j. 29,000 Hmong Americans call St. Paul home, the highest concentration of Hmong Ams than any city in the country
- k. Most recent U.S. Census indicates average age of MN Hmong is 19 years old and half of the population is American born
- l. Nearly 28% live below the federal poverty guidelines in MN
- m. Large families are still valued.
- n. Image of 2 kids and a dog doesn't exist. More like 4 kids and 2 cars.
- o. Fresno, Calif. and metro Sacramento, Calif. have the second highest Hmong Am. population

- p. Wisconsin has the third highest concentration of Hmong Ams.
- q. Minnesota has second largest concentration of Hmong Ams.

III. Common traditional cultural practices/beliefs held by Hmong Americans.

- a. Hmong are originally agrarian farmers from Laos/Thailand
- b. Most had no formal education
- c. No contact with the West until arrival to America post-Vietnam War
- d. Traditionally only men and boys were given educational opportunities (not common even among men)
- e. Traditionally men and elders held leadership roles within the family, clan system, and village leaders
- f. Mediation among the clans was and still is a common practice to resolve dispute with the families, individuals.
- g. Marriage, family and having children are essential to the Hmong sense of identity
- h. Preserving the family unit is essential
- i. Divorce was virtually non-existent in the old country
- j. Patriarchal society
- k. Defined gender roles
- l. Family name, lineage and identity passed on through male child
- m. Once a female marries, she loses her birth clan name and takes on the name/role/identity/responsibilities of her husband's clan
- n. Traditionally the Hmong practiced polygamy as a way to form allies among different clans and to preserve the family unit
- o. Not all men practiced polygamy
- p. Girls married as young as 15/16 because average life span of a Hmong person was not that old (50's)
- q. Few educational and career opportunities for men and women
- r. Large families were essential for survival
- s. The more children, the more help a family had to farm their land

IV. Best Practices for attorneys, staff and judges in the legal system.

What are some things every attorney/judge should know about Hmong Americans whom they may come in contact with in the legal system?

- a. There is not a monolithic HA experience.
- b. There is much diversity within diversity.
- c. Don't make assumptions about an individual.
- d. EX.: A Hmong Am. can hold a doctorate degree/college degree and have very little contact with other HA's. And there are some HA's who live all their lives in the Frogtown/East side, speak limited English and may have limited educational background.
- e. EX: story of South St. Paul man charged of homicide with the PD.
- f. All Hmong Ams want the chance to thrive in America and access the American dream.
- g. But each Hmong American may get there in a different way.

- h. Each Hmong American will all “Americanize” at a different pace. Just like white Americans, there isn’t a monolithic white American experience.
- i. EX: Wisconsinites must have their beer on Sundays.
- j. EX: GAL in a CHIPS case asked me, “when will HA parents change and adapt to more American ways of parenting so they can verbally express love to their child more?”

HA traditionally do not say “I love you” to a child. Or even their own spouse. Love is shown by action. By being a good provider. By being a good care taker. A parent may not verbally say, “I love you” but it doesn’t mean the parent does not care for the child. Love is can be shown in different ways.

- k. Be careful not to make assumptions or impose one’s own experience onto others.

V. INDIVIDUAL INTERESTS VS. THE CLAN’S INTERESTS

- a. The Hmong traditionally are Borg-like and make decisions in a group.
- b. Hmong Americans often consult with male elders, other male family members, their spouses prior to making a legal/medical/significant personal decision.
- c. 18 Clan Council is a recognized mediation center to mediate family law cases.
- d. Voluntary. Both parties have to agree. But there are few women on the the council.
- e. Each clan (Vue, Yang, etc.) also has its own elders who can mediate disputes. Not formally recognized.
- f. Be aware the clan’s interests may differ and sometimes be in conflict with the individual interest.
- g. Important to advocate for the individual client’s interest.
- h. Listen to the voice, needs and interests of the individual person; not the clan or relatives.

VI. HOW HAS THE MN LEGAL SYSTEM IMPACTED THE HMONG AMERICAN COMMUNITY IN LAST 40 YEARS?

- a. Some Hmong Ams are as litigious as other Americans.
- b. Bringing law suits each other in civil court.
- c. Filing for marital dissolutions at high rates.
- d. Divorces have increased significantly as women gain more personal and financial independence and traditional gender roles change.
- e. Hmong Ams are filing for OFP’s and HRO’s
- f. Entering the CHIPS system (for physical abuse, drug/alcohol addiction, just like other Americans)
- g. Entering the criminal justice system, just like other Americans (everything from traffic offenses, DWI, CSC and homicide charges).

- h. Currently Hmong Ams do not appear to be disproportionately represented in the criminal legal system.
- i. However, there is also a sector that is unaware of Minnesota laws.
- j. EX: There are some Hmong Americans are unaware they can sue for unemployment benefits if they are injured at work.
- k. Or that MN family law recognizes the contributions of a stay at home wife and will award assets in a fair and equitable manner, despite which spouse earned the income.

VII. GENDER BIAS

- a. Be cautious of possible gender imbalance.
- b. But also do not assume there is always a gender imbalance.
- c. Some HA men feel the “American legal system” is stacked against them as men.
- d. Many HA’s are married culturally, but choose not to marry legally.
- e. Those who chose this route, do so b/c they believe there is greater importance and value in the cultural marriage.
- f. This creates some complex issues during separation/divorces, child custody and bankruptcy cases.
- g. This may impact a father’s rights in child custody cases.
- h. Or a wife’s rights in distribution of assets in a marital dissolution cases.
- i. May also impact filing for bankruptcy and taxes as a “married couple”.

VIII. USE OF CULTURAL DEFENSE AT TRIALS

- a. The Hmong American culture does not condone rape or domestic violence.
- b. But some defendants have tried to make the argument that some level of domestic violence or sexual assault is acceptable. This is simply not true—on all levels.
- c. EX: Bride kidnapping is culturally practiced in the old country, some have tried to use this as a legal defense in this country.

Traditionally, a woman is taken as a bride in Laos or Thailand sometimes under circumstances that appear non-consensual. However, she is not taken “against her will” in the same sense that we think of kidnapping under Minnesota law. Brides in the traditional Hmong culture are not supposed to be smiling and go willingly on their wedding day. Because when a woman marries in the Hmong culture, she is severing ties with her birth family and clan. So this is a sad event for her and she is to go unwillingly.

- d. If the defense puts culture into issue, do expect to open a can of worms to be opened.

State v. Lee, 494 N.W.2d 475 (1992)

Summary: Defendant (a Hmong American man), claimed there was no such thing as “rape” in the Hmong culture where a woman delays the reporting of sexual assault.

Court permitted a prosecutor to testify as the state’s expert and said there were similarities between the facts in this case and the facts in another rape case she prosecuted, whereby a Hmong married woman reported after 48 hours and after consulting with her husband. Appellate court ruled there was no bias where the defense “opened the door” when it called it’s own cultural expert to testify about cultural norms and claims of rape.

- e. Again, be careful when defendants testify in CSC cases there is no such thing as rape in the Hmong culture. The defense again invites the state to make semi-xenophobic statements such as “this is not Her’s country, this is our country.”

State v. Her, 510 N.W.2d 218 (1994)

ADDITIONAL LEARNING RESOURCES:

The Late Homecomer, by Kao Kalia Yang
(a memoir of one Hmong American girls’ family coming to the MN)

Trail Through the Mists, by Houa Vue Moua
(a personal account of a child’s memories and experiences in Laos, Thailand and the U.S.)

HMONG STUDIES VIRTUAL LIBRARY

By the Hmong Cultural Center

Hmong Studies Virtual Library Collection Summary:

22 books

83 dissertations/theses

156 journal articles

18 conference panel sessions (video)

37 research reports/documents/other presentations

HMONG STUDIES JOURNAL ARTICLES 1996-2011

(www.hmongstudiesjournal.com)

The following is a sample list of original Hmong Studies Journal articles published between 1996-2011.

Wayne Carroll and Victoria Udalova. "Who is Hmong? Questions and Evidence from the U.S. Census." Hmong Studies Journal, Vol 6, 2005.

Dia Cha. "Hmong and Lao Refugee Women: Reflections of a Hmong-American Woman Anthropologist." Hmong Studies Journal, Vol 6, 2005.

