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**Gatekeeping and Acts of Passage:  
Battered Immigrants, Nonprofits, and the State**

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**Gatekeeping and Acts of Passage:  
Battered Immigrants, Nonprofits, and the State**

**by**

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**Dissertation**

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## **Dedication**

For Isabella

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**Gatekeeping and Acts of Passage:  
Battered Immigrants, Nonprofits, and the State**

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Abstract: Gendered violence-based immigration laws and nonprofit organizations helping in their implementation have been considered crucial tools in providing access to citizenship for battered immigrants. Despite the progressive character of such institutions, barriers that filter immigrants as worthy to become legitimate members of the United States or as illegitimate subjects remain in place. I explore this paradox based on an in-depth case study of OLA, a nonprofit organization in Texas that provided legal services free of charge to immigrants who not only had been victims of violence, but also were economically impaired to afford the costs related to the application process. My dissertation shows how systems of class, racial/ethnic and gender inequality are formally reflected in the options available for them through the Violence Against Women Act (VAWA) and the Victims of Trafficking and Violence Protection Act (VTVPA), informally reproduced by immigrants' advocates in their daily work practices, and inadvertently reinforced by immigrant applicants. Immigration laws are a major component of the gates that the state creates to reaffirm its sovereignty since these

regulate which individuals are welcomed to form part of its population. Legal nonprofits organizations, such as OLA, function as nongovernmental bureaucracies that mediate between the immigrants in quest of legal status, and the state granting legality. In assisting in the implementation of immigration laws, nonprofits inadvertently contribute to the procreation of the citizenship ideals and disciplines beneath state laws. In such manner, they become brokers of mainstream social norms, and reinforce the selective structure of and gated access to American society. Battered immigrants attempting to pass through the formal and informal gates to legality have to balance their obedient and dissident acts in order to satisfy the expectations of those who may grant them access, that is, both nonprofit staff and immigration officers. The interactions between immigrants, nonprofit workers, and the state reveal the intricate ways in which the stratified and stratifying quality of society is (intentionally and unintentionally) recreated on a daily basis.

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## **Chapter 1: Introduction**

Gendered violence-based immigration laws and nonprofit organizations helping with its implementation have been considered crucial tools in providing access to citizenship for battered immigrants. Despite the progressive character of both institutions, formal and informal barriers that filter immigrants as worthy to become citizens or as illegitimate subjects remain in place. I explore this paradox based on an in-depth case study of a nonprofit organization in Texas that provided legal services free of charge to immigrants who not only had been victims of violence, but also were economically impaired to afford the costs related to the application process. My dissertation focuses on the interactions between the state, nonprofit organizations, and their beneficiaries to analyze how the intersection of class, gender, and race/ethnicity influence immigration laws, citizenship, and individuals' agency.

In what follows, I provide background information about the options available for battered immigrants to become legal members of the United States, and present my research questions, case study, research methods and dilemmas, and an outline of the dissertation.

### **GENDERED VIOLENCE-BASED IMMIGRATION LAWS**

Since the late 1980s, and parallel to the growth of the human rights movement, there has been a development in laws and services for women victims of gendered violence in the United States.<sup>1</sup> Violence against women activists and organizations, such as Legal Momentum, The National Network to End Violence Against Immigrant

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<sup>1</sup> For a discussion on the implications of a rights based approach for the struggle against violence against women, see Bunch (1996, 2004), Chow (1996), and Coomaraswamy (1997).

Women, and the Family Violence Prevention Fund, crafted legislation that would eventually become the first Violence Against Women Act in 1994 (Roe 2004).<sup>2</sup> This piece of legislation intended to “improve criminal justice and community-based responses to domestic violence, dating violence, sexual assault and stalking” for all women in the United States, regardless of their nationality, immigration status, race/ethnicity, class, and religious, political and sexual orientation (National Task Force to End Sexual and Domestic Violence Against Women 2005, 1).

The Violence Against Women Act, or VAWA, is a landmark in the endeavor to end violence against women because it incorporates women’s rights struggles into federal bodies of law, protecting all survivors of gendered violence. VAWA has eleven titles, one of which deals specifically with immigrant issues and allows undocumented and documented immigrants who have suffered domestic violence or extreme cruelty, including emotional, mental and sexual abuse, to apply for Legal Permanent Residency and Citizenship status in the United States without the active sponsorship of their abusive spouses. In order to obtain these legal statuses, the applicant must prove that she (or he)

- i. was married with a United States Citizen, or a Legal Permanent Resident,<sup>3</sup>
- ii. was married in good faith,
- iii. have resided together as wife and husband,
- iv. was subject to domestic violence and/or extreme cruelty during the marriage in the United States, and
- v. is a person of good moral character.

If the immigrant was married with an undocumented immigrant, or was separated but not divorced from previous spouses, and she was a victim of domestic, sexual or

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<sup>2</sup> The Violence Against Women Act (VAWA) was first enacted in 1994, and was revised and reauthorized in 2000 and 2005.

<sup>3</sup> In certain states, like Alabama, Colorado, District of Columbia, Iowa, Kansas, Montana, Oklahoma, Rhode Island, South Carolina, Texas, and Utah, common law unions are recognized as marriages and therefore, for VAWA applicants in those states, a common law union may suffice. For more information on common law marriages refer to [http://www.expertlaw.com/library/family\\_law/common\\_law.html](http://www.expertlaw.com/library/family_law/common_law.html).

other types of crimes, such as false imprisonment or extortion, committed in the United States, she can apply for a U-Visa through the Victims of Trafficking and Violence Protection Act (VTVPA).<sup>4</sup> This visa offers battered undocumented immigrants temporary legal status, which implies deferred action on deportation procedures, for three years, and authorization to work in the United States for one year with the option to renew the permit twice. As opposed to VAWA applicants who are married to United States Citizens or Legal Permanent Residents, U-Visa petitioners must satisfactorily collaborate in the investigation or prosecution of the crime committed against them. To this day (March 2007), that is, after almost seven years of the enactment of VTVPA, U-Visa regulations have not been issued, which implies that U-Visa holders are in uncertain terrain. On the one hand, advocates may be able to lobby for regulations that benefit U-Visa holders, such as their eligibility to apply for Legal Permanent Residency and Citizenship status. On the other hand, advocates may fail in their pursuit and the regulations may be detrimental.

VAWA has been considered a critical tool for achieving justice for women immigrants -who are considered to be particularly vulnerable to violence because of their gender, race, ethnicity, socioeconomic, and legal status (Barnish 2004, End Abuse 2005). The application process is promising, but it is lengthy (it can take from two to more than eight years to become a Legal Permanent Resident), costly (application fees and costs of necessary documentation add up to approximately one thousand dollars) and complicated. Indeed, women's and human rights advocacy organizations strongly recommend the victims to be assisted by social workers and represented by lawyers in their application process before the United States Citizenship and Immigration Services – USCIS - (Family Violence Prevention Fund 2005).

These drawbacks have not prevented immigrant women from going through the process. On the contrary, the number of applications for legal status on the basis of

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<sup>4</sup> VTVPA was first enacted in 2000, and was reauthorized in 2003.

gendered violence has increased: while in 2002, USCIS received almost six thousand VAWA self-petitions, in 2005, this number increased to over eight thousand (National Network to End Violence Against Immigrant Women 2005).<sup>5</sup> Simultaneously, survivors' advocates have continued to struggle for changes in the laws: problems detected in the very first version of VAWA of 1994 were addressed in its reenactment in 2000, which was later improved in its third version of 2005.<sup>6</sup>

The implementation of immigration laws is a contentious, complex and ambivalent process. State actors, lawyers, activists, nonprofit organizations' members, and individuals claiming these rights struggle over the meanings and applications of these laws. These discrepancies have been a crucial aspect of processes of subject formation, which determine which individuals are worthy of bearing citizenship rights and who are not. My field research reveals the barriers to access citizenship related to both the formalities of gendered violence-based immigration laws, and the informal practices of nonprofit advocates assisting battered immigrants. This dissertation uncovers the achievements and limitations of overarching legislations and nonprofit human rights organizations, and portrays how systems of gender, class, and racial/ethnic inequalities are recreated by immigration officers, immigrants' advocates, immigrants, and their spouses.

## **RESEARCH QUESTIONS**

In my dissertation, I address three complementary layers of research questions:

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<sup>5</sup> Data presented at the National Network to End Violence Against Immigrant Women meeting (November 2005). According to Vermont Service Center's immigration officers, from 1990 to March 2005, approximately 38,000 VAWA applications were filed, 30,700 were approved, and 7,200 were denied. See the National Immigration Project website at <http://www.nationalimmigrationproject.org>.

<sup>6</sup> Needless to say, in their struggle to reenact and improve VAWA, advocates have found resistance as well. See for example, Roberts (2005), and Schuett (2004, 2005).

1. How are battered immigrants identified (interpellated) by the state as subjects worthy to become Legal Permanent Residents or Citizens of the United States? I study the ways in which gendered violence-based immigration laws create subjects of law and market subjects, and explore if these regulations, which are inherently hierarchical and normalizing, reflect gender, racial/ethnic and class systems of inequality.
2. In what ways are the attorneys, legal assistants and other advocates involved in the application process as mediators between the state and the immigrants? I investigate if they conform, resist and/or recreate immigration regulations, citizenship ideals, and the stratified structure of American society in their daily practices.
3. Are women immigrants fully constrained by immigration laws and institutions, and by nonprofit legal organizations, or do they have some capacity to shape, reinforce or contest these structural forces? I examine how some immigrants go through the citizenship application process successfully while others are denied access to legality.

## **RESEARCH METHODOLOGY**

### **Case Study: Organization for Legal Assistance (OLA)**

With the aim of exploring the complex dynamics beneath the implementation of gendered immigration laws, citizenship making and state building at the very local level, I undertook a two-year long in-depth study of the experiences of battered immigrants who were trying to obtain Legal Permanent Residency or Citizenship status through VAWA with the legal assistance of a nonprofit organization. In line with the idea that the study of extreme cases provides understanding of the processes of construction of

difference and normalcy, marginality and dominance (Durkheim 1966, 1995, Goffman 1961, Foucault 1965, 1978, 1979, Butler 1993, Sjoberg and Nett 1997), I collected primary data in OLA, Organization for Legal Assistance (a pseudonym). OLA offered low cost and free legal services for underprivileged (mostly undocumented) immigrants who not only had been victims of abuse, but were also located in the lowest socioeconomic status.

OLA provided an excellent source for a case study because of the type of services it offered, the population it served, its organizational history, and its staff's profile. At the time I developed my research, OLA was the only organization in Central Texas that provided free and low cost legal services to underserved immigrants, defined as individuals with earnings below 125% of the officially defined poverty line,<sup>7</sup> and at the same time, was the only organization providing these services to indigent populations that was not religiously affiliated; a characteristic that permitted the analysis of morality issues in secular settings. Four of their legal programs were devoted to immigrant survivors of abuse:

- a) domestic and sexual abuse of spouses and children of Legal Permanent Residents and/or Citizens of the United States, who could apply for Legal Permanent Residency through VAWA;
- b) domestic, sexual or other types of abuse, such as false imprisonment or extortion, of spouses, children or parents of undocumented family members who committed the crime in the United States, who could apply for a U-Visa through VTVPA;

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<sup>7</sup> As defined by USCIS, the 2006 125% Poverty Line for continental United States is of \$16,500 yearly income for a household of two. Accessed at the United States Citizenship and Immigration Services (USCIS) website at <http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=6a096c854523d010VgnVCM10000048f3d6a1RCRD&vgnnextchannel=4f719c7755cb9010VgnVCM10000045f3d6a1RCRD>.

- c) severe forms of trafficking of persons, such as sex workers trafficking and forced labor, within or to the United States, who could apply for a T-Visa through VTPA, and
- d) asylum seekers, who could apply for residency status and avoid deportation on the basis of a well-founded fear of returning to their homeland due to the risk of being victims of abuse, violence or persecution based on race, religion, nationality, political opinion or membership of a particular social group (including gender and sexual orientation).

OLA was a very active organization. According to their records, up to January 2007, OLA had 230 VAWA cases, 398 U-Visa cases, and 20 T-Visa cases open/active. Simultaneously, OLA's location in Texas, one of the states with the largest number of documented and undocumented immigrants in the United States,<sup>8</sup> and the largest proportion of incidents of domestic and other types of violence,<sup>9</sup> made of the organization a good selection for a case study. Regarding OLA's clients, an overwhelming majority was from Central America and Mexico; but OLA served immigrants from all over the world, with the ideal of non-discriminating clients on the basis of their national origin. OLA presented itself as a culturally sensitive organization that provided services to all immigrants, regardless of their ethnic, religious or political background, in their language of origin. In this way, OLA represented an interesting case to explore the workings of culturally sensitive organizations, which have been both celebrated as safe havens for immigrants (Menjívar and Salcido 2002) and questioned as colonial and patriarchal

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<sup>8</sup> According to immigration statistics of the United States Department of Homeland Security, after California, New York, and Florida, Texas is the main recipient of both documented and undocumented immigration. See the Yearbook of Immigration Statistics 2003 (to this date, the most recent version available) <http://uscis.gov/graphics/shared/statistics/yearbook/YrBk03Im.htm>.

<sup>9</sup> The private and criminal nature of domestic violence prevented me to find consistent national and state statistics. However, the following suggest the high level of violence in Texas: while there were 588,490 victims of nonfatal violence committed by an intimate partner in the United States, there were an estimated 183,440 incidents of family violence in Texas, as presented by the Texas Council of Family Violence, in 2001 (website accessed in May 2005, [http://www.tcfv.org/know\\_the\\_facts.htm](http://www.tcfv.org/know_the_facts.htm)).



(Mindry 2001; Ong 2003; Menon and Bhasin 1998; and Rudrappa 2004). Moreover, the national origin of the clients provided my research with singular information about transnational flows of migration in the Americas, the ways in which people comprehend their migration experiences to the United States, and their decisions to apply for legal status with the intention of becoming citizens of this country.

Its history also presented interesting characteristics: OLA developed from a politically radical, volunteer-based grassroots legal organization into a politically moderate employee-based legal nonprofit. While this kind of bureaucratization process had been noted in similar organizations in the United States (Fox Piven and Cloward 1977, Abel and Nelson 1990, Perlmutter 1994), OLA's current workings allowed for the analysis of the ways in which these organizations pursue their goal of providing justice by serving underprivileged populations. Valerie (a pseudonym) was the lawyer who began the organization that was later named OLA in 1987. It grew from two other organizations in Texas which were providing social assistance to Central American refugees who had fled their home countries at war, where they had been abused and persecuted. Valerie was associated with the National Lawyers Guild, whose mission was to advance human rights over property interests. This was also where she recruited other volunteer lawyers to work in this initiative. OLA's original mission was to provide legal assistance free of cost to Central American immigrants in Texas, who had been arrested in very poor conditions in the United States, and had been put in deportation procedures. While these immigrants were deportable according to immigration laws, international conventions that applied to the United States permitted them to request asylum on the basis of reasonable fear of persecution based on race, religion, nationality, political opinion, or membership with a particular social group in their home countries. OLA's lawyers were committed to advance immigration laws within a human rights frame, as Valerie expressed, "We were playing by the rules, but we were playing very differently; we wanted to make sure that immigration laws were serving a good purpose, so instead of

accepting courts' decisions without logical arguing, we fought for the meaning of every single word of the law. Central American immigrants in the eighties were fleeing persecution and war - a war that had been financed by the United States government - and had been arrested in horrible conditions in places like *El Corralón* (the large corral) in Texas, where human rights were not respected. We were convinced that these immigrants deserved to be treated fairly; jail and deportation were not the solution. We were working for a grand cause, ideological and politically, within the broader Sanctuary movement and other non-violent leftist organizations which believed in the supremacy of human rights over any other rights" (interview, Central Texas, July 13, 2006).

From its very beginning, OLA's volunteer lawyers were flooded with cases, which certified the need of free legal services for asylum seekers and other destitute immigrants. OLA's volunteers were working out of their own houses and would meet to review cases and make organizational decisions at local restaurants. In 1989, OLA formally became a nonprofit organization which allowed it to obtain the National Sanctuary Defense Fund grant and the Interest on Lawyers Trust Accounts (IOLTA) grant. These grants paid for a full-time director and a full-time attorney, but as the organization grew, it continued to run as a volunteer-based organization (for instance, Valerie always worked as a volunteer lawyer). OLA's founding lawyers were eventually able to rent an office, and as the laws and socio-political context changed in the nineties, they began to offer other legal services to underprivileged populations like representation for battered immigrants under VAWA. In order to survive institutionally, OLA continued to apply for grants, despite increasing competition as similar organizations gained legitimacy by the state in the mid and late nineties.

With the development and growth of the organization, its volunteer members and staff diversified. This diversification brought political conflicts and ideological differences in terms of institutional management. The director of OLA, an immigrant herself, who worked there for twelve years, and the founding lawyers of OLA left the

organization in the early 2000s as it grew away from its original radical character and mission. A new executive director, who had a nonprofit management background, was hired, and OLA moved to a larger office. By the mid 2000s, OLA numbered ten employees, including three full-time attorneys. While OLA continued to rely on volunteers to take care of certain tasks, like translations, it had gradually become an employee-based organization. The staff was unionized and OLA's political activism was formally framed within certain limitations. While OLA staff was identified with the mission of providing justice for immigrants, my participant observation and interviews reflected the workers' political moderation. When asked to describe their jobs, 1990s' and early 2000s employees tended to emphasize the political rather than the bureaucratic aspects of their jobs, while mid 2000s' employees tended to do the contrary. For example, Carlos was originally a Salvadorian asylum client of OLA in 1991, who later worked as a volunteer at the organization as a means of gratitude. Eventually, he became a paid employee. Carlos believed that working at OLA was a great way to "help his own" (interview, Central Texas, July 24, 2006). Carlos worked as the receptionist of the organization and also did in-takes for family-based applications; he was "committed to the immigrants' cause," that is, "to the humanist reason to help immigrants, whether by offering them legal assistance or, if that were not possible, other kind of help. To struggle to help those who come to the United States in search of a better future" (interview, Central Texas, July 24, 2006). Marina had migrated from Mexico to the United States when she was a child with her parents who were farm workers. She became interested in working at OLA because while she was taking a course about Central America in college, a volunteer from OLA gave a guest lecture about immigrants from this region and the organization's goal to provide them with free legal assistance and justice. Marina thought that it was a great mission and decided to get involved with the organization in order to be able to help the immigrant community. She was "OLA's volunteers' coordinator and also did outreach activities to the community, other

immigrants' advocates, and law enforcement officers to educate about legal remedies for immigrants and services provided by OLA" (interview, Central Texas, July 26, 2006). Conversely, Jenna, Maggie, Courtney, Cathy and John emphasized the administrative aspects of their jobs. Jenna described herself as "a legal case worker working with, assisting, immigrants in filing petitions with immigration" and claimed that her job was "to abide to what immigration is requiring of us and the clients in order to help them obtain the benefits they are allowed to" (interview, Central Texas, July 12, 2006). Jenna was the daughter of two Philippine immigrants, had gotten a college degree in Sociology, and before being employed at OLA, had worked as a volunteer at a shelter for immigrants, and as a social worker at a shelter for battered women. She clarified to me that having immigrant parents was a reason, but not the main reason, why she became interested in working with immigrants. Her curiosity grew from her experience as a foreign student in Mexico, where she had a host brother who suggested her that he was going to try to cross the border and stay in the United States. Maggie said that she was "part social worker, part office worker, and part advocate," and that sometimes, she thought of her role "as a circus ring leader saying 'OK, now, jump through this loop, then, jump through this one...', or like a chauffeur driving immigrants through this road to legality" (interview, Central Texas, May 5, 2006). Maggie, a grand-daughter of German immigrants, applied for the legal assistant position at OLA because she was attracted by its mission and had tremendous respect for the organization, where some of her friends had worked, and was very excited to be able to apply her academic knowledge since she had a college degree in Latin American Studies and had learned Spanish in Bolivia as a foreign student. Maggie worked at OLA for two years, after which she left to join Amigos de las Américas. Similarly, Courtney applied for a position at OLA because she had a friend who did this kind of work, which she had found interesting, and because she wanted to make use of her Spanish and International Studies college degree. She also thought that working as a legal assistant would help her if she decided to apply

to Law School in the future. Courtney specialized in VTVPA clients, and her job was “to assist immigrants who are victims of crime to apply for legal status in the United States” (interview, Central Texas, July 25, 2006). Cathy was “a lawyer, but that because it was immigration work, she did a lot of filing immigration forms, and figuring out people’s past immigration history” (interview, Central Texas, June 30, 2006). As the lawyer, she supervised the legal assistants and accredited representatives at OLA by reviewing their cases and doing legal research if it were necessary. Cathy was an immigrant herself, born in Korea, who had gone through the naturalization process when she was eighteen years old. Her immigration status had deeply affected the way she developed and how she saw herself in comparison to other people: “I was always very conscious of what other people think of me, how do I sound like, what I do for a living, and all of those things, especially because I grew up in a very white community, and every time I interacted and explained what I did, that I was a citizen, it impacted my life very much” (interview, Central Texas, June 30, 2006). Cathy knew that she wanted to work on domestic violence issues since she was in college and when she entered Law School, she decided to specialize on immigration matters and to work at a nonprofit organization. John, OLA’s executive director, described that his job was “to oversee the staff, work with the Board to make sure that the organization is sound financially, is raising the money, getting the grants, serving the clients, doing the things that our mission says that we are supposed to do, and really what OLA is all about is promoting justice to immigrants” (interview, Central Texas, July 12, 2006). John became part of OLA because “I really was wanting to move to Austin and was applying for jobs, I come from a nonprofit management background, so when I saw the add for OLA, and thought, I don’t know a whole lot about immigration and absolutely nothing about law, but I’ll send my resume and see...and they called me. The board member I talked with was so enthusiastic that I started researching what was going on with immigration and immigration law and was absolutely appalled, and thought, Oh, my God, something has to be done about this, and now I thought, I not only

want this job because I want to move to Austin but I want this job because I want this job!” (interview, Central Texas, July 12, 2006).

Mid 2000s’ OLA was focused on achieving excellence as a legal nonprofit organization. As the population it served expanded beyond Central America, OLA created new programs to represent immigrant survivors of a variety of abuses, such as trafficking and domestic violence. Moreover, it also offered low-cost services for immigrants who were filing for family-based visa petitions, adjustment of status, and United States citizenship. In its website, OLA described its mission and services: to offer safety and hope for a new life to hundreds of immigrants, refugees and asylum seekers, by empowering them to advocate for themselves and their families, and keeping them informed about their rights and responsibilities, and by educating law enforcement, the legal community, and other advocates on how to use social and legal resources to uphold the law in Central Texas. During the two years that I spent as a volunteer and researcher at OLA, the organization worked on changing its public appearance. They changed their logo, website and fund-raising tactics. Their original logo, which consisted of a bird of peace with the motto “No Human Being is Illegal” in black and white, changed to colorful icon that read OLA, Organization for Legal Assistance. Their website reflected these color changes and was redesigned with the aim of making it look “more professional,” as expressed in a staff meeting with the graphic designers. The fund-raising activities were also altered: from plant-sales and pot-lucks at the volunteer attorney’s backyards, and *peñas* at affordable local Hispanic restaurants, to dinners at museums and five stars hotels that cost over seventy dollars per participant.

Overall, and drawing on Feagin, Orum and Sjoberg (1991), some of the advantages of developing a case study about the issue of gendered laws and the construction of citizenship were, first, that I was be able to record the actual experiences of underprivileged abused immigrants going through the process of obtaining legal protections in real time and space, as opposed to a post-facto survey, or other natural

sciences-inspired methodologies, which may have revealed certain aspects of social processes, but not their complex dynamics in natural settings. Second, I was able to see “human beings up close, get a sense of what drives them, and develop claims of how their personal as well as collective lives have been created” by uncovering the articulations of broader social forces, such as cultural parameters and legal structures, in the minute experiences of these immigrants (Feagin et al 1991, 11). Third, I was able to add a sense of historicity to abstract notions of immigration, violence and citizenship by observing these social phenomena as they developed and changed in time and space as individuals embodied and materialized them. Finally, I was able to contribute to the creation of new understandings about the implementation of gendered laws, and the construction of citizenship at the national and local level by engaging in existing theoretical debates on the basis of novel, in-depth and direct observations about the embodiment of these social phenomena in practice.

In order to collect data towards the answering of my research questions, I resorted to four research methods: archival research, participant observation, unstructured personal interviews, and analysis of secondary sources, all described below.

### **Archival Research**

The incorporation of women’s rights into bodies of legislation at the federal, state and local level called for the archival research and analysis of the text of laws, bills and acts (and the debates around them) related to women’s rights, and of immigration procedures and regulations (which set legal parameters of citizenship making). The collection of this data was library and web based; these laws being available as public records in the Library of Congress’ Thomas Legislative Information on the Internet, the Jamail Center for Legal Research Tarlton Law Library at the University of Texas School of Law, international organizations websites (such as the United Nations, and the

Organization of American States), and non-governmental women's rights organizations websites (such as the Women's Human Rights Net, the Association of Women's Rights in Development, Amnesty International, Human Rights Watch, and Equipo Nizkor).

Moreover, I researched websites of organizations working for or against these issues in order to understand the ways in which related knowledge is built and shared. I looked into their brochures, informative manuals, advocacy tool kits, publications and other materials, which in general were part of their outreach strategies to inform people about gendered legislation and the struggles for and against it. Such archival data helped me explore the (formal) framework (i.e. legal parameters, profiles, requirements, uses of language, references, tactics, and strategies) from which the processes of state and nonprofits' interpellation of immigrants occurred.

### **Participant Observation**

Once women's rights have been incorporated as nationally binding laws, legal organizations put them at work for people that may be entitled to those rights. How are these laws articulated and embodied at the very local level? How do social and legal workers make use of the formal regulations, frame their assistance for the immigrant applicants, and mediate between them and the state? How do immigrants interact with the organization's staff, raise their demands, present themselves, and respond to the processes of state and nonprofits' interpellation by (re)creating their subjectivity? Are racial/ethnic, gender, class, and other social parameters entering into play in the interactions between clients and advocates? If so, how?

In order to address this more informal, yet crucial, aspect of my research, I did participant observation at the nonprofit organization OLA by working as volunteer staff. My work consisted of helping with administrative and other on-demand tasks related to their programs of assistance to immigrant victims of domestic violence. Specifically, the



activities included assisting OLA's legal assistants and attorneys in filing cases, completion of immigration forms, in-take of clients on the phone and in person, preparation of affidavits of clients (that is, their personal declaration of their experiences as abused immigrants), and the translation from Spanish to English of affidavits and supporting documentation related to the cases. My direct participation in these activities allowed me to gather data about the ways in which immigrants presented themselves, talked and wrote about their experiences of abuse, expressed their demands and concerns about going through the application for legal status, showed their feelings, fears, frustrations and hopes, made sense of their situations, and reacted to the formal requirements of the application process.

Furthermore, my participation also let me observe the legal assistants, attorneys and other OLA staff in their interactions with the immigrants (or clients, as they were called in the organization); such as the ways in which OLA staff expressed themselves, the oral and body language they used with the clients and with their co-workers, their reactions to the stories of abuse, and their attitudes in front of law enforcement officers and immigration authorities. I also participated in meetings related to immigration and women's rights issues to which OLA staff was invited on a regular basis (such as legal advocacy and violence against women meetings), which let me gather first source data on the ways in which legal and social workers organize their activities and modify their services on the basis of changes in legislation and one another's working experiences (for example, in their discussions about successful or complex cases, or their conversations about lobbying activities). I recorded my participant observation in field notes, which I wrote after my working hours. In every occasion, I was explicit about my involvement with OLA and my ongoing research as a graduate student at the Sociology Department in the University of Texas at Austin.

## **Unstructured interviews**

With the aim of complementing my data collection, I performed personal interviews with the attorneys, legal assistants and other OLA staff. By carrying on these personal interviews, I gathered primary data on the ways in which nonprofit workers comprehended (made sense of, rationalized, felt about), and embodied (performed, implemented, applied) gendered immigration and citizenship norms, rules and regulations. I also addressed the manner in which they conceived themselves in their double-role as subjects of law in front of the state, and as officers of law in front of the immigrant applicants. What were their thoughts, perceptions, justifications, doubts, and feelings about their tasks and skills, their commitments towards the state, their responsibilities towards the general public, the immigrants, the citizens, and the clients? How did they see themselves in their interactions with others? What did they like to change about gendered immigration and citizenship laws? While I had these issues in mind when I did my interviews, I did not follow a rigid form, but instead I adopted a more informal frame of dialogue with the interviewees, which let me “emphasize the informant’s world of meaning and utilize the informant’s categories of understanding” rather than my own (Sjoberg and Nett 1997, 211). In this way, both the participant observation and the unstructured interviews let me reduce the hierarchical filters of data gathering (and I say reduce because there are always filters and interpretation dynamics at play during research or any other human interaction), as I intended not to purposely frame the subjects’ thoughts, views, feelings and experiences as they emerge and develop (Menon and Bhasin 1998).

In my dissertation, I aimed for the inclusion of the voices, thoughts, perspectives, and experiences of the individuals and groups studied, who were the main subjects of the research, by incorporating extensive sections of my field notes and quotes from interviews. I prioritized qualitative research methods as techniques of building

knowledge “from below,” that is, to contest top-down, colonialist, patriarchal, positivist, universal or official accounts, each of which are “only one of many” (Menon and Bhasin 1998, 8). The inclusion of the voices, experiences and perspectives of the individuals being studied was crucial because “without them, the myriad individual and collective histories that simultaneously run parallel to official accounts of historic events and are their sequel, almost inevitably get submerged” (Menon and Bhasin 1998, 8), and become invisible (Battacharyya 1998).

There have been several debates regarding the ways in which the subjects’ voices are included. Some post-colonial feminist theorists, such as Mahmood (2001) and Abusharaf (2001), have pointed out that the mere inclusion of these voices is not enough and does not automatically provoke a change in the understanding of otherness. Contrarily, these perspectives that seemingly respect difference may still be dominating and colonizing. It is not only about including, but how to include; it is not only about voicing, but also about listening: the question “may not be whether the subaltern can speak so much as whether she can be heard to be speaking in a given set of materials and what, indeed, has been made of [their] voice by colonial and postcolonial historiography,” and other scholarly literature (Mani 1998, 190).

Menon and Bhasin (1998) proposed a feminist/gendered approach that preserved women and other previously excluded populations as subjects (as opposed to objects) of the study. In their book, they presented the subjects’ stories in their own words and at some length, in order not to invade or colonize their voices. They also left space for the reader to provide their own interpretation and analysis of the testimonies, without forcing the researcher’s analysis as the most important aspect of the study.<sup>10</sup> In this line, Rudrappa (2004) also emphasized the importance of including not only the subjects’ voices, but also the researcher’s field notes as part of the final text; in her words, “I

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<sup>10</sup> This approach is common to other authors, such as Abusharaf (2001) and Ciollaro (1999), who aimed at the inclusion of unheard and marginalized populations into the research in their own voices, and prioritized their narratives and testimonies over their own perspectives.

reproduce large chunks of my field notes not just to indicate the untidy ways by which ethnographies get produced, but more crucially, I want you as the reader to analyze the various actors' –including mine- reactions and make this reading your own" (Rudrappa 2004, 30).

## **Secondary Sources**

In order to make sense of my data, and especially, to put my research in dialogue with existing knowledge, I researched secondary sources related with women's rights, citizenship, immigration, racial/ethnic, gender and class systems, discrimination, and subjectivation, among others, which I included across my analysis. While the theoretical framework informing my dissertation led me in the research, I kept an open attitude towards searching and finding other secondary sources that contributed to the analysis of the data I found throughout my field work as it brought surprises and raised new queries. My field research also elicited several issues related to access, accuracy, ethics and politics, which I attend to below.

## **ACCESS TO THE FIELD AND SUBJECTS OF RESEARCH**

### **Access**

One of the main methodological issues to confront was getting access to the field and subjects of research. Fortunately, I did not encounter blatant resistance on the part of the organization, its staff or the immigrants, and I was able to build rapport and pursue my research interests as I contributed to the workings of the organization by providing

services to the immigrants. Below, I explain the way I approached the organization and how I got access to both the field and the subjects of research.

The first time I heard about OLA was through a friend of mine who was doing some translations for an asylum case of a Colombian woman who had fled her homeland because a paramilitary group took over the rural area where she used to live by burning down houses and crops. My friend was saddened by the story of this woman, but she was also happy to be involved in the process of helping her out of illegality by translating her story from Spanish to English. OLA was providing legal representation for free with the participation of pro-bono lawyers and many other workers who were all volunteering their time by helping with different aspects of the asylum application process, from filing forms and translating documents, to providing other financial and psychological support for the asylum seeker. My friend was working from home because OLA did not have enough office space or resources to host her as a volunteer worker. I remember asking her why she was doing this work; “For justice,” she replied, and then she continued by saying, “You can’t imagine the situations this woman went through and how difficult it will be for her to gain asylum status.” She explained to me that the laws required her to provide an address and proof of residence, when back in her home, which was extremely remote: she did not even have an address or any documentation proving it. We used to have long conversations about this woman, Colombia, asylum laws, and her work at OLA, and soon I began to develop my interest in these issues.

Months later, and with the main ideas of my research program developed, I looked into OLA’s website to see what services and work opportunities they provided. Their home page read: “No Human Being is Illegal,” and in light and dark blues, their legal programs were described: education and representation of detained immigrants, family based immigration and citizenship services, representation of immigrant survivors of abuse, asylum seekers program, and the special immigration relief project. With the exception of the family based program, all the rest of the services were provided free of

charge for the poor. Their website also read that OLA had outreach programs to educate the community about immigrant rights, and that they were seeking volunteers. My preliminary observation of OLA's services promised it to be a good site for my field research, so I contacted the volunteer coordinator and expressed my interest in volunteering and doing research for my dissertation. I waited for a couple of days for a response, but I did not hear back from them. I tried again, and this time, I received a phone call to arrange a meeting. I accepted and asked for their address; when the volunteer coordinator, Marina, told me where their office was, I realized they had moved. Marina explained that they had recently moved to this new office because they needed more space as the organization had grown in the last couple of years. We both said goodbye and looked forward to our meeting. In the field notes below I describe my first visit to OLA:

It was early February, and with a mix of happiness and nervousness, I went to OLA's offices. As I stepped in the office, a man at the reception asked me if I needed any help. I told him that I was a volunteer and that I had an appointment with Marina. He told me to sit in the waiting area until Marina came; he also asked for my name and as soon as I said "Roberta Villalón" with my Hispanic accent, he switched to Spanish. He introduced himself, "Soy Carlos, mucho gusto." I sat down, and Carlos continued to take care of other people who were coming into the office. He would make them move along to his office, which was located by the waiting area, and with the door open, he would ask them what they needed. The waiting room had five or six chairs, and it was illuminated with a white fluorescent long light bulb. In the wall by the reception office, there was a cork panel with pinned information for immigrants: where to file income taxes for free, how to get to the community free

health center, a map of the Texas Bureau of Vital Statistics where to acquire birth, marriage, divorce, and death certificates, a poster from a shelter for battered women reading “There is Never an Excuse for Domestic Violence” with a pad of detachable square sheets wherein one could find the phone number of the National Domestic Violence Hotline, and a yellow sheet announcing English as a Second Language free weekly classes. On the wall of the entrance door, there was a framed front page of a local newspaper with a golden seal that read “Best Free Legal Services,” and in the wall surrounding the waiting room, there was another framed black and white photograph of a woman with a shawl on her head with a sad and lost gaze. At the end of the row of chairs, there was a small coffee table with some informative fliers about OLA, and right under the table, there was a wooden colored toy horse ready to be ridden by children. The waiting room led to a hallway with offices, some of which were closed and had a sign that read “Do Not Disturb. Appointment in Progress.” After five minutes or so, a woman of average height, dressed in kakis pants, a buttoned stripped shirt, and leather tennis shoes, came towards the reception and called my name. We introduced ourselves, and after shaking hands, she walked me to her office, which was at the end of the row of offices and right in front of the kitchen area. Marina shut the door and began to talk about OLA and its volunteer system. She explained to me that I would have to sign a contract, which basically clarified that volunteers must keep the clients and organization’s confidentiality, and that of course, none of the work would be remunerated. I expressed my agreement and began talking about my research intentions. Marina told me that my intentions were clear and welcomed, and then, she asked me if I needed to interview the staff. I told her that I would like to, but that the

interviews would not have to happen until the very end of the research and that I wouldn't disturb the regular proceedings of the office. Marina told me that she was going to bring my case up in the office's weekly meetings to check with her supervisor, and that then, she would let me know.

However, she told me that she thought that they were probably going to be willing to have me there. Then, she said that it was going to take a little bit of time for me to work directly with VAWA cases because at the time they needed volunteers for other areas, particularly for their special immigration relief project. I agreed to start volunteering in whatever fashion, and I told her that I was hopeful about future opportunities. I also expressed that I was happy to work for this organization; helping underprivileged immigrants coincided with my political beliefs.

A couple of days later, I received an email from Marina stating that OLA had agreed to have me as a volunteer and a researcher. I was very happy and soon I got ready to start my work at OLA; I told Marina I could be there on Tuesdays and we arranged to meet at ten in the morning. Then, I signed a contract with OLA, which stipulated norms of confidentiality and ethics. At the same time, I committed to be transparent about my research with both OLA members and the immigrant applicants with whom I was going to interact. (Field notes, March 3, mid 2000s.)

While I had been granted authorization by the organization to work and do my research, I prioritized the clients' will by presenting myself as volunteer staff at OLA, and as researcher at the University of Texas at Austin. If the clients did not want to be part of my research, I did not take their experiences as data for my project. Overall, the clients tended to have positive reactions and accepted to become part of my observations as long as I was explicit about my research and I reaffirmed that both OLA and myself



were committed to confidentiality in order to preserve their security. In regards to the interviews with OLA's staff, I kept the same commitment to confidentiality and respect of respondents. I set the interviews by presenting my research goals in advance and asking for their informed consent. OLA staff was willing to share their views and experiences with me, some of them in a more enthusiastic and spontaneous manner and some of them in a more reserved and structured fashion. The puzzle of access and trust was only solved in practice; respondents were more or less open or apprehensive according to their own experiences and positionality, and their perceptions and knowledge about my person and my work. While I did my best to provide an honest attitude and to be transparent about my research goals, the respondents had the last word about sharing their worlds with me.

## **Challenges**

My involvement in the organization posed some problems regarding my double role as researcher and worker. While I was performing OLA's job by respecting the agencies' rules and interests, I also had a critical understanding of the activities and processes that were taking place during my working days. In order to cope with tensions resulting from my double role, I maintained a transparent attitude with the members of the agency and the clients, and wrote down and elaborated my observations, thoughts and feelings in a journal on a regular basis. I also remained aware of how my personal characteristics could shape the ways in which the subjects in the field setting viewed me, and what kinds of access I could or could not get (Esterberg 2002). For example, how did my occupation, nationality, race/ethnicity, gender, age, and socioeconomic status, permeate in my relationship with both the immigrants and OLA staff? On the one hand, the immigrants tended to be comfortable with me because of my position as a volunteer and student, our similar status as (Hispanic) foreigners in the United States, our gender

and generally, my young age. Class differences were mostly manifested in two aspects: immigration status and education. My documented immigration status as a doctoral student and my ability to speak and write Spanish and English fluently differentiated me from the immigrants, who did not find discomfort in this gap as long as I was assisting them through their application process before OLA and USCIS. However, I would often be upset because of the inequalities resulting from their underprivileged positionality as opposed to mine or to OLA staff's. On the other hand, OLA staff tended to be comfortable around me and grateful for my volunteer work. They perceived me as similar in terms of class background, gender and age, and different in terms of my nationality and occupation. Some of them took me as a foreign focal reference with whom they could either clarify or discuss cultural differences; others maintained some distance as they recalled my double-role as a volunteer and researcher.

My position as an “outsider within” in the organization (Hill Collins 1986, 14) brought me advantages (such as the possibility of immersing myself in the agency) and disadvantages (such as the possibility of becoming too involved and consequently losing the capacity of having a critical view on the ongoing processes with which I was involved with). In retrospective, there were four main challenges in conducting the research. First, the transition from having an enthusiastic and idealist perspective on the organization to being frustrated with OLA staff as I realized of their unconscious role as gatekeepers and reproducers of inequality. The way in which I dealt with these changing feelings was to incorporate them into my field notes, think about them critically, and when appropriate, talk about them with OLA staff. How to handle my feelings was vital to the research process as they could affect my work as a volunteer, my relationship with OLA staff, my access to the organization, and my analysis. Second, the inclusion of data: even if I had obtained informed consent by the participating research subjects, there was information that I considered to be too private or compromising as to be quoted in my writing. If these data were crucial to the analysis, I referred to them indirectly without

exposing the subjects in an unnecessary manner. Two examples of this dilemma were the inclusion of very sensitive details about the violence that immigrants had been through, and of private commentaries that OLA staff made to me in confidence. My own ethical terms helped me to draw this fine line, which reflected my subjectivity and priorities as a researcher. Third, barriers to activist research: while my role as a volunteer made my research participatory, the extent of my activism was limited by OLA's reactions to my proposals. For example, my suggestions and work on childcare options, counseling opportunities, and outreach presentations were initially welcomed and later ignored or shattered. These contradictory reactions were frustrating and disturbing as I realized that my interest in improving OLA's services (with the aim of moderating unequal practices) did not coincide with OLA staff. This mismatch revealed a gap between the way in which the workers presented and performed their jobs and made me wonder if I was being too idealistic or demanding. Fourth, extension of research: as I went forward with my study, I was often tempted to expand the scope of analysis and activism, both of which I had to contain in order to fulfill the first steps of gathering data, complete my work as a volunteer, analyze and write this dissertation. In order to focus on the work at hand, I decided to reserve these thoughts for further research. Despite these four challenges, there was not a moment when I doubted of the richness of qualitative research methods and the potential benefits of participatory, activist research, which certainly, I will make use of in the future.

## **ACCURACY**

Case studies have been questioned about their reliability, especially when compared with quantitative studies, which are considered to be the easiest to test and repeat for corroboration. Instead of statistical formulae and numerical analyses, qualitative research presents detailed in-depth observations and analyses based on field

notes and interviews, which are carefully documented in journals with the purpose of sharing the sources and thinking processes beneath the case studies (Lofland and Lofland 1995, Emerson et al 1995). I kept detailed journals, and held periodic meetings with my dissertation chair in order to check on the advances of the field research and analysis. Ultimately, the process of testing the accuracy of my research is in the hands of the audience and the academic community, especially those familiar with my research issues, who may compare my findings and analysis with their own observations and/or experiences, contributing in such manner to the construction of knowledge over time and space. I believe that my commitment to honor ethical codes, theoretical and methodological procedures, and to be transparent about my thinking process and the original data is part of the process of creating reliable and valid research.

## **ETHICS AND POLITICS**

Throughout my research, I took into account several ethical considerations. First, in order to gain access and work in the organization as a volunteer that was both working and doing field research, I presented and explained the intentions and procedures of my research in general, and the research method of participant observation in particular, to the corresponding members of the local organization (i.e. the Volunteers' Coordinator and the Attorney in charge of the management of VAWA and VTVPA cases). I gave them the option to choose whether or not to remain anonymous or to be cited in my work. I also explained that their participation in the research was not going to cost anything or bring material benefits to them or me, except for contributing to the development of my dissertation project and the understanding of social phenomena in the long term. Moreover, I specified that the participant observation were not going to imply any physical potential risks, but that, in the case that something extraordinary happened, neither the University of Texas nor I were responsible to pay any kind of treatment for

injuries. Then, I made sure to obtain the organization's informed consent in a written version to keep in my records.

Second, regarding the respondents' rights, I told the clients that I was working as a volunteer staff in OLA, and that I was also a graduate student at the University of Texas at Austin doing research and field observations about the process which immigrants go through in order to get violence-based legal protections. The clients could choose to either collaborate or not in the study and were assured confidentiality and anonymity during and after the research (ASA 1999). If the client agreed to be part of my research, I took their experiences as data. In the case of legal assistants, attorneys and any other person whom I interviewed, I asked for their informed consent to participate as interviewees.

Third, regarding my responsibilities as a researcher, I committed to follow the code of ethics and to act with my best intentions not to harm or put anyone at risk. I was conscious that I was studying sensitive and controversial issues, and consequently I made sure that confidentiality, anonymity, privacy, transparency, consent, reliability and validity remain to be priority issues during and after my research. For this purpose, I made sure to keep the anonymity of the respondents as well as the organization, with the aim of avoiding any possible risks for them. I understand that I did research at the margins of legality in terms of immigration and citizenship laws, which may bring ethical dilemmas. I then was precautionary and conscious of my ethical commitments, I respected the respondents' confidentiality and trust in my person, and I took into consideration OLA's procedures and regulations at all times.

Alongside the ethical, I would like to address some political considerations that were related with the project, especially if one takes into account that the issues of immigration and domestic violence are highly contested and increasingly complex. In my research, I explored the question of who are the immigrants that in practice were able and willing to use the existing social and legal resources to get protection on the basis of abuse from the United States government, with the intention of understanding how social

phenomena like racial, ethnic, gender and class inequality influence the actual application of citizenship laws. My findings may well be controversial and as such generate resistance from certain groups, presumably from those resisting immigration, or even, from organizations holding universal claims about policy and inequality while disregarding differences based on class, race/ethnicity and gender. My intentions to present a solid research from below about the issue of citizenship making, and my ideological and theoretical perspective will permeate my research. The topic I chose, the type of questions I posed, and the methodology I employed, were all in accordance with post-colonial, feminist theoretical ideas, such as the understanding that the experiences of systems of power differ along the interlocking nature of class, race, ethnicity, gender and sexual, political, and ideological orientations, and that consequently, claims and notions of universality tend to be expressions of dominance as opposed to overarching representations of difference.<sup>11</sup>

Hence, I openly intended my research to be of relevance to the ones most disadvantaged by their condition as newcomers; to improve the understanding of the link between citizenship making and claiming, bodies of law, and survival at the edge of social structures and norms. Initially, I will offer to share my findings with OLA staff (besides giving OLA a copy of my dissertation, I will present a report with the main research findings and suggestions to address counterproductive practices). In a broader sense, I hope that my study informs policy, advocacy outreach programs, and other grassroots organizations working in these types of cases and populations, and reveals if the existing gendered violence-based immigration legislation has been able to honor its goal: to assist victimized immigrant populations by offering them legal protection in the form of deferred action, employment authorization, and Legal Permanent Residency and Citizenship status. In this way, I anticipate my research to generate both positive and negative reactions from groups engaged in this type of issues, to which I intend to

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<sup>11</sup> See for example, Hill Collins (1986).

respond constructively with the aim of furthering the understanding of such controversial, complex and current phenomena.

In short, along my investigation, I respected ethical and political considerations of research with human participants, specified in the “Policies and Procedures Manual of the University of Texas at Austin’s Institutional Review Board.” As a professional and a graduate student of the University of Texas at Austin, I respected the rights of the research subjects and did not act perniciously in any case. While I was aware of the existing debates about the limitations of pure ethics when carrying out ethnographic research - like issues of impression management in front of diverse informants at diverse settings, and degrees of coverage and secrecy about the goals pursued in the research (Fine 1993), I believe that my research was more fruitful and suggestive if I maintained a consciously overt, transparent and honest attitude throughout the entire process of accessing, collecting, analyzing the data, and writing my dissertation.

## **DISSERTATION OUTLINE**

In this introductory chapter, I presented background information about the options available for battered immigrants to become legal members of the United States, posed my research questions, provided information of my case study, and discussed my research methods.

In Chapter Two, I address the first layer of my research questions by looking into the state as the ultimate force interpellating immigrants as legitimate subjects of law or illegitimate individuals unworthy of citizenship status. I explore the ways in which gender, racial/ethnic and class systems have filtered the immigration system as a whole and how VAWA has mirrored its discriminatory characteristics.

In Chapter Three, I address the second layer of my research questions by focusing on OLA as a mediator between the state, grantor of legality, and the immigrants,

claimants of legality. I uncover how OLA staff worked as brokers of mainstream citizenship ideals and therefore informally reproduced systems of social inequality by disserving the most destitute immigrants.

In Chapter Four, I address the third layer of my research questions by analyzing the ways in which immigrants were able to traverse the path to legality successfully. I reveal the delicate balance of blending in the formal and informal interpellation and subjectivation processes held by the state and OLA respectively, and the stratified and stratifying nature of individual agency.

Finally, in Chapter Five, I provide my concluding remarks.



## **Chapter 2: State Interpellation: Gendered Violence Immigration Laws, and the Gated Access to Citizenship**

In this chapter, I deal with the first layer of my research questions. Initially, I address the theoretical debate on state sovereignty and immigration. Then, I bring in six cases of VAWA applicants to illustrate the legacies of gender, racial/ethnic, and class discrimination. Finally, I discuss the acceptance and reproduction of these discriminatory principles and practices by the enforcers of VAWA, that is, immigration officers and OLA staff.

### **STATE INTERPELLATION**

The first layer of my research questions, “How are battered immigrants identified (interpellated) by the state as subjects worthy to become Legal Permanent Residents or Citizens of the United States?” is related to the process of citizenship making by the state. Specifically, I explored how the state creates citizens on the basis of immigration laws, that is, the body of rules and regulations that draws a line defining the legal inclusion or exclusion of outsiders into American society. Gendered violence-based immigration laws, such as the Violence Against Women Act (VAWA), are a mechanism by which the state accepts or declines Legal Permanent Residency and Citizenship applications from immigrants on the basis of their traumatic experiences. The immigration application process represents a crucial moment in which individuals considered to be outsiders (immigrants) interact with the state through immigration officers and/or legal organizations. In this interaction, the state may either interpellate them as legitimate subjects of law by offering them Legal Permanent Residency and/or Citizenship status, or dismiss them as illegitimate subjects. The process of state interpellation of individuals in

order to assign them legitimate or illegitimate status as subjects of law or members of the country reinforces state's authority (Althusser 1971). As Weber (1947) points out, a sovereign state seeks to be the ultimate institution controlling the legal, bureaucratic and punishment devices over a determined territory and population; state's control over national membership reinforces its sovereignty.

Simultaneously, in creating subjects of law, the process of state interpellation reinforces hierarchical social orders, along racial/ethnic, gender, sexual and class lines. The state interpellation of individuals as subjects of law disciplines and normalizes behavior. According to Foucault, in order to understand how state sovereignty works, it is necessary to identify the "mechanisms of disciplinary coercion" by which the state maintains and recreates social order (Foucault 1980, 105). By means of disciplinary mechanisms, such as setting expectations of desirable social behaviors, and punishing subjects who do not follow the norms, the state intends to create citizens who will abide to law. Disciplined citizens are then aware of what is considered permissible and forbidden, desirable and undesirable, behavior in society, and behave according to such social norms. In this process of normalization, individuals sustain state sovereignty and legitimize the rule of law and behavioral ideals dictated by the state. The state's decision of rewarding or punishing citizens' behavior and of including or excluding immigrants as part of its polity strengthens its sovereign authority and reinforces the ideals of social order and citizenship behavior.

Still, what are the current ideals beneath the construction of American citizenship? Arguably, this question has been at the center of multidisciplinary scholarly debate since Tocqueville's (1853) seminal work on the unique character of the United States' democratic system. Three lines of inquiry have dominated this debate. First, the workings of overt and covert mechanisms of social exclusion on the basis of race/ethnicity, class and/or gender in the formation of citizenship ideals and policies (Shklar 1991, Katz 1993, Fraser and Gordon 1993). Second, the weight of ethnic-

succession beliefs in shaping the experiences, goals and behavior of immigrant minorities (Novak 1978, Milkman 1985, Sowell 1981). Third, the role that cultural difference has played among minority groups in assimilation and integration processes (Kandel and Massey 2002, Portes and Rumbaut 1996, Taylor 1994). In general, citizenship studies along these three lines have tended to work under the categories of race/ethnicity, culture, class and gender, which allowed for theorizations of migration, exclusion and citizenship processes, but also prevented the comprehension of these processes' complexities. As Ong suggests, now "what matters is to identify the various domains in which these preexisting racial, ethnic, gender and cultural forms are problematized, and become absorbed and recast by social technologies of government that define the modern subject" (Ong 2003, 6). Technologies of government are "the policies, programs, codes, and practices (unbounded by the concept of culture) that attempt to instill in citizen-subjects particular values (self-reliance, freedom, individualism, calculation, or flexibility) in a variety of domains" (Ong 2003, 6). In particular, the inclusion of gendered immigration laws may have added another dimension to the mechanisms of citizenship making, as these laws recognize violence, trauma and risk as legitimate reasons to offer citizenship status to individual victims, regardless of their preexisting social standing. However, in practice, these intentions are filtered by preexisting systems of stratification and embedded cultures of difference.

Tied to the creation of subjects of law, the process of state interpellation may create what I have called 'market subjects.' The immigrant's application for legal status as a victim of gendered violence through the Violence Against Women Act includes the request of an employment authorization, which allows the immigrant to work legally in the United States and can be renewed on a yearly basis. While an immigrant may wait for her/his Legal Permanent Residency for several years, the employment authorization only takes a couple of months to be processed. In this way, the creation of subjects of law begins by recognizing the immigrant as an individual worthy of working legally, that

is, immigration procedures first create economic subjects of law, and then political subjects of law. This order of things is not arbitrary, but coherent with the liberal Anglo-American citizenship ideals (and theory), which pose an “ineluctable connection established between freedom, the naturalism of market exchange, and individual rights” (Somers 1999, 153). Becoming a legal member of the United States polity begins with the possibility of participating legally in the labor market, which also means, the duty of collaborating with the taxation system (another instance of economic membership).<sup>12</sup> Years later, and only if the application process is successful, the applicant may be granted status as a permanent resident, and finally (and only if additional paperwork is filed and paid for) the applicant may be granted citizenship status, the only type of status that offers political rights (i.e. the rights to vote and to run for political office). This sequence of rights and duties reflects liberal and neoliberal conceptions of citizenship in economic terms, which insist on “the civic duty of individuals to reduce their burden on society and to build up their human capital” (Ong 2003, 14). The study of the process by which immigrant victims of abuse go through in order to become citizens of the United States reveals the actual ways in which state mechanisms of political and economic subject formation are embodied and recreated or defied by immigrants and legal providers themselves.

Chapkis’ analysis of the Victims of Trafficking and Violence Protection Act of 2000 (VTVPA),<sup>13</sup> which provides legal and social aid to victims of human trafficking, evokes interesting ideas about the citizenship debate. She argues that the positive aspects of this act (i.e. protection of survivors of modern-day slavery, such as sex trafficking, forced labor and debt-bondage) are counterbalanced by masked moral, “anti-prostitution,

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<sup>12</sup> Undocumented immigrants working in the United States may file income taxes forms, especially if the immigrants are married to a United States Citizen who files income taxes as married. However, the unlawful status of immigrants tends to correlate with unstable and off-the-books employment which does not require and even deters immigrants from filing income taxes.

<sup>13</sup> For details on the content of the current act, refer to <http://www.state.gov/documents/organization/28225.pdf>. For general information on human trafficking, visit the United States Department of Justice site at <http://www.usdoj.gov/trafficking.htm>.

anti-poor and anti-immigration” clauses, such as the distinction between voluntary and involuntary victims of trafficking, which mostly revolved around the cases of forced or consensual sex workers (Chapkis 2003, 924). While VTVPA intended to help victims of human rights abuses on a universal basis, it carefully listed conditions and characteristics to differentiate between victims deserving or non-deserving protection. Specifically, in the case of sex workers, the act differentiates between ‘good victims’ (forced sex workers) and ‘bad victims’ (voluntary sex workers). Chapkis concludes that the institutionalization of such distinctions “runs the risk of reinforcing barriers to help [victims of human rights abuses] rather than removing them” (Chapkis 2003, 935). Her observations, based on a close reading of the legislation, make me wonder about parallels between VTVPA and the Violence Against Women Act (VAWA): are these immigration laws setting privileges for certain individuals over others? If so, are these overt, covert, or unintended distinctions? What are the basis and consequences of these differentiations? How are these sustained? In what follows, I bring in the cases of six battered immigrants who were seeking legal status at OLA, Claudia, Ana, Angeles, Laura, Martha, and Susana,<sup>14</sup> to address these matters.

## **CLAUDIA AND THE LEGACIES OF GENDER DISCRIMINATION**

Claudia was a battered immigrant woman from Mexico. She came to her in-take appointment with her youngest son. Maggie, the legal assistant in charge, introduced herself and explained to Claudia that I was an intern and a student at the university learning how to conduct appointments. She asked her if she allowed me to stay during the appointment, and Claudia

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<sup>14</sup> For confidentiality and security reasons, the information about the cases is shared after receiving informed consent from the immigrants, OLA staff and any other subjects involved. In addition, it is based on my ethnographic field notes. All the names used in this dissertation are pseudonyms, and the dates are approximated on purpose.

did, sharing a smile with me. Then, Maggie explained that the appointment consisted in a long series of questions asked with the intention of defining if she would be eligible for some sort of legal remedy. Maggie began with the “easy questions:” name, address, nationality; but soon, she voiced a more uncomfortable question that interrupted the flow of the in-take: “When was the last time that you entered the United States? Where? How?” Claudia looked puzzled, and Maggie told her that it did not matter if she did not have documents when she entered, and clarified that all the information was confidential. Claudia smiled uncomfortably and answered, “El Paso, no visa, December 2001.” Then, Maggie asked if she had had any contact with an immigration officer, and Claudia replied that she did not, to which Maggie reacted with an enthusiastic “Excellent!” because if a battered immigrant had had contact with immigration officers and charges were put against her, the VAWA application process could be endangered (if the immigrants’ behavior in front of immigration officers was related to their histories of abuse, OLA would make the effort of pointing that out to immigration officers in order to get pardoned, but if their behavior was unrelated to their abuse, there was a big chance that USCIS would deny their applications on that basis).

Maggie moved on and asked her about her children: she told us that the little boy in the room was only one of them; she had seven more, three living in the United States, three living in Mexico, and one who had recently passed away. Then, she explained that one of her sons back home had a brain paralysis, and that she did not have any money to send to Mexico to help with his treatment. Saddened by Claudia’s son, Maggie continued to follow the questions in the in-take form, which led her to

specifics about Claudia's abuse. "Was the abuse physical, emotional, sexual?" "Are you married with the abuser?" "Have you lived together with the abuser?" "Do you have documentation to prove that you were living together?" "Is the abuser divorced?" "How many times have you and the abuser been married before?" While Maggie jotted down the answers and nodded, Claudia told us that she had been a victim of domestic violence since she was very young, and that one of her daughters had also been victimized when she was only four years old. Then, Maggie continued with twenty detailed questions about the abuse that Claudia had been through with her current partner. With her head down, Claudia gave plenty of positive answers: yes, she had been punched, cursed and screamed at; yes, her hair had been pulled; yes, she had been threatened with death; yes, she had been prevented from working; yes, she had been told that she was going to be reported to immigration and deported; yes, she had been threatened with separating her own children from her; yes, she had been cut with a sharp object; and yes, she had been prevented from having or spending any money.

Maggie pointed to the box of tissues that she had on her desk, but Claudia did not need them. Claudia's son silently heard questions and answers. Maggie continued with the questionnaire, and smiling, said "There are only two more pages to go." Claudia took a breath and continued to give her answers: no, she had never been arrested; no, she had never been to counseling or lived in a shelter for abused women; and no, she had never made a police report. Maggie paused. She looked into her desk drawer, and pulled out a yellow sheet. Smiling, she told Claudia that if her partner ever threatened her to take her children away, she should call 911. "The police?" Claudia asked. Maggie nodded and explained that it was

perfectly fine to call the police: “The police is not supposed to or allowed to ask immigration questions. They are here to help you, so if you are having trouble, you should call them.” Claudia’s face revealed uncertainty; she claimed that she feared deportation, and that she did not trust the police. Maggie insisted, and while she recognized that it seemed to be difficult to think about the police without fear, she clarified that local police had been very helpful with immigrant victims of domestic violence. Without trying to convince Claudia any further, Maggie pointed to another phone number in the yellow sheet: “If you feel unsafe, you can always go to a shelter for battered women. Our city’s shelter is very good, and it also offers counseling services for children and adults.” Claudia showed interest and said that she really wanted psychological help for her daughter who had been very sensitive to the violence.

Then, Maggie told her that unfortunately, OLA could not help her at that moment because she was not eligible for VAWA. However, she encouraged Claudia to get in touch with OLA once again if she got a police report about her partners’ abusive behavior. If she got a police report, she could be eligible for a U-Visa. Perceiving that the end of the appointment was coming, Claudia quickly asked if OLA could help her get a Texas ID, and Maggie told her that as an undocumented immigrant she could not get an ID, but that she could go to the Mexican Consulate. Disappointed, Claudia replied that she had already been there and could not get any help. Maggie said that was odd, asked Claudia if she had any further questions, and told her that she was proud of her because she had taken the most difficult step: to separate from her abuser. Claudia thanked her and left the office holding her son with one hand, and the yellow sheet with the other.



Claudia left without any certainty about her future immigration status, but only the probability of checking in with OLA once again if she dared to call the police next time her abuser harassed her again. Maggie saw my expression of astonishment, and told me that she also felt sad about Claudia's situation. Then, she explained to me that she knew from the very beginning of the hour and a half long in-take, that Claudia was not eligible for VAWA (because she was not married with the abuser and even if they had lived together for six months, they had not considered each other husband and wife - a requisite of Common Law Marriages in Texas), but, that she had continued with the in-take because she thought Claudia could be eligible for a U-Visa. "Unfortunately, immigrants are afraid of the police," Maggie claimed, and then revealed that she doubted that Claudia would ever report the abuse. Maggie concluded by saying, "Poor thing!" (Field notes, March 31, mid 2000s.)

Claudia's in-take appointment was one of the first experiences that I had while I was training to become an intern at OLA. I included my field notes not only because they show the unfortunate development of the appointment but also my astonishment with the denial of services to Claudia. Based on my naïve reading of VAWA, I thought that the abuse that Claudia had undergone while living with her abuser was enough reason to grant her access to legality. However, I soon learned about the formal barriers to justice embedded in VAWA.

VAWA is supposed to overcome the legacies of coverture. But, as long as it mirrors family-based immigration laws, it also mirrors the legacies of gender discrimination of the immigration system as a whole. The common law doctrine of coverture established that the husband had complete control and authority over his wife - "male citizens and resident aliens were given the right to control the immigration status

of their alien wives” (Calvo 1997, 381). Therefore, immigrant wives were only able to access immigration benefits if, and only if, their citizen or resident husband petitioned for them. Subsequent changes in immigration laws addressed the gender disparity derived from the coverture doctrine, but did not fully eliminate “the assumptions of coverture and the potential for spouse abuse underlying those policies and practices” (Abraham 2000, 51). In 1952, the Immigration and Nationality Act switched the words wife and husband to spouse, but kept the notion that the citizen or resident spouse had control over the foreign spouse’s immigration status. The changes in immigration laws of 1965, which replaced the promotion of immigration from certain racial or ethnic groups to one that was based on family relationships and the labor needs of the United States economy, did not alter the spousal petition principle. The 1986 measures to prevent marriage fraud furthered the control of the citizen or resident over the immigrant spouse by adding a temporary status for the immigrant spouse, dependent on further sponsorship of the citizen or resident after two-years of marriage. This reform had a negative impact for battered women, who had to stay in abusive relationships for at least two years in order to gain residency status. The Immigration Act of 1990 included substantial revisions, but maintained the family-based immigration system and the role of spouse-based immigration. However, this act included a provision in defense of battered spouses allowing them to try to obtain a waiver to cancel their conditions and become a permanent resident without the cooperation of the abusive spouse. These waivers were arbitrarily assigned, and the Violence Against Women Act of 1994 intended to address these difficulties on behalf of immigrant battered women. VAWA, which has been considered the most important legislation advancing battered immigrants’ rights, “diminished, but did not eliminate, the control of abusive citizen or resident spouses” (Calvo 1997, 383). Despite critical evaluations of VAWA, both of its reauthorizations in 2000 and 2005 did not overcome the legacies of coverture.

The fact that VAWA sits within the family-based immigration system makes one wonder if there is a way out of the patriarchal trap. Zaher (2002) explored the history of coverture and its remnants in the entire legal system of the United States. Consistently with Calvo's argument, Zaher pointed out that while there were structural and cultural changes which modified the original rigidity of the unity principle, "the social and legal consequences of the doctrine of coverture were pervasive and have carried over into the present" (Zaher 2002, 462). For instance, interspousal tort immunity, which means that wives do not have legal recourses against injuries caused by their husbands' negligence, continues to be "on the books on some jurisdictions" (Zaher 2002, 463). However, she believed that "the legal trappings and justifications for the discrimination are eroding" (Zaher 2003, 463). Weissman (2000) worked on the possible ways of escaping coverture in the case of immigrant communities. She believed in the power of law and social services agencies to shape the ways in which violence against women federal laws are incorporated into state laws, and to educate the community and specialized organizations in issues related to violence and immigrants. However, as my fieldwork revealed, the principles of coverture and everyday patriarchal conceptions of social order seem to be very pervasive not only in the culture of abusive spouses, but also in the culture of law enforcement and immigration officers, and of advocates of battered immigrants. While the struggle to end legacies of gender discrimination continues to be invaluable, the targets of the struggle are becoming less evident: unconscious gendered practices are more difficult to tackle than overtly discriminatory laws, and make the path towards change a more complex and lengthier one.

## **ANA, ANGELES, LAURA, AND MARTHA AND THE LEGACIES OF RACIAL/ETHNIC DISCRIMINATION**

Besides the legacies of gender inequality, VAWA reflects the legacies of racial/ethnic discrimination of the immigration system as a whole. Ana, Angeles, Laura and Martha's cases illustrate this point.

### **Ana**

Ana was originally from Mexico, and had migrated to the United States out of necessity without the proper documentation. Ana had gotten married to Pedro, also an undocumented Mexican immigrant, in Texas. Ana enjoyed her marriage for only a couple of months when Pedro began to be abusive towards her. Pedro cheated on Ana, held her hostage, hit, threatened and raped her. He lied to Ana and convinced her that she could not do anything about his behavior because she did not have documents. He told her that if she called the police both of them would be deported, and promised her that if they were sent back to Mexico, he was going to brutally punish her there. Ana had been isolated from her family and friends, and she was in a panic. Pedro forbade Ana to work at first, and later forced her to work while he kept her salary.

Ana tried to end the relationship several times but he never let her go. She became pregnant with Pedro's child from forced intercourse. He accused her of cheating and did not believe that the baby was his. His family convinced him to take care of the baby, but he did it very poorly. Pedro continued to hit Ana, pull her hair, and pull out her clothes to check if she

had been with other men. While Pedro was attacking her, the baby would cry loudly, which he would ignore. Pedro and Ana's son would then cry for hours.

A year later, Ana got pregnant again against her will. She was not happy; the lies, the violence, the lack of love, and the fact that Pedro had not been a good father. Even if he did not love her or the children, he wanted her to have several children, so she would stay home all the time; according to Ana, for Pedro, pregnancy and motherhood were the best way of controlling her. During the pregnancy he continued with his usual behavior; lies, screams, arguments, fights, alcohol. Ana's feeling of entrapment continued to grow because not only was Pedro violent towards her, but also his family deceived her as they protected Pedro.

Ana was very depressed. Soon, she began to lose her patience with everything, including her own children. She wanted to end her relationship, but she was terrified and confused. Her husband had threatened that he was going to take the children away from her if she tried to leave him and get a divorce. Ana believed that he would be able to do so, moreover, a friend of hers had told her that if she did not have a steady income and a house, Child Protective Services would make her leave her children with Pedro because he had a job and property. Ana did not know that she also had rights, regardless of her legal status; she never imagined that she would be able to keep her children legally or that she could modify her immigration status on the basis of her husband's abuse.

Eventually, Ana reached her limit and decided to leave Pedro and keep her children at whatever cost. She moved out and began to work. At first, Pedro left her alone. But, after several months, he became obsessed with her and began to stalk Ana. She found a lawyer and began divorce

procedures. When Pedro found out, he waited for her outside her apartment and upon her arrival, attacked her sexually. Ana got pregnant again.

She got the divorce and obtained custody and supervision of her children. However, Pedro did not stop harassing her and after a couple of months, raped her one more time. This last rape also resulted in an unwanted pregnancy. Ana made a police report which led her to find out about her immigration options. She got in touch with OLA and began to work on her immigration status. Ana did not want to go back to Mexico, because she knew that she was not going to be able to earn a decent living to cover all of her children's basic needs. Also, she knew that if she went back to Mexico, she would not be safe or protected from her ex-husband at all. Ana wanted to stay in the United States without fear of deportation and to work legally in order to be able to provide for her children, who were all American citizens and would have better life opportunities in this country than in Mexico. (Field notes, August 8, mid 2000s.)

## **Angeles**

Angeles, born in Mexico, had migrated to the United States to escape poverty. She had two sons who stayed in Mexico with her parents until Angeles was able to bring them with her. She began to work and was able to send money back home very soon after she had arrived to Texas. Angeles met Joe, a United States Citizen, and got married to him after several months of dating. At the beginning, he was very loving and caring, but only after three months of their marriage, he began to be abusive. Joe cheated on Angeles, and mistreated her verbally and

physically. Angeles thought that it was all her fault, and that she was a failure; she was very depressed. Joe began to drink heavily and got sick; Angeles felt sorry for him, took care of him, and forgave him. After several months, Joe began to abuse Angeles financially: first, he would sell their belongings and use the money for himself; later, he lost his job, did not try to find another one, and lived off Angeles' salary. Whenever Angeles confronted him, he reacted violently. He hit and cursed her, and also threatened to call immigration officers to have her deported. One day, Joe called Angeles' boss and asked him to fire her. Then, he forced her to stay in the apartment and forbid her to go out to look for another job. Joe and Angeles were living in very poor conditions, without food or phone. Angeles felt like "an imprisoned animal" and was desperate to get out of the situation because she had to send money to her family back in Mexico. She moved out of the apartment.

Angeles found a job at a nursing home a couple of weeks later. After a month of living and working there, she had not been paid. Her boss had forced her to use another name and would not allow her to use the phone. Angeles felt trapped and was very scared. Eventually, she convinced her boss that she had money saved at Joe's apartment and that she needed to get the money to send it to her family. Her boss gave her a ride. Joe received Angeles and made her come in; then, he beat and cursed her. Angeles did not know what to do; her two options were terrifying. Her boss got tired of waiting for her so she knocked at the door. Joe prevented Ana to talk to her boss. He answered the door, and demanded her boss to leave his wife alone. After she left, Joe forced Angeles to stay with him and threatened her to call immigration officers. She felt captive again.

Joe continued to abuse her physically, sexually and psychologically. He used to exploit the fact that she did not speak English, so he would curse at her in this language, which would make Angeles feel even worse because she could not understand all he was saying to her. Joe had forced Angeles to work with him cleaning nightclubs out of town. One night, at work, he was drunk, hit her very violently and left her alone without a ride.

Angeles used this opportunity to move out again; this time, she went to a friend's house. Joe found her, begged for forgiveness, claimed he loved her, and promised to quit drinking. Angeles forgave him and asked him to move back to Mexico with her to start anew. He accepted.

In Mexico, Angeles and Joe moved in with her parents and sons. They began to work in town and, initially, things were fine. However, Joe soon began to drink and behave aggressively again. He abused Angeles verbally and emotionally in front of her family, who asked him to leave. Joe resisted and mocked them all. He was physically violent against her and threatened to hurt her family. Angeles accepted his request to move out of her parents' house in order to protect her family, who did not understand why she wanted to stay together with him.

While Angeles and Joe were living on their own, the violence escalated. Her parents saw physical marks on Angeles and decided to go to the police to accuse him of battering her and also of possessing drugs. Joe was incarcerated for possession but not for domestic violence since Angeles had to be the one doing the report on that matter. Angeles bailed him out with the condition that he would move away. Joe left, but continued his relationship with Angeles. After a while, she thought that Joe had calmed down so she began to visit him. At first, Joe was affectionate, but after five visits, he was violent again: he threatened



Angeles with a shotgun and raped her. After the incident, she did not visit him again.

Several months later, Angeles returned to the United States. Joe found her and begged for her forgiveness and care. He told her that he was dying and that she was the only person he wanted to be with. Angeles believed that he had changed and gave him another chance. Joe began to do the immigration paperwork to change Angeles' status, but later on he used it as a controlling mechanism and retrieved her application.

Angeles stayed with Joe in the United States for a couple of years, enduring plenty of violent episodes, but enjoying few good moments, which gave her hope. Angeles had been working and sending money back to Mexico. Eventually, she was able to bring her sons and parents to the United States to live with her. Then, Joe became increasingly abusive with Angeles and threatened all of her family with calling immigration officers. Joe continued to drink heavily and became obsessed with the idea that Angeles was cheating on him. He would check her body and underwear, curse at her, and beat her. Angeles wanted to get rid of Joe, but did not know how. One day, Joe hit her very violently in the parking lot of the apartments where they were living. This time, Angeles managed to call the police and make a report. She had enough physical marks and witnesses for the police to trust her instead of her husband. Angeles had to go to the hospital to take care of the injuries.

After this event, Joe left Angeles and did not get in touch with her ever again. However, she continued to be scared of his return and depressed from all her traumatic experiences. Angeles' contact with the police allowed her to find out about her immigration options. She approached OLA and began to work on her VAWA application. She recognized that

she had been blind to Joe's mistreatments because she wanted to have a family for her sons, both of whom had been born out of unfortunate sexual attacks against her. Angeles wanted to obtain legal status for her family and herself in order to be able to stay in the United States without fear of deportation. She wished to provide better life opportunities for all of them, particularly for her sons, who would be able to pursue university studies and develop a decent professional and personal life in this country as opposed to their limited chances in Mexico. (Field notes, October 4, mid 2000s.)

## **Laura**

Laura was born in Mexico, where she met Carlos when she was 11 years old. They got married after eight years of dating. Laura and Carlos were living in very poor conditions, so one month after their marriage, Carlos migrated to the United States in order to provide for them. Eight months later, Carlos returned with some savings. Their living conditions improved, but very little. Soon after, Laura got pregnant. Carlos was not very excited about it as opposed to Laura, who was very happy. When Laura was three and a half months pregnant, Carlos hit her with his belt. They had to run to the hospital because she was in too much pain. They got there right in time; the doctor claimed that Laura and her baby could have died. Carlos was in shock, asked Laura to forgive him, and promised not to ever beat her again. Laura stayed with him. Their first son was born, but Carlos was not affectionate with him or her. Laura was hurt about his neglect and also confused because he would not allow her to use any birth control methods and didn't know why he

wanted her to have more children. Indeed, she got pregnant again. The birth of his second child did not change his attitude; he continued to be uncaring.

Carlos used to travel back and forth the United States in order to earn a living, but he would send back very little money. Laura and Carlos eventually had three more children. Carlos never changed his indifference towards them. Eventually, Laura began to doubt about his feelings. He used to spend more time away than at home, and Laura found out that he was cheating on her. When she confronted him, he violently refused to tell her the truth. Later on, he apologized and promised not to do it again. Carlos had obtained his Legal Permanent Residency and decided that Laura could move with him to the United States permanently. At first, they only brought their youngest daughter, but seven months later, they were able to bring the rest of their sons with them. Laura got pregnant again, and their seventh child was born in the United States. She thought that their lives in this country were going to be better, but Carlos' mistreatments continued. He would psychologically abuse Laura, and verbally and physically abuse their children. Carlos had taken up drinking and he would spend a lot of time partying with his friends. Laura was alone, isolated and very sad. She never thought of leaving Carlos. Four years later, Laura got pregnant one more time. Carlos was not excited and did not take care of her, their newborn or their other children. He would not pick them up from school, attend parents' meetings, play or go out with them. He would say that Laura was worthless and never recognized the value of her raising their children and taking care of their home. Laura did not know what to do about it; she deeply hoped things would change for the better.

Two years later, Laura got pregnant again. This time, Carlos did not show disinterest but anger. He claimed that he did not want another baby from her and that he was not going to be able to maintain them all. He told Laura that if she wanted to have that baby, she would have to go out to work to pay for the costs. He began to be particularly pejorative against her; he would yell at and humiliate her. Laura felt very bad and depressed. When she went to the clinic to check on her baby, the doctors found that her baby had died in her womb. Laura was very upset; the doctors asked if she had anybody to call to pick her up from the clinic, and she gave them Carlos' number. When he arrived, he took Laura home but did not show any emotions. Laura thought that he was happy that she had had a miscarriage.

After two weeks, Laura did not have the natural abortion the doctors had told her would occur. She wanted to go to the clinic again, but Carlos did not allow her because it was going to be too expensive. Instead, he wanted her to go back to Mexico in order to take care of her health. Laura did not want to leave the United States and her children because not only she was in extreme pain, but also she was scared not to be able to return. Carlos forced her to take the trip to Mexico. She stayed there for four months recuperating from the surgical procedure. She had stayed in touch with her children, but was eager to return, particularly when she found out that Carlos was spending the nights out of their home and was not taking care of their children at all.

Upon her arrival, Laura could tell that Carlos had changed. His mistreatments and neglect were the usual, but she perceived that there was something else going on. Three days after her return, Carlos left. He never told her where or why. Laura thought that he would eventually go

back to their home, but he did not. Laura was very depressed. She wanted to kill herself. She was left without money and without a job, and did not know how she was going to maintain all of her children. After Carlos' departure, the older sons dropped out of school, and the rest of the children began performing badly at school. They were all suffering the consequences of abuse, neglect and abandonment.

One day, Carlos called Laura and confessed that he was going to have a child with his mistress, which was the reason why he had left them. Laura felt that she was going crazy; she could not believe that he had chosen his mistress over her and their family. Laura had a nervous breakdown and one of her sons called an ambulance. Laura recuperated, but she fell into a severe depression. All of her children were very upset and begged her to be well and not to leave them alone. Sometimes, Carlos would call Laura and tell her that he would go visit their children. She would dress them up and they would wait anxiously for him. He would never show up. It was very disheartening, particularly for the younger ones.

Months later, Carlos told Laura that he regretted his deeds and that he wanted to start all over again. He made plans to move to another state. Laura and the children met him and went away all together. Carlos dropped them in a house where other men were living and promised to come back in a couple of hours. He did not return. Laura realized that Carlos had taken them there to distance them from him. After several days, Laura took courage and brought all her children back home. They were all very disturbed and grew less and less patient of Carlos' abuse. Two years passed since this incident when Carlos reappeared. He met Laura and convinced her to give him a ride back to his house because he had been drinking too much. Laura resisted, but finally agreed to drive

him. When they arrived to his home, Carlos locked the doors of the truck and raped her. Laura contracted a sexually transmitted disease from his attack.

After this episode, Laura never saw Carlos again. She got in touch with OLA as suggested by one of the doctors who treated her. She wanted her and all her children to stay in the United States legally, without fear of deportation. She wished they all could overcome their hurtful past. She wished her children could develop their personal and work lives successfully, and most importantly, that they could be happy. (Field notes, August 22, mid 2000s.)

## **Martha**

Martha was from Cameroon; she had come to the United States with a temporary visa as part of an international exchange program. Martha met Tom, a Legal Permanent Resident originally from Nigeria, soon after her arrival. When they began dating, Martha was very happy because she had been feeling very lonely in the United States. Tom would take care of and pamper her. He was very gentle and after six months, he asked her to marry him. Martha accepted because she was in love and, as a Christian, she did not like the idea of being romantically involved with a man without begin married. The first two months of their marriage were very good. Tom filed the immigration papers on Martha's behalf so she would be able to stay with him in the United States.

Soon after, Tom began to change his behavior. First, he cheated on Martha. When she found out, he told her that he did not love her any more. Then, he began to be verbally and financially abusive against her;

he would curse at her and use her debit card to buy things for other women. Martha was very sad about his aggression and asked him for a divorce. Tom's reaction was to threaten her with the retrieval of her immigration application, but Martha did not care about it and began with the divorce procedures. Martha separated from Tom, who began to stalk her at her workplace and at the apartment where she was living. He retrieved her application to become a Legal Permanent Resident in the United States. However, the day of the last hearing of their divorce, Tom begged Martha for forgiveness. He promised that he was going to change because he had given his life to Christ. Martha accepted his apologies, and they moved in back together.

Their reunion was positive. Tom treated Martha very well; he would give her gifts, take her out to eat and to the movies. He also resubmitted her immigration paperwork for her to be able to stay legally with him. Martha was very happy to see that he had changed for the better, especially after she found out that they were expecting a baby. Tom was caring during Martha's pregnancy; they were both very excited about it.

Seven months after their daughter was born, Tom started to change gradually. First, he would get annoyed with the baby. Then, he began to have issues with his ex-wife because she did not like the fact that their son was spending too much time with Martha, Tom and the baby girl in their apartment. Finally, Tom started to spend more time with his ex-wife and son in their house than with Martha and their daughter. Every time that Martha tried to talk with Tom about her feelings, he would ignore her completely. Martha felt that he did not care for their daughter or for her. Soon, Martha and Tom began to argue all the time. Tom would get very aggressive; he would scream, curse, throw, break and punch things. Their

daughter witnessed the violence, and cried inconsolably while she asked her father to stop. Martha realized that she could not put her daughter through all of this, so she tried her best to appease Tom. Martha also went to church and prayed for him to change. She was very depressed.

A friend of Martha perceived her sadness and after finding out about her problems, suggested that she go to a shelter for battered women. Initially, Martha resisted the idea because she thought that she had to have been a victim of physical abuse, and that her contact with the shelter would put Tom in jail. Martha's friend clarified that she should not have those fears, and convinced her to reach out. The shelter welcomed Martha and gave her the contact information of OLA for her to arrange her immigration status. Martha did not move into the shelter because she used to work during the night and she did not want to leave her daughter alone in the shelter while she was out at work. However, she called OLA and began her VAWA application.

Martha wanted to have legal status in the United States because she wished to stay with her daughter without fear of deportation. She wanted her daughter to grow in this country, as opposed to Cameroon, because of the greater life opportunities she could have if they stayed. Martha also wanted her daughter to be able to be around her father, who was going to stay in the United States. Martha had decided to move on with her life; while she applied for VAWA, she began divorce procedures, and started to save money in order to move to an apartment with her daughter where they could live in a safe environment. (Field notes, September 13, mid 2000s.)



Ana, Angeles, Laura and Martha were all immigrant survivors of domestic violence, who were married in good faith, resided with their spouses, and had good moral character. All of them had been accepted as clients by OLA, and had been able to change their legal status under VAWA. However, the length and certainty of traversing the path to legality, and their options to become Legal Permanent Residents or Citizens of the United States had depended on the national origin, immigration and legal status of their abusers.

According to VAWA, if abusers are United States Citizens by birthright or naturalization, their victims can obtain Legal Permanent Residency as soon as their VAWA applications are approved, and to apply for Citizenship three years later. This was the case of Angeles, who received her and her sons' Legal Permanent Residency within four months of the approval of her VAWA petition. If abusers are Legal Permanent Residents, their victims can also obtain Legal Permanent Residency and apply for Citizenship three years later. However, the waiting period to obtain Legal Permanent Residency varies depending on the nationality of the battered immigrant, ranging from less than a year to more than eight, according to the length of the backlog that the United States Citizenship and Immigration Services (USCIS) has in processing petitions from the applicant's country of origin. The longer a petitioner has to wait for her residency, the longer the path towards citizenship. Laura and Martha's cases exemplify this point. Laura, originally from Mexico and married to a Legal Permanent Resident, had to wait between six and eight years to obtain Legal Permanent Residency after her VAWA petition was approved. Until then, Laura could not travel abroad the United States, even if she had obtained deferred action (which meant that she could not be deported) and had an employment authorization (which she had to renew and pay for on a yearly basis). Laura was going to be able to apply for Citizenship status between nine and eleven years after the approval of her VAWA petition. In contrast, Martha, originally from Cameroon and also married to a Legal Permanent Resident, had to wait less than one year after the

approval of her VAWA application to obtain her Legal Permanent Residency. Martha did not have to renew her employment authorization, was able to travel abroad within a year of the approval of her VAWA petition, and could apply for Citizenship three years later. Laura and Martha's path to full citizenship entitlements were significantly different. Their nationality mattered because their abusive partners were not citizens but only Legal Permanent Residents of the United States, and as such, the American state was not as responsible for their acts. Under VAWA, the non-citizen status of the abusers damages their victims not only in terms of the length of the process, but also in terms of its certainty. If the abusive resident is deported (that is, loses his status as Legal Permanent Resident) before the VAWA application of the battered immigrant is approved by USCIS, all chances to gain legal status for the applicant perish instantaneously.

If abusers are neither United States Citizens nor Legal Permanent Residents, their domestic violence victims can apply for a U-Visa, but not for Legal Permanent Residency or Citizenship status. Victims of undocumented spouses have to press charges against them and collaborate with the criminal investigation of their abusers. This was the case of Ana, originally from Mexico and married to an undocumented man also from Mexico. In order to change her undocumented status, Ana had to collaborate with the police on the scrutiny of her abuser's deeds against her. The police had to certify to USCIS that Ana had been victimized and that she had been helpful with law enforcement forces. Ana had succeeded in proving her good will and behavior, and after two years of working on her application, she was able to obtain her U-Visa. Then, she was allowed to stay in the United States without fear of deportation for three years, and was permitted to work legally for at least one year (she had to renew her employment authorization if she wished to maintain her legal status). However, after three years passed, Ana did not know if she would be able to apply for Legal Permanent Residency or if she would lose her temporary protection and would have to go back to Mexico. To this day (March

2007), U-visa regulations have not been issued; therefore, survivors of domestic violence from undocumented abusers (as opposed to citizens or resident abusers) are unclear about having access to Legal Permanent Residency or Citizenship. The disparities between Ana, Angeles, Laura and Martha were based on the legacies of the racial/ethnic discrimination found in gendered-violence immigration laws, such as VAWA and VTVPA, embedded in the immigration system as a whole.

Birthright, naturalization and immigration laws formally sustained race as a legitimate source of differentiation among individuals seeking citizenship status until 1965, prioritizing whiteness. Haney López (1996) shows that “From this country’s inception, the laws regulating who was or could become a citizen were tainted by racial prejudice. Birthright citizenship, the automatic acquisition of citizenship by virtue of birth, was tied to race until 1940. Naturalized citizenship, the acquisition of citizenship by any mean other than through birth, was conditioned on race until 1952” (Haney López 1996, 39). Federal immigration laws “restricted immigration (...) on the basis of race for nearly one hundred years, roughly from the Chinese exclusion laws of the 1880s until the end of the national origin quotas in 1965” (Haney Lopez 1996, 37). From then onwards, racial and ethnic bars to citizenship continue to exist implicitly in neutral language regulations and in the unconscious racist practices of immigration and law enforcement officers, legal providers and laymen, which leaves out certain groups of people indirectly (Haney López 1996). As Volpp (1994) argues, there has been a “flawed conception” that United States law is neutral, or “without a culture,” which overlooks its liberal character and in turn, the problems associated with liberalism, such as the assumption that the liberal standpoint is a universal and neutral one (Volpp 1994, 62). Her analysis of the use of the cultural defense for immigrants (which supposes that crimes committed are a result of the immigrants’ inability to recognize the wrongfulness of their acts within the United States) reveals that this strategy, which was intended to protect ethnic minorities, has resulted in essentialist and deterministic readings of cultural practices and ethnic

belonging, and has worked against these immigrants. The essentialist conception of foreign cultures by experts in the courtroom reinforces Haney Lopez's observations on the pervasiveness of racism towards immigrants both within the legal system and throughout specialists and laymen in the United States.

VAWA and VTVPA (both conceived of as progressive legislations protecting battered immigrants), like the cultural defense strategy, reproduce sexist and racist formal institutions and informal practices, which work against certain individuals who belong to the population intended to be protected. While gender and race/ethnicity have jeopardized access to citizenship for battered immigrants, it is their intersection with class, which will clearly show the incidence of the stratified structure of immigration laws.

#### **SUSANA AND THE LEGACIES OF CLASS DISCRIMINATION**

Susana, a battered immigrant woman born in Mexico, came to the in-take appointment with her two year old daughter, who was born prematurely due to her father's abuse and neglect. He did not take care of Susana while she was pregnant, never went with her to the doctor, even when she was ill, and abused her physically, psychologically and economically during and after their daughter was born. Susana's abusive husband, a Legal Permanent Resident born in Mexico, neglected and abused Susana and their daughter to the point of trapping them in a one-bedroom apartment infested with rats, without food or heat during part of the winter. He would tell her that he did not have to help her because women were supposed to be self-sufficient with their babies. He prohibited Susana to go out to work so he could remain in control of their finances.

Susana never reported the abuse to the police; the one time that she talked about pressing charges against him in order to get child support, he reacted so violently that she discarded the idea. Susana was visibly depressed and upset, particularly because her daughter had been sick since she was born. Susana had left her husband, and even if she found shelter with her family members, she was still living under very poor conditions.

Susana seemed to be eligible to apply for VAWA, but as I was the one doing the in-take, I could not say anything to her until I checked with the lawyer to see if OLA would accept the case or not. In the meantime, I told her which were her options and the steps to follow if she were accepted as a client by OLA. Susana was hopeful, yet daunted: when I went through the list of paperwork she would have to bring in order to complete her VAWA application, she expressed that she did not possess most of those documents. She also showed concern about the costs associated with the application process, which even if they were low, they seemed to be unaffordable for her. She was doubtful about being able to obtain letters of support from relatives or friends, and she was uncomfortable with the idea of going to counseling. Susana promised to call us in a week to find out if her case had been approved by OLA (we would usually call the potential applicant ourselves, but Susana did not have a phone or any person who could work as a contact between OLA and her). OLA took her case because Susana was clearly eligible to apply for VAWA. However, Susana did not go through the application process because she knew that she was not going to be able to get all the necessary documentation to show her eligibility in the eyes of USCIS. She was paralyzed by the length, costs and complexity of the process. (Field notes, April 11, mid 2000s.)

Critical analyses of the immigration system have focused on its racial/ethnic and gendered aspects, but not on class matters. Haney López briefly touched on the issue of social stratification in his analysis of Thind's prerequisite case by alluding at the puzzle that the claimant's caste posed in the racial equation: did higher social class or caste whiten individuals? (Haney Lopez 1996, 87). Omi and Winant's (1986) work emphasized race over ethnicity, gender and class, and claimed that race in the United States had been a "fundamental organizing principle of social relationships" as opposed to a "manifestation or epiphenomenon of other supposedly more fundamental categories of sociopolitical identity, notably those of ethnicity, class and nation" (Omi and Winant 1986, 66). Authors such as Crenshaw (1995), Pateman (1992), Benhabib (1997), and Fraser (1997) highlighted patriarchal conceptions of citizenship, which prioritized not only gender, but its intersection with racial, ethnic and socioeconomic differences as fundamental aspects in the construction and maintenance of dominance over minority groups.

In this light, the history of immigration flow and laws reveal that class has been an unstated and pervasive source of discrimination against immigrants. In order to obtain the proper documentation to enter and stay in the United States, immigrants must be able to count with certain economic, cultural, and social capital in order to gather the right information, follow the due process, and pay for its costs. This premise has resulted in the creation of two distinct groups of immigrants: those capable of navigating the system (the documented), and those who are not (the undocumented). VAWA and U-Visa applications illustrate this phenomenon. The costs associated with these applications represent an apparent barrier for low-income immigrants. Nonprofit organizations and pro-bono lawyers have tried to address this problem by offering free legal assistance to individuals who qualify as being under the official poverty line, and by requesting fee waivers to the United States Citizen and Immigration Services. While these measures

have facilitated the application process for many low-income immigrants, not all costs are pardoned and therefore, they remain to be too high for the immigrants with the least resources and the most demands: the ability to save money on a tight budget not only depends on the immigrants' income, but also on the stability of their job, knowledge about how to efficiently distribute and save money, and number of children and other family members. In this manner, the capacity to afford passport photographs, criminal background checks, birth and marriage certificates, medical evaluations, health tests and vaccines, and psychological counseling either slows down the application process or directly weeds out those who need the most help.

Moreover, while the basic requirements of gendered violence-based applications do not seem to include barriers for low-income immigrants, they involve supposedly universal citizenship practices, such as the orderly possession of personal identification documents, contracts, leases, bills and receipts, the obedience to and willingness to be assisted by official authorities and professional experts. These practices reflect middle and upper class values which tend to collide with individuals in the margins of society, as portrayed in the case of Susana. In order to prove that the applicant complies with the basic requirements, VAWA and U-Visa applications must include the applicant and her children's birth certificates, the applicant's marriage certificate, her spouse's and her divorce decrees if applicable, rental or leasing contracts of all the locations where the applicant and the abuser lived together, bills of the services they contracted while living together as husband and wife, such as utilities, gas, telephone, and cable TV, and tax declarations. This list of documents must be complete and the leasing contracts and bills must be chronologically ordered, without any date gap, in order to show that the applicant lived together with the abusive spouse and was married in good faith. Both the possession of and ability to compile these documents represent a burden for immigrants who not only are at risk of an abusive spouse who controls access to documentation, but also may not be used to the practice of systematically filing these kinds of documents

(which is a regular practice for middle and upper class American citizens, but not necessarily for lower class immigrants). Moreover, low-income immigrants (which represent the majority of the VAWA applicants, especially if they are undocumented) tend to live in locations on an informal basis, without leasing contracts or receipts for their weekly or monthly payments, and therefore are unable to compile the required documentation to prove common residency with their spouse.

Besides these documents, VAWA applications must include police reports of domestic violence and psychological reports proving that the petitioner has been a victim of violence (sometimes police reports are enough evidence, but legal practitioners tend to request psychological reports as well with the aim of strengthening the case). Reporting crimes to the police and attending psychological appointments are also part of the supposedly universal citizenship repertoire, which does not apply to battered immigrants for several reasons, and consequently, also filters the most destitute cases. On the one hand, the majority of battered immigrants trying to apply for VAWA entered the country without the proper immigration documentation, and as such are considered undocumented or illegal individuals, which instantaneously translates to fear of official authorities (be they police or immigration officers). The fear is based on the risk of deportation and on previous poor experiences with official authorities in both the United States and the immigrants' country of origin (since the most marginal populations tend to be the most mistreated by law enforcement officers). Their fear is fed by their abusers' threats of calling the police or immigration authorities to have them deported back to their countries. Immigrants often believe in these threats and when they try to defy their abusers by calling the police, the abusers are quickly able to deter them from doing so as they claim that the officer will only listen to him, who is the citizen or resident, head of household and English speaker. Some battered immigrants who are able to break through and call the police on their abusers are lucky to have responsive and trained officers who will make sure to speak separately with each spouse and request a translator if necessary.



However, my field work revealed that plenty of battered immigrants who call the police find their abuser's threats to be true: the police tend to talk with the English-speaking member of the house, and even call Immigration to report the undocumented individual (even if by law they are not supposed to). Moreover, the police tend to be more responsive if there is clear evidence of physical violence, which represents only a part of family violence cases, which always involve non-visible psychological violence (verbal and emotional).

On the other hand, the majority of undocumented battered immigrants find psychological counseling a foreign, threatening and demanding practice. While middle and upper class American citizens and foreigners from certain countries may consider psychological counseling a useful tool to overcome stressful situations, working class American citizens and foreigners tend not to trust or count on this tool. Religious practices instead, seem to be a more common avenue to relieve stress and find explanations to undesirable situations. While some battered immigrants agree to try psychological counseling, they soon find it very demanding. Even if they might be able to make use of free services, they must attend an average of ten sessions in order to be able to request a report from the counselor. In order to attend at least ten sessions, the immigrant must be consistent and able to manage her work and personal schedule around the appointments, which is very difficult due to the unstable nature of their jobs as undocumented immigrants. Moreover, if the battered immigrant is still living together with the abuser (as it is the case in most of the applicants), making up excuses to leave every week at the same time is also a risky burden due to the controlling and mistrustful behavior of abusive individuals. Battered immigrants applying for VAWA or a U-Visa must also attend their legal assistance appointments regularly in order to move forward with their cases. While the times of these appointments tend to be during regular business hours (as opposed to the free psychological services, which tend to be in the evenings), immigrants must be able to balance all their needs (generating their own

income for them and their children, taking care of their children and themselves, particularly if they are still living with the abusers, and finally, trying to gain legal status). In general, even if their VAWA or U-Visa application is one of their priorities, battered immigrants tend to put their children and jobs first, which affects their consistency in meeting psychological and legal appointments, and in turn, jeopardizes their chances to advance their applications.

Overall, following bureaucratic requests, such as gathering what is considered to be basic documentation, responding and relying on official authorities, and attending appointments, usually weeds out the neediest, who “encounter serious difficulties when they attempt to understand or to cope with” these normative orders (Sjoberg, Brymer and Farris 1966, 330). As Crenshaw puts it, “immigrant women who are socially, culturally, or economically privileged are more likely to be able to marshal all the resources needed to satisfy the (...) requirements” (Crenshaw 1995, 360).

## **ACCEPTANCE AND REPRODUCTION OF INHERITED BARRIERS**

Gender, racial/ethnic and class barriers to citizenship embedded in the immigration system were inherited by gendered violence-based immigration laws. OLA staff perceived these matters, particularly the legacies of coverture, as unfortunate. However, they were not interested in overcoming these barriers, which were taken as part of reality and were not questioned in practice. OLA staff was committed to provide free legal services to those who could qualify within the margins of the existing legislation, and were not actively advocating for changes in the law that intended to get rid of this discriminatory baggage. Arguably, their acquiescence reproduced the inherited gender, racial/ethnic and class inequalities. However, the fact that OLA was providing services to those who qualified counterbalanced their acceptance; they were working within real constraints with the aim of, at least, helping people in need who deserved and could

access justice. OLA staff's focus in service providing (as opposed to, or without also, lobbying for legal change) was a problematic, but conscious decision: they were aware of all these issues and supported the activism of other organizations. Indeed, their exclusive focus on service provision was a relatively new institutional policy in the history of the organization. OLA had started as an activist nonprofit pushing for changes in immigration law and providing legal and other services to any immigrant they considered to be treated unfairly by the United States government. OLA's motto "No Human Being is Illegal" was fervently defended by the founding lawyers of the organization, whose cases "changed the way in which immigrants seeking asylum were represented before the United States Citizen and Immigration Services and contributed to the emergence of gendered immigration legislation such as VAWA" (Valerie, interview, Central Texas, July 13, 2006). Originally, OLA was based out of the living room of one of the lawyers, who would meet with colleagues and clients at local coffee shops and restaurants. OLA's lawyers and volunteers worked without a timeframe and did all they could in order to assist their clients holistically (from taking care of their legal cases, to helping them with food, housing, health and childcare issues). OLA's success was based on their groundbreaking legal practice and their full investment in providing services for immigrants who needed the most help. As OLA grew, it became more bureaucratized, and following the path of the institutionalization of social movements, it lost its radical character (Fox Piven and Cloward 1977). While founding members of OLA viewed this process as a loss, current OLA members had a positive perception of it because they look at it as an inevitable trade-off of institutional survival. In my interview with Valerie, one of OLA's founders, she expressed, "I cannot even go to the offices where OLA is now operating. They look like they belong to a large corporation. It is awful, I can't take it!" (Valerie, interview, Central Texas, July 13, 2006). Kathy, currently one of OLA's lawyers, told me, with disappointment, "I can't stand the complaints of the previous OLA lawyers. They did a great job, but they have been unable to understand what it takes to

have a successful working organization. We need to follow internal rules and have archives in order to provide good services for immigrants. They don't understand that we could no longer work out of tiny offices without logistics, personnel or space to handle the amount of cases we have now" (Kathy, interview, Central Texas, June 30, 2006). Valerie and Kathy's views could be respectively labeled as romantic and practical, but this quick labeling would overlook the fact that Valerie's romanticism was certainly accompanied by a practical sense as she and her colleagues were able to build an organization and provide for immigrants while pushing for path breaking jurisprudence. The question remained as to why the current OLA staff was so convinced that legal and social activism would deter their provision of services.

My participant observation at OLA and interviews with OLA staff allowed me to identify certain processes which might have shaped this dichotomous belief: OLA's bureaucratization had shaped OLA staff into being brokers of discipline and institutionalized human rights activists. Indeed, OLA staff's comfort in being focused on the provision of services and not directly involved in activist endeavors was tied to the unintentional manner in which they reproduced social inequalities embedded in mainstream ideals of citizenship and normalcy. In the following chapter, I address these informal barriers to justice for immigrants in need.

Overall, in this chapter I uncovered the formal ways in which battered immigrants are interpellated by the state as either legitimate economic and political subjects of law worthy to become members of American society or as individuals undeserving of these statuses. The immigration system has historically differentiated individuals seeking to gain access to the United States along gender, racial/ethnic and class lines; male, white and middle and upper-class immigrants were regarded in better terms and concomitantly interpellated as legitimate subjects by the state. Gendered violence-based immigration laws, such as the Violence Against Women Act and the Victims of Trafficking and Violence Protection Act, inherited these discriminatory practices. In particular, battered

immigrants intending to become Legal Permanent Residents and Citizens of this country through VAWA, or to obtain a U-Visa through VTVPA, were scrutinized on the basis of not only their domestic violence history, but also on their civil status, immigration and criminal background. All of these reflected gender, race/ethnicity and class barriers to citizenship, which left the most vulnerable applicants unprotected. In this manner, the laws' aims (to provide access to justice for underprivileged immigrants) were jeopardized, especially because immigration officers and nonprofit advocates, such as OLA staff, did not actively question the discriminatory aspects of these regulations, and inadvertently became reproducers of social inequality.

### **Chapter 3: OLA Staff: Brokers of Citizenship, Gatekeepers by Default**

In this chapter, I focus on the second layer of my research questions. I begin by addressing the theoretical aspects of nonprofit organizations, particularly those devoted to immigration legal services, as brokers of citizenship ideals and disciplines. Then, I present nine cases of battered immigrants who approached OLA in search of legality. I explore the informal parameters that OLA staff followed in order to accept or decline services to immigrants, and how OLA's values reflected mainstream social norms. Finally, I uncover the controversial practices of this nonprofit organization, as it became an institutionalized advocate of human rights and a broker of state discipline.

#### **NONPROFITS AS BROKERS OF MAINSTREAM CITIZENSHIP IDEALS AND DISCIPLINES**

Needless to say, the state does not work as an omnipotent force in shaping citizenship behavior. Instead, the state possesses a body of laws, rules and regulations as well as a set of bureaucratic institutions, which implement and enforce those ideals and policies. These bureaucracies are the locations where the citizens encounter state parcels in order to honor (or contest) their allotted rights and responsibilities. The inherent and increasing degree of complexity of modern bureaucratic and legal systems calls for the intervention of mediating organizations as representatives of individuals' demands (Weber 1947). Immigration laws and procedures tend to be extremely complicated and shifting, and as such, require the participation of lawyers as brokers between individuals and the state. Immigration attorneys, at the same time, belong to organizations, such as OLA, which then become the sites where individuals seek assistance, voice their demands and negotiate with the state.

Mediating agencies like OLA and their workers represent various instances in which immigration and citizenship ideals and regulations (which include moral – obedience of the law–, as well as productive aspects –involvement with market rules–), can be conformed or resisted, and consequently, recreated in particular ways. Menjívar and Salcido (2002) emphasize the relevance of mediating agencies in their comparative research of governmental legal provisions and local legal and social services available for immigrant women victims of domestic violence in major receiving countries. They celebrate the emergence of battered immigrant services that are sensitive to cultural diversity at the local level because these agencies have improved the conditions under which immigrant women seek help. In their view, this type of agency seems to reduce the burden that immigrant women have to cope with because of their status as newcomers. Issues such as language barriers, situational isolation from family and community, immigration-induced economic changes, threatened legal status, and cross-national frames of cultural and legal reference are all taken into account by the legal and social workers of these agencies (Menjívar and Salcido 2002). However, other authors have problematized the workings of these culturally sensitive agencies on the basis of ethnographic research that looks into the complex articulations between social assistance for vulnerable populations, ideals of liberal citizenship and the politics of salvation.

Mindry (2001) conducted fieldwork in a volunteer women’s organization of black women in post-Apartheid South Africa. The organization and its volunteers were genuinely committed to help more vulnerable women to learn to become self-sufficient. However, the population targeted (vulnerable black women in rural and urban areas) and the services offered (vocational and self-help training) were reproducing ideals and structures of domination comparable to colonial times. In particular, this agency (which the author uses as an illustration of grassroots non-governmental organizations with national and transnational private funding sources) embodied “politics of feminine virtue...that constitutes women in ways that are disturbingly familiar to Victorian

colonial discourses about the caring, selfless mother along the familiar themes of domesticity and benevolence” (Mindry 2001, 1189). Post-colonial grassroots agencies were serving unprivileged populations with the provision of social assistance, yet disserving these populations with the spread of moralizing and dominating discourses. In this way, this type of well-intended and often celebrated organizations contributed to the persistence of “structural inequalities between givers and receivers of aid” (Mindry 2001, 1205). Institutional ethnographies of grassroots organizations may reveal the workings of unnoticed legacies of systems of oppression, and of other capillary mechanisms of creating and reproducing difference and inequality.

Menon and Bhasin (1998) illustrate this last point in their feminist ethnographic research about the process of India’s bloody partition of 1947 and its legacies, in which one million people perished and over ten million were displaced. Among other issues, they look into women’s organizations, women activists and social workers, which devoted themselves to “rehabilitate women” that survived the violent experience of partition which triggered extreme expressions of sexual violence and gendered brutality (Menon and Bhasin 1998, 167). While these organizations and workers frankly hoped that their assistance would ease these women’s transition into well-being, the authors found that “they functioned very much within patriarchal structures, often displayed rather patriarchal attitudes and were influenced by urban middle-class conceptions of socially accepted roles for women and men” (Menon and Bhasin 1998, 192). Accordingly, their intervention attempted to liberate women by helping them to become economically independent, develop a sense of self-worthiness, and learn accepted social codes “through a repetition of restrictions on sexuality and mobility” inherited from colonial structures of power and preexistent hierarchical systems of domination (Menon and Bhasin 1998, 192).

Ong’s research on Cambodian refugees in California (2003) shows the complexities beneath the politics of refugee settlement and also provides an example of



the contradictory workings of grassroots organizations assisting ‘vulnerable’ populations. She notes that, on the one hand, Asian American and Hispanic feminist agencies have sought to “counteract images stigmatizing poor female immigrants as welfare mothers or passive wives and empower them by providing an alternative structure of access that would help overcome male oppression at home” (Ong 2003, 156). But, on the other hand, “whatever the good intentions of individual social workers, the internal logic of compassionate domination produces this double submission - majority women dominating minority women, who dominate minority men” (Ong 2003, 167). Ong’s ethnography shows particular ways in which racial/ethnic, class and gender systems of inequality are embodied and recreated at certain local level (well-intended) grassroots organizations nowadays in the United States. Overall, in my opinion, her work reveals ways to avoid structures of domination, defy legacies of oppression, and contest discourses of difference and social stratification found in unexpected locations.

Along these lines, Rudrappa’s research (2004) calls for the questioning of the unchallenged normalizing and missionary aspects of ethnic-specific and culturally sensitive local level organizations. In her ethnography of a cultural Indo American center and a shelter for battered South Asian women, the author uncovers the contradictory workings regarding immigrants’ assimilation and integration processes in the United States. While these organizations are perceived as “safe havens” for the maintenance of ethnic identity and autonomy beyond the influence of the state or any other external institutions, they in fact reproduce existing structures of gender, racial and class inequalities (Rudrappa 2004, 21). Ethnic enclaves are not necessarily sites of social dissent and political challenge, but on the contrary, they can foster dominant and oppressive practices and discourses. The exploration of these organizations is then crucial to understand processes of articulation of individuals’ wills and behaviors, with broader social ideals of normalcy. But, which are these ideals? How are these constructed, legitimized or defied? Regarding normalcy and difference, Rudrappa

suggests that in the United States, two types of differences are perceived: “those that threaten and those that do not” (Rudrappa 2004, 188). Those perceptions are themselves fluctuating, that is, threat is perceived differently over time and space, and its definition itself is a site of contention; hence, my interest to look into particular constellations or assemblages of social struggles over definitions of normalcy and difference, of inclusion and exclusion.

Rudrappa and Elliot (2005) explore other sites where the reproduction of dominant ideals of normalcy, and gendered racial inequalities take place in the United States: the courtrooms. These locations are viewed as contentious spaces in which citizens (represented by lawyers and juries), and the state (represented in its body of laws and judges) meet. They look at emotional displays of subjectivity in court procedures, and examine the strategies that women victims of abuse are suggested to use in order to obtain a positive court decision given their race, ethnicity, class and gender. Parameters such as the management of emotions and the rationalization of trauma shape the victims’ testimonies and normalize the presentation of self and crime (which are both embodiments of normalcy/deviance). In particular, the authors find that immigrant women are expected to fit acceptable (normal) patterns as they express their emotions in the courtroom given that “departures from social norms are not just incomprehensible to law,” but judged and punished by law (Rudrappa and Elliot 2005, 32).

All these studies interrogate the actual practices and discourses of power embedded (intentionally or unintentionally) in local level organizations that provide legal and social assistance to immigrant victims of domestic or other types of violence. The second layer of my research questions “In what ways are the attorneys, legal assistants and other advocates involved in the application process as mediators between the immigrants and the state?” addressed these matters. I explored whether these actors conform, resist and/or recreate immigration regulations, citizenship ideals and the stratified structure of American society in their daily practices. In what follows, I bring

in nine cases of battered immigrants who approached OLA in search of legal services. By revealing the informal parameters that distinguished a good client from a trouble client at OLA, I illuminate the crucial role that nonprofit legal organizations play between the state (grantor of rights) and the immigrants (claimants of rights) as brokers of mainstream citizenship ideals.

### **LUISA, “POBRECITA”**

Luisa was originally from Mexico and had migrated to the United States escaping poverty. As Luisa put it, she was “really married” (“*bien casada*”) back in Mexico, and she had four children, all whom had different fathers. When Luisa left Mexico, she did not get a divorce from her husband, but several months of living in the United States, she lost touch with him and began to consider herself separated. Luisa’s abusive partner was a United States Citizen, with whom she had cohabitated for a couple of years.

In my in-take appointment with Luisa, it took me more than an hour just to clarify when she had arrived and left the United States. She told me that she had come in the early nineties and that she had never returned to Mexico, but then when she told me the birth dates and places of her children, three of them were born in Mexico in the mid nineties. While I thought she had gotten confused between the early nineties and the early 2000s, she insisted for hours that she had come in the early nineties. It was after many explanations that she realized that we were currently in the 2000s and not the 1990s. Luisa laughed when she realized it!

Luisa was a survivor of physical and psychological domestic violence. The last violent episode ended up with the abuser’s incarceration. Luisa

was not eligible for VAWA because she was still married to a Mexican citizen in Mexico. Her only option was to apply for a U-Visa, which could give her deferred action and an employment authorization as long as she collaborated with the police in the investigation of the case against her abuser.

After Luisa's abuser was incarcerated, she rented a room from a woman who did not even give her the key to the apartment. So Luisa had to leave the apartment at the same time the other woman did, and then wait outside until she came back from work late at night. I gave her information about shelters for battered women and Luisa showed interest in them. She asked me to help her make the call because she did not have access to a phone. I agreed to do so, and let her use the phone at OLA. As soon as the person in the shelter picked up the phone and replied in English, Luisa handed me the receiver. I explained her situation to the shelter, but they told me that they did not have any vacancy at the moment. Then, Luisa called another shelter where they spoke Spanish. After they asked her several questions, they told her that they could not accept her because her children were not residing with her, and their shelter was exclusively for "mothers with children." Finally, she called a third shelter, which was further away from the city where Luisa lived. They did not have anybody who spoke Spanish, so I talked with them in English. They had space available, and told me that she could stay there from that day onwards. I offered to take Luisa there that same afternoon, but she said she could not go because all her belongings were at the apartment where she was temporarily living, and she did not know what time she was going to be able to get in.

As we spoke, one of the OLA staff came to the office and told us that we had a message from one of the shelters saying that they could make the

exception and take Luisa in (this was the shelter that only accepted mothers with children – after all, Luisa was a mother whose children were back in Mexico). Luisa said that she preferred this option because it was a better location because it was close to public transportation. I cancelled the arrangements with the other shelter, thanked them and apologized. Luisa worried about being able to work while living in the shelter; I explained to her that was not going to be a problem. We called the shelter and arranged for her to move in there the following morning. She wanted me to move all her belongings to the shelter and I offered her to pick her up by car the next day.

After these preparations, I explained to Luisa the next steps at OLA (her file would be reviewed by the attorney and then, in our next meeting, I was going to be able to let her know what her options were). Next, I helped her look at the bus map and schedule to see if she could take a bus from OLA to her place of residence. It was very hard for her to understand me, so I walked her almost to her bus stop. She thanked me and continued to walk with both a doubtful and fearful demeanor; we said goodbye, and I reconfirmed that I would pick her up the following morning.

The following morning I went to pick Luisa up, but did not find her. I was worried; I thought that maybe I got a wrong address. I went to OLA and after an hour or so of trying, reached her friend by telephone. The friend told me that most probably Luisa was working. I asked her to please tell Luisa to call the shelter, where they were expecting her. I also told her about Luisa's next appointment. Luisa's friend promised me that she would pass the message to Luisa. I called the shelter and explained what

had happened. I gave them Luisa's contact number and they said that they would try their best to get in touch with her.

Before the next appointment, Luisa called me to let me know that she was not going to be able to make it because she had another work opportunity that she could not miss. We rescheduled our meeting and I asked her if she had gotten in touch with the shelter. Luisa replied that she had, and that they told her to call them again to coordinate how to bring over her things (Luisa wanted to bring her furniture with her, a table and a small bookcase).

In our rescheduled appointment, I told Luisa that OLA had approved her case, which meant that they were going to offer her free legal assistance to apply for a U-Visa. Then, I explained the steps to follow and what the benefits were of applying for this visa. When I asked her if she wanted to go ahead with this, she replied "*No sé, Señorita. ¿Usted que cree?*" ("I don't know, miss. What do you think?") After my second explanation, she agreed to go forward with the petition of the U-visa.

The supervisor of Luisa's case, Courtney, was OLA's expert on U-visas. She had told me to go easy on the case because until we got the certification from the police, we should not waste resources on it. I tried to advance on other matters related to the case as much as possible in order to have everything ready for when the certification arrived. Luisa missed many appointments (because of temporary work opportunities and even, threats from the abuser's relatives), so the pace was very slow in comparison to other cases I had worked with.

I followed up on the case with Courtney at least once a month because I could not believe how long the police were taking to give her certification. Courtney was not surprised at the length of the wait. She told me that she

waited an average of four months to receive responses from the police. After seven and a half months from the in-take appointment, I received an email from Courtney announcing that the police had denied Luisa's certification because they claimed she did not cooperate. Their explanation was that they called and she did not return their phone call. Luisa now had to call the police and explain that she never got the message because she had moved several times. She reiterated that she was willing to collaborate in the investigation of her abuser's crime against her. After several weeks, I tried to get in touch with Courtney to check on Luisa's case, but I did not hear back from her. Three months later (that is almost eleven months after the in-take appointment with Luisa) I was finally able to get an update from Courtney: the police had refused once again to certify Luisa, and consequently, OLA was not able to proceed with her U-visa petition. Courtney disagreed with the police's double denial of Luisa's certification; she told me that the police's justification of their denial was "Bullshit." I asked her if we could complain, but she answered "Unfortunately, I can't take care of her case at the moment because I'm busy with other U-Visa applicants. *Pobrecita* (poor thing)."

Luisa, who was clearly eligible to receive a U-visa, was denied her chance to move into the world of legality in the United States, and did not come back to OLA after the negative news. (Field notes, December 13, mid 2000s.)

Luisa's case illustrates a main query of my dissertation, what are the processes at play that define battered immigrants as legitimate or illegitimate subjects of law? Luisa was a survivor of domestic violence and extreme cruelty perpetuated by her common law partner, a United States Citizen. Because Luisa had never gotten a divorce from her

husband in Mexico, she was not going to be able to apply for VAWA, but rather for a U-visa. Luisa had reported the abuse to the police, and had gotten in touch with OLA for legal assistance. Luisa followed all of OLA's instructions. However, she was denied access to justice. OLA did not care to insist on her case and Luisa ended up with nothing.

Formal and informal barriers stood in Luisa's search for legality. On the one hand, legacies of gender, racial/ethnic and class discrimination reduced her options from permanent to temporary legality. On the other hand, stratifying citizenship ideals and norms gradually blocked her access to the rights she was eligible for. The role that OLA staff played as a broker between immigrants and the state was determinant of Luisa's life chances. But, why did OLA staff accept the denial to justice for Luisa? My observations led me conclude that OLA staff had embedded notions of normalcy reflected in their informal organizational practices that defined who constituted a good client (who in turn promised to become a good applicant and subject of law). The disciplinary mechanisms of immigration laws were enforced not only by immigration and law enforcement officers, but also by the workers at OLA, who expected their clients to present themselves and behave in particular ways in front of the organization and the state. While, of course, there were no written rules about what constituted a "good client" in the eyes of OLA, its staff's daily practices, thoughts, emotions and case management decisions reflected these parameters. Immigrants who were compliant, tidy, constant, resolute, independent, easygoing, redeemable, responsible, private, and discrete were given priority independently from their history of abuse.

For instance, while Luisa was in principle eligible for a U-Visa, her noncompliant yet needy behavior was uncomfortably taken as irresponsibility by OLA. She was perceived in such manner because of her temporal and spatial confusion (not realizing what decade we were living in, and not understanding simple directions to take public transportation), her missing of appointments with and without previous notice, her dismissal of shelter services arranged by an OLA volunteer, her unstable work and living



situation, and her failure to effectively respond to the police. Courtney did not consider Luisa to be a priority case because she was working on the cases of other immigrants who fit the informal standards of a good client. Moreover, Courtney had been bureaucratized as a nonprofit advocate, whose satisfaction came from following organizational rules and providing results by successfully taking care of enough cases within her work shifts, as opposed to conceiving herself as an activist engaged fighting for justice at whatever cost. Courtney's acquiescence with the slow pace of the police and the double-denial of Luisa's certification, which closed her path to legality, was not ill intended, but a consequence of her institutionalization as a human rights advocate and of her own embedded values of what it meant to be a responsible client, truly deserving of rights. Courtney's behavior, backed up by the values informally held by OLA, reproduced the stratified structure of and gated access to American society.

Luisa was not an exception; throughout my field research, I encountered plenty of immigrants who were either given a lower priority or dismissed as clients because of their unsuitable demeanor. Silvana, Clara, Rosario, Monica, Frank, Yolanda, Patricia and Ramona's cases contribute to the understanding of these selective processes.

#### **SILVANA, "CHAOTIC AND HIGH-MAINTENANCE"**

Silvana was from Venezuela and her husband was a United States Citizen who had began to do her immigration paperwork but had been threatening her to retrieve her application and cease his sponsorship. Silvana's husband, who was thirty years older than her, had been telling her that she owed him because he gave her legal status, and that she had to be tied to him for at least seven years more. He was not working and had forced her to give him her income to take care of all their bills. Silvana had a bachelor's degree in advertisement from her country, and was working as

a salesperson at a local department store. Besides immigration threats and economic coercion, her husband had abused her emotionally and sexually. He constantly screamed at, belittled and insulted her. Silvana had to make up a story in order to be able to go to OLA for the in-take appointment without him following or harassing her. He had been so controlling and threatening that Silvana had had to reschedule appointments several times (to OLA's dislike). She had brought plenty of documentation, which was all mixed up in a small piece of luggage, and once organized, could be used to support her VAWA self-petition of removal of conditions on her Legal Permanent Residency. She had also brought a notepad with her own notes about abusive episodes she had been through, and a tape with a recording of one of their fights in which he had threatened and degraded her. Silvana's documentation covered the desk of the conference room, which seated eight people. While Silvana had been making the effort of gathering evidence, she was so traumatized by her abusive relationship that, at the same time, she was very nervous, anxious, upset, scared and overwhelmed. These feelings translated into confusion and contradictions: she would claim that she had ambitions about her future and that she wanted to be independent, and then, she would express that she did not know if she would be able to survive without her husband. Silvana's in-take, which was very intense, lasted two hours. She cried during almost all of it and she did not want to leave the office, where she felt protected. She wanted to obtain a solution right at that moment, and even if she knew that was not possible, she was attached to that wish. To end the in-take, I explained to her the steps that I had to take in order to confirm her eligibility, and we arranged how we would get in touch again (her friend would be a point of contact because her husband monitored

incoming calls at her work and their house). Silvana left the office and gave me a strong hug. She was very grateful and hopeful.

As I read my case notes from the in-take during case review, I found that Silvana was labeled by OLA staff as “chaotic and high-maintenance,” two reasons why the legal assistant who had done her screen interview was grateful that I had taken care of her: “Thank you so much, Roberta; I could not have dealt with her at all.” Despite OLA staff’s negative perception of Silvana, she was considered eligible for VAWA and she was taken as a client. Jenna, one of the legal assistants, took her case, and I was going to assist her throughout. I was very happy for Silvana.

My enthusiasm was moderated when I found out that Silvana took a long time to receive the news because she had only been able to try to contact OLA during off-hours. When she was finally able to talk with Jenna, the next burden emerged: she had trouble setting up a time for an appointment because of the maneuvers she had to do in order to get out of her husband’s sight. Silvana missed several of the scheduled appointments and decided to show up to the office unannounced. None of the legal assistants or lawyers at OLA took clients without appointments and they were all very uncomfortable with this kind of behavior (particularly if the client had missed scheduled appointments without notice, as it was her case). All of these meant that Silvana’s case was moving at a very slow pace, including the transfer of the management of her case: Jenna decided to pass the case to Cathy, the lawyer, because she could not handle Silvana’s chaotic behavior any longer. Cathy was stricter and straightforward with Silvana by telling her not to show up unannounced and to have things organized for appointments. Indeed, if Silvana were being too dispersed during an appointment, Cathy would end it and

schedule another meeting with the specific objective of having Silvana come back with her mind set for it. One year after her in-take, Silvana had met only a couple of times with the lawyer and very little had been done on her case. (Field notes, March 28, mid 2000s.)

Silvana was a “chaotic and high-maintenance” client and neither the legal assistants nor the lawyer wanted to be responsible for her case. Silvana did not fit OLA’s informal standards of a good client, and even if her case had not been dismissed, it had been tacitly flagged as a difficult one, which would follow its own course whether it took longer or not. Silvana’s path to legal independence had been slowed down by OLA because of her demeanor and behavior. The question remains, what did she have to do in order to become a good, desirable client? I address the issue of immigrants’ agency in Chapter 4.

#### **CLARA, “THE NO-SHOW”**

Clara was a battered Colombian immigrant who was married with an abusive United States Citizen. Clara had written her own affidavit, which needed to be improved by clarifying and detailing events. Maggie, the legal assistant in charge of training me as an intern, had assigned me to work with Clara on her affidavit under her supervision. The day of the appointment with Clara, I went to OLA one hour in advance to review the client’s entire file in order to be informed about her case, as well as to prepare questions on her affidavit for the meeting.

Clara had two teenager daughters from a previous marriage back in Colombia. She had been married for more than two years with her American abusive spouse. She had met him casually in the street and had

fallen in love with him right away. They got married very soon after they had met, and, also soon, their problems began. He had been abusive emotionally, sexually, and economically. Clara had first gotten in touch with OLA soon after the abuse began, approximately two years before this meeting. However, she had dropped the case in several opportunities. Maggie was frustrated about Clara's back and forth behavior, and while she hoped that this time Clara would go through, she was doubtful about it. Maggie warned me about the fact that she was very opinionated, that she did not care about making it to her appointments on time, and that she tended to show up whenever she wanted. Maggie had told Clara that she could not take care of her case on her schedule because she would be disregarding other women who had waited long for their scheduled appointments. Maggie was letting me know all of these because she did not want me to be disappointed if Clara behaved in such a manner. It was clear to me that Maggie was frustrated about it and uncomfortable with her.

Ten minutes after the scheduled time for the appointment, Maggie came to the office where I was going to meet Clara, and told me that she would not be surprised if the client did not show up "due to her nature." Ten minutes later, Maggie came back to the office once again, and told me that she was going to call the client because it was already too late. She called the client, who picked up the phone; Maggie rolled her eyes, and told her that we were waiting for her at OLA for her scheduled appointment. Clara said she could come to the office in 30 or 40 minutes, and she apologized for the delay. Maggie told her that she would ask the volunteer if she could wait for her. While the phone was on hold, Maggie expressed that it was better to reschedule for another day because clients had to understand

that they could not show up whenever they wanted, and that they had to respect the staff and volunteers' schedules. I told her that I could wait, but that she should proceed as she preferred. Maggie pushed the hold button once again and began talking with Clara. She told her that the volunteer could not wait for her and that we could reschedule her appointment for the following Monday. Clara agreed. Maggie hung up the phone and said, "Finally! At least this time she apologized!"

Clara came to her rescheduled appointment on time. She came with her youngest daughter; I was not sure if it was fine to have her daughter coming in, but even before I asked, Clara told me that it was fine with her. Clara and her daughter were both Afro-Colombian by birth, and Clara's husband was African-American. I asked Clara several of the questions that I had written down about her affidavit, but it was hard to follow her responses. Her narrative was dispersed, she had difficulty in completing phrases, and she tended to mix events. Clara was very upset about the poor manner in which her husband and his son had treated her daughters. Also, she had had problems communicating with her husband because she knew very little English and he did not speak any Spanish, which would trigger fights. Her daughter was quiet, but she expressed a few opinions about some of the episodes, particularly those that involved her directly. Her body language showed her to be tired and sad about all the abusive matters. Clara asked her daughter to step out of the room when I pointed to a part of her affidavit related with sexually transmitted diseases. Once her daughter was outside, she clarified how she found out that her husband had transmitted this illness to her. Clara's husband was on welfare and she was very frustrated with his unstable situation. After one and a half

hours, we scheduled another appointment to continue working on her affidavit.

Clara did not come to her next appointment, but this time, she called in advance to let us know. She was going on a trip, and she told us that she would get in touch with us once she was back. Clara did not get in touch with us for a while, so Maggie tried to contact her. She told her that at the moment she was doing fine with her husband, so she was going to put her VAWA application on hold. Maggie was very frustrated, but not surprised at all. She told me that she was glad I had not spent more time working on her affidavit (by translating or typing it). She suggested me to put her file away. Maggie closed the case a month after.

A year and a half later, one of OLA's legal assistants got in touch with me to let me know that Clara had returned to OLA to reopen her case.

Maggie was not working at OLA any longer, so the new legal assistant wanted to talk about the client with me. She began by saying to me, "She's a difficult case; a no-show, right?" (Field notes, June 20, mid 2000s.)

Clara did not fit OLA's standards of being a good client. Clara's missing appointments, and her indecision about leaving or staying with her abusive husband red-flagged her case. The case notes were explicit enough to have the new legal assistant labeling her as a difficult and inconsistent client. How would these characteristics affect the manner in which her case would be dealt with after her return? While I cannot predict the new legal assistant's attitude, our short conversation about Clara and the fact that she took one month in between appointments to get back to Clara with information on her affidavit, reflected that she was not being treated as a preferred client.

## **ROSARIO, “THE ONE WITH THE SHOE BOX”**

Rosario came to OLA with her mother, who accompanied her during the in-take as well. They were both very nervous. Rosario was from Mexico, came to the United States when she was a young teenager, and had been living in this country for more than ten years. She had gotten married with a United States’ born Mexican-American, who abused her emotionally and economically. Rosario was terrified with the idea of being deported to Mexico because her father, who was still living there, had been very abusive with her while she was a child. Rosario’s mother had been traveling back and forth between the United States and Mexico with her visa, and she wanted to make sure that Rosario’s abuse and legal situation was taken care of before she headed back to Mexico. Rosario’s mother had been her confidant and as such, she was aware of what had happened to her daughter. During the appointment, however, she was not intrusive and let Rosario answer the questions on her own. She intervened only if Rosario asked her a question or if she realized that her daughter had forgotten to mention something important (she would remind her, and then, Rosario would talk about it).

Rosario’s abusive husband had initiated her immigration paperwork from which Rosario obtained her conditional Legal Permanent Residency (because at the time of their adjustment, they had been married for less than two years). The date to remove the conditions on her residency was approaching, but Rosario was not going to be able to go through the process without her husband, who had expressed that he would not support her petition any longer, and who, in addition, had left her without any



notice. Rosario wanted to know if there was anything she could do to avoid going back to Mexico. I explained to her that she might be eligible to apply for VAWA to remove the conditions on her residency based on the abuse she had gone through. We proceeded with the in-take in order to gather as much information possible to evaluate her eligibility.

The first tense moment in the appointment arose with the questions related to the way in which she had come to the United States. Both her and her mother were very worried about saying that she had come without documents, especially because during the days of the appointment, lawmakers were pushing anti-immigration policies and anti-immigration sentiments were rising. Once she expressed that she had had no contact with immigration officers, I explained that then, her immigration history would not be a problem. She was somewhat relieved about it, but her fears of deportation were very much present throughout the entire appointment. The second tense moment arose with the questions about her abuse. Rosario was very distressed about it. She began to cry and could not calm down. She claimed repeatedly that she could not believe that all of these things were happening to her. I told Rosario to take a breath, and that we could pause until she felt better.

After ten minutes or so, we continued. I had decided not to go through the long list of detailed questions on the abuse because of Rosario's reaction to it. Instead, I just asked her to describe her experience in her own words. She began to talk about it, and provided plenty of information, which I complemented with specific questions.

Before ending the appointment, I told Rosario that because the abuse she had gone through was mostly emotional and economic, OLA was going to recommend her to attend psychological counseling in order to support her

application. I also told her that USCIS would check if she was economically self-sufficient, to which she quickly replied that she had her employment authorization and that she was going to look for a job now that her husband was not controlling her (he had not allowed her to work outside the house). She had been babysitting two children in her apartment, but she needed more money and wanted to get a job. She said that she had been feeling so bad that she could not put herself together to begin the search. Finally, I told Rosario that she was going to be asked to bring specific documentation to support her application, such as her birth and marriage certificates, her conditional residency papers, photos of the marriage, lease contracts and bills to prove that she had been married in good faith. At that moment, Rosario bent down to pick up the large shoebox she had brought with her. She told me, “Here I have everything” and then, she opened the box.

Rosario’s box was full of papers. From her baby pictures to the next cell phone bill that was due. The papers were all mixed up, so it was very difficult to find the necessary documents. We spent more than half an hour looking for the most basic ones: birth and marriage certificates, and proof of conditional residency. I made copies of those three, and told Rosario to try to organize her bills by type and date in order to speed up her application process. Rosario and her mom left the office promising to organize the papers and wishing to hear back from me as soon as OLA made a decision on her case.

During case review, I presented Rosario’s case. Maggie interrupted me to ask, “Is she the one with the shoe box?” I was puzzled by her inquiry. Maggie explained herself; “I saw it through the window of the conference room as I was passing by while you were doing the in-take. Were all of

those her papers?” “Yes,” I said. Maggie, Jenna, Courtney and Cathy began to complain about “clients who did that; bring all their papers for us to organize them.” They said that even if it was harsh, they told them to take care of their things on their own. I told them that I had helped her find the most basic documents, and then suggested her to try to organize her papers for next time. They were very relieved about my suggestion to Rosario; “We can’t spend time doing those kinds of things with clients, for volunteers it might be easier to do so because they don’t have the time constraints, but we, the legal assistants, have to manage our time. It is amazing, these women are not aware of time issues.”

OLA accepted Rosario’s case, hoping that she would take care of her own things, that she would “do her job.” (Field notes, April 4, mid 2000s.)

Rosario’s vulnerability and apparent disorganization were taken as part of the information regarding her case. While the legal assistants knew that domestic violence victims were traumatized, generally depressed, and consequently, prone to cry and to have difficulties getting things done, they had very demanding standards of behavior. Crying during in-take and affidavit appointments was fine, as long as the clients would be able to calm down and proceed with the task at hand. Deciding to go through the application process was an “admirable sign of courage,” as expressed many times by Maggie and Jenna, but the courage had to be accompanied by determination and schematization. Having the required documentation was indispensable, but not enough; clients had to be able to present that documentation in orderly manner and to obtain it on their own if it was missing (which required going to different offices, claiming for past receipts and sometimes, paying for the paperwork). Pity was as common as strictness; pity and strictness were as common as annoyance and frustration; and all these feelings clearly tinted the formalities of staff/client relationships.

## **MONICA, “THE DEALER”**

Monica was from Mexico. She had three children; the youngest one, a newly born baby, was with her during our in-take appointment. Her husband, a United States Citizen, had been physically, sexually, economically and psychologically abusive with her. Her civil status and abusive experience made her seem eligible to apply for VAWA. However, her criminal background stepped in the way. Monica had been detained for possession and sale of drugs. She claimed that her husband had forced her to do the work for him, and that she never did it again. I told her that OLA had to check her criminal background because it could be a deterrent for USCIS to give her status. From Monica’s comments, I got the feeling that she had information about VAWA and other legal procedures. First, she insisted that her past criminal history was related to the abuse, which meant that OLA could make the case in order to obtain USCIS’ forgiveness. Second, she had brought plenty of crucial supporting documentation, including photos of her after being beaten by her husband, and hospital and police reports related to the abuse. Third, she claimed that she was not going to be a burden for the state if she were to become a citizen because she was a young, self-sufficient, hard worker. Fourth, she told me that she was a person who wanted to know from 1 to 10 what her chances were of getting legal status, and clarified that she did not want to waste time waiting for nothing. Monica was savvy and demanding, two characteristics, which based on my experience at OLA, were very uncommon within OLA’s VAWA clients.

When I presented Monica's case at our weekly review, Cathy said that we needed the papers of her arrest to investigate her criminal past. I called Monica and asked her to bring these papers. When I identified myself in the phone, she told me that she had been waiting for my call with a frustrated and annoyed tone. I explained to her that I could not call her earlier because I had to wait for the lawyer's opinion. Once I asked her for the papers, she repeated her query about what her chances were, to which I replied that we were not going to be able to tell her until the lawyer investigated her case. She said that she was going to bring her papers in two days.

Our next meeting was during the first slot in the morning. When I arrived to the office, Monica was already there, waiting for me. She was sitting at the waiting room with her jacket covering her. I greeted her and asked her if she had brought the papers for me to copy. When she moved to get the papers, I saw that beneath her jacket she had her baby. She was breastfeeding him. I thought that was odd, because her baby was in the dark and without air flowing by. Instantly, I remember how bad I felt when during our previous meeting she told her son that he was like his father because he had slapped her trying to call her attention.

Once Monica gave me the papers, I told her to please wait for me while I copied them. While I was in the copy room, I noticed her at the door. When she saw me there, making copies, she remained silent and went back to the waiting room. I perceived her mistrust; it was like she was checking on me. As soon as I finished her copies, I returned the originals to her, and told her that I would call her back once I had news. Once again, Monica asked me for her chances. I repeated that we would not know until the lawyer looked over her case. She left.

Cathy reviewed Monica's arrest papers, which revealed not only drug possession and dealing, but also a sentence that included her deportation. Cathy realized that Monica had approached OLA several years before, so she took her file out of storage and reviewed it all. Cathy decided to offer Monica to do further criminal and immigration background checks and to get the final disposition from the Court where she had been sentenced to see if she would be eligible or not. I was happy about Cathy's determination to investigate in depth before making a final decision.

I met with Monica to sign authorizations of release of information in order for OLA to move on with her case. Monica came to the appointment with her son, who spent the entire time screaming, banging and throwing things all over the desk and the office. Her son got on top of the desk and began to scream right next to my face. Monica would arbitrarily say "Shut up! Stop!" But her son would not do so. When she had to sign a paper, she grabbed him forcefully and put him down. It was a very stressful appointment because of the screams, and her way of treating her child.

After the appointment I was so overwhelmed that when I gave the papers to Cathy, she asked me if I was all right. I expressed that I felt tired because of her son's screams, and Cathy told me that she could hear the screams from her office, which was two doors down the hall from where I was.

Cathy sent out the papers, and then waited for the results for several weeks. In the meantime, Monica called only once to check on the status of her case. A month and a half later, Cathy made her final decision: OLA was not going to be able to take her case because of her criminal charges for drug dealing and her dismissal of deportation charges. Cathy prepared a letter for Monica where she explained that OLA did not have the

resources to take care of her case at the time and gave contact information of lawyers who might be able to help her out. Monica could get in touch with OLA with her questions if she wished to do so, but the decision was clearly negative and set. I clarified with Cathy the reasons why OLA denied her case. She put it in very simple terms: “Drug dealing and deportation complicate the case too much. It has very few chances to go through. OLA is overloaded with cases of people who deserve assistance and are clearly eligible.” (Field notes, November 22, mid 2000s.)

Monica’s case revealed the contradictions within OLA. While its mission was to provide justice to the most underprivileged immigrants, its standards of practice prioritized immigrants who were deserving of justice, but also who promised to have easy cases leading to successful resolutions. Too troubled immigrants were informally conceived of as trouble clients, who would bring more difficulties than benefits to the organization.

#### **FRANK, “MY SWEET MALE CLIENT”**

Frank was a male victim of domestic violence. He was from Mexico and his abusive wife was a United States Citizen. They had a five months old baby who was being taken care of by Child Protective Services (CPS) because his wife had two older daughters who were also in charge of CPS as she had a criminal record and an alcohol and drugs addiction. Frank was fighting the custody of his baby. However, his struggle had been very difficult. Frank and his wife had several violent episodes that involved the police. The most recent one had ended up in Frank’s incarceration, as it was assumed that he was the perpetrator of violence, when in fact, he was

the victim. Frank's wife was incarcerated later on. The judge and lawyer of his baby's case suggested Frank to approach OLA to legalize his immigration status in order to be able to have a chance at obtaining custody. Frank was also attending domestic violence and parenting classes offered by the state.

At the beginning of the appointment, Frank was very nervous; he had a bandana in his hands, which he folded and unfolded repeatedly. Later on, he relaxed. Frank had brought photos of his wife, baby and himself. He told us that when he met his wife, she was trying to stop consuming drugs, which she did while they settled into their relationship. However, she began to consume again while pregnant. Frank had tried to stop her, but she would react with physical, verbal, and psychological violence against him. She had also tried to commit suicide several times. His wife had threatened him with deportation and had told him that he was never going to be able to obtain custody because he was "illegal and handicapped" - Frank had a physical disability and she used to abuse him about it as well. He had decided to leave her, but was trying to figure out the best way to do it in order to remain in charge of their baby.

Maggie and I did the in-take together (she had expressed her interest in working with a male victim and had invited me to participate because she thought it would be an interesting case). After going through the questionnaire, Maggie told Frank that we would get in touch with him after reviewing the case with the lawyer. Frank did not know much about VAWA, but he was eager to know if OLA would help him obtain custody of his baby, which was clearly his main concern. When he left, I asked Maggie if she thought OLA was going to accept the case, and she said that



he seemed eligible, and that his mistaken incarceration would even work as proof of his victimhood.

Frank's case was accepted by OLA. Maggie was in charge of the case and I assisted her. We met with him to start up the application paperwork and to sign the contract of services from OLA. Frank was positive about it, but he was still doubtful because he did not know if the application would end up with his legalization and acquisition of custody or not. Frank had gone to the Texas Bureau of Vital Statistics to get the birth certificate of his child because Maggie had given him the list of documents that he needed to gather to apply for VAWA. Frank told us that the Bureau did not want to give him the certificate, Maggie said that was weird and that she would request it via mail, which should not be a problem. Then, Frank explained how difficult it had been to be treated properly by CPS personnel, who would automatically talk to the mother of the child and exclude him from the conversations. Frank had told them that he knew he had equal rights over his child and that they had to include him in every conversation and decision in regards to his child. He said that the fact that he did not have immigration documents affected the way in which he had been treated. He said that he wanted to legalize his status only because of his child, and that if he was deported, he would come back for his child right away. Frank's paternity sense was as strong as the strongest maternity sense of some of the women clients.

Frank arrived late to our next appointment, but he apologized and explained that his car did not start, and Maggie told him not to worry about it. Then, she gave him an update on the state of his case: OLA was in touch with the CPS case worker, who would send OLA his court and psychological records, and had received the police reports, which showed

him only once as a victim, and more than once as the aggressor. Frank was very curious to see the reports because he had never understood why he had domestic violence charges when he was the victim. We went through his reports. He expressed that he had asked for explanations to the judge and the police, both of who had not shown them to him. He claimed that the police were always on the side of his wife, who was an English speaker, and that he was automatically portrayed as the aggressor. We asked him about his lawyer, and he said that he had not gotten an explanation from him either. He gave us his contact information, and just from looking at the business card, he seemed to be a charlatan, making profit from people in a bind. Maggie offered him to apply for Crime Victims Compensation, which would help afford the costs related to the abuse. Frank was interested, but he said that he did not have time to take care of something else: the CPS classes and OLA were more than enough; he still was working full-time.

Maggie began to work on his employment history, included in VAWA applications to show that a person is a reliable worker promising not to become a burden for the state as an unemployed subject or welfare recipient. Frank had been in the United States for more than ten years. He was deported once, but he came back after five months, and resettled. He could not afford to stay in Mexico; the risks of crossing the border again were irrelevant, as he knew that in the United States he could work and send money back to his family. We scheduled our next appointment to start his affidavit. After he left, I asked Maggie if she thought that his criminal and immigration history would be a problem for his VAWA application and she said that she did not think so, but that we would have to include all possible clarifications about the problematic aspects of his

case in his application. Maggie said that Frank's case was going to be a tricky one, but that it should be fine.

We met with Frank a couple of times to work on his affidavit, which was a clear statement of his survival not only of domestic violence, but also of racial/ethnic, class and gender discrimination. Frank brought his fingerprints for us to send out the FBI background check, another crucial piece of VAWA applications (the FBI would be the one institution clearing the applicants' immigration history). Three months later, OLA received the results of Frank's FBI check. Maggie introduced the issue during case review: "I received the FBI check of my sweet male client, and it says that he was deported because of illegal import of persons for immoral purposes." Cathy suggested Maggie to request a FOIA (Freedom of Information Act) report from immigration in order to figure out exactly what had happened "now that we don't trust in his story." Maggie expressed with frustration that he had never mentioned anything like it, and said "Poor thing, he is so sweet! I feel bad for him." A FOIA request was sent.

A couple of months later, the FOIA arrived and Maggie met with Cathy to look into Frank's case. They decided to close it. I found out about their decision later on, after I asked Maggie if she had any news about Frank. She told me that his case had been closed because it was too complicated. I asked her about the meaning of importing a person with immoral purposes and she said that it was not clear, but that it was compromising enough for OLA not to proceed with his case. OLA gave Frank legal referrals. (Field notes, September 15, mid 2000s.)

Maggie's explanation was vague, her attitude was cold (as opposed to her original demeanor that included admiration, sweetness and pity for Frank), and OLA's decision was questionable. All revealed OLA's idiosyncrasy: first, the over-welcoming attitude toward Frank as the "sweet male client" who had suffered from all kinds of discriminations; then, the mistrust, and finally, the cold closure of his case. To have a smooth successful case was prioritized over OLA's interest in diversifying its clientele by including male clients. In turn, both of these were prioritized over providing services for an immigrant who not only deserved due process, but also had faced (and was going to face) endless obstacles in his search of justice. OLA's bureaucratic priorities and moral standards had lessened its activism and commitment with their mission of imparting justice to underprivileged immigrants.

#### **YOLANDA, "THE EX-SEX WORKER"**

While Monica and Frank were initially welcomed in a different way, they were both dismissed because of their problematic criminal and immigration backgrounds. Yolanda's case brings another layer to OLA's preferences, showing that not all problematic cases were the same; some were appealing to and deserving of OLA's support.

Yolanda was an ex-sex worker. She worked at a brothel back in Mexico, where she met the man, a regular client, who would become her abusive United States Citizen spouse. Yolanda's past was unquestioned and understood. While prostitution, drug dealing and import of persons for immoral purposes were all crimes, they were valued differently. Yolanda's history of abuse was as traumatic as the history of the other two clients, so why was Yolanda better suited as a client than Monica and Frank? There were formal and informal reasons. On the one hand, the fact that Yolanda had left her problematic past back in Mexico made her eligible as an applicant at USCIS because her

good moral character would be evaluated on the basis of her criminal history in the United States alone. If Yolanda were engaged in prostitution on United States soil, her eligibility would have been jeopardized. Moreover, as opposed to Monica and Frank, Yolanda did not have charges from her undocumented crossing of the border. On the other hand, Yolanda had been tricked by the promises of an abusive sex client who was incarcerated for domestic violence. OLA's mission to provide justice to this woman was exacerbated by the perceived ill-fate of her life as a poor sex worker. Simultaneously, Yolanda had a very calm, subservient and respectful demeanor. Everyone (not only the legal assistant and volunteer in charge of the case, but all the staff) was aware of her case and felt sorry for her. Yolanda was always referred to as "the ex-sex...hmm...you know who." She was described as very brave and resourceful, particularly after she brought documentation proving that she had been living together with her abuser (Maggie thought that she was not going to be able to prove common residency because Yolanda's abuser had never included her name in any bill, service or contract; however, Yolanda had her name and address in the monthly receipts of the money orders she had sent back to her family in Mexico).

In all my experience at OLA, Yolanda was the only one person that could miss five appointments in a row, or show up two hours later than her scheduled time, and not create resentment on the part of OLA staff. Her past as a sex-worker and her present as a domestic violence survivor had sanctified her in a very peculiar way. OLA was determined to help her, with uncommon passion. OLA's tacit values were revealed once again, a good client could have a criminal past, but the crime had to be a "fair" one. Prostitution, in the end, was "the ultimate expression of patriarchy," as Maggie expressed, especially in its combination with domestic violence. If you look at Yolanda's case alone, OLA's determination and efforts to defend it were not questionable. However, with the added perspective of the other cases, they were. Monica or Frank's experiences were as unjust and reflected as much oppression as Yolanda's; however,

these two cases were dismissed because of the bureaucratic complications they could have brought to OLA. OLA, on the contrary, handled all of the complications that Yolanda's case brought.

#### **PATRICIA, "NOT A CHILD CARE CENTER"**

Another bar with which clients were measured was the manner in which they treated their children. Luisa, Clara, Monica and Frank had children and their relationship with them was taken into account when they were being informally evaluated as clients. The OLA staff negatively perceived the fact that Luisa had left her children behind, and did not show concern about them. The decision to include her daughter during her affidavit appointment added another flag to Clara's already questionable demeanor. Monica's choice not to control or calm down her baby boy during appointments was noted as a burden in dealing with her, and the fact she compared him to her abusive husband had a negative effect on the final decision to take her as a client or not. Frank's struggle to gain custody of his newborn son was positively weighted in the initial evaluation to take him as a client. In general, good parents were equated to good clients, which in turn, promised to become good citizens. However, what constituted a good parent? What was considered to be good? Patricia's case illuminates this quandary.

Patricia was from Mexico, but she had lived in the United States since she was four years old. Patricia spoke fluent English and we proceeded with the in-take in that language. Her abusive husband, a United States Citizen, was in jail because of pending Driving While Intoxicated (DWI) charges and for possession of drugs (he was an alcohol, marihuana and methanol addict who had been sent to rehabilitation). He had abused Patricia physically, economically and psychologically. He also had threatened

Patricia with immigration and with taking their children away from her. They had two very young children, and as I found out four months later, another one the way.

Patricia cried during the entire in-take appointment, which lasted almost two hours. She was very depressed and angry about all the things that had happened to her. Patricia lived at a shelter for battered women after her husband tried to run her over with his truck. Then, she moved in with her aunt, and finally, with her mother. She seemed to be eligible, but as usual, I had to first review the case with the lawyer to see if OLA was going to accept her or not. At the very end of our meeting, she said that she was glad it was over because her children had been waiting for too long. I asked her if she had left her children with her mother or aunt, and to my surprise, she told me that her children were right there, at OLA, in the waiting room with their grandma. Then, she explained that the person she had made the appointment with had told her that she could not bring her children to the office because OLA did not have a child care center. I was appalled. Who had told her something like that? It was such a ridiculous request if one took into account the conditions in which these women were living in (poverty, isolation, risk, instability, etc.)! I was somewhat relieved to know that her mother had been able to accompany her to the office, but I was feeling terrible about it. Apparently, Patricia had to reschedule her in-take appointment several times because she could not make the requested childcare arrangements. I told Patricia that if it was easier for her, she could bring her children to the appointments. There were pros and cons about it - for example, there were certain affidavit appointments that could be very traumatic for the mother and consequently have a negative effect on the children. However, I knew that

we could work around it and try to balance moving forward with her case while taking care of her children. Later that day, I tried to find out who had requested Patricia not to bring her children. Marina had done it, and she was very proud of it because she had started to take care of VAWA cases and was very much bothered by the children. Moreover, she expressed that Courtney and Cathy had been doing the same. I told her that I did not mind it and not to ask mothers to do so if she was to schedule their appointment with me. Marina agreed to my request, but was clearly bothered by my reaction.

OLA accepted her case, and in our following appointment, I explained all steps and procedures related with her VAWA application. Patricia had come with her children and her mother again because she did not want to bother OLA. I wanted to do everything I could to lift the burden that was put on her about coming to the appointments childless, so we agreed that she could send me paperwork in the mail in order to save her trips to the office. Patricia promised to begin writing her own affidavit and left.

I received a message from her right before our scheduled meeting in which she apologized profusely: she was not going to be able to make it because her son got sick and she had to take him to the hospital. Patricia arrived fifteen minutes earlier to our rescheduled appointment, and she apologized because she had brought her son and daughter with her. I repeated that it was not a problem. She brought supporting documents, including photos of her family. When she opened the photo album, her son got very excited, particularly when there was a picture of his father, whom he was visibly missing a lot. He would get very upset when Patricia turned the album's pages around and "daddy" was not there any longer. Her children ran around the room for the remainder of the appointment, which we



finished right when her children were beginning to be too tired and restless.

When Patricia and her children left, I gathered all the documents, took them to the filing room and closed the conference room where I was having the appointment. As I was coming out of the filing room, one of the lawyers stopped me to ask if I had just had an appointment in the conference room. To my positive reply, he shook his head and asked me to please leave the door open to air out the room because it smelled bad. Then, he asked me if there were children in there, and I said that there were two very young children who might have had dirty diapers. I was laughing, but the lawyer and Cathy, who was passing by, had an expression of disgust in their faces; "It stinks!"

Patricia and I met one more time to work on her affidavit. She had left the children with her mother at home because she knew that talking about her story was very upsetting to her. Indeed, she had begun to write it down and could not manage to get through the description of the violence; she would start crying, wet and ruin the paper. She had tried several times, but she had not been able to get over it. I told Patricia that if it was so difficult to write it on her own, we could do it together, so at least, when she cried, I would be the one holding the paper. Patricia laughed and with relief, began to talk about it. We worked for almost an hour, and then she had to leave to pick up her children.

Patricia missed a couple of appointments because she had to go to the hospital with her children again. The last time she came to OLA she was with her husband, who had just been released from jail, and her children. I was not there, so Cathy took care of it. Then, she told me all about it.

When Cathy saw that Patricia was there with a man, she asked her to come

to her office alone for a second. Cathy asked Patricia who that man was, and upon her response, she asked her if he knew why she was there. Patricia said that he did not, and that she didn't think he would hurt her. Cathy told Patricia to leave and to never come back with her husband, because even if she might feel safe with him, nobody else at the office did. Patricia apologized and said that I had not explained that to her and that she had come with him because she did not have anybody else to leave her children with. Cathy emphasized that if she came back to the office with her husband, OLA would not represent her any longer. Patricia left and said that she would call to schedule another appointment.

After the incident, we had to wait for her to get back to us because we could not call her while she was living with her abuser. Patricia called back after seven months. She left a message saying that she had given birth to her baby and that she could start coming back again. OLA asked her if she had left her husband, but she had not, so she was reminded that she could not bring him to the office. Patricia did not come back to OLA. (Field notes, February 9, mid 2000s.)

Patricia's case illustrates OLA's contradictory measures of good parenthood. Patricia was a mother who took care of her children. She had left her husband because she felt that her children and her lives were at risk, she had prioritized her children's health over her application process to become a Legal Permanent Resident, she had made all possible arrangements not to leave her children alone while she was at OLA, and she had tried not to bother OLA's policies regarding children. However, her children's presence, their sounds and smells annoyed OLA staff, even if they were not the ones taking care of her case. Finally, the fact that she came to the office with her husband was interpreted as imprudent behavior, even if Patricia thought that she had it under control

and that her children were better accompanied by their father than left alone. Patricia was perceived as a disorganized mother, and an irresponsible client; so irresponsible that she had put OLA staff at risk. OLA discredited Patricia's parenting choices, and her chances to obtain legal services from OLA had been seriously jeopardized.

### **RAMONA, "IT'S UNSAFE TO PROCEED"**

Patricia's appearance in the office with her abuser illuminates another one of OLA's criteria to measure a good client: discretion. Ramona's in-take appointment clarifies OLA's practices regarding security and reveals, once again, certain inconsistencies.

Ramona was a twenty-one years old, Mexican survivor of domestic violence, whose husband was a United States Citizen. She had missed her previous in-take appointment, for which I had been told to be ready to take photos of the marks her husband had left on her body. Ramona had called three weeks later to schedule a new appointment; she had just separated from her spouse. Ramona was six months pregnant and claimed that she did not want to deal with his violence anymore.

While I was waiting for Ramona to show up, Jenna came to my office and, with a scared and disconcerted demeanor, told me that she had arrived, but that it looked like she had come with her husband. Then, Jenna told me that she was not sure about how we had to proceed, but that she thought that I could call Ramona to my office and if her husband wanted to and tried to come in the office, I had to tell him that the meeting was for individuals. I was puzzled because it was the first time in my experience as a volunteer that a client had shown up with her abuser. I followed

Jenna's instructions and went to the waiting room to call Ramona. When she stood up, she told her husband to wait for her there. He asked her why he could not come in with her if he was her husband, and she told him not to worry, that it was an appointment for her baby and her, and that he should not care because he never accompanied her to her doctor appointments. He was clearly doubtful, so Jenna intervened and told them that if they did not agree, we would have to cancel the appointment. Ramona's husband said that he was not comfortable with his wife going in alone, but Ramona said that it was perfectly fine, and convinced him to leave her in the office and pick her up in an hour. Jenna came to the office with us and told Ramona that if her husband tried to come in the room, we would call the police, and explained that she should not come to OLA with her spouse because it was dangerous for her and for OLA staff. Ramona said that we should not worry because he was not going to do anything. After this prelude, I was nervous about her husband interrupting, but Ramona was very calm, so we began with the in-take. Ramona had been a victim of physical and psychological violence. In one of the episodes, which ended up with her calling the police, her husband was so mad that he destroyed their living-room couch with a kitchen knife. While we were about to finish with the detailed questions about the abuse, somebody knocked at the door. As soon as I heard the knocking, I hid all the papers because I thought it could be her husband and I didn't want him to find out what Ramona was really doing at OLA. Fortunately, it was not her spouse, but Jenna and John (OLA's executive director) who were coming to let Ramona know that her husband was back and wanted to take her away. John told Ramona that it was unsafe to proceed with the interview. We arranged another meeting with her for the following morning. A taxi

would pick her up to bring her to the office on her own. Ramona left us her documents in order to avoid her husband to retrieve them from her. Jenna reminded her that she could call the police if her husband tried to hit her. She thanked us and apologized.

After Ramona left, I was shocked about the entire episode, particularly about the way in which OLA had handled it. I told Jenna that I thought that it was a bad idea to have the appointment after her husband had accompanied her and expressed that he was not comfortable with her staying on her own because I thought that her husband was going to be mad at her, which could obviously result in violence. Jenna said that maybe I was right, and that they should have a set policy about this kind of occurrences because they were also unsafe for us.

I was so worried about Ramona that I could barely sleep that night. I had told Jenna that if she did not come back the following morning, I was going to do a welfare check on her because I felt responsible about it. Jenna tried to dissuade me by saying that I was not responsible, but that we could talk about it with Cathy and John, who were ultimately in charge. Luckily, Ramona came to her appointment. She seemed untroubled; she said to me that she thought it was funny how careful we were. I had noticed that she was wearing a large t-shirt that covered almost all of her chest and arms, and I wondered if she was hiding bruises. I asked her about how her day ended, and she did not mention any particular event, she just said, "Here I am," implying survival. During the appointment she cried as she talked about the abuse. It was clear that Ramona was depressed, and I thought that one of her survival strategies was to deny or minimize her husband's aggression. I gave her as much information as possible about her legal options and she promised to call us

back to schedule another appointment (we could not call her because she did not have any safe contact number to leave us).

I was very relieved about the fact that Ramona had come back. However, I was still appalled about OLA's mistreatment of the case. I met with Cathy to talk about it and she seemed to have a concrete idea about the steps that OLA should have taken in such occasion. First, she said that her policy was not to have an appointment if the abuser was at the office. I asked her if that was OLA's general policy, and she said that it should be. Second, she said that OLA staff could always call 911 if there was an imminent threat and claim trespassing, and that if a client did not come to an appointment and we were suspicious, we could do a welfare check through the police. However, reporting the abuse to the police remained to be the client's decision, unless the abuse involved minors (in which case, we had to remain anonymous because we could not bridge the client's confidentiality). Cathy's answers were more satisfactory, yet contradictory to the events related to Ramona. I felt that the organization had failed in providing security, and ultimately in facilitating justice, for Ramona.

Ramona never called or came back to OLA after the second appointment. (Field notes, September 8, mid 2000s.)

Ramona and Patricia's cases illustrate OLA's concern with safety. The uncertainty with which Ramona's case was handled was overcome at the time of Patricia's case, which reflected an improvement in terms of OLA's cohesion in dealing with this kind of episodes. However, it also reflected that OLA stressed the security of its personnel more than the clients' - the clients were free to do whatever they wanted about

their abusers except when they were on OLA's premises; while they could decide to endanger their own lives, they could not put OLA staff at risk.

Overall, good clients were those immigrants who were compliant, tidy, constant, resolute, autonomous, easygoing, redeemable, responsible, private, and discrete. Luisa was not compliant, Silvana was not tidy, Clara was not constant or resolute, Rosario was not autonomous, Monica and Silvana were not easygoing, Monica and Frank were not redeemable, Patricia was not responsible or private, Patricia and Ramona were not discrete. Not fitting within OLA's parameters meant that they would become trouble clients, who would demand too much from the organization, and would be too difficult to present as potential good citizens in the eyes of immigration officers. OLA was very much and openly concerned with its institutional success, mostly measured by the number of cases approved by the United States Citizenship and Immigration Services, which depended on the careful selection of good clients, and the protection of OLA staff.

### **STAFF-CENTEREDNESS**

OLA staff-centeredness was reflected in the bureaucratization of its workers and closely related to issues of organizational survival. OLA's emphasis on taking care of its staff resonated in the workers' detached demeanor towards their clients. OLA staff was comfortable and proud of providing only legal services as opposed to social or holistic services for immigrants. They did not want their clients to think of them as social workers or counselors. If their clients broke down during appointments or showed symptoms of any post-traumatic disorders, OLA staff insisted on bringing the clients back to addressing their legal matters. OLA would refer clients to counseling services and other social providers, and distinguish themselves from them. "We only provide immigration legal services; we don't have the necessary expertise to inform you in any other matters," Maggie used to say to her clients if they requested services that were out

of OLA's boundaries. While this distinction was not problematic per se, it is worthy to note because it worked in an interesting way: it would allow OLA staff to separate from the painful aspects and the complexities of their clients' lives, which were conceived of as legal cases, easily framed within bureaucratic tasks. OLA's personnel would feel overwhelmed if they looked at the whole picture, so overwhelmed that they would "burn out."

Burning out had been a main issue at OLA; some workers had simply taken holidays on regular basis in order to deal with their job-related stress, others had tried to implement institutional self-care practices, and a few had quit. Maggie, for example, feared burning out. I first perceived Maggie's concern during my training as intern: one of the informative materials she focused on was about ways of taking care of oneself while doing domestic violence work. She told me to look into those tips because this kind of job was very distressing. Then, she regretted that nobody had informed her in such manner when she began working at OLA. She said that she discovered these self-care resources on her own and that they had been very helpful for her: she took walks outdoors during her lunch break, she pampered herself, and she tried to keep her work load under control by evenly distributing in-take and affidavit appointments throughout the week. Maggie's active commitment to avoid burning out was also reflected in her petition to John, the executive director, to implement institutional ways of dealing with it. She suggested stress-management sessions, which were approved by John, who also put into effect other mechanisms, like planning recreational outdoors activities each first Friday of the month, and regularly hiring a massage therapist to provide in-house services for OLA staff.

The stress-management sessions reflected OLA staff-centeredness and contradictory behaviors very well, illustrated by the following field notes:



Two days before the stress-management session, I had an appointment with a client who had brought her son. He was restless, the mother was nervous about his behavior and the meeting ended up with a chair stained with milk, unplugged phones, and files all over the floor. The commotion around it triggered the staff to devote an entire stress-management meeting to deal with “the issue of mothers with children.” When the topic was proposed at the beginning of the session I was happily surprised because I was deeply bothered by the fact that Leticia’s case had been relegated to the inconveniences of mothers who could not control their children’s behavior during appointments. In the meeting, we discussed the issue of how to cope with mothers bringing their children to their appointments. First, it was clear that there were different opinions about this matter at OLA. Some of the legal assistants commented that they did not mind the children, and that they had some toys, papers and crayons (only washable ones) for the children to play around while they were in the office with their moms during an appointment. Other legal assistants expressed that they did not want to have toys for the children because it would send a wrong and unprofessional message, as it would allow the clients think that it was okay to bring the children while in fact, it was not. The stress-management coordinator asked us if we had freedom to choose our own manner to cope with this or if there was a strict institutional policy that we all had to follow. The legal assistants replied that OLA was very flexible and that we could do whatever we preferred. The coordinator also asked if OLA had an area in the office devoted for children, like a childcare center, and they all laughed at her (OLA was a small office and resources were tight, they explained). Following up on the different opinions about allowing children to the appointments or not, I expressed my worries

about the issue. First, I claimed that it was very complex because OLA's clients were not in a position to be asked to get a babysitter or to be forced to rely on their families to take care of their children. Then, I agreed with making the children feel comfortable and entertained during appointments (as opposed to not having anything for them to play with, which increased the chances for them to get bored and asking for their mothers' attention). But, I noted that having a childcare area could be very helpful because it was not recommendable to have children present during in-take and affidavit appointments, which could be detrimental for the children as they witnessed their mothers' emotional narration of abusive events. One of the legal assistants added that the presence of children during appointments could also be detrimental for the mothers as they were distracted and concerned about their children and could not focus on the appointment, which translated into slowing down the pace of preparation of their applications and longer periods without legal status. Moreover, it was detrimental for the legal assistants or volunteers as the mothers often used us as a threat for their children (for example, they would say, "If you continue to behave poorly, the lady is going to hit you"), and we witnessed mothers screaming at their children, treating them forcefully and comparing them to their abusive fathers.

The question in the stress-management meeting became "How should OLA staff cope with these issues? Should the staff ignore the violent episodes and try to continue with the appointment as they calmed down? Should the staff prevent women from coming to their appointments with their children? Should they cancel the appointment if the children were out of control and the mothers could not focus on the meeting?" At first, when I heard that these questions were posed in the stress-management

meeting, I was relieved because so far, the only reactions I had seen about these matters were annoyance, frustration and mocking. I was hopeful about dealing with this more seriously, although I was not very much convinced with the ideas that were discussed. The coordinator asked if we gave the clients referral information about parenting education. Two of the legal assistants said that they did not, and then we all thought about the suggestion. Some commented that it was a very delicate issue and that it could be offensive. I was particularly bothered by the suggestion, and as the coordinator noticed my facial expressions, she interjected and asked me to share my thoughts. I expressed that in order to suggest a service like that one, we had to find out exactly what these parenting education programs were all about in the first place. Other legal assistants joined me in my concern and expressed that some parenting education groups were too religious, against divorce, and non-specialized in domestic violence. I added that they may not be culturally and class translatable, and that they could be intrusive. Other legal assistants began talking about when would be the right time to make such a suggestion: "In the first appointment, or later on?" Then, they wondered about how the suggestion should be made: "Should we provide a thorough explanation, or should we add it as another item on the referral list?" One of the legal assistants suggested creating a more complete version of the referral list, so we could give the clients a more comprehensive package with resources and referrals of all types of free services for immigrants with a brief explanation of the kind of services offered. The provision of this holistic list would avoid making a direct reference to the client and her parenting methods, it would be more practical for the legal assistants as they would not have to explain

each service, and it would allow the immigrants to look into the services at their own pace.

It was clear that all the legal assistants were aware about the conflicting aspects of making such suggestions and demands as they felt uneasy about telling the clients to take care of all these issues (parenting education, counseling, and English as a Second Language) besides their VAWA applications. The consensus after talking about all these was that first, we would look into the available parenting services to evaluate them, and if we thought they could be recommended, we would prepare a comprehensive referral list. After the stress management meeting, I was glad that the distress with women bringing their children was finally dealt with in a more constructive way.

However, after several weeks, and eventually, after several months, I noticed that there was no advancement on the issue: nobody looked into parenting services, nobody prepared the comprehensive list of referrals, and nobody cared about the fact that nobody was taking care of all these. I was surprised and frustrated at the outcome because everyone seemed to be genuinely concerned with the issue and committed to find a solution. I wondered if what had happened was that the legal assistants had discarded the idea, if it was simply that they were too busy to add another (not required) task to their schedules, or if it was related to the nature of those stress-management sessions.

After many other stress-management sessions I was able to solve the puzzle. Despite the fact that institutional and client-related issues were brought up during these meetings, the only plans of action put into practice were the ones related to the staff's personal wellbeing. For example, the sessions in which the staff would bring up issues related to

their fatigue or sadness about working on domestic violence cases, and the stress-management coordinator would offer tools to improve those feelings (such as doing exercise, drinking water, pampering oneself, wearing beautiful clothes and having pleasant items in one's office) were dogmatically taken into account. The staff would comment on how helpful those suggestions were and how useful the stress-management sessions had been for their daily lives. (Field notes, February 11, mid 2000s.)

Stress-management was about self-care; it was about having a space to vent and get useful tools to feel better. Even if institutional matters were brought up and discussed during these sessions, they were never acted on. OLA's workers were satisfied with attending these meetings because they were able to express their own frustrations and avoid work matters to affect their private lives, while they did not care about the fact that they never implemented actions to improve services for clients. Stress-management sessions were particularly contradictory also because OLA did not find any obstacles to find a counselor for its stressed staff but never show any interest in finding a counselor for its battered clients, who, on the one hand, were strongly suggested to attend counseling in order to apply for VAWA, and, on the other hand, had to wait for approximately six months in order to get an appointment. The prioritization of the staff over the clients reinforced the stratified character of the organization.

## **ORGANIZATIONAL SURVIVAL AND BUREAUCRATIZATION**

OLA was very much concerned with its workers' welfare, which was considered to be vital for institutional survival and success. Happier employees would provide better results (a higher number of cases successfully approved by immigration), which would

bring higher chances of obtaining grants for the organization. OLA staff-centeredness had improved organizational efficiency in the eyes of OLA's executive director, board and staff. However, it had limited OLA's humanitarian scope and brought class distinctions to the front. The former was illustrated by Courtney's acquiescence about the double-denial of Luisa's certification which was crucial to her access to justice, OLA's decision to decline Frank and Monica as clients, Jenna and John's interruption of services to Patricia, and Cathy's warning to cancel Ramona's representation if she brought her abuser to the office ever again. The latter was illustrated by the way in which OLA dealt with counseling options for their VAWA applicants. OLA demanded these clients to go to therapy in order to obtain a letter of support from specialized counselors. The waiting period for these services was eight months, which meant that these clients' applications would sit in OLA's drawers during all this time. The staff would complain about it during case review, and would sympathize with their clients by saying, "I'm so sorry it will take so long; it's crazy how long you'll have to wait!" However, they never took any action towards it. On the contrary, OLA's workers were very efficient when they had to find a counselor for themselves.

The recreation of social inequality was also fostered by OLA's bureaucratization process as OLA's workers - brokers of citizenship discipline – were able to justify, in purely administrative terms, their decisions to facilitate or prevent immigrants' access to legality (which would determine immigrants' chances to move up the social ladder). All members of OLA were well-aware and welcoming of its institutional growth because they felt that it had led to the provision of improved services (quantity and quality) to the immigrant community, as Cathy put it "If you want to continue defending immigrants' rights, you must organize your work, your files, your data and your cases. You can't serve as many immigrants as we do now without institutional order or funds. I don't understand the complaints about OLA departing from its reason to be; it's ridiculous! We've changed in order to better achieve our mission to provide legal services for

destitute immigrants.” OLA’s institutionalization process was also reflected in the way in which they raised funds for the organization: informal pot-lucks (*peñas*) in staff’s backyards to gather donations developed into formal fundraisers in major venues charging forty dollars for admissions and labeling donors (from ambassador to diplomat) according to the amounts offered to OLA. This change, observed with sadness by its more radical founders, was strongly defended and promoted by OLA’s executive director as a strategy to raise higher sums of funds for the organization by targeting higher income donors, and was accepted by OLA staff as a necessary strategy for organizational survival.

OLA’s bureaucratization had also translated to their political activism. While the organization’s federal and private grants had formally limited the ways in which OLA could advocate for social causes politically (OLA could promote its political ideas but could not adhere to a particular candidate), OLA staff was permitted to engage in these causes independently from the organization. However, their activism was confined. OLA’s workers had become institutionalized human rights’ advocates, who were satisfied with their struggle as long as it fell within their eight-hour shift and followed organizational and legal structures. This phenomenon could be seen in the workers’ passivity in front of unfair practices on the part of immigration or law enforcement officers. For example, in Luisa’s case, when the legal assistant in charge did not want to push the police for a faster response on Luisa’s certification: although it took more than seven months to receive a response, and although she disagreed with the police’s double denial of Luisa’s certification, she gave up and justified her decision not to struggle with law enforcement officers by claiming that she was too busy with other clients who had already gotten certifications. Institutionalized advocacy could also be seen in the workers’ indifference to immigration reform debates and protests held in their hometowns in April and May of 2006. In my interviews to OLA staff, some expressed ignorance about the immigration dispute, “To be honest, I’m not following the debate,”

Jenna confessed (interview, Central Texas, July 12, 2006). Some expressed their preference to work on their clients' cases rather than engaging in popular protests, "We do enough," Courtney claimed (interview, Central Texas, July 25, 2006); "We have to select our battles, we can't do everything," Maggie expressed (interview, Central Texas, May 5, 2006).

OLA had not escaped the dynamics of the process of institutionalization of grassroots movements, which included the moderation of its politics and the adoption of mainstream or normal practices to push for their objects of claim (as opposed to the original non-institutionalized and radical manner to raise demands) (Fox Piven and Cloward 1977). Nonprofit organizations that originated from grassroots movements tended to dissolve if they maintained a non-institutionalized approach, and tended to survive if they adopted bureaucratic and market management practices (Abel and Nelson 1990, Perlmutter 1994). The degree in which they maintained their original reason to be and their push for change varied, but in general, the initial radical character moderated. OLA's institutional growth meant a departure from its original grassroots commitment to do whatever possible in order to provide justice for the most underserved immigrant populations. OLA's success was measured in terms of the number of cases successfully approved by immigration, which required an efficient and happy staff, able to select clients who promised to follow the legal application path as smoothly and independently as possible. OLA had built a reputation as a highly efficient nonprofit legal organization, offered a unique set of services to the immigrant community, and was overloaded with demands of services. While OLA was perceived under the umbrella of helping the underserved immigrant population, a closer look revealed that the most challenged people tended to either be given a low priority as clients or not to be selected as clients at all. OLA's client selectivity worked in contradictory ways: its informal criteria (which fit mainstream American standards of normalcy) insured organizational survival and, at the same time, reproduced social inequality by marginalizing the immigrants most in need.



This ambivalent functionality did not jeopardize OLA's credibility in the eyes of the immigration officers, the network of nonprofits or the community of immigrants' advocates - most of who were as embedded in mainstream ideals of citizenship (legality, obedience, properness, autonomy, self-sufficiency, and ambition) like OLA staff. Even if the initial perception of OLA by immigrants who had been treated as lower priority clients or dismissed as clients changed for the worse, they did not take action against the organization. There was no point to target their efforts in vindicating their situations at OLA. If their path to legality had been clogged or closed, their search for improvement would remain outside the legal realm. As Frank claimed, "If I get deported, I'll come back again to be with my son; I don't care," or as Monica expressed, "If I don't have any chances to get papers, I don't want to lose time, I'll continue to manage." Undocumented battered immigrants had been harmed and traumatized, but their resilience fed their willingness to keep trying, or as most of them would say, "*Salir adelante*" ("Move on"). As I explored the capacity of OLA and its staff to respond to, legitimize, or defy the processes of subject formation of battered immigrants and state interpellation, the question remained as to how immigrants themselves expressed agency. In the following chapter, I address this issue.

Overall, in this chapter I revealed the informal ways in which OLA staff conformed to immigration regulations and enforced mainstream citizenship ideals, disciplines of social behavior and standards of normalcy. In their role as brokers between claimants and grantor of legality, OLA's workers strengthened the state's process of interpellation of immigrants and reproduced the stratified structure of American society. Even if OLA's was a nonprofit, nongovernmental organization devoted to the provision of justice for the most destitute immigrant populations, its informal standards to distinguish between good and trouble clients, and its bureaucratization excluded the individuals most in need, those who did not promise to become "normal citizens." OLA staff was not conscious of their normalization practices in their daily activities. They did

not think of themselves as reproducers of the state's categories, but as representatives of the underprivileged, who were struggling for human rights. They did not see themselves as arms of the state, but as outsiders. However, their own bureaucratized procedures designed to achieve high successful rates in VAWA, U-Visa and other applications, had molded them increasingly into the state's expectations, in contradiction to their goal of expanding immigrants' rights. OLA and its workers had become brokers of disciplinary control, facilitating the process of claiming citizenship, but also, following set institutional channels and informal practices that limited who could actually be a claimant, that is, who could become a legitimate member of the United States. OLA and its workers had become gatekeepers by default.

## **Chapter 4: Immigrants' Acts of Passage: Balancing Obedience and Resistance**

In this chapter, I concentrate on the third layer of my research questions. First, I address the sociological debate of structure versus agency as I focus on the ways in which immigrants dealt with the interpellation and subjectivation processes held by the state and OLA. Then, I bring in four cases of successful VAWA applicants to illustrate the ability that immigrants had in balancing obedient and subversive behaviors. I end by pointing to the stratified and stratifying character of agency and the intricacies of blending in mainstream citizenship ideals.

### **STRUCTURE VS. AGENCY**

“Are battered immigrants fully constrained by immigration laws and institutions, nonprofit legal agencies, like OLA, and their workers or do they have some capacity to shape, reinforce or contest these structural and structuring forces?” As opposed to the other two layers of research questions, which focused on the power of the state, nonprofit organizations, and their workers over immigrants’ actions, the third layer of questions focused on the capacity of battered women to cope with, respond to, comprehend, legitimize, or defy the processes of state and nonprofits’ interpellation and subject formation. While battered immigrants were interpellated or not as legitimate subjects of law, they also had a say in shaping how this process took place. These encounters between structural and individuals’ wills and actions embody the theoretical debate around the issue of human agency vs. structural forces, also called the debate between voluntaristic and deterministic views of the self versus societal institutions (Alexander 1987). If my dissertation only included the first two layers of research questions, my

observations would have tended to emphasize not only structural and structuring forces over individuals, but also the agency of powerful entities (the state, nonprofit organizations, institutionalized workers) over weaker ones (undocumented immigrants). This partial view would have prevented me from understanding the actual complexities of the processes of subject formation and citizenship making because I would have not taken into account the crucial role that immigrants played in embodying and shaping them. Therefore, I focused on the ways in which battered immigrants responded to interpellation and subject formation processes at OLA, the site where they encountered the state by negotiating with legal assistants, attorneys and advocates, that is, with the brokers of citizenship discipline.

In the theoretical debate about the self versus societal institutions, not surprisingly, there are two polar positions and a middle ground. At the extremes, one finds authors like Comte (1830-42), Durkheim (1882), Parsons (1951), and Bourdieu (1977), who emphasized the power of social structures over individuals, and authors like Mead (1967), Berger and Luckmann (1966), Garfinkel (1967), and Homans (1958), who emphasized the power of individuals over social structures. In the middle, one finds authors who pointed out that structures were not only constraining, but also enabling of human agency (Giddens 1984, Goffman 1961), and that structural power was not only oppressing but also, generating individuals' power (Foucault 1980, Butler 1993). While my research fit within the middle-ground of the debate, my field observations of the processes of interpellation and subjectivation of immigrants by the state and OLA put into question the abstract understanding of the notions of agency and social structures by uncovering their stratified and stratifying character.

As I have shown in previous chapters, the application for legal status represents a crucial moment in which undocumented battered immigrants considered to be outsiders interact with the state authorities through nonprofit legal organizations like OLA. In this interaction, the state may either interpellate them as legitimate subjects of law by offering

them Legal Permanent Residency and/or Citizenship status, or dismiss them as illegitimate subjects. Althusser's (1971) concept of interpellation shows the power of state structures and its representatives over individuals who may be enabled as legitimate members of the community or constrained as illegitimate subjects. It also denotes the unequal distribution of power within social structures, as there are individuals who legitimately belong and therefore have power over others. Besides interpellation, the application for legal status involves the process of subjectivation (or subject formation) through which individuals are molded into citizenship ideals and disciplines. While subjectivation is conceived of as a highly structuring process, Butler uncovered its enabling nature; she claimed, "The paradox of subjectivation is precisely that the subject who would resist such norms is itself enabled, if not produced by such norm. Although this constitutive constraint does not foreclose the possibility of agency, it does locate agency as a reiterative or rearticulatory practice, immanent to power, and not a relation of external opposition to power" (Butler 1993, 15). Individuals (who are social beings because they cannot emerge, live and develop in isolation, but are always in relationships with others) have to cope with constraining and structuring social conditions on a regular basis. These structural conditions, which are created socially, are violent materializations of ideal regulations of self and selfhood (as theorized by Foucault). However, individuals have the ability of breaking through these social constraints. Individuals possess the capacities of resignifying and performing imposed social norms and circumstances on a daily basis (that is, of giving them new meanings, interpretations, and shapes). According to Butler, the processes of resignifying and performing socially given categories are where the core of human agency and social change is to be found. Individuals simultaneously embody social regulations, act, enact, react, and create alternatives to them. In this way, individuals embody, sustain and subvert social norms, institutions, and structural constraints. Butler's theory moderates Althusser's emphasis on structural forces over the individual by revealing the ways in which individuals can

react to these impositions. However, Butler's faith in the individuals' power of subversion must be contextualized: my field observations indicated that the degree of agency that individuals had varied greatly depending on their positionality and respective allotments of capital.

Spivak (1988) questioned universalizing notions of agency by stressing that individuals' social positionality (given by their class, race, ethnicity and gender) is crucial in determining their ability to do otherwise. In particular, she posed that subaltern populations had not been able to speak up because politico-economic historical structures (especially capitalist, colonial and patriarchal systems of domination) would not allow them to voice their demands, organize collectively to provoke social change, or even perform and resignify norms on an individual basis. Spivak called for respecting and acknowledging subaltern populations, and to uncover the myth of empowering them by academically evoking abstract categories of agency. While Spivak's claims were criticized because her vision stripped subaltern populations from any form of resistance, overlooking historical events and glorifying the power of dominant groups (Mani 1998), her suggestion of concretizing notions of agency continued to be valid and very relevant in the study of immigrants' subjectivation processes. As Mahmood posed, in order to escape the trap of abstraction, one may think of agency "as the capacity for action that historically specific relations of subordination enable and create" (Mahmood 2001, 203).

The particular positionality of undocumented battered immigrants *vis a vis* OLA staff and state authorities could be understood in terms of Hill Collins' (1986, 1998) theory of intersectionality. Race/ethnicity, gender, and class are all dynamic social constructions (not biologically or God-given rigid categories), which are reflective of and reproduce systems of power. These social constructions are linked, or intersect, in particular ways varying along time and space. However, the interlocking nature of race, ethnicity, gender, and class always reflect hierarchical power relations, which tend to be unjust systems of domination (Hill Collins 1998, 205). Undocumented battered

immigrants, OLA staff and state authorities were all constructed within and responding to these oppressive social systems of power in a different manner. Their positionality within the stratified social structure influenced their degrees of agency, particularly their power over others and their ability to successfully resist, both of which were lower for the individuals in the most underprivileged groups. The cases presented in the previous chapter clearly showed the overriding agency of OLA staff and state authorities over undocumented battered immigrants who had not been able to fulfill formal and informal expectations of citizenship behavior. Below, I present the cases of Teresa, Juana, Martha,<sup>15</sup> and Leticia to illustrate the capacity of certain battered immigrants to successfully navigate the demanding process to become legal members of the United States, that is, to pass through the formal and informal gates to citizenship.

#### **TERESA, “A PLEASING APPLICANT”**

Teresa had migrated to the United States out of economic necessity; even if she had a job, she was having a very hard time maintaining her mother, her two younger siblings, and her daughter (whose father had left after Teresa’s fourth month of pregnancy). Teresa crossed the border with a friend, and got detained and sent back to Mexico. Fortunately for Teresa’s options to apply for VAWA, the United States Citizenship and Immigration Services did not have any record of this incident, which meant that her immigration background check was clear. Teresa and her friend were determined to come to this country, so they crossed the border once again a couple of days after. That time, they did not have any trouble. Teresa did not want to leave her country, her daughter or her

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<sup>15</sup> I referred to Martha’s case earlier, in Chapter 2.

family; but it was the best option for their survival. Teresa and her friend did not know anybody in Texas and they did not have a place to live. By chance, they met a fellow, Joaquin, who was also from Mexico, but had lived in the United States for a long time and was a Legal Permanent Resident. He helped them find a place to stay, a trailer shared with three other people; they promised to pay him back once they began to work. Very soon after their arrival, Teresa and her friend found jobs cleaning houses. Teresa was very happy because she was able to send money to her family back in Mexico and to speak to her daughter on the phone often.

Joaquin kept in touch with Teresa and her friend, he would come over to the trailer and spend time talking with them. At first, Teresa was not attracted to Joaquin; she thought that he was a snob, and very stuck-up. Besides, she knew that he was married but separated from his wife and living in a hotel. However, he had been very generous in helping her and her friend out. As time passed by, Teresa began to see him in a different way—she started to feel affection for him. She realized that Joaquin was going through a difficult time because of his separation, and she wanted to be there for him as a friend, particularly after he began to drink more and more. Teresa simply did not like to see people behaving in that way and she felt a moral duty to help him feel better. They began to spend more time together; they went to the movies, out to eat, or to a park. Joaquin behaved as a gentleman and made Teresa feel very comfortable. Teresa was very happy because she realized that he was changing his drinking habit and that he was feeling better while being with her. Soon, she realized that she had fallen in love with Joaquin, but she did not let him



know about her feelings because she was afraid that he was using her to escape from his problems.

Time passed, and Teresa and Joaquin felt more for each other. He had rented an apartment, and asked Teresa to move in with him. She was afraid of having a more serious relationship because his ex-wife had already threatened her twice. She called her saying, “If you don’t stay away from my husband, I’m going to call Immigration and tell them to come get you!” Teresa was scared about the threats and decided to ask Joaquin to stop seeing each other because she could not afford to be deported, as she was the one maintaining her entire family. Joaquin did not accept Teresa’s decision and promised her that she was going to be safe with him. Teresa tried to avoid seeing Joaquin for a week, but he was very persistent and did not leave her alone. His insistence and safety promises seduced Teresa, who decided to continue with her relationship with him.

A month later, Joaquin asked Teresa to move in with him to his apartment and she accepted. Joaquin was romantic and treated her very well. He would bring her flowers, cards, and teddy bears. They would go out to eat, and when Teresa worked late, he would cook for her. Teresa and Joaquin would spend time with his children, whom she treated as if they were her own. She was happy, but she missed her family so much that she went back to visit them thinking that she would stay in Mexico. Teresa’s daughter was three years old at the time of her visit, and at first, she did not recognize Teresa. Her daughter had been calling Teresa’s mom “Mom,” instead of “Grandma,” which was heartbreaking for Teresa. Days later, Teresa’s daughter recognized her mother.

After a couple of weeks, Joaquin went to Mexico to visit Teresa by surprise, which made her very happy. Her family thought that he was well-educated and very nice, and got along with him, particularly Teresa's daughter who would call him "Daddy." Joaquin invited Teresa and her daughter to meet his family in Mexico; their visit was very positive.

Joaquin told Teresa that he wanted the best for her and her daughter. He asked Teresa to get married with him, but she thought that it was too early in the relationship to get married. Moreover, she knew that his ex-wife had not agreed to divorce him, so she did not want to get in trouble.

Joaquin returned to the United States and made arrangements to help Teresa cross the border again. She asked her mother to continue taking care of her daughter. This time Teresa left Mexico with two certainties. First, she knew she was going to be able to work and support her family with her income in the United States. Second, she thought that she was going to either be able to bring her daughter with her or that she would move back to Mexico with Joaquin to be with her family as he had promised her.

The first two months after being back in the United States were very good. However, Teresa began to have problems very soon after. Joaquin's ex-wife did not want the children to see Joaquin anymore, which was very upsetting for him. He then was easily bothered by anything. Sometimes his children would call in the middle of the night, saying that they needed money for food. He began to drink more. He would go out and come back home later and later: first, at midnight, but then, at 1, 2 and 4am. Teresa would ask him not to do all these, but his reaction was always very hurtful: he would tell her to shut up, that it was her entire fault, that if it were not for her, he would be able to be with his children. After a couple

of weeks, Joaquin was incarcerated because he hit his ex-wife. When he was set free, he told Teresa that he did not know what to do about his children, that he did not know how to handle the situation. Joaquin decided to kick Teresa out of the house because his ex-wife had told him that if she moved out, she would allow the children to visit him.

Joaquin's decision hurt Teresa; she felt deceived, frustrated, scared and sad. Teresa moved in with her girlfriend and continued to work cleaning houses. Even if Joaquin had kicked her out of his house, he wanted to keep a relationship with her. He would call her in the phone three times per day, from early morning to night, and asked Teresa to ignore the fact that they were not living together any longer. While these behaviors were clearly abusive, Teresa did not perceive them in such way. Indeed, she empathized with Joaquin, felt comforted with his words of love, forgave him and continued with the relationship. Teresa moved back in with him after he had reached an agreement with his ex-wife for his children to visit him in the weekends regardless of her presence. Their problems seemed to be solved, and they were happy.

After two months, Joaquin started to change his attitude towards Teresa. He would tell her that she was nothing, that she did not have any ambitions in life, and that he did not know what he was doing with such an unmotivated woman. He prohibited Teresa to work with her girlfriend, who was the one she had talked about the benefits of him getting a divorce. Instead, he forced Teresa to work as a babysitter in their apartment, and he controlled her income, which was very small in comparison to what she was able to earn before. He would buy groceries and clothes, but he never gave her money to move around independently from him. His attitude hurt her particularly because he was making it

impossible for her to send money back to Mexico for her family. Teresa had to do so, so she challenged Joaquin and insisted to get a job outside their home. He accepted but with the condition that she would only work for one week during which she had to comply with all the duties he considered pertinent for a housewife (cleaning the house, making all meals, doing laundry, etcetera). Joaquin threatened her by saying that if she did not manage to take care of all the housework; he was not going to allow her to work outside the house. Teresa took the challenge and did her best to keep up with all the work; she would stay up until midnight cleaning and taking care of the house. Joaquin then allowed her to continue to work outside the house, but kept checking that she took care of everything else. Besides his controlling attitude, Joaquin continued to be rude and mean to her, especially by talking down on her.

After a while, things between Joaquin and Teresa improved. Joaquin helped her to bring her daughter to the United States. Teresa was very happy because she could finally be with her daughter, and because Joaquin and his children got along with her. For Teresa, it seemed that it had all been worthy: the risks of leaving Mexico and living in the United States without documents, being far away from her family, and enduring Joaquin's hurtful behaviors. Her only wish then was that Joaquin would get a divorce. At first, Teresa was patient because she knew that it was his wife who was avoiding the divorce. However, Teresa's patience shrank as she witnessed Joaquin's weakness in front of his wife and irresponsibility towards his own children (who had been abandoned by his wife). Joaquin had been advised to fight for custody, but he did not dare to confront his wife, not even for the sake of his children. Teresa did not agree with his

poor decision, but she respected him because, in the end, he was the father.

Upon the return of his wife, problems began again. She would not let Joaquin see the children, and he would take it out on Teresa. He blamed her of everything, which hurt and saddened her. Joaquin's derogatory and prohibiting behavior was again counterbalanced with the fact that he helped Teresa's sister to cross the border and then allowed her to stay with them in their apartment. Joaquin's legal status in the United States had repeatedly helped Teresa and her family. However, Teresa's feelings for Joaquin were not instrumental; she loved him and she believed that their relationship could improve. Moreover, Joaquin's status was not so stable. He was incarcerated for two weeks. Teresa was never able to found out exactly why because Joaquin never wanted to talk about it with her.

Teresa went to visit him at jail, and to her disappointment, he treated her very poorly. He accused her of being responsible for all his problems. He told her that she was useless, unable, and unmotivated. He was rude and heartless towards Teresa, who was extremely harmed by his behavior.

When Joaquin got out of jail, Teresa did not want to be with him any longer. But, once he explained that being in jail was maddening, that he had not meant anything he had said to her, and that he loved her, she forgave him. Teresa even helped Joaquin to get out of his post-incarceration debt by giving him all her paychecks, which he administered and made use of. Soon, Teresa regretted having done this, especially because he would never give her cash for herself so she did not have any control over her finances. Moreover, Joaquin was fired from his job, which meant that Teresa was the only one with an income. Joaquin began

to be mad and very aggressive at all times; he also began to drink alcohol constantly.

Teresa's patience with Joaquin mistreatments turned into fear after he hit her. One weekend night, Joaquin came to their apartment and told Teresa to get ready and dress up to go out dancing. She got ready and they left to a bar. While they were at the bar, Joaquin left Teresa at the table where they were sitting at to buy a beer. While he was gone, another man put down his beer on Teresa and Joaquin's table. When Joaquin saw that happening, he got very upset. He came back to the table right away and accused Teresa of being a whore. He started screaming at her and then he grabbed her and took her out of the bar. When they got to the truck, he pushed her against the window. He hit Teresa in the head; he beat her and forced her into the truck. Then, Joaquin drove back to their apartment. When they arrived, he pulled her from her hair and punched her. He went upstairs to the bathroom and Teresa was so scared that she hid behind a couch. He found her and tried to strangle her. He hit her more and more. All of a sudden, Teresa's sister opened her room's door. As soon as he realized, he stopped and pretended that he was holding her. He then told Teresa to go upstairs and told her sister that everything was all right. Next morning, he told Teresa that she had looked for what happened, that it was all her fault. He also insisted that she should not tell anybody because even if she did, nobody was going to believe her. Teresa was all beaten up. Her sister knew that something had happened, but she did not do anything. Teresa's daughter saw the bruises; she did not say anything, but she was very loving to her mother and tried to make her feel better. Teresa was hurt, in pain, sad and very scared. She told us that she did not really know what to do; that she did not know she had rights to protect

herself. Moreover, she did not want to call the police because he had been in so much trouble already that she did not want to make it any worse for him. Teresa was paralyzed by fear.

Teresa's next move was only months later. Her other sister was turning fifteen, so she told Joaquin that she wanted to go visit her with her daughter. She convinced Joaquin to let her go. She needed to get away, to be far away from him, and that her sister's birthday was a good excuse to use in order to set free (at least, temporarily). Joaquin told Teresa and her daughter that he was going to meet them in Mexico in two weeks in order to come back to the United States with him, under his protection.

However, two weeks passed and Joaquin did not show up. Instead, Teresa received a phone call from her sister in Texas, who told her that Joaquin was put in jail. She did not know why, but it was a relief for her, because she just wanted to relax and be with her daughter and family without the fear and stress of having Joaquin around.

These quiet times lasted until Joaquin got out of jail, when he started calling Teresa all the time. She tried to avoid him, she used to ask her mother to pick up the phone and say that she was not there. But, when he called at night, she had to pick up the phone, because making up any excuses was worse. When they talked in the phone he would accuse her of cheating on him. He would say that she was down in Mexico to look for her daughter's father (who Teresa had not seen since her third month of pregnancy). She would tell Joaquin that what he was saying did not make sense, that she was not doing anything wrong, that she was simply spending some time with her daughter, mother, sisters and brothers in Mexico. He would not believe her, and he would insist that she was lying, acting like a whore, trying to get laid with other men. Joaquin's jealousy

was very confusing for Teresa because even if his words hurt her, she thought that if he was jealous, he still cared for her.

Teresa was not decided about staying in Mexico or going back to the United States. Her daughter wanted to stay in Mexico with their family, but at the same time, she wanted to go to a school just like the one she used to go in Texas. Teresa knew that was not possible because schools in Mexico were not the same. She thought about her daughter's future and knew that it was better to go back to the United States. Plus, Teresa knew that she was not going to be able to have a job with a decent income in Mexico to help her family.

Teresa and her daughter came back to the United States and went to live with Joaquin. Teresa went back to work, and Joaquin controlled her paychecks. Teresa's daughter went back to school; she was thrilled. Teresa's decision to come back to Texas for her daughter and family's future was crucial. She could have stayed and gotten rid of Joaquin's mistreatments. She could have come back to the United States but gone somewhere else. On the contrary, she decided to come back to a known place, where she knew she could find work, a place to live and a school for her daughter. Joaquin was not her best shot; but it was familiar and she still had feelings for him.

Joaquin's manipulative behavior did not change. He would tell Teresa that he loved her, and then he would claim that she was worthless, useless, and dirty. He began to ignore and mistreat her at all times. It even reached a point that he would not spend any time with her: he would go to work, come back to the house and demand his meal to be ready and his clothes to be clean and ironed. Then, he would take a shower, dress up



and leave the house up to 3 or 4 in the morning. After three months, he started to sleep in another bedroom. Teresa was torn.

One day, Teresa took courage and decided to look into his things because she suspected that something was going on. She went into Joaquin's bedroom while he was taking a shower and looked around. She found bills of dinners and drinks for two, and receipts of women clothing stores. It was clear that he was cheating on her. Teresa got upset and was very angry. Besides the cheating, Joaquin would talk down to Teresa all the time. He would say that she was "*Poca cosa*" ("Too little a thing for him"), that she was worthless, and that she was nothing. When Teresa confronted him, he threatened her that if she did anything, he would destroy her. He kicked Teresa and her daughter out of the apartment. The following day, Teresa went to work as usual; he showed up there and begged for forgiveness. But, Teresa was tired of all the humiliation. For the first time, Teresa did not accept his apologies right away. She wanted to go on with her life on her own.

Joaquin did not give up. He went to look for her every single day, insisting that he was sorry and that he wanted her back. He ended up convincing Teresa. Joaquin had gotten his divorce and asked Teresa to marry him. She accepted because she thought that if they got married, things were finally going to get better. Teresa and Joaquin got married in a court in Texas. After they were finished with the paperwork, they celebrated with Teresa's daughter and sister and other friends. They were all very happy.

The first three months after they got married were very good. But then problems started to happen again. He began to go out at night and to come back late, at 3 or 4 in the morning. Teresa was very upset; she knew there

was something going on. One night, she decided to look into his things again. She found cocaine, phone numbers of other women, receipts of dinners and drinks for two. Teresa was shattered. Joaquin caught Teresa while she was looking around and he got very mad. He beat Teresa. He screamed at her and said that she was going to regret it. After this event, things got worse and worse.

Teresa began to lose her control about Joaquin's attitude. First, she confronted him about the money. She told him that she wanted to start cashing her own paychecks and then, give him part of the money for living expenses. He responded negatively. Then, Teresa decided to talk to her boss at the hotel and asked her to give her part of her paycheck in cash. She would deposit the cash in a bank account that she opened by herself, and then, she would give Joaquin the paychecks as usual. It was a good plan, but Joaquin was suspicious and ended up finding out because he found a debit card under her name. He humiliated her and laughed at her. He took the card with him and took out all her money. After a couple of days, he came back, threw the card at her face and said that it was OK, that she could use it then. When Teresa went to the bank, she found out that he had spent all the money that she had saved. Teresa didn't know that she could have immediately called the bank and cancelled her card to avoid Joaquin's maneuvers. Teresa was very disappointed and defeated; she had lost all her savings and was back to depending on Joaquin, who was clearly mad and not willing to share anything with her.

Soon after this episode with Teresa's money, Joaquin kicked her out of the apartment once again. He told her that she could wait until her daughter finished her school year (which was three weeks away), but that they would have to leave right after. He said that he did not care anymore

about them. During those three weeks, Joaquin continued to humiliate Teresa, and repeated that she owed him because she would be nothing if it were not for him.

Right after Teresa's daughter ended her school year, Teresa moved out from the apartment. She had had enough; she did not want to endure his mistreatments, humiliations and violence anymore. She wanted to be set free. She got in touch with OLA and began with her VAWA application. Teresa wanted to stay in the United States where she was going to be able to earn a decent living, help her family in Mexico and give her own daughter a good life with opportunities. Her daughter loved being in the United States, she had friends and enjoyed going to school very much. Teresa wanted to be able to obtain legal status in order to work legally, earn a better salary and save money for her daughter to finish her studies and go to the University without the fear of being deported. She did not want her daughter to have to sacrifice for anybody. Teresa's goals and expectations were focused on her daughter and family's future, which depended on hers.

Teresa, who Maggie described as a pleasing applicant, had been successfully guided through the VAWA application process. Her petition was sent out to the United States Citizenship and Immigration Services, which granted Legal Permanent Residency to Teresa and her daughter one year later. (Field notes, June 20, mid 2000s.)

Why had Teresa been considered a pleasing applicant? In the eyes of OLA and the United States Citizenship and Immigration Services, Teresa fit all possible formal and informal expectations. First, Teresa's history of migration and domestic violence was "normal" (even extreme cases develop a norm), and as such, made her eligible as a

VAWA applicant, and later on, as a potential citizen. Her motives to migrate to the United States (poverty, family care, hopes of improvement), the conditions in which she crossed the border (risk and illicitness), her persistence and courage to cross undocumented more than once, and her fortune not to have immigration officers registering her passing. The deprivation upon her arrival (not knowing anybody, not having money, a place to live or a job, not knowing the language or the uses and customs of the new surroundings), the quickness with which she found housing and employment, and the resulting dependency from the person that facilitated all these. Her emotions towards this resourceful person, which tainted her capacity to identify his controlling behavior as negative. Joaquin's use of his legal status, economic stability and social networks to provide for and manipulate Teresa without any sense of inappropriateness or risk, and his resort to all tools of domestic violence, physical, sexual, psychological and economic. Her emotions for and vulnerability in front of this man whose troubled personal life allowed Teresa to feel helpful and in that way, return his favors, and her long-term endurance of his hurtful mistreatments as she blamed herself while she believed that change was possible. Teresa's feelings of entrapment were due to her family's needs and her undocumented status in the United States, her lack of knowledge about this country's legal system, particularly about her rights as a victim of domestic violence, and her fear of state authorities. Teresa's prioritization of her family over her intimate relationship with Joaquin, and her wishes to gain legality and independence in order to provide a better future for her daughter, was reflected in her decision to get in touch with OLA and apply for VAWA. All of these traits made of Teresa a "normal" case of domestic violence and migration –one that showed Teresa's agency to make decisions and cope with adversity, and, though her experiences were traumatic, they did not compromise her good moral character; that is, her potential to become a good citizen as opposed to a burden for the American state and society. But, as I showed in the

previous chapter, having a standard history of migration and abuse was not all that mattered.

Second, Teresa had been able to comply with all the formal requirements of the VAWA application, such as proving that she had been married in good faith to a United States Citizen or Legal Permanent Resident, had resided together with her husband, had been a victim of domestic violence in the United States, and had been a person of good moral character. Teresa's ability to conform to (and not resist) VAWA's formalities was based on her social and cultural capital, which allowed her to call OLA and request legal services, attend appointments in time and be responsive to OLA's guidelines, have kept, gathered, requested and paid for all required documents, from birth certificates to phone bills, and save money to pay the fees related to the residency application process. Teresa possessed the "right allotment" of agency, one that permitted her to follow all of these demanding steps without questioning OLA or the state's subjectivation and interpellation processes.

However, her agency to follow norms was not enough either; she also had to meet certain informal standards. Teresa had been able to behave as desired by OLA staff: she had been compliant, tidy, constant, resolute, independent, easygoing, redeemable, responsible, private, and discrete. Teresa fit all of OLA's informal standards making her a pleasing client and promising to become an ideally good citizen. Teresa's ability to blend in with OLA and the state's expectations, that is, her agency to pass through the formal and informal gates to citizenship, was extraordinarily high, and as portrayed in the previous chapter, such skillful applicants were not as common. Nevertheless, Teresa was not unique. OLA had plenty of clients who had managed to traverse the application process successfully. The cases of Juana, Martha, and Leticia, whose behavior and demeanor was not as pleasing and consequently, had put their applications temporarily at risk, show these variations and illustrate the paradoxical effects of not expressing enough or of expressing too much agency.

## **JUANA, “TO BE, OR NOT TO BE DIVORCED”**

Juana was from Mexico, and had crossed the border without any contact with immigration officers. She met and got married with a Legal Permanent Resident, originally from Mexico, who had been abusive physically, sexually and psychologically. Her husband had used almost all of the abusive techniques mentioned in the in-take questionnaire, including threats with deportation, manipulation of immigration papers (he had initiated paperwork to change her status in 1995, but never followed up), and prohibition of learning English. Juana had seven children and had a miscarriage related to her husband's ill treatment. Her husband had left her three years before the date of our appointment, and had been living with another woman for almost as long. He stopped seeing the children and sending money for them very soon after he had left her. Juana made three hundred dollars per month by picking up temporary work cleaning houses with another woman.

Juana wanted to become a Legal Permanent Resident because she wanted to “*Salir adelante*” (“Move on”) for her children. Motherhood was a key element in her decision to apply for legal status and was also one of the reasons why she had never called the police after violent episodes with her husband: her children always begged her not to call the police on their father. She told me that it was very difficult for her to separate her children from their father, but, that she knew that the violent relationship had to end. Juana was calm during the in-take, but her tranquility seemed to be grounded on a very sad feeling. She said she was lonely and did not know what to do. Before she left, I gave her information about shelters for

battered women, where they offered counseling and other services, such as English as a Second Language lessons, for free. When I gave her these references, she was very interested, especially about being able to learn English.

Later that week, I met with the lawyer to review the case. Kathy told me that Juana seemed to be eligible to apply for VAWA, but that we could not proceed with the case until we knew her exact civil status: “Was she still married? Was she divorced? Did she have divorce papers?” Her husband could have filed a divorce without her knowledge, and if Juana had been divorced for more than two years, she would not be eligible for VAWA. After reviewing the case, Jenna, who had been assigned as the legal assistant in charge of Juana’s case, showed me the administrative steps one had to take in order to check an individual’s civil status. Then, she told me to explain all these to Juana, who would have to get the information on her own. I had the feeling that Juana was going to be overwhelmed by the process.

When I met Juana again, I explained to her that in order for OLA to take her case to apply for VAWA, she had to check if she was or was not divorced. Juana was very confused because her husband had threatened to file for divorce many times, but Juana was not able to tell if he had done it or not. She was scared. I explained the steps she had to take to find out about her civil status. She was overwhelmed and expressed that it was going to be very difficult for her to get to the indicated office. I showed her the public transportation options available, but she continued to express how difficult it would be for her. Then, I offered to accompany her, but she was not convinced, so I told her that we could do the paperwork request by mail. Juana was relieved with that option, even if I

had clarified that mail requests were significantly slower than in-person requests (it took two and a half months more to get results). When we began to work on the mail application, Juana stopped me as she claimed that she did not have nine dollars to pay for it. She said that she would try to bring the money to our next appointment. I told Juana that I was going to find out if OLA could help her afford the cost. Juana was both grateful and hopeful.

After our appointment, I talked with Maggie and Jenna about Juana's reaction. They told me that OLA could pay for it and later on, request a refund from the client. I asked them if they thought that it would be fine if I went to the state office to request Juana's divorce papers on my own, and they said that was very nice from me, and that if I wanted to do it I could, although it was not a common practice at OLA. They reminded me that I could do it by mail, but I was eager to get Juana's results faster and also, to know what it took to do this request by oneself. I was somewhat upset about the fact that nobody was bothered by the long waiting periods of bureaucratic processes. I could not stop thinking that waiting for two weeks and waiting for two to three months made a big difference in Juana's situation. While I understood Juana's decision to avoid doing the paperwork personally, I was bothered by OLA's decision to have their client wait for such a longer period. OLA's workers were so bureaucratized that two weeks or three months were simply perceived as a range of time to get divorce papers, rather than from the perspective of how this would affect Juana's life.

I went to the corresponding state office, requested a check on Juana's civil status and paid the fee. Finding the office was not easy: I went into three different buildings looking for it, and it was only in the third one where I



found somebody to give me precise directions. Once I found the crowded office, I looked around for instructions and forms, which were only in English. I completed the form and waited in line for an hour. The staff spoke only English and was cordial but demanding. Clearly, Juana would have had trouble filing her petition, and I was glad that I had decided to do it for her. We would get the results in two weeks, and then, we would be able to proceed with her case or not.

Two weeks later, we received Juana's civil status. Fortunately, she was not divorced. OLA officially took Juana as a client. She was thrilled and ready to move along her application process. Jenna took charge. Two years later, Juana received her Legal Permanent Residency. (Field notes, July 20, mid 2000s.)

Juana's case exposed the fragility of the process. Juana had a normal history of migration and abuse, but she might have not fulfilled all of the formal requirements for VAWA because of her unclear civil status. Juana was, from the very beginning, tested in terms of her ability to follow norms independently from OLA. In her case, my intervention as an active mediator between the state, OLA, and Juana greatly influenced her chances at receiving services. Juana was not independent: she would not have gone personally to the corresponding state office, she would not have asked OLA to help her afford the costs, and most likely, would not have found out if she was divorced or not, which would have suspended her relationship with OLA. Juana's chances to obtain legal status depended on her history, her agency to navigate the application process, and most importantly, on OLA's workers' agency over her. Juana's eligibility as a VAWA applicant was proven because of my own agency, but it could easily not have been proven if the legal assistant in charge had made other decisions. Juana's case was at risk because of her inability to fit OLA's informal standards. Juana's agency not to follow all

suggestions or orders was not suitable in the eyes of OLA, and jeopardized her path to legality.

### **MARTHA, “CHECK FOR CONSISTENCY”**

Martha was from Cameroon; she had come to the United States with a temporary visa, and stayed after it had expired because she got married with a Legal Permanent Resident, originally from Nigeria, and had a daughter with him. He was abusive physically, sexually, psychologically and economically. He had used his legal status as a manipulative tool; he had sent her application to obtain legal status and retrieved it, and had threatened her with deportation and with taking their daughter away from her on a regular basis. At the time of the appointment, and throughout most of her application process, Martha was living together with her abusive spouse so she had to be very secretive. She wanted to move out, but her financial situation was compromising even if she had worked as a caregiver at a home for the elderly for several years. She thought about moving to a shelter for battered women, but she was not convinced because she worked the night shift and did not want to leave her daughter alone in the shelter during the night. Martha was very inquisitive during the in-take appointment. She wanted to know if she was going to be able to obtain legal status, she asked how long it would take and how much it would cost.

During our appointment, Martha pointed to the world map that was hanging on the wall and asked me “Where is Africa? Cameroon? Where are we?” She was surprised and admired the map and how far away we were from her homeland. Later in the appointment, she revealed that she

had two years of college back in Cameroon. I thought that it was strange that she had not ever seen a world map. I wondered if she was trying to show helplessness.

Martha was accepted as a client at OLA; Maggie was the legal assistant in charge and I was going to assist her. We met with Martha to start working on her application. She brought several of the required documents and asked more questions about the process. First, Martha was disappointed with the probable length of it, especially because she wanted to travel to Europe to visit her ill father, and Maggie had told her that OLA suggested its VAWA clients not to travel abroad during their application process.

Martha was not satisfied; she insisted to travel and asked if OLA could do something about it. Second, Martha expressed concern about convincing her friends to write supporting letters for her because according to OLA's guidelines, her friends would have to reveal too much information about themselves, which could put them at risk. Maggie explained to her that her friends would not be compromised at any rate and that they could include only the information about Martha's experience with her abusive husband, without specifying any information about themselves. Martha was relieved, but still bothered because the guidelines provided by OLA on witness letters were overwhelming and contradictory to Maggie's explanation. Third, Martha told us that her moving to a shelter was out of the question because they had told her that she could not go away for ten days on holidays and keep her space. Then, she checked if her decision not to move to a shelter would negatively affect her application process. Maggie told her that it would not, but that she should consider going to counseling sessions for battered women at the shelter, which would contribute to the approval of her case by the United States Citizenship and

Immigration Services. Martha took note of it and expressed her reservations about counseling. She said she had been going to her church where she found enough advice. Maggie asked her if she could have her priest at the church write a letter of support for her, but Martha said that was going to be too risky because her husband went to the church as well. Martha's questioning was unusual for OLA's clients. Maggie expressed that she found Martha very demanding, particularly after the coffee incident. During our appointment, I asked Martha if she wanted a glass of water. Martha, instead, asked for coffee. I brought her coffee with sugar, and then, she asked if we had cream for it because it was too strong. We did not have cream, and Martha ended up drinking only a sip of coffee and leaving the rest in the cup. Martha's demeanor was somewhat bothersome and Maggie directed me to work on her affidavit one on one as I had shown to be very patient with clients. Maggie had offered Martha the two options: to write the affidavit on her own and then work on it with us, or to tell us her story orally while we wrote it down. Martha chose the latter. I met with Martha several times to write her affidavit. Every time I asked her a question, especially one related to the abuse, she replied by asking why it was necessary for her to talk about that. She was very resistant to share her feelings and details about violent episodes. I would explain to her the relevance of her information in terms of her VAWA application, and she would then agree to explain herself. It took many appointments for her to show trust and comfort while sharing her story with me. Maggie was surprised at Martha's protective attitude because clients tended to be open about their past and I had been very successful at collecting affidavits. She began to be suspicious of Martha, and decided to join us in one of our appointments. Maggie questioned her about the way in which

she met her husband and the reasons why they got married. Martha had met him as soon as she arrived to the United States; he was the cab driver that took her from the airport to her hotel. She had lost her luggage and when she mentioned that to him, he offered to help her. Martha accepted his help and then, she continued to be in touch with him. Martha had expressed that she was only interested in his friendship because she was engaged back in Cameroon. However, their relationship became romantic very quickly, and their marriage occurred soon after. When Maggie asked her about her fiancée back in Cameroon, Martha was vague. Then, she mentioned that her temporary visa was about to expire and that getting married was the only way she could stay in the United States with her boyfriend. Maggie did not insist, but after the appointment, she told me that Martha's comments made her doubt about her good faith marriage. Then, Maggie said that once we had her entire affidavit, she was going to check for consistency.

Martha's distrustful demeanor continued throughout the application process. When we met to gather her work history, she did not want to provide information until we guaranteed that the fact the she had worked without the proper documentation was not going to affect her application, and that instead it would show USCIS that she was self-sufficient and would not become a burden for the state. Later on, when we met with Maggie to review her completed affidavit, Martha began by stating that she had told us the truth. Maggie had to clarify that her questions had the purpose to send a flawless affidavit to USCIS in order for Martha to answer her queries.

Once the application was completed, Maggie reviewed Martha's affidavit for consistency and decided to give her credit on her marriage; after all,

Martha had had a child with her husband (which in the eyes of immigration officers meant good faith marriage), and she had been victimized. Martha's VAWA application was submitted six months after our first appointment, and she received her Legal Permanent Residency fourteen months later. (Field notes, October 13, mid 2000s.)

Martha's exigent, defensive and mistrustful attitudes put her application at risk. Her awareness counterbalanced all these; she was in control. In her case, she expressed her agency in questioning and making informed decisions. These qualities were very much valued by OLA as they fit the profile of an autonomous citizen, and they were prioritized over the bothersome ones. Martha was fortunate to have had a normal history of migration and abuse, which meant that OLA would not get in trouble by representing her, to fit VAWA's formal expectations, including good faith marriage as portrayed in her affidavit, and to follow OLA's instructions, even if cautiously. If Martha had been more insistent and her case had involved legally complicated matters regarding good faith marriage, her chances to be kept as an OLA client would have dropped considerably. Her case showed the delicate balance of immigrants' agency: too little was not enough, too much was too disturbing.

#### **LETICIA, "WEAK CASE"**

Leticia was in her early twenties, was born in Mexico and had come to the United States without proper immigration documents in search of better life chances. She got married with Mark, a United States Citizen, and a son of Mexican parents. Mark had been psychologically and physically abusive. He was on probation and had been separated from Leticia for a couple of months. He was living with another woman, who had

threatened Leticia with deportation. Leticia did not speak any English, and had a 9th grade education back in Mexico. She earned six hundred dollars per month, which barely covered her 10 months old baby and her living expenses.

OLA took Leticia as a client and assigned me to her case under Cathy's supervision. The lawyer told me to proceed as usual, collecting all the supporting documentation, including medical records and criminal background, and to work on her affidavit. In my meeting with Leticia, I emphasized that the length of the process depended on her: if she was able to bring documentation promptly and meet with me consistently, it was going to take us less time to get the application ready to be sent out to USCIS. Leticia was eager to start. She smiled in several opportunities, but she was never too expressive; I thought that her quietness revealed her sadness about her bad experience with Mark. Leticia promised to bring supporting documents and her affidavit for our next appointment, and she did so.

We met several times to work on her affidavit because the first version had many gaps and was not detailed enough. Her affidavit had to include as many details about the abuse as possible because Leticia had never made a police report. Most of the abuse had been psychological, with the exception of a disease that her husband transmitted to her sexually, which we would talk about in her affidavit and complement with medical records. Leticia tended to be very quiet during the affidavit appointments, and her answers were short, so I had to ask her many questions in order to get enough depth in the narration of her experiences. I had to make sure to get more depth about the abusive aspects and her traumatic feelings about her past relationship because if not, her story could have been read as

simply a bad marriage. Following OLA's guidelines, I had suggested Leticia to attend counseling sessions for battered women because it would strengthen her application. Once Leticia had assisted enough sessions, OLA would request a letter from the counselor to certify that she had been victimized and traumatized by her abusive husband, which we would then include in her application package. I asked Leticia if she was comfortable with the idea of meeting a counselor and she said, without enthusiasm, that it would be fine. She got the reference numbers and promised to call the counseling services to make an appointment.

Every time I met with Leticia I asked her if she had been able to get in touch with the counselor. She had always had some sort of trouble: the line was busy, there were no appointments available at the moment, the group sessions were at night and she could not leave her son alone, she did not have a car to get to the premises, and she had to take more than one bus to get there. I looked for other counseling options in town, which were very limited: if they were free or low cost, they did not offer services in Spanish or they were not specialized in domestic violence. Leticia did not have any other option but to wait six months to attend free individual sessions for battered women in Spanish. In the meantime, we continued to work on her application, which we completed three months before her counseling appointment.

I gave Leticia's file to Cathy. She reviewed it, added some questions about the abuse in her affidavit, and made a memo that read "Weak case. Not enough proofs of abuse. Strongly suggest bringing more letters of support and going to counseling." I was very much disturbed by Cathy's observations because they meant at least a six-month waiting period to



send out her application (approximately, three months for an appointment and three more months to get a supporting letter from the counselor).

I arranged a meeting with Leticia to work on finalizing her affidavit by including as much evidence as possible about her abuse with the aim of convincing Cathy to send out her application without waiting so long for counseling. Leticia brought more letters of support, and also her son, to the appointment. We met at Cathy's office (Cathy was going to be out of the office until later that day). Leticia was very distracted with her young son, who wanted to run around the office. He wanted to play with everything that looked appealing, papers, cables, cardboard, fish tanks, and candles. Leticia was very nervous about his behavior and could not calm him down. She would grab him forcefully and implore him to be quiet, she would threaten him that she was going to hit him, and she even said that I was going to punish him. I was trying to help her calm down her baby boy. I tried to talk with him, put him on my lap, gave him something to write with. Later, Leticia tried to feed him, but when she got the bottle out of her purse, she spilled the milk all over Cathy's chair. Leticia was very embarrassed about it, and she said that she was not going to bring him ever again because he was trouble. She tried to clean up the milk, first, with a baby-shirt that she had in her purse, and then with tissues I had handed to her. Right after, she tried to feed the baby, but he did not want to eat. Leticia's son was restless and she could not control him. In the meantime, I was trying to ask her questions about the affidavit; some of which Leticia answered in a focus and quick manner, and some of which Leticia would ask me to repeat because she was distracted. Leticia got emotional with many of the questions, but recovered quickly. She did not break down in front of her son, who was

giving her strength and reasons to apply for Legal Permanent Residency, as she wanted to be able to stay with him in the United States and to provide a better future for him.

This appointment had been the most difficult one I had ever had with Leticia. I decided to end it and schedule another one right after Leticia began to tell her son “*Ya nos vamos*” (“We are about to leave now”).

Leticia had answered most of the questions and I felt that it was unnecessary to try to keep them in the office. As I greeted Leticia and her son, she promised that she was going to come to the next appointment on her own.

Once they left, I tried to straighten up Cathy’s office, but the milk smell was penetrating. I went to the kitchen to get some paper towels, but when I got back to the office, Cathy was there. She told me not to worry about it because she had gotten rid of the stained chair. Cathy was shaking her head and expressed her frustration with clients bringing in their children to appointments. The legal assistants joined the commotion and all showed frustration with these kinds of episodes. I apologized, but Cathy quickly said that it was all right and then, continued to express her aggravation with “messy children and non-controlling moms.” Then, she told me that when she knew that the clients’ children were messy, she asked her clients not to bring them to their appointments. I told her I did not follow that policy because I thought it was unrealistic for OLA’s clients who had financial burdens and had to rely on family and friends to leave their children while they went to their appointments. It was a very tense moment, so I tried to loosen up the mood. I told them that during the appointment, I realized that Cathy’s fishes looked very quiet and then I saw that Leticia’s son had unplugged the breather of the fishbowl! I stood

up quickly to plug in the breather and saved the fishes' lives! Everybody was laughing and the tension slowly started to disappear.

After my following appointment with Leticia, I was able to strengthen her file and then, I gave it back to Cathy, who approved it and decided to send it out to USCIS. In the case notes, she wrote that if we got a request for further evidence from immigration, we should be ready to provide counselor letters to certify her trauma. I was very happy about Cathy's decision to send out the case as I had seen many other cases with similar characteristics sent before. I hoped that USCIS approved Leticia's case as it was because I had the feeling that Leticia was never going to go attend the counseling sessions.

Six months later we received the approval of Leticia's case, without request of further evidence. I was so glad that I had pushed Leticia's case forward against Cathy's suggestions. (Field notes, January 24, mid 2000s.)

Leticia's case had been put at risk because her history of abuse was thought as weak, as opposed to normal or extreme, and there were no supporting documents from a specialist to certify her trauma. Her resistance to attend counseling and her demeanor with her son played against her. Like in Juana's case, my intervention was vital as I pushed for her application to be sent out to immigration and downplayed OLA's perception of her behavior as a mother. Leticia had expressed her agency in following OLA's norms selectively and adapting to structural constraints, such as her economic and family situation that prevented her from having a babysitter during legal or psychological appointments, which forced her to bring her son to OLA, and postpone attending counseling sessions.

Once again, there was no question about Leticia having or not having agency, but about the paradoxical effects of her agency due to her disadvantaged positionality. The intersection of her gender, class, race/ethnicity had made her significantly vulnerable as an undocumented immigrant in the United States (first, against her husband, second, against OLA, and third, against the state). Leticia had limits to her agency and had to carefully limit that agency in order to cope with the exigencies of becoming a legal subject. OLA staff and the state's power over her were inescapable in Leticia's search for citizenship legitimacy. OLA staff's agency to select her as a client, walk her through the VAWA application process, and legitimize her eligibility in the eyes of the state was as potent as the authority that the United States Citizenship and Immigration Services had as the ultimate force to interpellate Leticia as a legitimate subject of law or as an illegitimate individual undeserving legal status in this country. Leticia could perceive the centrality of OLA's role as she expressed her fears of not being allowed to the office if she and her son were too disturbing, and as she accommodated to the norms explicitly and implicitly set by the organization. Leticia knew that OLA and USCIS were two separate entities, but she viewed them as a continuum: to contradict one was equated to contradicting the other one. Her perception of OLA clashed with the perception that OLA had of itself being an outsider of the state. However, OLA was an outsider-within due to its legitimized position in the legal system and its role as a broker of mainstream citizenship ideals, which had emphasized its character of reproducer of state norms.

#### **PASSAGE: A DELICATE AND RUTHLESS PROCESS**

Leticia, Martha, Juana and Teresa's agency to rationalize, follow and/or resist OLA and the state's rules and values had been crucial in their search for legality. Their cases, and those of Luisa, Silvana, Clara, Rosario, Monica, Frank, Yolanda, Patricia, and Ramona, showed that the process of blending in, of passing through the formal and

informal gates to citizenship, was a delicate and ruthless one, in which the underprivileged and illegitimated positionality of low-income undocumented battered immigrants was confronted with the privileged and legitimized positionality of immigration officers and OLA staff. While immigration officers were constrained by laws and regulations as members of a state bureaucracy, their positionality allowed them to have stratifying powers over immigrants and disciplining powers over OLA's workers. The intersection of middle-class, predominantly male, white and second or third generation assimilated immigrants combined with their official authority as representatives of the state conferred high degrees of agency to immigration officers who would be the ultimate interpellators of undocumented immigrants as legitimate or illegitimate subjects of law, and in that way, would reaffirm (or not) OLA's power as representative of immigrant applicants. In regards to OLA staff, the intersection of upper middle-class, female, white, Asian American, Mexican American and Philippine American together with their legitimacy as educated, institutionalized advocates conferred them power. Their agency was mostly reflected in their capacity to either facilitate or prevent battered immigrants to traverse the VAWA or VTVPA application processes, and therefore, in their capacity to contribute to the implementation of gendered immigration laws and the reproduction of citizenship ideals. Their agency was also reflected in their choice to limit their services to legal matters and to control their activism within their nine to five office work schedule. The positionality of battered immigrants constrained their degrees of agency, especially in regards to their power over decisions made by OLA staff or state authorities. The intersection of lower class, predominantly female, undocumented Latin American, African, East European or Asian immigrants, together with their vulnerabilities as battered and language-isolated individuals decreased their power. Their agency was mostly reflected in their capacity to blend in with OLA's behavioral standards, which coincided with mainstream citizenship ideals, and to follow all the required steps throughout the path to legality without

questioning in excess. If the immigrants were not prudent or flexible enough, and for example, expressed their agency by resisting the subjectivation processes at play, their chances to achieve legality were seriously if not entirely reduced. In this case, their marginal positionality had negative effects on their agency, as it could block their search for justice.

The intersection of the agency of these three groups revealed the stratified and stratifying aspects of individuals' power to follow and shape social norms. The stratified structure of American society did not escape OLA or immigration laws, and it was reflected in the stratifying patterns of the process of application for legality through VAWA or VTVPA. Both unsuccessful and successful cases had stratifying effects. On the one hand, undocumented immigrant survivors of domestic violence who were denied access to legal status (as clients by OLA or as applicants by immigration officers) were kept as outsiders, unworthy to become legitimate members of American society. On the other hand, applicants who had been able to obtain legal status were incorporated as legitimate members of American society and as such, they were allowed to enter the realm of legality, which brought diverse benefits, from higher salaries to health insurance, resulting in a socioeconomic status upgrade. However, their passage to legitimacy also reinforced this country's hierarchical social structure. The interpellation and subjectivation process through which immigrants had been molded into mainstream citizenship ideals by OLA and immigration officers strengthened the power that members of higher classes and state authorities had to legitimize others and dictate which social norms and values were desirable and which were not.

The paradoxical effects of incorporation of outsiders put into question the enabling power of resisting structural forces, as it exposed the constraining effects of doing so, depending on the positionality of the interacting individuals. Understanding agency as the power to both follow and resist social norms and structures, which are both enabling and constraining, takes us closer to solving the theoretical quandary of

individual versus structural power. However, this abstract view tends to ignore social and historically specific relations of subordination, which enable and create different degrees of individual action, as suggested by Mahmood (2001). My field observations revealed that the positionality of each individual was determinant in their options to and effects of subverting and subordinating. Resistance was possible, and allowed individuals to develop and reaffirm their sense of selfhood. However, the underprivileged positionality of undocumented battered immigrants shattered their resistance as soon as it clashed with OLA and the state's structuring expectations; an excess of resistance meant the closure of their path to legality. The immigrants' ability to measure their behavior depended on their social and cultural capital; immigrants with less capital had more trouble blending in and controlling their resistance, and immigrants with more capital had less trouble blending in and controlling their resistance. The more privileged positionality of OLA staff (and their higher allotments of not only social and cultural, but also political and economic capital) enabled them to have power over their clients and to evaluate their actions in front of the state: while they could maneuver around set rules and struggle against problematic aspects of immigration policies, they tended to follow immigration regulations and moderate their opposition as they valued their jobs in terms of successful representation of clients, which implicitly meant reproduction of mainstream citizenship ideals and disciplines. Immigration officers' privileged positionality and allotments of capital enabled them to have power over OLA staff and immigrants, but constrained them as well because their jobs depended directly on their agency to obey and implement immigration rules. Clearly, the positionality of each group had affected the ways in which they were structurally enabled and constrained, and the risks of exercising resistance. Undoubtedly, the fact that the immigrants were outsiders trying to lawfully belong to American society put them in the most underprivileged location, limiting the range and increasing the risks of their resistance. OLA staff and immigration officers were insiders in a more privileged

position, which did not mean that they were fully enabled and free from structural constraints, but meant that they were enabled and constrained in a different manner. These differences were vital in answering my research question and addressing the structure/agency debate. It was not whether individuals (battered immigrants) had power over social structures (immigration laws and institutions) or if these had a life on their own and as such, overpowered individuals' agency. It was not about believing that structures were both enabling and constraining and that individuals had both the capacity to subordinate and subvert. It was about understanding the conditions in which the stratified and stratifying character of social structures and agency could be challenged.

Overall, in this chapter I exposed the ways in which immigrants responded to interpellation and subjectivation processes at OLA, the site where they encountered the state by negotiating with lawyers, legal assistants and advocates, that is, the brokers of citizenship ideals and discipline. Immigrants were not fully constrained by immigration laws and OLA staff, but on the contrary, they were able to adapt and/or contest these structuring forces. Their capacity to successfully traverse the path to legality depended on their ability to balance obedience and resistance, which was based on their social and cultural capital. It also depended on OLA staff's perception of their agency: too little was not enough, too much was too disturbing. OLA staff had power over the immigrants seeking their legal assistance, and also was constrained in their relationship with immigration officers (who were constrained themselves by state structures as well). The positionality of all these individuals affected their range of agency; risks and benefits of subordinating or subverting varied, as did the stratifying effects of their actions. Neither structural forces nor agency could be fully understood in abstraction; their relationship is socio-historically unique, reflecting and creating relations of power.



## **Chapter 5: Conclusion**

Gendered violence-based immigration laws and nonprofit organizations helping in their implementation have been considered crucial tools in providing access to citizenship for battered immigrants. Despite the progressive character of such institutions, barriers that filter immigrants as worthy to become legitimate members of the United States or as illegitimate subjects remain in place. My in-depth case study of survivors of domestic violence seeking legal immigration status at a nonprofit legal organization shows how systems of class, racial/ethnic and gender inequality are formally reflected in the options available for them through the Violence Against Women Act (VAWA) and the Victims of Trafficking and Violence Protection Act (VTVPA), informally reproduced by immigrants' advocates in their daily work practices, and inadvertently reinforced by immigrant applicants. Immigration laws are a major component of the gates that the state creates to reaffirm its sovereignty since these regulate which individuals are welcomed to form part of its population. Legal nonprofits organizations, such as OLA, function as nongovernmental bureaucracies that mediate between the immigrants in quest of legal status, and the state granting legality. In assisting in the implementation of immigration laws, nonprofits inadvertently contribute to the procreation of the citizenship ideals and disciplines beneath state laws. In such manner, they become brokers of mainstream social norms, and reinforce the selective structure of and gated access to American society. Battered immigrants attempting to pass through the formal and informal gates to legality have to balance their obedient and dissident acts in order to satisfy the expectations of those who may grant them access, that is, both nonprofit staff and immigration officers. The interactions between immigrants, nonprofit workers, and the

state reveal the intricate ways in which the stratified and stratifying quality of society is (intentionally and unintentionally) recreated on a daily basis.

By focusing on how battered immigrants are interpellated by the state as subjects worthy to become Legal Permanent Residents or Citizens of the United States, I build on the theories about formal and informal state power by Weber (1947), Althusser (1971), and Foucault (1980), and about the workings of citizenship making by Ong (2003), Somers (1999), and Chapkis (2003). The first layer of my analysis puts into question the supposedly neutral character of gendered violence-based immigration laws by revealing the embeddedness of systems of gender, racial/ethnic and class discrimination. While the options available for battered immigrants to apply for legal status formally depend on their marriage histories, the location where the violence occurred, and their criminal background, gender, race/ethnicity and class intervene in the evaluation of their eligibility and the range of possible benefits.

First, the path to legality available for battered immigrants is based on their marriage status: VAWA and the clauses of VTVPA for undocumented battered immigrants married to undocumented abusers mirror the family-based immigration system. Originally, this system adopted the common law doctrine of coverture, which established that the husband had complete control and authority over his wife, and meant that immigrant wives were only able to access immigration benefits if, and only if, their citizen or resident husbands petitioned for them. Subsequent changes in immigration laws addressed the gender disparity derived from the coverture doctrine, but did not fully eliminate “the assumptions of coverture and the potential for spouse abuse underlying those policies and practices” (Abraham 2000, 51). In mirroring the family-based immigration system, only survivors of violence who were or have been married in good faith may apply for Legal Permanent Residency and Citizenship through VAWA, or for a U-Visa through VTVPA. In other words, as the case of Claudia (who was not married and could not prove her common law union with the abuser) illustrates, a large part of

battered immigrants' chances to become legal subjects in the United States depend on their marital status. The patriarchal character of the options available for battered immigrants has been a matter of contention for domestic violence advocates and activists; however, most of them believe that these options are better than nothing and accept them. Therefore, in their daily work, they help immigrants to apply for these benefits, and in turn, reinforce state authority as long as its laws are being followed and implemented. The balance between compliance and struggle against gender discrimination is a delicate one: as my fieldwork at OLA reveals, the principles of coverture and everyday patriarchal conceptions of social order seem to be very pervasive not only in the culture of abusive spouses, but also in the culture of law enforcement and immigration officers, and of advocates of battered immigrants.

Second, the national origin, immigration and legal status of the abuser determine the length, certainty and options available for battered spouses. The privilege of United States Citizens over Legal Permanent Residents, and over undocumented abusers continues with the historical use of race/ethnicity as a legitimate source to differentiate among individuals who are trying to become legal members of the United States. The cases of Ana, Angeles, Laura and Martha illustrate how racial/ethnic discrimination is entangled in gendered violence-based immigration laws. While these four immigrants had similar experiences of domestic violence, were married in good faith, resided with their spouses, and had a clean criminal background, their path to legality varied dramatically according to their abusive husbands' legal status and nationality, and their own. Abusers who are United States Citizens allow their victims to obtain Legal Permanent Residency as soon as their VAWA applications are approved, and to apply for Citizenship three years later. Abusers who are Legal Permanent Residents lead to similar benefits for their victims, except for the fact that the waiting period to obtain Legal Permanent Residency varies depending on the nationality of the battered immigrant. This wait ranges from less than a year to more than eight, according to the length of the

backlog that the United States Citizenship and Immigration Services (USCIS) has in processing petitions from the applicant's country of origin. The longer a petitioner has to expect her residency, the longer the path towards citizenship. Moreover, if the abusive resident is deported (that is, loses his status as Legal Permanent Resident) before the VAWA application of the battered immigrant is approved by USCIS, all chances to gain legal status for the applicant perish instantaneously. Finally, abusers who are neither United States Citizens nor Legal Permanent Residents, allow their domestic violence victims to apply for a U-Visa, but not for Legal Permanent Residency or Citizenship status. As opposed to victims of citizen or resident spouses, victims of undocumented spouses have to press charges against them, collaborate with the criminal investigation of their abusers, and get a certification from the police about their victimization and good relationship with law enforcement in order to obtain a U-Visa. This visa permits them to stay in the United States for three years without fear of deportation and the chance to work legally; however, it is not clear if it will grant them access to Legal Permanent Residency or Citizenship because the regulations of the visa have not been issued in the last seven years.

These differences show how the American state prioritizes the nationality and legal status of the abuser over the immigrant victims and the wrongdoings against them. Abusers who are United States Citizens not only bring a faster and more certain way to full membership, but are also pardoned of their crimes, as there are no provisions forcing their prosecution. Abusers who are Legal Permanent Residents are also pardoned, but their secondary status incorporates the victims' national origin into the equation. Victims of undocumented abusers may obtain legal status as long as they collaborate in the investigation of the abuse with the aim of punishing and deporting the abusers. In addition, the victims' nationality would determine the waiting period to obtain Legal Permanent Residency if, and only if, the U-Visa regulations are issued. These three levels of benefits and penalties expose the racial/ethnic barriers to citizenship that

continue to exist implicitly in supposedly neutral legislations, such as VAWA and VTPA. Moreover, these discriminatory legacies display the pervasiveness of the racial/ethnic divide within state bureaucrats, nonprofits staff, and laymen, who rarely acknowledge these differences as racial/ethnically problematic, periodically apply and obey these laws as they are, and hence, reinforce the status quo.

Third, the costs and requirements to apply for legality tend to weed out the most disadvantaged immigrants, regardless of their histories of abuse. On the one hand, the costs to apply through VAWA or VTPA are relatively high because of USCIS fees and the charges of supporting documentation (approximately one thousand dollars), and the rates of legal representation. This load has been partially lifted by the work of pro-bono lawyers and nonprofit legal organizations like OLA, which provide legal representation free of cost and request fee waivers to USCIS for immigrants who are below the official poverty line. However, the costs that are not pardoned, such as those of criminal background checks, birth, marriage and divorce certificates, medical evaluations, health tests and vaccines, psychological counseling and passport photographs (which may add up to three hundred dollars), delay or impede the application process for the immigrants most in need. On the other hand, the requirements of gendered violence-based immigration applications calls for allegedly universal citizenship practices, which tend to be out of range for individuals in the margins of society, as illustrated by the case of Susana. The possession and ability to collect personal documents and bills to prove identity and common residency with the abusive spouse for an extended and uninterrupted period of time represent a burden for the neediest or most at risk immigrants, who may not even have ever possessed these kind of papers, or if they have, they may not have been used to systematically file them, or they may not be able to access them because of their controlling abusers. Simultaneously, the inclusion of police reports and psychological evaluations is a threatening obstacle for the applicants, who not

only fear the police, but also find counseling too much of a foreign and demanding practice.

All of these requirements invoke universality whilst ignoring the actual class and culture-based nature of this kind of citizenship practices. As my field work revealed, undocumented battered immigrants tend not to possess or have access to their personal documentation or file their expenses on a regular and orderly basis (as opposed to non-battered citizens); and while white middle and upper class Americans tend to be trustful of the police and legitimate psychological counseling, non-white lower income immigrants (and Americans) fear the police, who they perceive and experience as biased, and lower income immigrants (and Americans) do not rely on psychology as a means to release tension or find solutions. Similar to the pervasive and unstated patriarchal conceptions of social order, and the privilege of Americans over other race/ethnicities, class continues to be a tacit source of discrimination against immigrants in the United States: outsiders who have enough economic, cultural and social capital to gather the necessary information and documentation, comply with the regulations, and pay for its associated costs have higher chances to become legal members of this country. The more subtle, yet sharper, class barriers to citizenship go unquestioned by not only immigration officers, but also nonprofits workers, who demand their applicants to follow the due process autonomously even if this request prevents them to access the legal status they deserve in principle.

The fact that OLA staff perceived these discriminatory aspects, particularly the legacies of coverture, as unfortunate, but did not take action to overcome them, uncovers the entrenched character of citizenship discipline and social normalcy. OLA staff was committed to the provision of free legal services to immigrants who deserved and were able to take the necessary steps to access justice, but was not interested in advocating for changes in the laws in order to eliminate inequalities. OLA's workers choice to focus on service provision and depart from social and legal activism reproduced these inherited

barriers, and inadvertently converted them in an extension of the state as they became nonprofit gatekeepers, brokers of citizenship. OLA staff was so immersed in their daily bureaucratic routines that their own positionality went unnoticed and their beliefs and acceptance of “right and wrong” filtered their work. In the end, OLA staff’s obedience and implementation of VAWA and VTVPA regulations recreated patriarchal notions of social order, prioritized Americans over Legal Permanent Residents and undocumented abusers, and assumed that middle and upper class American citizenship practices were universal. The disciplinary mechanisms of governance, which includes ideals of social order that are depicted as universal, but indeed represent relations of power, are so rooted in American society that even those individuals who are working for human rights and equality can be easily distracted from their critical awareness, and become discipliners of normalcy without even realizing it.

The case study of battered immigrants seeking legal status at OLA illuminates how social inequality is reproduced in very subtle manners and in the most unexpected locations. In line with the work of authors like Mindry (2001), Menon and Bhasin (1998), Ong (2003), Rudrappa (2004), and Rudrappa and Elliot (2005), the second layer of my analysis exposes the mechanisms by which difference is formally and informally recreated in settings which in the surface appear to be counter-hegemonic. On the one hand, OLA’s workers were conscious and openly justified in their choice to work within the existing (discriminatory) legislation as a realistic strategy to serve at least the immigrants who were officially eligible for rights. On the other hand, OLA staff was unaware of the discriminatory manner by which clients were informally selected on the basis of standards of normalcy. The cases of Luisa, Silvana, Clara, Rosario, Monica, Frank, Yolanda, Patricia and Ramona illustrate how embedded notions of desirable social behavior were used on a daily basis as bars to measure the unofficial eligibility of immigrant applicants. Compliant, tidy, constant, resolute, independent, easygoing, redeemable, private, and discrete individuals were prioritized, independently of their

formal eligibility and histories of abuse. In the eyes of OLA staff, immigrants who fit these unstated criteria would become good clients, who in turn, promised to be seen as potential good citizens by USCIS. The institutional focus on success rates, which were measured in terms of the number of applications approved by USCIS, compromised their mission as promoters of the rights of immigrants, who, according to OLA's motto, had to be fairly treated as human beings, and not as objects of crime. The growth of the organization was accompanied by its departure from its humanitarian scope; OLA staff had become institutionalized human rights advocates, who were satisfied with their struggle as long as it fell within their eight hour shift and followed organizational and legal structures. OLA's case brings to the front the elusive ways by which disciplinary mechanisms of governance manifest themselves, and discriminate between subjects who are able and willing to fit in and those who are not able or allowed to do so. In view of this, it is clear that the state's ultimate goal of preserving its sovereignty, by controlling who deserves to be a legitimate member of society, is not only reinforced by selective immigration laws but also by the workings of disciplined nongovernmental immigrant advocates, like OLA staff, who behave as gatekeepers by default.

Even though the power of formal and informal gatekeepers was vast and capillary, the third layer of my analysis indicated that immigrants were not always or entirely subdued. Battered immigrants had agency to cope with, respond to, comprehend, legitimize, or defy the processes of interpellation and subjectivation held by the state and OLA. This finding contributes to the theoretical debate about human agency versus structural forces, by moving the focus from structural and structuring forces to individuals', and from powerful to weaker entities. The divide between structure and agency is better comprehended if one considers structure and agency as both constraining and enabling, and as stratified and stratifying. Binary and abstract notions of structure and agency are misleading as long as they deny the intricacies and historicity of power. As the cases of Teresa, Juana, Martha, and Leticia illustrate, the particular intersection of



gender, race/ethnicity and class of undocumented immigrants, nonprofit advocates, and state authorities influences their power over others and their ability to successfully resist structural forces, both of which were lower for the individuals in the most underprivileged groups. In particular, immigration officers were constrained by laws and regulations as members of a state bureaucracy, but their privileged and officially legitimized positionality allowed them to have stratifying powers over immigrants and disciplining powers over OLA staff. OLA's workers were also constrained by immigration laws as long as their legitimacy was given by the successful representation of clients before USCIS. However, their privileged and legitimized positionality as nonprofit advocates permitted them to have disciplining and stratifying powers over immigrants, as they facilitated or prevented their search for legality, and to choose whether and how to struggle for changes in the laws. The deprived and illegitimated positionality of undocumented battered immigrants limited their degrees of agency, especially in regards to their power over decisions made by OLA staff and state authorities. Their agency was mostly reflected in their capacity to balance their obedience and resistance to immigration formal rules and regulations, and to OLA's informal behavioral standards: too little was not enough, too much was too disturbing. If the immigrants were not savvy, prudent and flexible, and expressed their agency by excessively defying the subjectivation processes at play, their chances to achieve legality were seriously reduced. In this case, their marginal positionality had negative effects on their agency, as it could block their search for justice. There was no question that immigrants had a say in their passage to legality and that consequently, they were not at the mercy of the more powerful OLA staff and state authorities. However, they had to carefully shape their acts of passage, as they could easily be the ones determining their exclusion. Battered immigrants' agency also had paradoxical effects in terms of social inequality: both their ability to successfully or unsuccessfully blend in reinforced the stratified character of society. Whether immigrants were accepted or rejected as clients at

OLA and legal subjects by USCIS, their search for belonging inadvertently strengthened the power that members of higher classes and state authorities had in legitimizing others and dictating which social norms and values were desirable and which were not.

The hierarchical character of the American social structure influences the stratified and stratifying character of agency: individuals in less oppressive locations have more degrees of agency over themselves and others, and face fewer risks in resisting structural forces; on the contrary, individuals in more oppressive locations have less degrees of agency over themselves and others, and face more risks in resisting structural forces. The fact that undocumented battered immigrants are outsiders seeking to become legitimate members of the United States puts them in the most disadvantaged position *vis a vis* nonprofit staff and state authorities, and restricts their agency to the delicate and ruthless passage through formal and informal gates to citizenship. The meanings and effects of compliance and resistance must be put in context: both can be enabling and/or constraining, depending on the quality and appropriateness of the individuals' actions, and their positionality. The study of battered immigrants' agency in front of structuring processes contest the abstract and dualistic debate of voluntaristic and deterministic views of the self versus social institutions, and contributes to the works of Spivak (1988), Hill Collins (1986), Mani (1998), and Mahmood (2001).

My threefold research puzzle about the interpellation of immigrants by the state, the advocates' role as mediators between grantor and claimants of legality, and the capacity of immigrants to deal with structural forces reveals the complexities beneath processes of citizenship making, which are not merely top-down flows of power, but instead are combined with bottom-up and off-centered flows of power. Accordingly, when these processes are reduced to a dualistic understanding of 'powerful vs. powerless,' 'state vs. individuals' or 'legal vs. illegal,' the actual richness of the struggles is lost over simplistic and fictitious binary constructions of knowledge, or as Hill Collins called it, "either/or dualistic thinking" (Hill Collins 1986, 179). Instead, these processes

ought to be understood as multifaceted contentious phenomena, in which bodies of legislation that may be celebrating or punishing certain types and ideals of behavior, intending to give order, discipline and control populations, are at the same time, generating infinite expressions of acceptance and resistance in all participating subjects. The ways in which, in this case, the state enforces formal regulations to discern who is worthy to become a citizen and who is not, nonprofit advocates apply these rules, informally behave as disciplined brokers of mainstream citizenship ideals, and become gatekeepers by default, and battered immigrants balance their acts to pass through informal gatekeepers and formal gates to legitimacy, reflect the stratified and stratifying dynamics of state power, citizenship, and individuals' agency. This dissertation exposes the hidden, subtle and unintended manners wherein interlocked systems of gender, race/ethnicity and class inequalities are recreated by not only the state, immigration officers, law enforcement authorities, and abusive spouses, but also immigrants' advocates, and even, immigrants themselves.

Overall, the quandary that emerges from this dissertation is what are the necessary conditions and actions to be taken in order to overcome systems of social inequality. Perhaps, further research may contribute to its elucidation. One project to develop may include a comparative analysis of nonprofit legal organizations in other areas of the country, as well as private law firms working with battered immigrants in order to look into socio-demographic differences and their effects on processes of citizenship making, stratification, and agency. A study that I am interested in completing is related to human trafficking, another type of gender, racial/ethnic and class violence. Survivors of such crime traverse a different path to legality in the United States. First, they must be identified as victims by law enforcement authorities, who set them free from their slavery-like living conditions and offers them the chance to remain in this country under continued presence and/or a T-Visa "if they have complied with any reasonable request to assist in the investigation and prosecution of their case or are under 18 years of age

(...), AND would suffer extreme hardship upon removal” (Texas Office of Immigration and Refugee Affairs 2004, 9 – emphasis in original). Second, the Health and Human Services’ Office of Refugee Resettlement must certify them as true victims of a severe form of trafficking in order to be eligible for benefits and services to the same extent as a refugee (such as Temporary Assistance to Needy Families - TANF, Medicaid, Supplemental Security Income, Refugee Cash and Medical Assistance, Refugee Social Services, and Food Stamps, among others). Third, victims of human trafficking who are offered a T-Visa are eligible for work authorization and may be allowed to adjust their status to Legal Permanent Residents after three years. I believe that ethnographic research of these extreme cases of oppression and complex processes to gain legitimacy in the eyes of the state and rebuild a life outside of confinement, may lead to further understanding of the disciplinary and stratifying workings of power, and the resilience of social inequality.

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## **Vita**

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