HHS Public Access
Author manuscript
J Immigr Minor Health. Author manuscript; available in PMC 2020 December 01.

Published in final edited form as:
J Immigr Minor Health. 2019 December ; 21(6): 1365–1372. doi:10.1007/s10903-018-0838-y.

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Immigration legal services as a structural HIV intervention for Latinx sexual and gender minorities

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Abstract

Lack of legal immigration status is associated with poor HIV-related outcomes for immigrant Latinx sexual and gender minorities (LSGM). LSGM often meet eligibility criteria for legal immigration relief. A Medical-Legal Partnership (MLP) may thus be strategic to improve their health. We know little about the challenges LSGM face during the immigration legal process. We conducted in-depth interviews with six key informants and sixteen LSGM who recently applied for immigration legal relief. We coded and analyzed the data for emergent themes. Challenges to instituting an MLP for LSGM included lack of specialized training on working with SGM for immigration attorneys, and for clients: knowledge about legal deadlines, lack of housing and family support, and re-traumatizing experiences. Clients' outcomes were positive when attorneys and mental health providers colla borated. For LSGM, the benefits of immigration relief included reduced HIV risk. An MLP that addresses the surmountable challenges could improve HIV-related outcomes among LSGM.

Background

Latinxs (a gender-neutral term for describing U.S. Latinos/Hispanics) have HIV infection rates three times the rates of non-Hispanic whites.[1] Men who have sex with men (MSM) account for 85% of all new HIV infections among Latinos.[1] From 2010 to 2014, annual HIV infections increased 14% among Latino MSM but decreased among other groups.[1] Among Latino MSM aged 13 years diagnosed with HIV in 2014, 71.3% were linked to care, 58.4% were retained in care, and 60.7% were virally suppressed,[2] substantially below the targets set by the National HIV/AIDS Strategy.[3] Transgender Latinas have HIV infection rates nearly three times higher than all Latinxs.[4] As a result of these disparities, there has been a call for HIV interventions to address structural determinants for Latinx sexual and gender minorities (LSGM).[5]

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Immigration status is a structural determinant of health, including access to HIV-related services, for LSGM. Latinx immigrants without legal authorization to live in the U.S. (undocumented), experience delays in HIV diagnosis[6] and have lower CD4 cell counts during HIV treatment initiation compared to documented foreign-born Latinxs, and U.S.-born Latinxs, Blacks and Whites.[7] Undocumented Latinxs are often uninsured[8] and were excluded from the Affordable Care Act.[9] Latinx immigrants mistrust services even when freely available, because they fear immigration-related consequences.[10–12] LSGM immigrants who fear returning to discriminatory home country conditions are even less likely than the general population of Latinx to access health services[13] and experience higher levels of depression and anxiety.[11,14–16] In previous research, for example, we found that undocumented status prohibited gender identity affirmation for Latina transgender women.[17] Lack of documentation was also a barrier to housing, employment, and other social services, enhancing the need for transactional sex. Latina transgender women who received legal asylum reported improved mental health and leaving abusive partners, thus decreasing their HIV risk.[17]

Conceptual Framework

Drawing on the idea that legal needs are fundamental causes of health outcomes,[18] immigrant status can be addressed with structural interventions.[19] Structural interventions regarding legal issues include policy change or Medical-Legal Partnerships (MLPs).[18] MLPs are healthcare services that integrate civil legal assistance;[18] the health and legal providers can have an official partnership or the same employer, or some legal aid organizations partner with multiple health organizations.[20] In a recent systematic review among thirteen rigorously assessed MLPs, the health effects of MLPs included less stress, fewer emergency department visits, and improvements on housing and income.[18]

MLPs for immigrant LSGM may improve their HIV-related outcomes, but no previous studies have evaluated this approach.[21,22] Immigration law recognizes that SGM immigrants constitute a “particular social group” who may have credible fear of past and/or future persecution in their countries of origin.[35–37] Many SGM immigrants have been granted asylum, which includes the right to work and live in the U.S.[23–25] The filing deadline for asylum claims is within one year of arrival to the U.S. Attorneys may petition for exceptions to the deadline if major changes have occurred in the applicant’s personal life or in their native country conditions.

With the assumption that legal immigration relief is a potentially powerful structural intervention, we explored the feasibility of an MLP approach to improve HIV-related outcomes among immigrant LSGM. We analyzed data from key informants and recent immigration relief applicants to assess challenges and factors that could ensure potential success of an MLP for LSGM.

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Methods

Setting

In 2012, 2.5% of the Washington, DC (DC) population was living with HIV.[40] DC had the country's highest rate of Latinxs living with HIV in 2010 (1,830.2 per 100,000); a rate more than four times the national rate for Latinxs.[41] The DC metropolitan area has a large share of undocumented immigrants, with continued growth despite declining national trends.[43] The majority of these undocumented immigrants are from El Salvador, followed by other Central American countries.[43] The closest federal Immigration Court is in Arlington, Virginia. In 2016 the Arlington Court had an asylum grant rate of 62%.[26]

Participants

We purposively recruited six key informants. They were eligible if they had experience in a legal or supportive capacity on immigration legal cases for LSGM. We were referred to key informants through knowledgeable service providers, including non-profit organizations serving Latinx populations.

To recruit LSGM, we partnered with a community-based health center that houses a drop-in support center, including provision of legal referrals, for LSGM. The transgender Latinas attending the center collectively identify themselves as *chicas (trans)* and the Latino MSM identify themselves as *chicos (gays)*; thus, we use these terms. We recruited participants through the center's advertisements and support groups, and through key informants. In order to capture diverse experiences with the legal immigration relief process, we did not limit participants to those who had direct experience with an established MLP. Eligibility criteria included being aged 18–34, self-identifying as Latinx/Hispanic, MSM or transgender male to female, and during the past five years having applied for legal immigration relief. Both participants and key informants received consent forms and agreed to recorded interviews. Participants signed with an "X" to avoid disclosing their name.

Data Collection

From May to August 2015, two interviewers conducted in-depth interviews with key informants. The interviews lasted up to 90 minutes. Topics of discussion included the key informants' training and experience in immigration law for LSGM; how they receive LSGM referrals; the process of preparing cases, including collaborators, building trust with clients, locating/preparing witnesses, and preparing client testimony; outcomes for their clients by type of immigration relief; and their thoughts on the challenges and benefits of an MLP for LSGM.

From September 2015 to April 2016, two bilingual interviewers conducted in-depth face-to-face interviews with *chicas* and *chicos*. Interviews were conducted privately in Spanish and lasted up to 90 minutes. Table 1 describes the interview domains and example questions for the participant interviews.

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Data Analysis

We used a thematic analysis approach including coding of textual data. Analysis began during data collection.[27] Newly identified topics were added during fieldwork. Using Dedoose version 6.2.21, two research assistants coded all the interviews in Spanish; the Principal Investigator reviewed them for consistency. Codes were assigned deductively from the interview guide and then emerging codes were identified. The data were categorized and comparisons were made among and between participants. Quotes related to key themes were translated from Spanish to English. The American University Institutional Review Board and the National Institute of Allergy and Infectious Diseases' medical ethics officer reviewed and approved the research protocol.

Results

Characteristics of Participants and their Legal Process

We interviewed six key informants who regularly advocate for LSGM in immigration cases, including four attorneys, one paralegal, and one mental health practitioner. Key informants worked in immigration for a range of eight to twenty years. One key informant was an attorney who worked at an MLP for people living with HIV. Two attorneys were in private practice and received referrals from service providers who work with LSGM. All attorneys received training in immigration law and were proficient in Spanish. The mental health practitioner worked through a translator, but had extensive experience addressing trauma among SGM. None of the key informants received specific training on issues specific to SGM immigrants, but rather used informal training opportunities to enhance their practice, such as listservs and non-profit organizations' reports.

Participant demographics are reported in Table 2. Several participants were motivated to apply for legal immigration status when they could no longer find work; one participant was motivated by HIV diagnosis and medical needs. Most participants were given a list of practicing immigration attorneys, including private, MLP and other non-profit attorneys, by community-based organizations (CBOs) including a federally qualified health center for Latinx; case management staff at some CBOs helped navigate participants to an attorney. For some participants it took several months to find an attorney to take their case.

Half of the participants' attorneys were employed at the one HIV-related MLP (MLP clients); the others had either a private or non-profit attorney (non-MLP clients). Five of the eight non-MLP clients were referred to an attorney by a CBO. CBOs also navigated the non-MLP clients to health care and health insurance. Thus, the majority of non-MLP clients received both health and legal services, albeit not under the same umbrella organization. One minor difference between MLP and non-MLP clients was that one MLP client gained access to food stamps and housing assistance, while non-MLP clients did not mention receiving these specific benefits.

MLP clients received pro bono legal services. To cover any government application fees, MLP attorneys filed fee waivers for their clients; when fee waivers were not granted the MLP clients paid the filing fees. Non-MLP clients paid between $1200 and $8000 for legal

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services and fees; the most common cost was $3000. Some non-MLP clients waited until they had sufficient funds to start the legal process.

Immigration Relief

Key informants stated that the majority of their LSGM immigration cases were successful. Most participants received asylum (see Table 2). The duration of asylum cases (from application to decision) ranged from one year to three and a half years, with the most common response being one year; there were no differences between MLP and non-MLP clients in asylum granting rates or duration of cases. One participant received withholding of removal, a form of relief that is comparable to asylum but does not include a permanent residence pathway. Two chicas received U-visas that took three and five years to attain. The U-visa[28,29] is for victims of certain crimes committed in the U.S., including domestic violence and felonious assault; applicants must demonstrate their willingness to cooperate with law enforcement. U-visa recipients receive employment authorization, and after three years, a U-visa holder may apply for permanent residency.

Claims to Legal Relief

Asylum applicants were required to make a claim of either past or future persecution. All participants experienced SGM-related discrimination and most experienced violence in their native countries; all chicas experienced violence. The two chicas who received U visas experienced discriminatory violence in the U.S. for being transgender. One experienced violence that rendered her unconscious. The other was attacked by ten adolescents. Experiences of violence and discrimination resulted in negative health effects. For example, one participant who experienced sexual abuse, discrimination and an attempted murder also reported extensive psychological distress and two suicide attempts. One HIV-positive chico described his strong negative feelings towards returning to his native country:

> [The U.S.] provides you that freedom to express your sexual orientation without reproach. Returning to my country would be like a death sentence. I mean, they are not going to kill me, but I will die from that condition [HIV]. Because [there] I am not going to have medication or a doctor who is checking me out.

Challenges

Screenings and available attorneys—One challenge participants experienced was lack of knowledge and sensitivity during legal screenings. For example, one participant reported that during a screening "*[The paralegal] made me feel bad because he said that being gay does not guarantee me asylum. He asked me if I was HIV positive, and when I said no he said I had no case."* The participant later learned that there is no medical requirement for asylum.

A few participants reported challenges finding available immigration attorneys, especially Spanish-speaking attorneys. One chico who was given a list of lawyers spent six months until he found one, and attributed the delay to a recent surge in demand for immigration attorneys. One non-MLP participant whose lawyer did not speak Spanish mentioned that he

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was often uncomfortable during appointments. He felt nervous about communicating past abusive experiences through an interpreter.

Asylum deadline—Key informants acknowledged that missing the asylum one-year filing deadline was common among LSGM. Both non-MLP and MLP clients missed the one-year filing deadline. Participants recounted these experiences, which contributed to missing the deadline: a family death, an HIV-positive diagnosis, an abusive partner, and moving between states. Another reason was that, once in the U.S., LSGM required time to accept their identity. As one chico explained:

> If you had told me in 2004, 'Look, you can arrange your documents because you suffered violence in your country, because you're part of a vulnerable population', I would have said 'No', because I did not accept my sexuality at all. In 2010 my therapist convinced me to apply for asylum, and I decided to apply because at that time it was super hard to get work in the U.S., especially without papers. Then, in 2013, to my surprise came my political asylum. I did not think it would come because it was many years after I arrived.

Eight of eleven study participants who applied for asylum received exceptions to the one-year filing deadline. Key informants explained that filing an exception to the deadline is resource-intensive, requiring substantial justifying evidence. Several participants said they were previously unaware of the exception. A chica said she thought she did not qualify for asylum because she had been in the U.S. for two years.

Housing and family support—A lack of stable housing and family support were challenges associated with LSGM meeting legal deadlines. For example, when one chico first arrived to the U.S., he lived with a violent couple who abused him. After escaping the couple, he lived with an aunt. However, his aunt discovered his sexual orientation and kicked him out; he became homeless. He was referred to a Latinx-focused CBO, and there he was mistreated for being gay. Eventually, and after missing the one-year deadline, he was supported by an LSGM-specific CBO and referred for legal relief. Relatedly, key informants described how not having a permanent address created obstacles for their cases because clients could not receive legal notices and would sometimes miss hearings.

In contrast, immediately after arriving to the U.S. another chico was referred to a private immigration lawyer by his sister. His family accepted his sexual identity and he lived with them during the legal process. He received asylum within a year of arriving to the U.S.

Recounting traumatic histories—For participants, one of the most challenging aspects of the legal process was recounting their experiences with abuse and discrimination, thus feeling re-traumatized. One chico described his feelings about telling his persecution story:

> It is like opening a trunk of negative memories. That is what you are basing your asylum on, the suffering you experienced as a vulnerable community. It is very unpleasant to be remembering if you were abused sexually, if you were attacked, if you were a victim of bullying at school, if any person harassed you… It is very, very tiring (deep breath).

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Deportation/detention threats and stress—Key informants observed that undocumented clients experienced substantial stress, and this was also described by the chicas and chicos. One participant felt constantly anxious about deportation and confined himself at home until receiving asylum. Afterwards, he reported relief at not having to monitor his behavior. An HIV-positive chico was reluctant to attend medical appointments due to fear of deportation. Several participants had been in immigration detention. A chica was held in immigration detention for eight days during the pending of her asylum case. She feared prolonged detention and abuse at the facility.

Resources that Improved Outcomes

Collaboration among service providers—CBOs helped both non-MLP and MLP clients access services. For example, one chica who lacked family support joined a CBO specifically for transgender women. The CBO helped her find a non-MLP lawyer who filed her asylum case within a year. CBOs also helped participants keep track of court dates, provided information about legal rights (which reduced their anxiety), and helped participants find stable housing.

According to both non-MLP and MLP attorneys, coordinating with CBOs and other providers expedited evidence preparation and improved their representation of their clients. For example, a health provider informed a non-MLP attorney of a client's depression, which explained why the client was not responding to the attorney's communications. Key informants emphasized the importance of having a client authorize the sharing of information, while maintaining client confidentiality.

Culturally-sensitive, accessible attorneys—When attorneys spoke fluent Spanish and were sensitive to past abusive experiences, participants were very satisfied with their legal representation. Participants described having multiple meetings with their attorneys to recount their experiences. Attorneys emphasized the importance of building trust through several client meetings. Key informants used several strategies to increase the pool of attorneys for immigrant LSGM: short asylum law trainings for willing *pro bono* attorneys, one-on-one mentoring by attorneys, and representing clients at a *low bono*, or discounted rate.

Mental health services—Most participants received mental health services through their health care provider or via attorney referrals. Several participants suffered from post-traumatic stress disorder. Mental health providers helped participants cope with past traumas and prepare their legal testimony. Attorneys used mental health providers' assessments as expert evidence. Key informants highlighted the need for more Spanish-speaking and SGM-sensitive mental health providers.

Post-Legal Relief Outcomes—All participants reported multiple positive outcomes of receiving immigration relief, including accessing other safety net programs such as food stamps, cash assistance, and job placement assistance. After receiving asylum one chica obtained a better job and revealed her gender identity to her mother, who eventually supported her transition: "*I had been with legal papers for about two years. [Asylum] gave*

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me a 180-degree turn on my life. It helped me to feel more sure of myself. I changed my name, and now I have [health] insurance that covers everything I need for my transition."

Furthermore, immigration relief allowed participants to leave abusive relationships, become involved as community health promoters, obtain health insurance, and access better health care. For example, one chico who had significant mental health problems reported that after obtaining asylum his emotional distress diminished, he continued his education through federal loans, and he obtained more information about his sexual health. He also started taking Truvada, pre-exposure prophylaxis for HIV, and educating his friends about it. After gaining asylum, an HIV-positive chica left an abusive partner.

Feasibility of an MLP—Key informants acknowledged that implementing an MLP requires funding and administrative support. One recommended that organizations first survey their clients' legal needs to assess clients' demand for attorneys. Participants and key informants unanimously agreed that collaboration among providers enhances their outcomes, regardless of whether the providers are within an MLP. However, one MLP client noted the benefits of the MLP: "*When everything is in one place, it is much easier to navigate*".

Discussion

We examined the feasibility of a novel structural intervention, a Medical-Legal Partnership, to improve HIV-related outcomes for immigrant LSGM. We found that the approach is feasible, but depends on funding and demand. In addition, we learned of a quasi-MLP approach in which networked service providers (e.g. CBO staff, mental health providers and attorneys) collaborate without an official partnership; this may be an area for future research.[20] The LSGM who participated in our study were successful with immigration relief claims regardless of whether they had support from an MLP and/or non-MLP CBOs, and especially when they had stable housing and their families were supportive. Key informants and participants described how direct communication between health care providers and attorneys enhanced evidence preparation for their immigration cases.

The benefits LSGM received from immigration relief included leaving abusive relationships and attaining better work, housing, and health care. Other immigrant SGM populations face similar structural determinants of HIV prevention and care.[30] Thus, future research should empirically test the hypothesis that providing legal services decreases HIV risk among immigrant SGM. Given that undocumented HIV positive LSGM often experience delays in health care, MLPs for this population might also improve HIV treatment and care outcomes. Evaluations of legal services should include measures of service quality, as well as other characteristics (duration of case, inclusion of mental health provider) as mediators of program effects.

We have several recommendations for service providers interested in implementing a quasi-MLP approach for LSGM. First, at a minimum, they should keep an updated list of LSGM-friendly attorneys and refer clients for legal screening. The disadvantages of a quasi-MLP, in comparison to an MLP, is that clients may struggle to independently find a willing attorney,

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and may not be able to afford legal fees. Ryan White funding cannot subsidize legal fees for immigration matters (although it can provide assistance for other legal matters such as housing discrimination and disability claims). Navigation services may aid clients in locating willing immigration attorneys. CBOs could educate immigration attorneys on LSGM-related issues. To help offset costs, experienced attorneys could be encouraged to offer their services *low bono.* CBOs could also host a legal fellow (ex: http://justicecorps.org/fellowship/), partner with a local law student immigration clinic, or fundraise to offer legal services.

Health care centers are an ideal site for MLPs because it is their mission to link clients to comprehensive care.[31] Health and social service providers can help educate LSGM about immigration-related legal issues. They should be aware of the one-year filing deadline for asylum and the option to file for an exception. In addition, know-your-rights presentations could alleviate deportation fears and provide information about confronting and reporting detention abuse.

Mental health support is crucial for LSGM because they are often coping with past trauma. Mental health professionals also serve as experts in immigration legal cases. To augment the pool of mental health professionals who speak Spanish and are SGM-sensitive, mental health education programs might collaborate with CBOs for internship or training opportunities.

Limitations of our study include interviewing a purposive sample, and thus possibly missing those who face different challenges in accessing legal services.[32] More research needs to explore the perspective of those who are unable to connect to legal services and to assess the barriers to that first step. In addition, obtaining immigration relief is not a guarantee for immigrant LSGM, especially in the current political climate. Any MLP or quasi-MLP that offers immigration legal services should make clear the risk of an unsuccessful outcome. However, most immigration attorneys have experience providing this type of counseling.

Conclusion

Our study is the first to assess the factors associated with providing legal immigration relief for LSGM, a population highly vulnerable to HIV. The literature on the health effects of MLPs is expanding. However, most MLP programs have focused on alleviating risks, rather than promoting health.[18] Our participants reported dramatic protective effects resulting from immigration relief. Providing legal services to LSGM may thus be as powerful an HIV intervention approach as standard biomedicine.

Acknowledgments

Funding for this project was provided by an ADELANTE grant (AI050409) from the Centers for AIDS Research (CFAR) program at the National Institutes of Health. The project was also supported by the District of Columbia Center for AIDS Research, an NIH funded program (AI117970), and a Dean's Summer Research Award from American University's School of International Service. We thank Sarah Palazzolo for research support and the UCLA Emerging Immigration Scholars Conference for feedback during the beginning stage of the project. We are tremendously grateful to our resilient study participants who generously gave their time and shared their moving stories.

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Table 1.

Interview domains and example questions on recent immigration-related legal process among 16 Latinx sexual and gender minorities living in Washington, DC

Domains	Example Questions
Background of participant	Country of origin
	Main issues experienced while living in country of origin
Migration	Decision to migrate
	Immediate experience post entry
	Migrant networks
Daily life	Employment
	Places where participant feels safe
	Engagement with the LGBT community
Past abusive or discriminatory experiences	Homophobia by community, family
	Domestic violence or sexual abuse
	Homelessness
Experiences with law enforcement	Self-monitoring behavior
	Ever been in detention
Type of legal relief	Asylum, U visa, or withholding of removal
	Green card or marriage
Lawyers/service providers	Experiences with lawyers and other service providers
	Trust in lawyer
	How referred
Legal process	Screening process
	Frequency and content of appointments
	Evidence needed
	How participant prepared the testimony
	Feelings about the process
Aftermath of the legal process	Changes in identity, work, education, and access to services
	Community activism
	Leaving violent or abusive relationships
HIV-related issues	HIV prevention and treatment practices
	Changes in HIV risk after legal process

Domains	Example Questions
Health services	Physical and mental health services
	Satisfaction with health services
	Perspectives on integration of health and legal services

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Table 2.

Demographics of 16 Latinx sexual and gender minorities living in the Washington, DC metro area who recently received immigration-related legal services

Characteristic	% or average (n)
Chicas (transgender women)	31% (5)
Chicos (men who have sex with men)	69% (11)
Length of time in U.S.	7 years (range: 2–16 years)
Had support from family for legal process	31% (5)
Length of time for legal process	2 years (range: 1–5 years)
Married or divorced	25% (4)
Experienced homophobic violence in country of origin	50%(8)
Ever detained	31% (5)
HIV positive	25% (4)
Types of immigration relief	
Asylum	69% (11)
U-visa	13% (2)
Green cards through marriage	13% (2)
Withholding of removal	6% (1)
Participants' attorney's place of employment	
Medical-Legal Partnership	50% (8)
Non-profit organization or private practice	50% (8)