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Richard Flores, Immigrants in Courts, 9 B.U. PUB. INT. L.J. 167 (1999).

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APA 7th ed.

Flores, Richard. (1999). Immigrants in courts. Boston University Public Interest Law Journal, 9(1), 167-172.

Chicago 17th ed.

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Flores, Richard. "Immigrants in Courts." Boston University Public Interest Law Journal, vol. 9, no. 1, Fall 1999, pp. 167-172. HeinOnline.

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## BOOK NOTE

### IMMIGRANTS IN COURTS

JOANNE I. MOORE, EDITOR WITH MARGARET FISHER

UNIVERSITY OF WASHINGTON PRESS, 1999

*Immigrants in Courts* is a collection of short essays that attempts to provide readers with insight into the difficulties that immigrants face in U.S. court systems, particularly within criminal proceedings. The shared purpose of the various authors, ranging from an Oregon state appellate court judge to a Moscow-based Russian attorney, is to make readers aware of the impact of foreign legal, cultural, and religious influences upon immigrants' perceptions of the U.S. legal system. These perceptions, unless recognized and addressed by U.S. courts, often greatly limit immigrants' opportunities to meaningfully participate in legal proceedings in the United States. The initial essays serve as introductory essays that provide the reader with some background to assist in the analysis of the essays that follow. These introductory essays examine the general role of culture in shaping immigrants' perceptions of judicial systems, the importance of guaranteeing quality interpreters in order to ensure the integrity of judicial proceedings, and the potential for gross injustices that result from inadequately informing immigrants of the judicial process.

The next several essays briefly present broad overviews of legal systems and specific cultural influences within China, Mexico, Russia, Vietnam, and Middle Eastern countries. There is an accompanying essay to the Middle Eastern piece that discusses the impact of Islamic religion upon legal systems in countries that have large Islamic populations. Lastly, there is a concluding essay that considers methods to address the various issues that immigrants face in judicial proceedings.

*Immigrants in Courts* succeeds in one of its goals. It makes the reader aware that immigrants' perceptions of the U.S. legal justice system, perceptions that establish the parameters of their effective participation within this legal system, are often a direct product of their experiences within foreign legal systems and the influence of strong cultural expectations. However, *Immigrants in Courts* does not convince the

reader that the proposals here would remedy the situation in immigration proceedings today.

"Speaking of Culture," the first essay written by Dr. Janet Bauer, an associate professor of anthropology at Trinity College, proposes that culture is a subtle yet powerful concept, the importance of which must be recognized by court officials in order to fully include immigrants in the legal process. She notes that unless cultural differences are considered, immigrants can be misunderstood and unfairly stereotyped. However, if cultural differences are weighed too heavily, immigrant misbehavior may be mistakenly understood as the natural and justifiable result of cultural differences. Dr. Bauer's essay effectively conveys to the reader the importance of culture in the lives of immigrants and the difficulties that cultural change can cause for immigrants. She offers insight into the depth and complexity of the many issues facing immigrants from distinctly different cultural backgrounds and the potential for irrational bias on the part of U.S. officials ignorant of these differences. With this, Dr. Bauer sets up the theme of the book for the reader.

Most of the other essays contain proposals that attempt to remedy the problem that the authors identify. The authors come up with many proposals but do not examine the practicalities behind implementation of these proposals. This is where *Immigrants in Courts* fails. As an example, "Interpreters in Court Proceedings," written by Joanne I. Moore, the book's editor, and Judge Ron A. Mamiya of the Seattle Municipal Court, urges that courts apply more stringent standards in the selection of interpreters. The authors recommend that open-ended questions be asked of limited English participants to gauge the level of the participants' English, while suggesting specific questions be asked of interpreters in order to verify interpreter qualifications in court proceedings. The essay also considers the ethical difficulties that interpreters face, giving examples in which dilemmas might arise and discussing ways in which ethical breeches can be avoided and the integrity of the proceedings guaranteed. The authors stress that language is not the only barrier that immigrants face within court proceedings, but it is definitely the threshold barrier that must be overcome before any of the other issues affecting immigrants can be addressed. Although the authors accurately portray the importance of ensuring access to quality interpreters in court proceedings, the availability of qualified interpreters is probably limited. In addition, this program will cost money, an important issue that the authors of this essay do not address.

Not all of the essays in the collection propose unrealistic agenda. In "Immigration Information for Criminal Cases in State Courts," Norton Toby, a California criminal defense attorney, argues that failure to fully inform and involve immigrants in judicial proceedings can result in grave personal consequences that extend beyond the corruption of the fairness of that particular proceeding for immigrants. Convictions of immigrants may directly affect immigrants' ability to remain in the United States, at times resulting in mandatory deportation. Immigrants often are not made aware of the potential effect of the actions taken by them or on their behalf by their attorneys, such as the impact of particular pleas required in plea-bargaining. Toby stresses that adequate "status" information must be effectively provided to immigrants in order to avoid this potential betrayal of

justice. Specifically, attorneys must clearly convey when pleas or convictions can result in a change in the immigrant's status resulting in deportation. To this end, Toby offers practitioners guidelines to follow entitled a "Suggested Standard for Notification of Immigration Consequences." Toby's suggestion is a good one and one that does not necessarily require government involvement. Instead, Toby urges attorneys who represent immigrants to do their job, that is, to give these immigrants zealous representation.

After these introductory essays, *Immigrants in Courts* presents the reader with a series of essays that discuss the native legal and cultural systems of particular ethnic groups. One consistent theme is easily gleaned from these essays: immigrants are greatly impacted by their experiences within their native legal and cultural systems. These foreign systems are often distinctly different from the system that immigrants encounter in the United States. These differences cause behaviors and perpetuate misconceptions and biases that must be recognized and addressed in order to guarantee immigrants the fullest extent of participation in the U.S. legal process as is possible. The essays convey to the reader the complexity of the difficulties immigrants encounter and they successfully make the reader aware that no one issue or concern shapes immigrants' perceptions. Rather, immigrants' perceptions are the product of a variety of foreign cultural and legal experiences.

In an attempt to resolve the issues presented in these essays, Joanne I. Moore and Judge Paul J. DeMuniz of the Oregon State appellate court write the final essay of *Immigrants in Courts*. The essay, entitled "Application: Presiding Over Cases Involving Immigrants," suggests methods for assisting immigrants with adapting to the foreign dynamics of the U.S. legal system without overcompensating for cultural differences. The authors offer a series of brief recommendations based primarily on the observations of judges, attorneys, and interpreters. Moore and DeMuniz suggest, among other things, that there be brief and simple explanations of the concept and dynamics of bail and a thorough explanation of the plea bargain process and all possible consequences of any such plea bargaining. They also suggest that court personnel should exercise extra patience in conveying to the immigrant that it is in the immigrant's best interest to obtain legal representation.

While many of the recommendations in this final essay provide excellent points of reference for addressing the needs of immigrants within the U.S. court system, this last essay, like some of the others in the work, seems to disregard the reality of the situation. It is overly optimistic, for instance, to suggest that court personnel should exercise more patience. In a crowded and busy court setting, patience is probably not the first priority of a court employee. Moreover, considered in light of the multitude of issues that immigrants face, the final essay offers suggestions that seem too simplistic relative to the complexity of these issues. The essay urges that court personnel and defense attorneys should stress to immigrants that the U.S. legal process is fundamentally different from foreign legal processes. The fact that many immigrants come from systems that are so corrupt that they have an ingrained distrust of judges and attorneys severely weakens the effectiveness of this effort. The efforts that court personnel and attorneys make may therefore be considered attempts at deception with the purpose of cloaking corruption. Further,

defense attorneys sometimes manipulate immigrants because of their suspicion of systemic corruption. One essay notes that a defense attorney would imitate the act of bribing officials to increase his clients' comfort levels with plea-bargaining.<sup>1</sup> When less difficult means of "reaching" a client is available, urging defense attorneys to struggle to overcome ingrained attitudes may be unrealistic.

In this final essay, the authors also advocate that courts attempt to collect information about particular cultural phenomena from local agencies in order to understand better traditionally misunderstood behavior within the courtroom.<sup>2</sup> This suggestion ignores the already staggering workload that many courts face simply trying to work through the surge of cases that come before them. While this information collecting might be easily accomplished within some jurisdictions, specifically in big cities, there is likely a lack of resources in many smaller jurisdictions that may not be largely populated by immigrant communities. Lastly, this suggestion becomes more daunting in light of the expansive variety of cultural experiences for many immigrants as noted in the Mexican-immigrant essay.<sup>3</sup>

The authors' main argument, that extra time and effort is what is required to ensure fairness in judicial proceedings involving immigrants, is perhaps too simplistic and idealistic in light of the practical barriers involved in making that extra time and effort. However, these suggestions do serve as useful and enlightening starting points for practitioners.

On the whole, *Immigrants in Courts* is interesting and informative. Many of the essays provide extensive discussions of foreign legal systems and cultural traditions, but they are limited in their persuasive analysis on how to mitigate ingrained misconceptions that shape immigrants' perceptions of their role within U.S. judicial systems. Perhaps the varying degrees of persuasive analysis throughout the book are the inevitable result of collecting essays from individuals with widely varying backgrounds. But what some essays lack in terms of cohesive analysis is more than compensated for by the interest level of the subjects covered. It is important to note that *Immigrants in Courts* is clearly geared towards the practitioner. This is most evident upon examination of the long appendices, which include several written translations of an *Explanation of Important Legal Rights* and information for copyright release to use these translations. Despite the uneven degrees of persuasive analysis from one essay to another, *Immigrants in Courts* likely serves the principal purpose of at least making practitioners aware of the

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<sup>1</sup> Mosabi Hamed & Joanne I. Moore, *Middle Easterners in American Courts*, in IMMIGRANTS IN COURTS 112, 113 (Joanne I. Moore ed., 1999).

<sup>2</sup> This behavior includes avoiding eye contact, not as an indication of guilt or untrustworthiness, but as a sign of respect to authority.

<sup>3</sup> Noting that Mexicans speak over "260 distinct indigenous languages--not dialects, but independent languages . . . [many of which] are mutually unintelligible." Juan-Vicente Palerm et al., *Mexican Immigrants in Courts*, in IMMIGRANTS IN COURTS, *supra* note 1, at 74-75.

difficulties that immigrants face in court proceedings within the United States and focusing these practitioners on the need to improve the process.

*Richard Flores*

