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## Gendered Paths to Legal Citizenship:<sup>1</sup> The Case of Latin-American Immigrants in Phoenix, Arizona

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In this paper we seek to contribute to a greater understanding of legal citizenship by exploring the gendered experiences of Latin-American-origin immigrants in the greater Phoenix metropolitan area as they go through the legalization process. To explore this gendered angle we rely on in-depth interviews conducted from 1998 through 2008 with women and men from Guatemala, El Salvador, Honduras, and Mexico. The data reveal that although immigration policies and procedures are presumably gender neutral, they are in fact inflected with gendered meanings and enacted in gendered social structures. Gender ideologies permeate the processes to differentially affect the legalization, permanent legal residence, and citizenship processes of immigrant women and men. This article points to key gender inequalities in immigration law.

**I**n the past two decades, as feminist scholarship has contributed to redefining the masculine subjectivity of the gender-neutral “citizen,” it has revealed the emphasis that the modern nation-state places on the patriarchal nuclear family, thus questioning the Enlightenment’s delivery of liberty to all members of the modern nation-state (Benhabib 2002; Bloemraad et al. 2008; Leonard & Tronto 2007; Prokhovnik 1998; Yuval-Davis 1997, 1999). In essence, feminist scholarship reveals a legacy of differentiation of full citizenship in the United States by gender whereby women historically have held a dependent status in relation to men. As with citizenship, immigration laws and legalization processes shape the

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This research was made possible with support to Menjívar from DIGS grants in the then College of Public Programs, a grant from the then Center for Urban Studies at ASU, and Cowden Distinguished Professorship funds. We are thankful to the anonymous reviewers and the editors for their very helpful comments. None of the funding entities or the individuals who provided feedback bear any responsibility for what we ultimately did. Please address correspondence to Cecilia Menjívar, School of Social and Family Dynamics, Arizona State University, Tempe, AZ 85287-3701; e-mail: menjivar@asu.edu or to Olivia Salcido, e-mail: mosalcido@gmail.com

<sup>1</sup> Even though we recognize that different forms of citizenship (e.g., membership, legal citizenship, and rights) are linked, here we focus only on legal citizenship (see Bosniak 2000 for a discussion of the links among the different strands of citizenship she proposes).

*Law & Society Review*, Volume 46, Number 2 (2012)  
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experiences of immigrants in gendered ways. Through a prism of gender, we examine the experiences of Latin-American-origin immigrants in Phoenix, Arizona. We build on insights from the literature on citizenship, feminist legal theory, and immigration in general to elucidate embedded gender inequalities in immigration law. While we do not seek to test propositions derived from these bodies of work, they help us illuminate the central role of gender in the legalization process in ways that are both overt and subtle, as well as key to this process. The data reveal that although immigration policies and procedures are presumably gender neutral, they are in fact inflected with gendered meanings. A “reasonable” person, for instance, is presumed to be a male in asylum law as well as in gendered social structures. In systematically highlighting this gendered angle in the law, we contribute an on-the-ground case to discussions about how gender and citizenship intersect.

We do not review immigration laws in a comprehensive manner to identify where gender hierarchies are embedded in the laws. Instead, we point to situations in the legalization process where gender matters by focusing on specific cases that illustrate how the gender privileging that exists in society within a patriarchal culture in which “men and male-associated attributes are valued” (Wildman et al. 1996: 140) manifests itself in immigration law, despite the presumed neutrality in the law. Following Kimmel (2008), we seek not only to unearth gender differences, but also to point to hierarchies, power differentials, and inequality. Our empirical cases reveal that gender hierarchies are embedded in the formulation, interpretation, and implementation of immigration laws, as experienced by immigrants.

From the immigrants’ stance, we explore the gendered aspects of the legalization process by focusing on four basic legal categories: undocumented, family reunification, employment-based, and asylee/refugee. We examine the formal categories used in immigration law in order to focus the analysis on how these categories serve to reinforce gender ideologies and gender bias in both subtle and overt forms. Because immigrants are classified into these categories, the categories help us illustrate how immigrants experience the law in their lives.

As Crenshaw (1991) indicates in her foundational elaboration of intersectionality theory, social markers such as class, sexuality, race/ethnicity, and gender (and, in our examination, the legalization process as well) intersect social experiences. Thus, instead of viewing immigration as an isolated factor, we consider it to be a part of the dynamic process that intersects with various social hierarchies. Although our emphasis began and remains on gender, our empirical cases demand that we also address, even if not in depth so as not to deviate from our main focus on gender,

some of these other axes of social stratification, such as class. Both women and men can at some point be classified as dependents during the legalization process, and poorer women and men experience the process differently from their wealthier counterparts. However, the gender ideologies that permeate most spheres of life are reflected in the legalization process in various ways. Given patriarchal regimes defined by masculine traits upheld both in the United States (see Kimmel 2005, 2008) and in the immigrants' home countries (see Broughton 2008), male and female gender differentiation and hierarchies seep through legal procedures. As such, although immigration policies and procedures are formally gender neutral, gender differentiation continues to inform the contours of legalization, residency, and citizenship. This occurs in ways that mask explicit exclusionary practices based on gender (and class). It happens through associations of gender constructs with characteristics and behaviors that end up positioning women as dependents and men as breadwinners, thus cementing inequalities.

Not all provisions of immigration law are gender neutral as written. A recent example is that of *United States v. Flores-Villar*, in which a 36-year-old man faced deportation due to a criminal conviction because he was not considered to be a U.S. citizen. His unwed father (not his unwed mother) was born in the United States. And according to immigration laws, fathers must be physically present in the United States for a longer period of time than mothers for fathers to be able to transmit citizenship to their children who are born outside the United States (<http://writ.news.findlaw.com/grossman/20101109.html>). Thus, this father was unable to pass on citizenship to his son. As this example demonstrates, while the unequal interdependence places men in control (in most cases as breadwinners), it does not always translate into privileges for immigrant men (see also Villalón 2010). As inequalities permeate not only individual relations but also the social and legal organizations of society, both women and men continue to bear the brunt of gender bias in the process of legalization. And while gender inequalities are encoded in the formal process and are manifest at all stages of the legalization and citizenship processes, class also emerges as a significant analytical factor entwined with gender in multiple ways.

After a brief review of the different bodies of literature that inform our work, we place this study in a historical context of gendered citizenship structures and practices. We then delineate the basic categories of admission in the legalization process. Since our work can be relevant to contemporary debates about immigration reform, we end by proposing a few recommendations along those lines.

## Immigration, Citizenship, and Feminist Views on Legal Systems

The voluminous literature on immigration examines a wide range of questions, including the central organizing role of gender as it relates to network patterns, work, transnational families, and communities (Curran & Rivero Fuentes 2003; Ehrenreich & Hochschild 2002; Espiritu 1999; Feliciano 2008; Gabaccia 1994; Grasmuck & Pessar 1991; Hondagneu-Sotelo 1994, 2001, 2003; Kanaiaupuni 2000; Kelson & Delaet 1999; Mahler & Pessar 2006; Ong 1999, 2003). Whereas this rich literature has shed light on how gender shapes immigrant life, the role of the state in the migration process, particularly as examined from a gendered angle, has been relegated to a secondary plane. Recently, however, scholars have begun to explore how gender intersects with other factors to shape the practices and discourse of citizenship (Pessar & Mahler 2003). Nonetheless, as Singer and Gilbertson (2003: 360) point out, few studies focus on how gender actually structures the processes of naturalization: “[T]he different migration and settlement experiences of men and women highlight the importance of considering how gendered structures and practices constitute citizenship and the process of citizenship acquisition.” These researchers (along with Narayan 1997) also note the dearth of scholarship that focuses on gender-specific problems affecting noncitizen women.

Castles and Davidson (2000) note that the role of gender remains evident in immigration rules, which are still based on a legacy of the subordination of women to a wife and mother figure and the designation to men of the role of breadwinner. As Okin (1989) observes, marriage makes U.S. women in general more vulnerable due to income inequalities and the idea that women are supposed to marry and stay married. Erez and Copps Hartley (2003) indicate that this situation becomes precarious for immigrant women, particularly for those in abusive relationships. And although the U.S. process of legalization provides immigrants with access to formal legal membership, it does not erase the regulating effects of a system based on the idea of the family as a nuclear unit that determines the exclusion of women *and* men not only on the basis of race and class, but also on grounds of morality, potential for becoming a public charge, and, specifically for women, perceived financial dependency based on gender.

History indicates that even when citizenship is made available to previously excluded groups such as women, African Americans, and Latinos, the granting of formal citizenship rights remains problematic given the unequal distribution of resources, the main-

tenance of a second-class citizenship, and the marking of certain U.S. citizens as “others” (Bosniak 2006; Glenn 2000; Lister 1997; Luibhéid & Cantú 2005; Ritter 2002; Segura & Zavella 2008; Tienda 2002). As Taub and Schnieder point out,

The Anglo-American legal tradition purports to value equality, by which it means, at a minimum, equal application of the law to all persons. Nevertheless, throughout this country’s history, women have been denied the most basic rights of citizenship . . . law has furthered male dominance by explicitly excluding women from the public sphere . . . and legitimized sex discrimination through the articulation of an ideology that justifies differential treatment on the basis of perceived differences between men and women (1998: 328).

As such, although citizenship laws have improved over time in terms of gender disparity, gender continues to play a role in the law in general, which in turn has influenced immigration laws.

We acknowledge that laws provide privileges as well as disadvantages for both women and men, but given that “even today, women’s opportunities in the public sphere are limited by their obligations in the private domestic sphere” (Taub & Schneider 1998: 329), we argue that women have a harder time meeting immigration requirements for themselves or other family members on their own. Internationally, the United Nations Conference on Human Rights has acknowledged that many laws and their administration are gender biased. And U.S.-focused immigration studies on gender (see Hirsch 2003; Hondagneu-Sotelo 1994; Pessar 2005) have found that U.S. immigration policies serve to shape immigrant family relations and women’s abilities to negotiate them. We do not argue that a gendered process necessarily impedes immigrant women from attaining legal citizenship; in 2004, 54 percent of all naturalized citizens in the United States were women, and in general immigrant women are more likely than immigrant men to be naturalized citizens (Pearce 2006: 5). Instead, we aim to problematize gender-blind theorizing on citizenship by highlighting the fundamentally gendered process of legalization that shapes women’s and men’s experiences differently (Bloemraad, Korteweg, & Yurdakul 2008; Boyd & Grieco 2003; Korteweg 2006; Lister 1997; Villalón 2010; Yuval-Davis 1997, 1999). And although our focus is on gender, our empirical data reveal that immigrants’ experiences also differ by historical and systemic denials of rights and privileges based on other social positions such as class, race/ethnicity, and other factors that produce domination and subordination in the legalization process.

Consistent with recent scholarship on intersectionality (Erez et al. 2009), we consider immigration status an active variable. We

argue that along with gender, class, race, and sexuality, legal status, particularly in conjunction with other inequality regimes, can be a form of oppression. Oppression takes place not only because powerful groups seek to gain and maintain control and power over others, but also because relationships in society reinforce dominance and inequality through political, economic, cultural, and institutional arrangements. As classic scholars of intersectionality indicate (Crenshaw 1991; Lorde 1984), women of color (and in this case immigrant women) conceive of themselves as struggling against not only patriarchy, but also racism and, at times, class inequalities. And although we remain focused on gender, we acknowledge the necessity to challenge the primacy of gender and the need to examine the intersectionality of other regimes of inequality and oppression. Moving beyond a gender primacy reveals that oppression lies beyond the individual and is supported by social institutions and cultural practices (in the country of origin and in the United States as well). The intersectionality of immigration status with class, gender, and legal status reveals that immigrants live in social contexts created by hierarchical systems of power that simultaneously generate opportunity and oppression. Thus, although we attend primarily to gender, important intersections of class emerge in the empirical cases we analyze, and we note them as they arise.

### Historically Gendered Citizenship Structures and Practices

To be sure, it is not new that gender inequalities become embedded in legal systems, particularly those governing immigration and citizenship. Nor are the immigration policies that channel immigrant women into traditionally low-paying jobs—which are seen as an extension of women’s housework and which serve to link women’s residence and work permits to that of their husband’s status—exclusive to the United States (c.f. Caspari & Giles 1986; Wihtol de Wenden & Corona DeLey 1986). However, today “the ideal of equal treatment before the law not only makes it difficult for law to address, and thus redress, the differences in power and privilege the law defines as occurring outside of or before it, but legal processes actually enforce and confirm inequalities among people and peoples in the process” (Collier, Maurer, & Suárez-Navaz 1997: 1). Gender differentiation in the legalization process today is sometimes implicit, veiled, and based on characteristics and attributes *associated* with gender constructions (e.g., based on ideals of morality, potential to become a public charge, and financial dependence on others, particularly on men, who in turn are viewed as heads of households and breadwinners). Thus, currently, women

still face difficulties when self-petitioning for legal status. Even legislation such as the Violence Against Women Act (VAWA), which is not meant to be gender neutral but to give priority to women victims in intimate partner violence, is infused with gender ideologies (as well as ethnic, race, class, and sexual orientation ideologies). Indeed, VAWA creates barriers for certain applicants; it ends up giving priority to those who conform to heteronormative ideals while discriminating against those who do not fit this image—usually the most disadvantaged and vulnerable (see Villalón 2010). A brief historical background to the contemporary situation we examine signals an important avenue of continuity and change.

Ideas of who may belong to a nation have been contested and have shifted in countries around the world. Changes to U.S. immigration laws, such as the elimination of exclusion based on race and gender from the law, were intended to no longer matter legally, yet laws still reflect the exclusionary practices of the societies in which they are created. As others have noted (Castles & Davidson 2000; Hondagneu-Sotelo 1994; Menjívar 2003), gender is not just a tool for classification, but also a relationship between women and men based on socially and culturally constructed and defined identities that influence the process of immigration.

Historically, U.S. immigration law has incorporated gendered ideals of women and men by which women have essentially been constructed as dependent, powerless, and deferential and men as independent heads of households and breadwinners (Taub & Schneider 1998). This formalized exclusion of women from the public sphere influenced not only women in the United States, but also those living abroad. An example of the establishment of gendered migratory patterns through immigration policies is the Bracero Program. From 1942 to 1964, close to 5 million Mexican men called *braceros* were contracted to perform “men’s work” in the U.S. agricultural and railroad industries (Stacy 2003). As the Bracero Program drew to an end and the Mexican national economic crisis persisted, *braceros* began to apply for legal permanent residence. By 1965 the amendments to the Immigration and Nationality Act (INA) encouraged the reunification of families and promoted the legalization of not only the *braceros*, but also their families. The Bracero Program, along with the family reunification preference system enacted as part of INA of 1965, led to the unintended consequence of a gendered pattern in Mexican immigration to the United States that to this day remains the primary means by which Mexican women legally immigrate to the United States. As men became eligible for permanent legal residence, they in turn began to petition for legal status for their wives and children through family reunification.

Another example of how the gendering of immigration flows through immigration laws can be found in the asylum applications in the context of the massive U.S.-bound Central American migration propelled by civil wars and their aftermath beginning in the early 1980s. The 1980 Refugee Act defines a refugee as follows:

any person who is outside any country of such person's nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to, and unable or unwilling to avail himself or herself of the protection of that country because of persecution or well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion (U.S. Office of Refugee Resettlement 2008).

However, even though both Central American women and men had very low levels of successful asylum applications, many women were precluded from obtaining political asylum because in spite of the persecution they suffered, the bases for granting this status recognized in the law, such as direct political persecution, fell more in line with what are perceived to be men's experiences than with what are perceived to be women's experiences (Greatbach 1989). Women suffered many direct, but also indirect (and difficult to document), forms of political violence, some of which resulted from their relationships to men who, in turn, were being persecuted, and some of which came from being directly involved in the conflict as fighters and activists.

At the 2003 meeting of the UN Division for the Advancement of Women (DAW), it was recognized that some of the major obstacles for women seeking asylum are access to information, recognition of the level of persecution and fear they have suffered, and acknowledgment of the forms of persecution specific to women: "In selecting refugees for resettlement, many women and girls are often quite literally invisible to those who do the selecting because they do not inhabit public spaces, do not appear on registration lists as individuals rather than members of a family group, and are inhibited from interacting with strangers" (Newland 2003: 2). As the United Nations admits and scholars of gender and refugee law indicate (Anker 2002; Crawley 2001), the problem is not only that the lack of the use of the terms *sex* and *gender* in the UN Convention of 1951 (on which the 1980 U.S. Refugee Act is based) creates the exclusion of gender-specific needs, but also, once again, that the "perspective and interpretation" of a framework based on male experiences reproduce gendered hierarchies and serve to maintain a heteropatriarchal state. As Haines points out,



The failure of decision-makers to recognize and respond appropriately to the experiences of women stems not from the fact that the 1951 Convention does not refer specifically to persecution on the basis of sex or gender, but rather because it has often been approached from a partial perspective and interpreted through a framework of male experiences (Haines 2003: 327).

As such, women have found it difficult to fit the requirements to prove persecution as specified by the law, as they rely on their relationships to men (many times spouses) for the documentation for their cases.

In our work we find that gender differences remain a central organizing principle in the immigration experience, as women predominantly remain dependent on men during their legalization process and men figure primarily as household heads and breadwinner figures. With notable exceptions, women seldom make use of the category of employment-based legalization, and when they do, as we discuss below, they are not always primary visa holders, which means that they remain dependent not only on the employer for petitioning their visa, but also on a spouse or a parent. Thus, purportedly gender-neutral laws are hardly so, as immigration laws have not existed, nor do they exist today, in a vacuum apart from the social milieu (and hierarchies of power) within which they are enacted and administered. As such, the law embodies the gender hierarchies (as well as other axes of stratification) that exist in the society at large.

## Data and Methods

We rely on 51 in-depth interviews with women and men from Mexico, El Salvador, Guatemala, and Honduras, conducted in Phoenix between 1998 and 2007.<sup>2</sup> We used a purposive approach to identify potential study participants and relied on the expertise of key informants in churches, sports and social clubs, community organizations that aid migrants, and neighborhood shops and

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<sup>2</sup> These data come from different studies, all institutional review board approved and conducted over one decade, that generally sought to examine the experiences of Latin-American-origin immigrants new to the Phoenix metropolitan area. The in-depth interviews (akin to oral histories) covered a range of topics, such as immigration and work histories, family separation, health, reunification and transnational practices, sense of community and interethnic relations, religion, educational aspirations, and views of the future. They were analyzed for content, and the theme of gender differences in the legalization process emerged from such analysis. Importantly, the objective in these interviews was not to uncover gender as embedded in immigration policies; rather, this phenomenon surfaced strongly in the analysis, and thus we deemed it an important aspect of the immigrants' experiences.

restaurants to reach them. We also contacted a few informants through word of mouth. The main criteria to select immigrants for the study were residence in Arizona for at least several months (but usually a minimum of three years) and an age of over 18 years at the time they left their countries. We conducted the interviews in the locations of the informants' choice, usually their homes, but, when requested, at other sites such as restaurants or libraries. When appropriate, we provided individuals with information about local services, social welfare and food banks, educational and employment resources, and domestic violence agencies. We assigned each participant a pseudonym and, when necessary, also altered the narratives slightly in order to maintain the participants' confidentiality and safety. All interviews were conducted in Spanish and then transcribed; we translated into English only the quotations used in this paper. About half of the study participants were interviewed more than once.<sup>3</sup>

Consistent with migration patterns to Arizona, the majority of the Mexican immigrant men and women originated in northern Mexico; however, several originated in the southern states of Chiapas and Oaxaca. The Central Americans came from all regions of their countries. Of interest to us is the participants' duration of residence in the United States. The duration of U.S. residence ranged from several months to 26 years for women, and several months to 36 years for men. The women worked caring for children or the elderly, in the fast-food industry and dry cleaners, and cleaning homes during the day and offices at night. One Mexican woman worked in journalism. The men worked in construction, factories, and maintenance. Two Salvadoran and two Guatemalan couples were business owners. And while some of the women and men came in with higher educational levels from their home countries, these levels did not translate into higher status or higher-paying jobs in the United States, a situation closely linked to the legal status of the individuals. (See Tables 1 and 2 for the characteristics of study participants.)

Our data are indicative of the legalization process itself; relatively few individuals "make it" to citizenship in general, and the process differs for women and men. But despite notable differences among our study participants, most found themselves in a situation of "liminal legality" (Menjívar 2006)—a legal identity as Salvadoran, Guatemalan, Honduran, or Mexican—and a marginal economic position. See Table 1 for information on the study participants' legal status and where they were in the legalization process at the time of the first interview.

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<sup>3</sup> More than half of the immigrants were interviewed multiple times, but others were interviewed only once due to the immigrants' high residential mobility.

**Table 1.** Participants' Characteristics

	Women	Men	Totals
Gender	37	14	51
Country of origin			
El Salvador	8	6	14
Guatemala	8	2	10
Honduras	1	1	2
Mexico	20	5	25
Age			
20–29	14	4	18
30–39	13	6	19
40–49	6	2	8
50–59	3	1	4
60–66	1	1	2
Length of U.S. residence			
> 1 year	6	2	8
1–5	16	2	18
6–10	6	4	10
11–15	3	5	8
15–20	4	2	6
20–36	1	1	2

**Table 2.** Participants' Legal Status

Country of Origin	Citizen	Legal Permanent Resident	Undocumented†	Unclear‡
	Women			
Mexico	1	5	12	2
El Salvador	0	3	1	4
Guatemala	0	1	3	4
Honduras	0	0	0	1
<b>Subtotal</b>	1	9	16	11
	Men			
Mexico	1	2	2	0
El Salvador	0	1	3	1
Guatemala	0	1	1	0
Honduras	0	0	1	0
<b>Subtotal</b>	1	4	8	1
<b>TOTAL</b>	<b>2</b>	<b>13</b>	<b>24</b>	<b>12</b>

†No legal documents, and at the time had no means of starting the legalization process.

‡These individuals did not fit any of the other categories because they were in the process of moving from one category to another. They had applied for LPR or other legal temporary categories and were waiting for a response. In the case of one participant, a woman born in Mexico but brought to the United States as a baby did not have any documents and was recognized as citizen by neither the United States nor Mexico.

*Note:* This table includes participants' legal status and step in the legalization process at the time of the first interview.

## Undertaking Citizenship

Women and men enter or regularize their statuses in the United States through the following basic immigration categories: family reunification, employment-based, temporary statuses, and asylee/refugee (we combine these last two because in this study they

are relevant only to Central Americans). While women secure admission through all these categories, family reunification remains by far the main avenue for female legal immigration and, more important, it is a category that underscores how and why gender continues to inform the legalization process. According to a recent report, many more women immigrate through family sponsorship than as employment-based immigrants. For instance, in 2008, 69 percent of new legal permanent residents (LPRs) among women were family preferences or immediate relatives of U.S. citizens; among men this figure was 59 percent (U.S. Department of Homeland Security 2009, table 6). And in fiscal year (FY) 2009, 112,694 women obtained LPR status under family-based preference categories, compared to 99,165 males. Yet 69,471 women obtained LPR status through employment-based visas, compared to 74,563 men (many of the women as derivatives of the principal male visa holders) (Sreeharsha 2010). Thus, consistent with our empirical data, we focus on these basic categories plus the undocumented for reasons we identify later. Ultimately, while these categories appear discrete and straightforward, shifts among them occur in a nonlinear fashion, leading to lengthy legalization processes as individuals move from one category to another and not always on a path to legalization (Menjívar 2006). This examination highlights the liminal states that individuals navigate, exposes the erroneous assumption that the process is clearly demarcated by categories, and highlights the central role of gender in the process.

Indeed, contrary to public perception, the “path to citizenship” is not unilinear; it is a bumpy road for many immigrants, particularly for those who are disadvantaged along a major axis of stratification, such as class. Rather than following a unilinear progression, those on the road to citizenship must first go through the lengthy and complex process of becoming LPRs, which can take years depending on the route taken (through family reunification or through employment, for example), and then, after five years (or three for those married to U.S. citizens), apply for naturalization. For some Latin Americans, like Mexicans and most Central Americans, the waiting time for permanent legal residence can be years, even decades, as applications are backlogged due to high demand and few visa spots (Menjívar 2006). Naturalized citizens have most of the rights and duties of U.S.-born citizens, while LPRs remain subject to having their permanent residence revoked, and, since the implementation of the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), they can be deported, and they have limited access to public services. Those with temporary protected status (TPS) live in legal limbo and have the right to live and work in the country legally, but only for short periods of time, and this status by itself is not a path to permanent legalization.

Meanwhile, the undocumented have some civil and labor rights, but overall they have very few rights, as sometimes their presence in the United States is considered a crime. Thus, any status below citizenship by birth or naturalization is associated with a lesser level of rights.<sup>4</sup>

In line with the complexities of immigration law, we would like to note that when we use a particular case as an example in a category, it does not mean that the case could not also serve to illustrate another category. For example, the category of undocumented immigrants contains cases of individuals who are undocumented *or* in legal limbo, and the category of refugees/asylees also contains examples of cases at various stages of legalization. And while there are people who fit multiple categories, there are also those who do not fit any one of them neatly, and still others who do not even come close to fitting any of the categories. An undocumented status remains tied to other forms of quasi-legalization and legalization, and the fluidity in the movement among categories is now embedded in the legalization process. For these reasons we treat undocumented status as integral to the entire process.

## Undocumented

While undocumented status is technically not a step toward legalization, in reality, this is where some immigrants start or, more significantly, where many find themselves at some point in the legalization process. Also, a point that is often ignored in public debates (as well as in academic circles) is that increasingly, laws have made it easier to shift from documented to undocumented status, but not vice versa. U.S. immigration policies place immigrants, both women and men, in undetermined legal statuses that can revert to undocumented status for long, indefinite periods of time (Menjívar 2006), thus making this category dynamic and integral to the legalization process (see Donato & Armenta 2011). Thus, our treatment of this category aligns closely with perspectives that highlight the “constructedness” of migrant illegality (De Genova 2005; Donato & Armenta 2011; Ngai 2007), an angle that helps us to focus on the key role that the law plays in making (and unmaking) this category and in shaping the lives of those who live in it. As such, we discuss undocumented status not as a question of volition, but as a category constructed by the law.

The undocumented include those individuals who enter the country with no documentation, inappropriate documentation, or

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<sup>4</sup> Please note that there is a difference between having legal status and having rights. Per basic principles of human rights, even undocumented immigrants have certain civil, and some labor, rights.

false documentation; who overstay their visa;<sup>5</sup> or who fail to complete a petition for legal permanent residence (LPR). In addition, those applying for LPR may become undocumented if they fail to comply with regulations on their paperwork (for a list of requirements see U.S. Citizenship and Immigration Services n.d.a). According to 2009 estimates by the Department of Homeland Security (DHS) (Hoefer et al. 2010), there were 10.8 million undocumented immigrants in the United States in 2009, and women comprised about 35 percent of this group (Passel 2006). Unlike popular images that attribute individual volition to those who fall in this category, the structure of immigration law itself shapes this status, as it provides very few avenues—and in many cases no paths at all—for individuals to move out of this category. And the huge backlogs of applications prevent many undocumented immigrants from changing their status in a more expedient manner. Family members, a majority of whom are women and children, can wait for as long as 10 to 15 years for an entry visa under the various family reunification categories (McKay 2003; see also Boyd & Pikkov 2005). Although women, especially from Mexico, were not over-represented in the undocumented population in the past, in recent years this has started to change, following what has been called “the feminization of migration” (see Massey et al. 2002: 133–136).

Thus, for most individuals, the process toward permanent residence and, from there, toward citizenship is a long, costly, and difficult path in which gender plays a significant role. This is the case of Lucía, a 49-year-old Mexican woman whom we met as we stayed late to work at the building she had been designated to clean at our university. One of the first things that struck us when meeting Lucía was her impeccable appearance; with her coiffed hair, makeup, and manicure, she looked as if she were on her way to an elegant event. At first our conversations centered on the fact that we usually were the last to leave the building, but as we got to know her, details about her legalization process started to emerge and she assented to be interviewed formally.

Lucía entered the United States undocumented for the first time in 1985. After 13 years in the United States, her husband decided to return to Mexico. While he had obtained his LPR, she remained undocumented because he was the primary breadwinner and never had submitted a petition for her. He would threaten that if she were to leave him, he would have her deported and her children, who were citizens, would stay with him. A year after the

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<sup>5</sup> For 2004 the DHS estimated that there were 179 million nonimmigrant admissions, such as individuals authorized for temporary stays, and that in recent years an estimated 1 to 1.5 percent, or approximately 250,000 to 350,000, overstay their visas every year (Pew Hispanic Center 2006).

whole family returned to Mexico, with the support of a neighbor and the feeling that her children were older and less dependent on her, Lucía left her husband of 22 years. Upon her return to the United States, Lucía reasoned that her prior 13 years of residence and the citizenship of her children would make a difference in her application to regularize her status. Lucía soon found out otherwise:

[B]ut no, later I found out that because I did not have anything [paperwork] to prove my residence here [in the United States] because I had not worked here and also because I had left him [her husband], those years were lost and I would have to find another way of getting my papers. . . . Some people would tell me that I should find myself a boyfriend and get married, but I would say, “Why would I do that now?”

As Lucía became familiar with U.S. immigration laws, she realized that her hope for her husband to petition her LPR had always been an illusion that he had created. She soon discovered that “those years were lost” because she never had acquired the paper trail to prove her U.S. residence. Documents such as pay stubs, utility bills, and rental and property ownership agreements are required to file an LPR application, and as her husband had been the primary breadwinner, the documents had all been under his name. Lucía would have to find another avenue for acquiring her legal residence. She also became aware that she did not meet any of the requirements for VAWA protection.

VAWA, which was reauthorized in 2000 and 2005, and signed into law in 2006, is intended to allow immigrant women in situations of domestic violence to self-petition or to independently seek legal immigration status in the United States. Yet, in order to qualify for VAWA, women must fulfill a series of requirements and present evidence to a judge, who determines the validity of the evidence.<sup>6</sup> Many areas of VAWA are left to interpretation, and victims who are unwilling or unable to conform to dominant ideologies of race, ethnicity, or heteropatriarchy are excluded (Bhuyan 2008; Villalón 2010). According to Luibhéid (2008), the reference to family in immigration law was intended to maintain a white racial order based on a patriarchal system that presumed that only fathers would work for pay. In legislation, heteropatriarchy, heterosexuality and patriarchy, are made to seem part of the natural order and

<sup>6</sup> For the list of requirements, see <http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnnextoid=2cac37668c779110VgnVCM1000004718190aRCRD&vgnnextchannel=68439c7755cb9010VgnVCM10000045f3d6a1RCRD> (U.S. Citizenship and Immigration Services n.d.a., accessed 3 April 2012).

to intersect. They reinforce each other and function together as self-preserving, oppressive forces. Individuals who do not fit heteronormativity due to differences in gender, class, race/ethnicity, gender, and, in our case, legal status, are excluded. This way, although VAWA and other modifications to immigration law have opened up certain legalization paths for women, requirements are still based on gendered expectations of behavior and on class ideals that disadvantage socially vulnerable petitioners. Thus, while there are gender-based laws that grant immigrants legal entry to the United States on account of gender violence, the practical application and understanding of such laws reflect practices that still disadvantage and privilege certain people based on gender ideologies and class hierarchies (see also Villalón 2010). As Luibhéid points out, the ability to become legal depends not on a single factor, but on a crisscrossing combination of factors. In this manner, a person's sexuality, gender, race, or class intersects with immigration opportunities and/or exclusions.

Lucía's case illustrates how gender ideologies seep through and influence the legalization process, as well as the very motivation to immigrate. In her years of marriage, she had been the victim of abuse, and leaving that relationship had come with high social, financial, and legal costs. She had lived outside of the country and had no way of proving the abuse she had suffered with her husband; she had never called the police in either country, and thus there was no record in the criminal justice system. After living undocumented in the United States for three years, Lucía initiated her LPR application process through her eldest daughter, who had turned 21 and, due to her citizenship, could now petition for her mother.

Lucía's prior years of U.S. residence would not "count" toward legalization because only her former husband's presence had been formally recognized through bills, rental agreements, and the like, even though she also had contributed to paying the bills. Her husband's status as the breadwinner, whose presence became formalized through a paperwork trail, had created the basis for both his legal and her undocumented status. As Lucía said during the interview, although her husband would tell her that he would petition for her green card, he never did. Instead, he would often threaten her with not petitioning or with seeking her deportation. Thus, women whose presence is not formally recognized even when they contribute monetarily (including through paying taxes), who are not "attached" to a family member who has LPR or is a U.S. citizen (as we will document later), or who are "attached" but the LPR or U.S. citizen is unwilling to petition for them, have little if any chance of regularizing their status. Importantly, as Lucía's case demonstrates, being excluded from the formal legalization processes occurs not overtly on the basis of gender but subtly on



the basis of characteristics and behaviors that are *associated* with constructs of breadwinners (men) and dependents (women).

### Family Reunification

Gender ideologies embedded in immigration law dictate that women are largely assumed to be part of a family unit, as mothers, wives, daughters, or sisters, while men are assumed to be the breadwinners and heads of households. Thus, many women rely on male relatives to petition for them in the legalization process. However, being part of a family is not enough. U.S. immigration law requires proof of marriage. Yet among many immigrants, particularly Central Americans, common-law unions are commonplace. Again, the law does not formally differentiate the roles of women as part of a family unit and men as breadwinners, and both women and men have the right to request LPR through a spouse. However, the *assumptions* behind family reunification position women as fulfilling roles within a family unit before they engage in any activities in the public sphere. In other words, family reunification again places women in the primary role of dependents and the men in the primary role of breadwinners and heads of households. In this manner, while family reunification constitutes only one of several paths to legalization, it is one of the greatest promoters of the increase in female immigration (Jefferys & Monger 2008), and it helps cement the image of women as dependents.

Thus, family reunification, based on an idealized image of the family and privileging that image above all else, has come to constitute the largest category for legal entry, particularly for women. Indeed, this category, created in 1965, continues to lead to an increase in the number of women admitted to the United States via a spouse. According to the Annual Flow Report of U.S. Legal Permanent Residents of March 2009, in 2008, out of a total of 1,107,126 new LPR applicants, the leading countries of birth of new LPRs were Mexico (17 percent), China (7 percent), and India (6 percent). (El Salvador and Guatemala accounted for less than 2 percent of new LPRs.) Out of the total of new LPRs in 2008, 58 percent were married; 54 percent were female; 46 percent were male; and 64.7 percent, or 716,244, were family-sponsored immigrants (Monger & Rytina 2009). Yet, it is also important to note that the process to achieve LPR can translate into long waiting times for reunification. It is also important to note how the process affects women who are sponsored to immigrate via this category. As Sreeharsha (2010) notes,

the family immigration system has been fraught with backlogs and burdens that sometimes separate families for more than 20 years.

The backlogs force women to wait in their home countries, separated from the sponsoring family member with whom they seek reunification. While separated, many of these women are left as the sole providers in countries where women may lack the same economic and employment opportunities as men. These immigration-processing backlogs create an emotional and financial burden on women and their families even though they will ultimately be eligible to unify with their families in the United States (5).

Of importance here is not the number of men and women who are granted LPR as family-sponsored immigrants, but how family-reunification regulations reinforce the expectations that women either do not work outside the home or take up jobs that are not recognized as “real” jobs, and that ultimately, the men will be providers. Thus, of the 600,555 women who obtained LPR status in fiscal year 2008, 358,173, or almost 60 percent, listed “no occupation/not working outside the home”; in contrast, of the 506,549 men who received LPR status that year, only 189,205, or approximately 37 percent, fell into the “no occupation/not working outside the home” category (U.S. Department of Homeland Security 2009, table 8). The law does not formally discriminate between women and men, but the fulfillment of the requirements does, and thus, with some exceptions, such as Filipina nurses, women tend to immigrate as accompanying family members instead of as workers in their own right. This fact exemplifies how vectors of oppression intersect to reinforce and maintain one another. The bias in employment-based visas is reflected in the inability of women to secure these types of visas before entering the United States, as well as the impossibility to secure employment outside the home once they are petitioned because their work permits sometimes take longer to arrive—and, thus, they end up conforming to a class-based image of a nonworking woman. Furthermore, women have a harder time petitioning for family members because, given that their incomes are usually lower than those of male immigrants, they often do not fulfill the economic solvency requirements.

The process of entering the United States legally requires financial solvency not only on the part of those wishing to immigrate, but also on the part of sponsoring family members, thus creating a significant obstacle for poor applicants. As Luibhéid (2008) points out, instead of resorting to overt past racially and ethnically based exclusions in immigration law, there is now a class bias as well, as the U.S. government passed laws that have impacted those with limited resources and at the same time severely restricted legal immigrants’ eligibility for public benefits. For example, the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRRA) stipulates that sponsoring relatives’ earnings must

be at least 125 percent of the federal poverty line, with the exception of those on active duty in the armed services who may be at, rather than above, the federal poverty level (Clifford et al. 2005). However, as Clifford et al. observe, "Given the gendered and racialized nature of poverty in the United States, this requirement is more likely to prevent women of all races and men of color from sponsoring relatives more than white men" (2005: 4). The authors note the difficulty in accurately assessing the racialized and gendered nature of sponsorship, as existing data on sponsorship are not comprehensive enough to be broken down by gender. Thus, although women's ability to sponsor relatives, such as their husbands, would be useful for our analysis here, these data remain unknown. Nonetheless, we would like to note how gender and class intersect to make the legalization process unaffordable—and eventual legalization unachievable—for the poorest women.

Although there are cases of immigrant women who have petitioned for their husbands, we did not find any such cases in this study. However, we came across men who had married U.S.-born women and then, after regularizing their status, obtained a divorce and petitioned for their wives or common-law partners (whom they had had to marry in order to petition) and any children under the age of 21 who had been left behind in their home countries. This is the case of Juan, a 49-year-old Salvadoran man who arrived in the United States 20 years before we interviewed him. He had left his partner, with whom he had lived for several years and had had two children, in El Salvador. Before arriving in the United States he had traveled and worked in Guatemala and Mexico in construction and other odd jobs. In the United States he had met a U.S. citizen woman, whom he had married and with whom he had had a daughter.<sup>7</sup> In Juan's words,

The truth is that I married an American citizen and that way I legalized my papers. . . . I was not even thinking that my wife [his common-law wife in El Salvador] would be able to come. Never! That idea had not crossed my mind. . . . It turns out that I separated in '85 and . . . in '92 we started to communicate [he and his common-law wife in El Salvador]. And in '93 was when we applied for her residence . . . So, when I went to fill out her papers, this person working there said, "Aha! First you come here, get married, then you bring your woman over and you get married again in order to get her legal papers." No, things were not that way.

In several cases, the women spoke of how their husbands' immigration had become the preamble for their LPR process;

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<sup>7</sup> Menjívar (2000) found similar cases in her study in San Francisco.

therefore, their legalization had begun far in advance of the actual submission of an application to immigration officials. However, in many cases the women's presence was not registered due to their participation in jobs that paid in cash or were considered "supplementary" to those of men, and due to the lack of documents (such as bills) in their own names that would prove their stay. For instance, Adriana, a 54-year-old Salvadoran woman who is small in stature but commands authority and confidence through her body language, entered the United States through family reunification. She and her three children did not see her husband for approximately 15 years after he left for the United States, during which time he was able to obtain his LPR. She spoke about the long and difficult process of legally entering the United States. Adriana mentioned the limited types of jobs to which she had access given the long wait for her work authorization—a situation that highlights how class and gender biases intersect. Nine years after submitting her paperwork to immigration, she was still waiting for her LPR.<sup>8</sup> In her words,

They give you one permit to be in all of the United States and to work . . . [and] every year it expires and every year I have to go to immigration to request it again and pay and all. Yes, since I put in my papers, I have only had three permits, before that I had nothing. Three permits is what I have, three years of living with that. . . . I spent lots of time not working, only at home. I would take care of children, but you know that is nothing. . . . I have taken advantage of my permits now.

Adriana had stopped babysitting, cleaning offices and homes, and doing other odd jobs; now she had a more stable, permanent job at a plastics factory. However, she continued to drive without a driver's license, and most of her possessions were under her husband's name—including the utility bills, her car, the car's insurance, and even her home. She had nothing under her name because of her undetermined legal status, which fit the gendered image of who should be in charge, which compromised her socioeconomic standing. Like Adriana's, other cases in this study indicate that due to lower educational and income levels, women in poverty have difficulty understanding, or are unfamiliar with, legal processes in the United States, the judicial system, and the process of securing resources to help them navigate its bureaucracy (see also Villalón 2010). Admittedly, both women and men may work in low-paid jobs and may be poor, but the long waiting times for the process often

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<sup>8</sup> The effects of these long-term separations are manifold (see Menjívar & Abrego 2009).

reinforce women's dependency on their husbands, and this in turn serves to further veil the active presence of immigrant women as workers in the United States. Importantly, it adds class-based barriers that further jeopardize these women's own application processes.

Many women also see family reunification as the only means to avoid entering the United States undocumented. Elena is a 31-year-old Mexican woman with a bachelor's degree. She married a 43-year-old U.S. citizen professional. She had attempted multiple times to obtain a tourist visa when she was single (at least once she attempted to get an employment-based visa), but she had always been denied. Elena explained that although she was an educated woman with a good professional job, she gathered that visa officers at the U.S. embassy in Mexico *may* have suspected that as a young, attractive woman, she would overstay her visa.

Even after becoming engaged to a U.S. citizen, Elena attempted to get a visa on her own while her then-fiancé had to return to the United States to work. While he was away, she tried three more times to get a visa. Upon his return to Mexico, and seeing that all of her attempts had failed, they married. "We got married. . . . [W]hen we were married for four months, they gave me my visa. They gave it to me because I was married to a U.S. citizen," said Elena. Although she entered the United States legally and was on her way to gaining LPR status, she complained about her inability to work for pay while she was waiting: "The only thing that I could do was to babysit my husband's grandchild without pay until I was able to obtain a work permit." She also feared that her husband would want to return to Mexico and permanently live there after his retirement. Elena said she did not have a "big story to tell." However, her case illustrates how sometimes even a professional single woman will find that both gendered ideologies and unequal social structures limit her legal immigration options. As Assar (1999) notes, "Family reunification policies multiply opportunities for immigrants on the condition that they accept the definition and constitution of family in particular, prescribed ways" (87). This indicates that men, the normative heads of household, continue to dictate women's ability to petition their legal status, while women remain under the purview of the "good housewife and mother" dependency status. And as Boyd and Pikkov (2005) and Sokoloff and Pratt (2005) argue, the intersection of race, gender, and migration status creates not only what traditionally has been called in U.S. scholarship a "double disadvantage," but also a "triple disadvantage." Thus, our empirical observations illustrate that though not formally encoded or overtly enforced, gender ideologies continue to be embedded in immigration law, as many requirements reflect specific conceptions of women's and men's behavior. Furthermore, since legal immigration (LPR) laws require

that individuals being petitioned not work for pay until a work permit is authorized, many women find themselves either depending solely on their spouses' income or working in "informal jobs" for extended periods of time, a situation that reinforces both their dependency status on their spouses and images of women in general as dependents.

### Employment-Based

Of all the forms of legal entry, employment-based visas are the most skewed along gender lines, an observation central to our examination here. Although these visas represent the second largest form of legal entry and allotted quotas in this category have increased in recent years, they constitute a relatively small portion of the total legal admissions into the country; in 2008, 15.4 percent of entries were employment-based admissions (Monger & Rytina 2009). For immigrants who enter under this preference, an employer must petition for them (among nonskilled and semiskilled workers the employee is often already in the country and the petitioning process only takes place on paper, but it is still cumbersome and lengthy). Visas for highly skilled professionals overwhelmingly go to large companies, particularly those in the electronic industries. And there are visas for semiskilled workers, who concentrate mostly in agriculture. None of these visa types is ever enough to fill the demand for immigrant workers.

According to the *Yearbook of Immigration 2008*, Asians comprise the majority of employment-based admissions, with a total of 93,882 persons, or 58 percent. Broken down by country, India (25,577), Korea (16,165), and China (15,329) use 57,071 of employment-based sponsorships, or 35 percent, and Europeans, with 28,601, and North Americans, with 20,436, comprise 30 percent. In contrast, Mexicans (8767) and Central Americans (El Salvador 1038, Guatemala 758, Honduras 445, and Nicaragua 67) combined obtained a total of 11 075 employment-based admissions, or less than 1 percent (U.S. Department of Homeland Security 2009). Although in FY 2004 women received nearly half of the employment-based visas, only 28.8 percent were principal visa holders and 73.2 percent were dependents of a principal visa holder (spouses or daughters of workers). In contrast, in the same year, the majority of men, 64.3 percent, were principal visa holders, compared to 34.7 percent who were dependents (Pearce 2006). As these figures indicate, while equality may be perceived in the number of employer-based visas granted by gender, a closer look at the level of dependency reveals that fewer women were principal visa holders as compared to men, who were the principal visa holders and thus not dependent on a second party for their

employment-based visas. In more cases, women depended on a spouse or parent as their petitioners (and principal visa holders). As such, the vulnerability of the women is exacerbated as they face multiple dependencies through their employer and spouse or parent.

The following case illustrates these gender differences and the “risk” of applying for employer-based status. While Cristina, age 43, and her husband Onésimo, age 50, initiated their immigration process to the United States in the same manner, they are now at widely different stages in the legalization process. They had arrived on tourist visas from Mexico 13 years before we met. Yet while Cristina became undocumented through visa overstay, at the time of the interview, Onésimo was only a few months away from being eligible to apply for naturalization. He had worked for a company that offered him an employment-based visa and sponsored him to obtain his LPR.

Cristina had migrated not for economic reasons but, as she put it, for “love,” and she and Onésimo eventually got married in Arizona. At the time of her marriage, she was working for a national bank in Mexico, where she dealt with business and real estate transactions, and earning enough income to qualify for a tourist visa. She continued to work for the bank and flew regularly to Arizona for a year to visit her husband after their marriage. “*Con el dolor de mi corazón* (With a throbbing heart), I resigned my job after a year of traveling and moved here permanently,” said Cristina. In addition to quitting her job, she also lost her status as a *licenciada* (the title used in Mexico for those with a BA degree that conveys social status). When her son was born in Phoenix, she remained at home. Even though they needed her income, they had decided that her job would not pay enough to offset the cost of childcare. Because Cristina reentered the labor force when her son turned five and entered kindergarten, she missed out on years of work experience and perhaps an opportunity for legalization through employment. Staying at home isolated Cristina socially and, importantly for our discussion here, denied her the paper trail needed to support her legalization application, which eventually resulted in her husband regularizing his status while she remained undocumented. As she explains,

Fortunately, Mr. Trujillo has given me the opportunity of working with him and he has not demanded that I have documents. . . . The moment I get my papers, I will look for something better that would provide me with insurance for my son. . . . We [who do not have legal status] have jobs that do not go along with [fit] us, that we do not like, but we do them because we have no choice, it is out of necessity.

Cristina continues to wait for Onésimo to submit her petition. According to Onésimo, he has not submitted an application for Cristina's LPR because he is waiting to become a citizen, which expedites the process. They also have financial difficulties that make the expensive legalization process unaffordable. In the meantime, despite her BA in economics and her professional experience in banking, Cristina has worked as a desk clerk at a store that pays her in cash. She drives without a license. She would like to improve her English, but she cannot take language classes due to her work (and home) schedule. And while her job does not demand that she learn English or that she obtain a work permit, she realizes that her unresolved status could mean deportation—and separation from her immediate family—at any moment.

While not all women are dependent on men to become legal immigrants, both gendered and class-based conceptions of work play a key role in the employment-based legalization process. Nora, a 19-year-old Guatemalan with a second-grade education, worked three jobs to support family in both Guatemala and in Phoenix. She worked three night shifts a week at a McDonald's, cleaned model homes on the other nights, and took care of an elderly couple during the day, but none of her jobs offered her the opportunity to legalize her status through employment because they were seen as extensions of domestic work, and not what the law encodes as "high-demand" jobs—a requirement for an employment-based visa. She has consulted with notaries and immigration lawyers, and she has been told,

There is no way on this earth to even try to apply because the work I do is not good, like high status. So there is no reason why the U.S. government would want to grant me legalization for cleaning or cooking or taking care of the couple. I have been told that for me it's impossible, that only people with good jobs can be legalized through jobs. Yes, I work and work and work, but what I do is not what the law recognizes.

Nora's case illustrates that even when women support their families as heads of household (in the United States and in their countries of origin) and contribute to the economy by literally working day and night, their possibilities for legalization are nonexistent because jobs that are considered unskilled and expendable—in part due to their domestic connotations—are not deemed valuable enough to warrant an employment visa. To be sure, men from lower class backgrounds also lack opportunities for legalization through employment, as is the case with day laborers. However, given the gendered nature of what stereotypically constitutes skilled labor (e.g., engineers, renowned scientists, and physicians, with the exception of immigrant women, such as those from the



Philippines, who obtain legal status through their work in the already-female-dominated field of nursing), in general, men continue to dominate the category of immigrants who apply for and obtain employment-based legal status. Nora's case demonstrates the intertwined nature of gender and class bias in immigration law and shows that both block the avenues that lead to legalization.

### **Temporary Protection Status, NACARA, and Political Asylum**

We group these statuses in the same section because for the Central American immigrants in our study, they were often intertwined. In principle, temporary protected status (TPS) is a legal dead end. This protection is not meant to be a path to anything permanent, and it usually is granted for extendable periods of 9 or 18 months. The Nicaraguan Adjustment and Central American Relief Act of 1997 (NACARA) is intended to bring in line the reality of the violence of the Central American civil conflicts with U.S. legal protection by extending a "cancellation of removal" to Salvadorans, Guatemalans, and Nicaraguans who applied for this dispensation by a certain date. In practice, it has been an important avenue for Central Americans to apply for asylum (Coutin 2000; Menjívar 2006). The *American Baptist Churches (ABC) vs. Thornburgh* case, which was based on alleged discrimination against Guatemalans and Salvadorans on the part of the Immigration and Naturalization Service, allowed Salvadorans and Guatemalans to resubmit asylum applications. Often individuals who have had TPS apply for another type of protection simultaneously; thus, it becomes difficult to compartmentalize their legal paths neatly into one visa type or another.

Like other major immigrant-receiving countries around the world, the United States increasingly has been making use of temporary statuses to deal with the influx of immigrants from poorer countries. The United States currently provides some type of temporary relief from deportation to nationals from a handful of countries<sup>9</sup> because the federal government recognizes their homeland conditions, such as political conflicts or natural catastrophes, as being temporarily unsafe or overly dangerous. In 1990, when Congress enacted the TPS statute, it granted TPS for 18 months to nationals from El Salvador due to the civil war in their country, and after a few extensions it expired for good in 1995. New TPS has been granted to Salvadorans, Hondurans, and Nicaraguans after recent natural disasters in their home countries, but even though

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<sup>9</sup> Countries designated for TPS vary. As of this writing, countries designated for TPS include El Salvador, Haiti, Honduras, Nicaragua, Somalia, Sudan, South Sudan, and Syria. The number of nationals protected varies by country, from a few dozen to a quarter million, and each nationality has its own set of deadlines and expiration regulations.

Guatemala suffered both a 30-year violent political conflict and several natural disasters, Guatemalans have never been deemed in need of TPS protection. And the qualifications for NACARA relief and TPS have various time frames and requirements.<sup>10</sup>

The definitions of *refugee* and *asylee* are based on persecution on account of membership in different social groups. According to Martin and Hoefler, the maximum number of refugee admissions was set at 70,000 in 2003, but due to the expected resettlement of individuals from war-torn regions such as Iraq or Syria, these admissions increased to 80,000 in 2008 (Martin & Hoefler 2009: 2). With respect to asylum, there is no limit on the number of immigrants who can be granted asylum annually. Of the total number of new LPRs in 2008, 15 percent, or 166,392, were refugee/asylee adjustments. Of these, 54 percent (90,030) were refugee admissions, 46 percent (76,362) were asylee adjustments, and approximately 1 percent had adjusted their status under NACARA (Monger & Rytina 2009: 2–3). The standards of proof and minimum thresholds we discussed for other visa categories are similar here, but the procedures and priorities for asylum and refugee admissions are quite different, as political asylum and refugee policy function in practice as extensions of foreign policy (see Menjívar 2000). Thus, regardless of individual plight, those who flee countries with close diplomatic relations with the receiving country are not usually granted this status (while the opposite applies as well). Thus, Guatemalans and Salvadorans, whose governments are close U.S. allies, have not fared well in political asylum applications (see Menjívar 2000).

For most individuals going through one of the processes mentioned above, the experience is marked by long waiting periods that can range from a few years to decades depending on bureaucratic delays, the documentation the person presents, the organizations (if any) that assist the individual, and the professional skills of the lawyers and notaries (not all trustworthy) who prepare the applications. Often applicants know quite a bit about the laws and their rights but do not know which, if any, law applies to them (Coutin 2000; Lewis 2006), and thus they rely on legal professionals (or presumed professionals) to handle their applications. Importantly, gender informs this legalization process as well. Sara, a 46-year-old Salvadoran with two years of college, explained that hers is a “long story.” She applied for political asylum but described the handling

<sup>10</sup> For further details, please visit the U.S. Citizenship and Immigration Services (USCIS) Web site, last updated 10/28/2008, and view NACARA 203: <http://www.uscis.gov/portal/site/uscis/template.PRINT/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnnextoid=140748afcb41e010VgnVCM1000000ecd190aRCRD&vgnnextchannel=828807b03d92b010VgnVCM10000045f3d6a1RCRD> (U.S. Citizenship and Immigration Services 2008).

of her legalization process by U.S. officials as a “joke.” She noted that individuals sometimes end up 20 years in the process only to hear that they will need to go back to their home countries. Sara left El Salvador at the end of 1982, during the war, but her time in the United States has been of little help for her legalization process. In her words,

I applied for political asylum and I was denied . . . because we couldn't present enough proof but I don't understand which type of proof. I don't have a cut arm, I don't have scars, I don't have anything to show, thank God. But why would we have to stay [in El Salvador] any longer and leave only when something happened to us?

Sara and her family left El Salvador and lived in Mexico for a year. However, they did not keep what would later prove vital in a court of law to prove what they went through and the potential dangers they would face if they ever returned. “We never thought of keeping all these little papers [with death threats],” she said. But even if they had kept the documents, they would not have helped Sara, because the threats had been directed at her husband. And as Sara and others in this study indicated, ABC and NACARA cases are some of the lengthiest, keeping individuals and entire families in legal limbo for decades. And when they are in the process of legalization, their rights are limited, which may result in reduced employment and housing opportunities and keep them on a path of sacrifices that in the end, as in Sara's case, concludes in denial for members of the family who cannot produce the proof of suffering that the law requires. According to the gendered meaning of the law, well-founded fear depends on what a “reasonable” person would fear, and this in turn falls in line with political activities presumably more common among men, even when women are active political participants. In other cases, as Bhabha (2001) notes, even when women are persecuted activists, “their gendered-determined political activism—providing shelter for guerrillas, cooking, hiding ammunition—is discounted compared to a norm of political activism which is male gendered—leafleting, ambushing, shooting, demonstrating, joining a guerrilla army” (311). As such, convincing decision makers that their political actions and opinions constitute a threat remains a challenge for some women seeking asylum based on persecution. And even when women engage in military activities in guerrilla operations (see Viterna 2006), they remain underrepresented among asylum applicants, as resources for fleeing are allocated primarily to men.

In contrast to Sara, Roberto, a thin and small-framed 32-year-old Salvadoran still struggling with health issues related to his experiences during the civil war, had been living in the United

States for 11 years when he received political asylum. Back in his country, he had been a teen activist demanding basic services for his community in a small, poor town. For his actions, he was captured, tortured, placed in a clandestine prison, and left for dead. The Red Cross and other human-rights groups were crucial in assisting him to flee the country and then helped him file for political asylum in the United States. In his words,

When I first got here to Phoenix, I came from California disoriented. I came to a center, a home called Friends and they took us to a church and I liked it a lot. . . . I read a book that talks about the church and how they have helped refugees [and asylum seekers] from Guatemala, El Salvador and they help people from Mexico and many others.

After 13 years in the United States, Roberto was getting ready to see his mother in Chiapas. Although he was unsure if he would return to the United States, he said he felt safer there than in Mexico or El Salvador, and at least he had the option. Unlike Sara, Roberto had physical proof of his political persecution, and his experience had been validated by the NGOs that had facilitated his escape and then his resettlement in the United States. To be sure, we do not argue that only men receive this sort of assistance, but as scholarship shows, even when women are directly involved in a conflict as soldiers, they are more likely to migrate to the United States either without an entry visa or through family reunification (see Menjívar 2000). In addition, both women and men face these circumstances in the context of other markers such as age, geographic area, ethnicity, and class, but gender often becomes a central factor in shaping an individual's journey to and through the legalization process in the United States.

## **Discussion/Conclusion**

With increased population movements globally, the wealthier immigrant-receiving countries, such as the United States, have sought to restrict and reinforce narrow notions of citizenship. As such, legal citizenship and belonging have come to mark insiders, those deserving of rights and services, and outsiders, those who lack even basic forms of protection, access to services, and the duties and responsibilities that come with citizenship. However, even when laws are in place to confer access to legalization, not everyone has the same experiences with the process that eventually bestows such privileges. Social positions such as race, ethnicity, class, and, most importantly for our discussion here, gender, also intersect and inform processes of inclusion and exclusion.

And as the recent literature points out (Boyd & Pikkov 2005; Calavita 2006; Clifford, Pearce, & Tandon 2005; Pessar 2005; Piper 2006), women and men have different citizenship experiences that begin long before they initiate their formal paths to legalization. Thus, following Crenshaw's (1991) foundational discussion of intersectionality, we agree that multiple social markers intersect social experiences. And even when the analytical emphasis is placed on one axis of stratification, such as gender, other social markers need to be brought into the picture, even to the background. Examining processes of inclusion and exclusion from only one angle risks truncated analysis or even a misreading of social reality.

Based on the cases of Central Americans and Mexicans in Phoenix, we examined how gender structures the different avenues and stages in the process of legalization and the gender-informed requirements and expectations that affect immigrant women and men differently in this process. As we noted, the law itself is intended to be gender neutral, but it is in fact inflected with gendered meanings that at times clearly presume the individual to be male assumptions based on gendered social structures and other axes of stratification, such as class. As well, gender ideologies permeate immigration law when legislation is not intended to be gender neutral and is, in fact, proposed to benefit women, as in the case of VAWA. And even when the law is purportedly neutral, we find that in its interaction with gendered social structures such as the labor force, it becomes an agent for the exacerbation of women's dependency. Importantly, gender differentiations occur in both overt and subtle ways that sometimes veil gender but other times formally differentiate between women and men, thus creating gendered paths to legalization. Women's and men's experiences are different because gender ideologies position them in situations, such as women leaving the work force to care for relatives and children, that hinder the legalization process or exclude them altogether. Thus, this is not the overt exclusion of the past; it is veiled exclusion by association (see Massey & Denton 1993 for a parallel discussion on race).

To be sure, even though there are gender differences in the legalization process and legal status is central for immigrant success, attaining regular legal status does not automatically mean emancipation (for women or men). This is particularly the case for women who are restricted to female-marked, lower-paid jobs or who do not work for pay because they must care for their families or because immigration policies, such as family reunification, channel them away from being recognized as workers in their own right. Even women who do not depend on men to petition for them are reminded that they go through a legalization process that works

within the confines of a male-privileging society. In the current U.S. immigration regime, even laws that are meant to assist victims of gender-based crime have the potential to jeopardize the legalization process for women. Our work also draws attention to the fluid movement between legal categories; under current immigration law immigrants can easily fall out of status (i.e., return to the category of undocumented) during the legalization process. Our observations thus reveal that both women and men encounter barriers in the legalization process, but gender remains an important marker that exacerbates the complexities of a nonlinear legalization process.

As other scholars suggest (see Bosniak 2000; Castles & Davidson 2000), the exclusion of immigrants embedded in the law questions citizenship in general as a form of integration (see Glenn 2000). Our study highlights the need to redefine legal citizenship with attention to difference based on the intersectionality of social position, including gender as well as class and other regimes of inequality. Immigration policies that eventually lead to legal citizenship should be sensitive to such social hierarchies and instead create categories (and guidelines for administration) that deviate from orthodox and conventional expectations of behavior to incorporate the experiences of those who are marginalized and excluded due to their social positions. Policies based on the awareness that systems of inequality can seep through and emerge in practices of implementation and interpretation of the law could be less exclusionary and thus more effective. This study shows that laws are not created in a vacuum, isolated from broader social practices in which they are enacted. Thus, it is imperative to train individuals, such as lawyers, advocates, judges, and immigration officers who play key roles in interpreting and assisting immigrants during the legalization process (see also Villalón 2010). It is also critical to recognize that formal citizenship does not automatically grant equal rights, as multiple social positions—in this case, most tellingly gender—seep through formal legal structures.

## References

- Anker, Deborah E. (2002) "Refugee Law, Gender, and the Human Rights Paradigm," 15 *Harvard Human Rights J.* 133–154.
- Assar, Nandini Narain (1999) "Immigration Policy, Cultural Norms, and Gendered Relations among Indian-American Motel Owners," in Kelson, Gregory A., & Debra L. Delaet, eds., *Gender and Immigration*. London: McMillan Press.
- Benhabib, Seyla (2002) *The Claims of Culture: Equality and Diversity in the Global Era*. Princeton, NJ: Princeton Univ. Press.
- Bhabha, Jacqueline (2001) "Inconsistent State Intervention and Separated Child Asylum-Seekers," 3 *European J. of Migration and Law* 283–314.

- Bhuyan, Rupaleem (2008) "The Production of the 'Battered Immigrant' in Public Policy and Domestic Violence Advocacy," 23 *J. of Interpersonal Violence* 153–170.
- Bloemraad, Irene, Anna Korteweg, & Gökçe Yurdakul (2008) "Multiculturalism Assimilation, and Challenges to the Nation-State," 34 *Annual Rev. of Sociology* 153–179.
- Bosniak, Linda S. (2000) "Citizenship Denationalized," 7 *Indiana J. of Global Studies* 447–492.
- (2006) *The Citizen and the Alien: Dilemmas of Contemporary Membership*. Princeton, NJ: Princeton Univ. Press.
- Boyd, Monica, & Elizabeth Grieco (2003) "Women and Migration: Incorporating Gender into International Migration Theory," Migration Policy Institute. <http://www.migrationinformation.org/Feature/display.cfm?id=106> (accessed 22 July 2009).
- Boyd, Monica, & Deanna Pikkov (2005) "Gendering Migration, Livelihood and Entitlements: Migrant Women in Canada and the United States," Unpublished paper, United Nations Research Institute for Social Development (UNRISD), Geneva. <http://www.unrisd.org/research/gender/report> (accessed 26 May 2007).
- Broughton, Chad (2008) "Migration as Gendered Practice: Mexican Men, Masculinity, and Northward Migration," 22 *Gender & Society* 568–589.
- Calavita, Kitty (2006) "Gender, Migration, and Law: Crossing Borders and Bridging Disciplines," 40 *International Migration Rev.* 104–132.
- Caspari, Andrea, & Wenona Giles (1986) "Immigration Policy and the Employment of Portuguese Migrant Women in the UK and France: A Comparative Analysis," in Simon, Rita James, & Caroline Brettell, eds., *International Migration: The Female Experience*. Totowa, NJ: Rowman & Allanheld.
- Castles, Stephen, & Alastair Davidson (2000) *Citizenship and Migration: Globalization and the Politics of Belonging*. New York: Routledge.
- Clifford, Elizabeth, Susan C. Pearce, & Reena Tandon (2005) "Two Steps Forward? Reinventing US Immigration Policy for Women," Presented at "When Women Gain, So Does the World," IWPR's Eighth International Women's Policy Research Conference, Washington, DC (June). [http://www.iwpr.org/Conferences/Conference\\_Proceedings05.html](http://www.iwpr.org/Conferences/Conference_Proceedings05.html) (accessed 26 May 2007).
- Collier, Jane, Bill Maurer, & Laura Suárez-Navaz (1997) "Sanctioned Identities: Legal Constructions of Modern Personhood," 2 *Identities* 1–27.
- Coutin, Susan Bibler (2000) *Legalizing Moves: Salvadoran Immigrants' Struggle for U.S. Residency*. Ann Arbor: Univ. of Michigan Press.
- Crawley, Heaven (2001) *Refugees and Gender: Law and Process*. Bristol, UK: Jordan.
- Crenshaw, Kimberley (1991) "Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color," 43 *Stanford Law Rev.* 1241–1299.
- Curran, Sara R., & Estela Rivero Fuentes (2003) "Engendering Migrant Networks: The Case of Mexican Migration," 40 *Demography* 289–307.
- De Genova, Nicholas P. (2005) *Working the Boundaries: Race, Space, and "Illegality" in Mexican Chicago*. Durham, NC: Duke Univ. Press.
- Donato, Katharine M., & Amada Armenta (2011) "What We Know about Unauthorized Migration," 37 *Annual Rev. of Sociology* 529–543.
- Ehrenreich, Barbara, & Arlie Russell Hochschild, eds. (2002) *Global Woman: Nannies, Maids, and Sex Workers*. New York: Henry Holt & Company, LLC.
- Erez, Edna, & Carolyn Copps Hartley (2003) "Battered Immigrant Women in the Legal System," 4 *Western Criminology Rev.* 155–169.
- Erez, Edna, Madelaine Adelman, & Carol Gregory (2009) "Intersections of Immigration and Domestic Violence: Voices of Battered Immigrant Women," 4 *Feminist Criminology* 32–56.
- Espiritu, Yen Le (1999) "Gender and Labor in Asian Immigrant Families," 42 *The American Behavioral Scientist* 628–647.
- Feliciano, Cynthia (2008) "Gendered Selectivity: U.S. Mexican Immigrants and Mexican Nonmigrants, 1960–2000," 43 *Latin American Research Rev.* 139–160.

- Gabaccia, Donna R. (1994) *From the Other Side: Women, Gender, and Immigrant Life in the U.S., 1820–1990*. Bloomington: Indiana Univ. Press.
- Glenn, Evelyn (2000) "Citizenship and Inequality: Historical and Global Perspectives," 47 *Social Problems* 1–20.
- Grasmuck, Sherri, & Patricia R. Pessar (1991) *Between Two Islands: Dominican International Migration*. Berkeley: Univ. of California Press.
- Greatbach, Jacqueline (1989) "The Gender Difference: Feminist Critiques of Refugee Discourse," 1 *International J. of Refugee Law* 518–527.
- Haines, Roger (2003) "Gender-Related Persecution," in Erika Feller, Volker Turk, & Frances Nicholson, ed., *Refugee Protection in International Law: UNHCR's Global Consultation on International Protection*. Cambridge, UK: Cambridge Univ. Press.
- Hirsch, Jennifer (2003) *A Courtship after Marriage: Sexuality and Love in Mexican Transnational Families*. Berkeley: University of California Press.
- Hoefler, Michael, Nancy Rytina, & Byan C. Becker (2010) "Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2009," Office of Immigration Statistics, U.S. Department of Homeland Security. [http://www.dhs.gov/xlibrary/assets/statistics/publications/ois\\_ill\\_pe\\_2009.pdf](http://www.dhs.gov/xlibrary/assets/statistics/publications/ois_ill_pe_2009.pdf) (accessed 3 April 2012).
- Hondagneu-Sotelo, Pierrette (1994) *Gendered Transitions: Mexican Experiences of Immigration*. Berkeley: Univ. of California Press.
- (2001) *Doméstica: Immigrant Workers Cleaning and Caring in the Shadows of Affluence*. Berkeley: Univ. of California Press.
- (Ed.) (2003) *Gender and U.S. Immigration: Contemporary Trends*. Berkeley: Univ. of California Press.
- Jefferys, Kelly, & Randall Monger (2008) *U.S. Legal Permanent Residents: 2007*. DHS Office of Immigration Statistics. Annual Flow Report (March). [http://www.dhs.gov/xlibrary/assets/statistics/publications/LPR\\_FR\\_2007.pdf](http://www.dhs.gov/xlibrary/assets/statistics/publications/LPR_FR_2007.pdf) (accessed 28 May 2008).
- Kanaiaupuni, Shawn M. (2000) "Reframing the Migration Question: An Analysis of Men, Women, and Gender in Mexico," 78 *Social Forces* 1311–1347.
- Kelson, Gregory A., & Debra L. Delaet (1999) *Gender and Immigration*. London: McMillan Press.
- Kimmel, Michael S. (2005) *The History of Men: Essays in the History of American and British Masculinities*. Albany: New York Press.
- (2008) *The Gendered Society*. Oxford: Oxford Univ. Press.
- Korteweg, Anna C. (2006) "The Construction of Gendered Citizenship at the Welfare Office: An Ethnographic Comparison of Welfare-to-Work Workshops in the United States and the Netherlands," 13 *Social Politics* 313–340.
- Leonard, Stephen T., & Joan C. Tronto (2007) "The Genders of Citizenship," 101 *American Political Science Rev.* 33–46.
- Lewis, Amy G. (2006) "Gender-Based Violence among Refugee and Internally Displaced Women in Africa," 20 *Georgetown Immigration Law J.* 269–292.
- Lister, Ruth (1997) "Citizenship: Toward a Feminist Synthesis," 57 *Feminist Rev.* 28–48.
- Lorde, Audre (1984) *Sister Outsider: Essays and Speeches*. Berkeley, CA: The Crossing Press.
- Luibhéid, Eithne (2008) "Sexuality, Migration, and the Shifting Line between Legal and Illegal Status," 14 *GLQ: A Journal of Lesbian and Gay Studies* 289–315.
- Luibhéid, Eithne, & Lionel Cantú (2005) *Queer Migrations: Sexuality, U.S. Citizenship, and Border Crossings*. Minneapolis: Univ. of Minnesota Press.
- Mahler, Sarah J., & Patricia R. Pessar (2006) "Gender Matters: Ethnographers Bring Gender from the Periphery toward the Core of Migration Studies," 40 *International Migration Rev.* 27–63.
- Martin, Daniel C., & Michael Hoefler (2009) "Refugees and Asylees: 2008," *DHS Office of Immigration Statistics*. Annual Flow Report (June). [http://www.dhs.gov/xlibrary/assets/statistics/publications/ois\\_rfa\\_fr\\_2008.pdf](http://www.dhs.gov/xlibrary/assets/statistics/publications/ois_rfa_fr_2008.pdf) (accessed 24 April 2012).
- Massey, Douglas S., & Nancy A. Denton (1993) *American Apartheid: Segregation and Making of the Underclass*. Cambridge, MA: Harvard Univ. Press.



- Massey, Douglas S., Jorge Durand, & Nolan J. Malone (2002) *Beyond Smoke and Mirrors: Mexican Immigration in an Era of Economic Integration*. New York: Russell Sage Foundation.
- McKay, Ramah (2003) "Family Reunification," *Migration Policy Institute*, (May 1). <http://www.migrationinformation.org/USfocus/display.cfm?ID=122> (accessed 4 February 2007).
- Menjívar, Cecilia (2000) *Fragmented Ties: Salvadoran Immigrant Networks in America*. Berkeley: Univ. of California Press.
- (2003) "The Intersection of Work and Gender: Central American Immigrant Women and Employment in California," in Hondagneu-Sotelo, Pierrette, ed., *Gender and U.S. Immigration: Contemporary Trends*. Berkeley: Univ. of California Press.
- (2006) "Liminal Legality: Salvadoran and Guatemalan Immigrants' Lives in the United States," 111 *American J. of Sociology* 999–1037.
- Menjívar, Cecilia, & Leisy Abrego (2009) "Parents and Children across Borders: Legal Instability and Intergenerational Relations in Guatemala and Salvadoran Families," in Foner, Nancy, ed., *Family Ties: Intergenerational Dynamics in Immigrant Families*. New York: New York Univ. Press.
- Monger, Randall, & Nancy Rytina (2009) "U.S. Legal Permanent Residents: 2008," *DHS Office of Immigration Statistics*. Annual Flow Report (March). [http://www.dhs.gov/xlibrary/assets/statistics/publications/lpr\\_fr\\_2008.pdf](http://www.dhs.gov/xlibrary/assets/statistics/publications/lpr_fr_2008.pdf) (accessed 22 July 2009).
- Narayan, Uma (1997) *Dislocating Cultures: Identities, Traditions, and Third World Feminism*. New York and London: Routledge.
- Newland, Kathleen (2003) "Seeking Protection: Women in Asylum and Refugee Resettlement Processes," Presented at the United Nations Division for the Advancement of Women, Expert Consultation on Migration and Mobility and How This Movement Affects Women, Malmö, Sweden (2–4 December). <http://www.un.org/womenwatch/daw/meetings/consult/CM-Dec03-EP8.pdf> (accessed 18 June 2009).
- Ngai, Mae M. (2007) "Review of Working the Boundaries: Race, Space, and 'Illegality' in Mexican Chicago," 5 *Latino Studies* 503–506.
- Okin, Moller Susan (1989) *Justice, Gender, and the Family*. New York: Basic Books.
- Ong, Aihwa (1999) *Flexible Citizenship: The Cultural Logics of Transnationality*. Durham, NC: Duke Univ. Press.
- (2003) *Buddha Is Hiding: Refugees, Citizenship, and the New America*. Berkeley and London: Univ. of California Press.
- Passel, Jeffrey S. (2006) "The Size and Characteristics of the Unauthorized Migrant Population in the U.S.: Estimates Based on the March 2005 Current Population Survey," *Pew Hispanic Center* (March 7). <http://pewhispanic.org/files/reports/61.pdf> (accessed 4 February 2007).
- Pearce, Susan C. (2006) "Immigrant Women in the United States: A Demographic Portrait," *Immigration Policy Center*. [http://www.immigrationpolicy.org/sites/default/files/docs/Immigrant%20Women%20\(IPC%202006\).pdf](http://www.immigrationpolicy.org/sites/default/files/docs/Immigrant%20Women%20(IPC%202006).pdf) (accessed 4 February 2007).
- Pessar, Patricia R. (2005) "Women, Gender, and International Migration across and beyond the Americas: Inequalities and Limited Empowerment," Presented at Expert Group Meeting on International Migration and Development in Latina America and the Caribbean. *Population Division, Department of Economic and Social Affairs United Nations Secretariat*. Mexico City. [http://www.un.org/esa/population/meetings/IttMigLAC/P08\\_PPessar.pdf](http://www.un.org/esa/population/meetings/IttMigLAC/P08_PPessar.pdf) (accessed 28 November).
- Pessar, Patricia R., & Sarah J. Mahler (2003) "Transnational Migration: Bringing Gender In," 37 *International Migration Rev.* 812–846.
- Pew Hispanic Center (2006) *Modes of Entry for the Unauthorized Migrant Population*. Pew Research Center Project (May 22). <http://pewhispanic.org/files/factsheets/19.pdf> (accessed 27 April 2007).
- Piper, Nicola (2006) "Gendering the Politics of Migration," 40 *International Migration Rev.* 133–164.

- Prokhovnik, Raia (1998) "Public and Private Citizenship: From Gender Invisibility to Feminist Inclusiveness," 60 *Feminist Rev.* 84–104.
- Ritter, Gretchen (2002) "Jury Service and Women's Citizenship before and after the Nineteenth Amendment," 20 *Law and History Rev.* 479–515.
- Segura, Denise, & Patricia Zavella (2008) "Introduction: Gendered Borderlands," 22 *Gender & Society* 537–544.
- Singer, Audrey, with Greta Gilbertson (Eds.) (2003) "The Emergence of Protective Citizenship in the USA: Naturalization among Dominican Immigrants in the Post-1996 Welfare Reform Era," 26 *Ethnic and Racial Studies* 25–51.
- Sokoloff, Natalie J., & Christina Pratt (2005) *Domestic Violence at the Margins: Readings on Race, Class, Gender, and Culture*. New Brunswick, NJ, and London: Rutgers Univ. Press.
- Sreeharsha, Kavitha (2010) "Reforming America's Immigration Laws: A Woman's Struggle," *Immigration Policy Center*. [http://www.immigrationpolicy.org/sites/default/files/docs/A\\_Womans\\_Struggle\\_062810.pdf](http://www.immigrationpolicy.org/sites/default/files/docs/A_Womans_Struggle_062810.pdf) (accessed 23 May 2011).
- Stacy, Lee (2003) *Mexico and the United States*. New York: Marshal Cavendish.
- Taub, Nadine, & Elizabeth Schneider (1998) "Women's Subordination and the Role of the Law," in Kairys, David, ed., *The Politics of Law: A Progressive Critique*. New York: Basic Books.
- Tienda, Marta (2002) "Demography and the Social Contract," 39 *Demography* 587–616.
- U.S. Citizenship and Immigration Services (2008) "NACARA 203: Eligibility to Apply with USCIS," <http://www.uscis.gov/portal/site/uscis/template.PRINT/menueitem.5af9bb95919f35e66f14176543f6d1a/vgnnextoid=140748afcb41e010VgnVCM1000000ecd190aRCRD&vgnxtchannel=828807b03d92b010VgnVCM10000045f3d6a1RCRD> (accessed 28 May 2008).
- (n.d.a) "How Do I Apply for Immigration Benefits as a Battered Spouse or Child?" <http://www.uscis.gov/portal/site/uscis/menueitem.5af9bb95919f35e66f14176543f6d1a/vgnnextoid=499a6c854523d010VgnVCM10000048f3d6a1RCRD&vgnxtchannel=4f7197755cb9010VgnVCM10000045f3d6a1RCRD> (accessed 22 July 2009).
- U.S. Department of Homeland Security (2009) *Yearbook of Immigration Statistics: 2008*. Washington, D.C.: U.S. Department of Homeland Security, Office of Immigration Statistics. [http://www.lb9.uscourts.gov/webcites/10documents/Orozco\\_statistics.pdf](http://www.lb9.uscourts.gov/webcites/10documents/Orozco_statistics.pdf) (accessed 23 July 2009).
- U.S. Office of Refugee Resettlement (2008) *Refugees*. <http://www.acf.hhs.gov/programs/orr/about/whoweserve.htm> (accessed 25 August 2009).
- Villalón, Roberta (2010) *Violence against Latina Immigrants: Citizenship, Inequality, and Community*. New York: New York Univ. Press.
- Viterna, Jocelyn (2006) "Pulled, Pushed, and Persuaded: Explaining Women's Mobilization into the Salvadoran Guerrilla Army," 112 *American J. of Sociology* 1–45.
- Wihtol de Wenden, Catherine, & Margo Corona DeLey (1986) "French Immigration Policy Reform, 1981–1982 and the Female Migrant," in Simon, Rita James, & Caroline B. Brettell, eds., *International Migration: The Female Experience*. Totowa, NJ: Rowman & Allanheld.
- Wildman, Stephanie M., et al. (1996) *Privilege Revealed: How Invisible Preference Undermines America*. New York: New York Univ.
- Yuval-Davis, Nira (1997) "Women, Citizenship and Difference," 57 *Feminist Rev.* 4–27.
- (1999) "The 'Multi-layered Citizen': Citizenship in the age of 'Glocalization,'" 1 *International Feminist J. of Politics* 119–136.

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