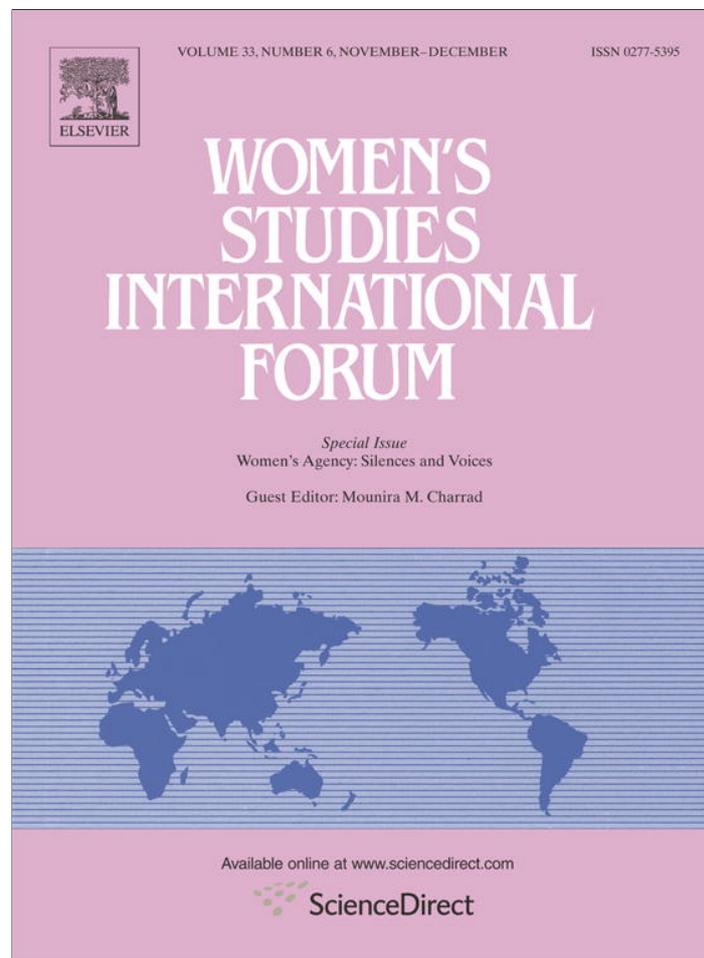


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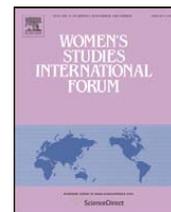
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# Passage to citizenship and the nuances of agency: Latina Battered immigrants

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### SYNOPSIS

Agency has traditionally been equated with resistance and assumed to be universal. More recently, black and postcolonial feminist theories have emphasized contextualizing and differentiating agency with the end goal of uncovering the complex dynamics of oppression and subordination, particularly in matters related to violence against women. In this vein, I share the cases of fifteen Latina immigrant survivors of domestic violence in their search for nonviolence, autonomy, and citizenship at a US legal nonprofit organization in Texas. I show how both legislation and nonprofit organizations created to assist battered immigrants formally and informally frame survivors' agency, which is not only structurally and situationally constrained, but often compliant and unintended. By looking at the nuances of agency in this context, I reveal the ways in which some women are able to negotiate these constraints and complete their citizenship application process successfully, while others, often the most destitute ones, tend to be weeded out of this process.

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### Introduction

Social theorists and researchers have long been dealing with a fundamental three-fold puzzle: Do individuals have power to act independently of constraining social structures? How are these structures constituted? How can they be changed? Answers to these questions have spanned a continuum at whose extremes authors have emphasized the oppressive character of social structures over individuals (Comte, 1830–42; Durkheim, 1982; Parsons, 1951; Bourdieu, 1977), or by contrast, social actors' capability to overcome oppression individually and collectively (Mead, 1967; Homans, 1958; Berger and Luckmann, 1966; Garfinkel, 1967). In the middle, one finds a number of theories according to which structures are not only constraining, but also enabling of human agency (Giddens, 1984; Goffman, 1961); not only oppressive, but also able to generate individuals' power (Marx, [1845–6] 1970; Foucault, 1980; Butler, 1993). To decipher the structure and agency conundrum with social equality as the objective, black and postcolonial feminist theorists question abstract notions of agency and social structures by emphasizing their socio-historical, multifaceted, and often contradictory character (Spivak, 1988; Mani, 1998;

Hill Collins, 1986, 1998; Crenshaw, 1995; Mahmood, 2001; Menon and Bhasin, 1998). One should “think of agency not as a synonym for resistance to relations of domination, but as a capacity for action that historically specific relations of subordination enable and create” (Mahmood, 2001: 203).

Interlocking structures of domination—such as race, ethnicity, gender, sexuality, and social class—allow for various kinds and degrees of individual and collective action, which must be disentangled if we are to shed light on the dynamics and effects of power relations (Hill Collins, 1986; Crenshaw, 1995). A number of scholars across the spectrum of the structure and agency debate have developed universal theories applicable to a fictitious uniform *All*. They do so without getting involved with the research subjects, and base these theories on dualistic systems of thought: powerful/powerless, black/white, male/female, rich/poor, and so on. This standpoint ignores the multiplicity of experiences and the actual views of the oppressed and, in turn, reproduces the social hierarchies being studied.

Black and postcolonial feminist theories make an effort to break this perverse cycle by developing knowledge from below by incorporating the views and voices of the actual subjects of research, 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 (Bhattacharyya, 1998). Accordingly, the manner in which these voices are brought into the analysis is central: the mere inclusion of the voices is not enough and does not automatically provoke a change in the understanding of otherness. 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 her voice by colonial and postcolonial historiography” (Mani, 1998: 190).

In this article, I examine the structure and agency debate by looking at the case of Latina battered immigrants seeking to escape their abusive conditions and become United States citizens by taking advantage of laws and nonprofit organizations established for that purpose. Immigrant women are particularly vulnerable to abuse: the intersection of their gender, sexuality, class, race, ethnicity, religious and political orientations, and immigration status stimulates nationalistic anxieties and multiplies the effects of both interpersonal and structural violence (Menjívar and Salcido, 2002; Abraham, 2000; Sokoloff and Dupont, 2006; Coker, 2006; Luibhéid, 2002). Immigration laws such as the Violence against Women Act (VAWA) and the Victims of Trafficking and Violence Protection Act (VTVPA), as well as nonprofit organizations facilitating their implementation, have acknowledged these disadvantages by providing legal protection and access to citizenship for battered immigrants. In exploring whether these laws and organizations actually promote or inhibit battered women's agency, my research contributes to the understanding of the “tensions between conditioned and chosen action, constraint and enablement” (Apter and Garnsey, 1994: 19) from a black and postcolonial feminist perspective.

As the battered women's movement developed and violence against women was redefined first as a social problem and later as a human rights violation, the understanding of gender violence shifted from universalizing to differentiated accounts (Schechter, 1982; Schneider, 2000). While it is true that all women can be victimized on a gender basis (as liberal and radical feminist activists and theorists initially claimed in order to legitimize the need to end violence against women and make it a social priority), racial, ethnic, socioeconomic, and immigration statuses and sexual, religious, and political orientations also come into play in terms of the kinds of violence perpetrated and the resources available to overcome abusive conditions (Sokoloff and Dupont, 2006; Wing, 2003; Bograd, 2006; Crenshaw, 1995).

A black and postcolonial feminist perspective focuses on the specific constraints placed on minority battered women with the aim of elaborating strategies, programs, and policies to better reflect their experiences and improve their particular situations. This is a departure from the traditional focus on the constraints and situation of the “universal” battered woman, which in fact was modeled after white, middle or upper class heterosexual housewives (Menon and Bhasin, 1998; Coker, 2006; Smith, 2006; Miller, 2008; Smith, 2005; Dasgupta, 2007). This new framework also emphasizes the need to provincialize Western accounts of violence

against women by taking into account the specific cultural and social contexts of the community where the women live, rather than understanding oppression from an ethnocentric standpoint, which perpetuates “new forms of colonialism,” “disregards the needs of women and their kin groups,” and is “out of touch with the realities experienced at the grass-roots level” (Newland, 2006: 403). Despite ideological differences, activists and feminists involved in the fight to end violence against women continue to believe in its urgency and relevance and have managed to address those differences within the movement without having it collapse, particularly by persisting in the struggle and refining the understanding of and means to address gender violence (Garfield, 2005; Sokoloff and Dupont, 2006).

This article aims to contribute to both the gender violence and the structure and agency debates by uncovering the ways in which Latina battered immigrants are affected by violence and negotiate specific intersecting structural forces in their search for less oppressive conditions (i.e., not to live in a violent relationship and not to depend on their abusive spouses for their survival and attainment of citizenship status). My research shows how the formalities of gender violence-based immigration laws and the informal practices of nonprofit advocates assisting immigrants frame their agency, which, I propose, is nuanced. Agency does not occur in a vacuum, but is always structurally limited and relative to others' agency. These relative limitations should be considered if we are to fully understand the degrees of agency possible and the ways in which agency is expressed as individuals interact with one another within structural constraints.

Accordingly, agency does not always equate resistance—that is, expressed by breaking free from oppressive conditions, such as battered women leaving their abusers, or undocumented immigrants becoming legal permanent residents—but may instead be compliant—that is, expressed by following norms, rules, regulations, ideals, and expectations, such as battered immigrants following the prescribed citizenship application process, showing up on time for scheduled appointments, and arranging for child care. Lastly, agency may be the result of conscious, strategic planning (such as battered immigrants' tactics to keep their citizenship application process a secret from their abusive husbands), but also, agency may be unintended (such as battered immigrants casually blending in or clashing with informal selective parameters of nonprofit organizations).<sup>1</sup>

In order to examine this phenomenon, I developed a 2-year activist research project at a Texas nonprofit organization that I will call the Organization for Legal Assistance (OLA). At OLA, I became a volunteer intern in its battered immigrant assistance program, which consisted of providing legal services free of charge to low-income immigrants who qualified as applicants for citizenship status under the Violence Against Women Act (VAWA) and the Victims of Trafficking and Violence Protection Act (VTVPA). As such, I worked with OLA staff in providing services to immigrants, including screening interviews, collection and translation of their immigration and abuse histories, and preparation of citizenship applications. After my work day, I recorded my field observations, and throughout the research, I conducted unstructured personal interviews with OLA staff. My background as a survivor of domestic violence and a Latina

immigrant, and my position as a researcher and volunteer intern at the organization gave me the opportunity to quickly gain access to and build trust with both the immigrants and the nonprofit workers. At the same time, I was able to provide services to the community as I was elaborating my research, the results of which I shared with immigrant survivors and organizations as well. I also did archival research and analysis of secondary sources to contextualize my primary data.<sup>2</sup>

OLA proved to be an excellent place for the study of how extreme cases contribute to the understanding of the processes of construction of difference and normalcy, marginality, and dominance (Durkheim, 1966; Goffman, 1961; Foucault, 1965, 1979; Sjoberg and Nett, 1997) because of the type of services it offered, its location, the population it served, its organizational history, and its staff's profile. From 2000 to 2008, OLA was the only organization in Central Texas that provided free legal services to underserved immigrants, identified as individuals with earnings below 125% of the officially defined poverty line (that is, annual earnings lower than 17,500 dollars for a household of two in 2008), and at the same time, it was the only organization providing these services that was not affiliated with a religious group. Four of their five legal programs were devoted to immigrant survivors of different kinds of abuse (domestic, sexual, extortion, false imprisonment, human trafficking, and political, racial, ethnic, religious, gender or ideological persecution). Additionally, OLA's location in Texas, a border state with one of the largest number of documented and undocumented immigrants in the United States<sup>3</sup> and with a high proportion of incidents of family violence in terms of its population,<sup>4</sup> made the organization a good selection for a case study, particularly during the anti-immigration environment after September 11, 2001. An overwhelming majority of OLA's clients were from Mexico and Central America, but OLA served immigrants from all over the world. OLA, with its ethnically diverse staff, presented itself as an inclusive organization that provided services to all immigrants, regardless of their ethnic, religious, or political background, in their native language.

In this way, OLA allowed me 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 (Mindry, 2001; Ong, 2003; Menon and Bhasin, 1998; Rudrappa, 2004) by many feminist researchers. Its history also made it a good comparative case: OLA developed from a politically radical, volunteer-based grassroots legal group into a politically moderate employee-based legal nonprofit organization. While the effects of this kind of institutionalization process have been analyzed in the past (Fox Piven and Cloward, 1977; Perlmutter, 1994; INCITE! *Women of Color Against Violence*, 2007), OLA's case revealed interesting organizational strategies. Overall, by participating in and studying the interactions between battered immigrants and nonprofit workers at OLA, I was able to uncover the intricate ways in which selective ideals and disciplines under the construction of American citizenship frame battered immigrants' agency.

In what follows, I address the formal and informal burdens that frame battered immigrants' agency, while I show the varying degrees and multiple ways in which agency is exercised. In order to illustrate my theoretical discussion, I include notes of the cases of Latina battered immigrants with

whom I worked at OLA, together with excerpts from my field notes on my interactions with OLA staff.<sup>5</sup>

### **Formal frame of action: gender violence-based immigration laws**

There are two ways to become a citizen of the United States: by birth (on this country's soil or to United States citizens abroad) or by naturalization. Sixty-five percent of the immigrants who initiate their path to become naturalized United States citizens do so through family ties with citizens or residents who must actively sponsor their application process before the United States Citizenship and Immigration Services (USCIS).<sup>6</sup> Forty-seven percent of these applications are made by immediate relatives of citizens (26% spouses, 11% parents, and 10% children); of the other 18%, 8% are spouses and children of residents (Jefferys and Monger, 2008). Documented and undocumented battered immigrant spouses of residents or citizens are entitled to apply for residency and become citizens without the sponsorship of their abusive spouses under the Violence against Women Act (VAWA). In order to do so, an immigrant survivor of domestic violence must prove that she or he (1) was married to a United States citizen or a legal permanent resident, (2) was married in good faith, (3) resided together as wife and husband, (4) was subject to domestic violence and/or extreme cruelty (including emotional, mental and sexual abuse) during the marriage in the United States, and (5) is a person of good moral character (meaning that she or he does not have a criminal background).

If the battered immigrant was married to an undocumented immigrant, or was separated but not divorced from previous spouses while engaged in the abusive relationship, she or he can apply for a U-visa through the Victims of Trafficking and Violence Protection Act (VTVPA). This visa offers temporary legal status for up to 4 years, meaning deferred action on deportation procedures, and authorization to work in the United States for 1 year with the option to renew the permit twice. After 3 years of continuous and lawful presence in this country, U-visa holders may apply for residency status.<sup>7</sup>

Scholars and activists alike have considered VAWA and VTVPA successful achievements for women's and immigrants' rights movements (Bunch and Fried, 1996; Chow, 1996; National Task Force to End Sexual and Domestic Violence Against Women, 2005; Roe, 2004; Menjívar and Salcido, 2002; Abraham, 2000). These laws legitimize battered immigrants in their particular victimization and provide them with the opportunity to exercise their agency in order to break free from abusive relationships and become legally and economically autonomous in the United States. According to data presented at the National *Network to End Violence against Immigrant Women meeting in November 2005*, the number of VAWA self-petitions and U-visa applications have tended to increase since they became available in 1994 and 2000, respectively. However, the application process before USCIS is lengthy (it can take from one to more than 8 years to change immigration status), expensive (application fees and costs of supporting documentation may add up to 2,000 dollars, not including lawyers' fees), and complicated (so much so, that immigrants are strongly encouraged to seek

assistance from social workers and representation by certified legal assistants or attorneys in their application process).

In response to these drawbacks, advocates have tried to amend VAWA and VTPA in order to shorten the adjustment waiting periods and have persuaded battered immigrants to go through the application process despite its length. Advocates have pushed for fee waivers to be included in the provisions of the laws, created nonprofit organizations, and promoted the accessibility of pro-bono attorneys to provide services to low-income battered immigrants free of charge in order to reduce the financial burden on the immigrants. Moreover, they have developed tool kits, trainings, and networks to facilitate the application process by providing information and resources for immigrants and advocates.

Nevertheless, my research shows that formal and informal barriers stand in the way of battered immigrants' access to the rights to which they are in principle entitled. Gender, sexuality, race, ethnicity, and class continue to permeate the formality of the laws and the informal practices of advocates. Immigrant women who are working class or higher, slightly educated, heterosexual, married to United States citizens, and considerably restored from battering end up being prioritized regardless of their history of abuse.

Mirroring the family-based immigration system, VAWA and the clauses for battered immigrants married to undocumented immigrants in VTPA are still influenced by the legacies of the English common law doctrine of coverture. This doctrine gave the husband "total power and control over" his wife and allowed him to chastise her to "force obedience" to his power (Calvo, 2004: 154). Coverture and the derivative doctrine of chastisement legitimized not only men's domination and violence against women, but also, heteronormativity. Early spouse-based immigration laws in the United States incorporated the principles of coverture by providing male citizens and resident aliens "the right to control the immigration status of their alien wives" (Calvo, 1991: 600); that is, immigrant women were only able to access immigration benefits if, and only if, their citizen or resident husband petitioned for them. Subsequent changes in immigration laws in 1952 and 1965 tried to address the gender disparity derived from the coverture doctrine by using neutral language, but did not fully eliminate its assumptions and "the potential for spouse abuse underlying those policies and practices" (Abraham, 2000: 51).

Moreover, the Immigration Marriage Fraud Amendments of 1986 "substantially strengthened the notion of spousal domination" (Calvo, 1991: 595) by the inclusion of a 2 year conditional status on alien spouses, after which they became deportable unless a joint petition was filed by both spouses and the marriage was deemed legitimate by an immigration office during an interview where both spouses had to be present (Calvo, 1991: 607–608). The Immigration Act of 1990 maintained the family-based immigration system and the role of spouse-based immigration, but, in an effort to overcome the legacies of coverture, included a provision in defense of battered spouses allowing them to request a waiver to change their status from conditional to permanent residency without the cooperation of the abusive spouse. These waivers were arbitrarily assigned, and the Violence against Women Act of 1994 addressed these difficulties on behalf of immigrant battered women. Despite the various

achievements of VAWA, "coverture in spouse-based immigration has not met its demise" (Calvo, 2004: 155), in so far as citizen and resident abusive spouses, who continue to be predominantly male, still have control over their immigrant spouses, who continue to be predominantly female.

The options for battered immigrants in VTPA follow a similar pattern. The accomplishments of this act in regard to the protection of noncitizen victims of crimes committed in the United States are counterbalanced by the ways in which victims are differentiated as deserving or non-deserving of protection. For instance, battered immigrants are requested to cooperate in the investigation of the crime committed against them, but if the police believe that the immigrant was not helpful and, therefore, do not certify her as cooperative, her chances to apply for a U-visa perish. This is problematic for several reasons. First, conclusive evidence shows that survivors of violence, particularly those who have children and/or are still traumatized, prefer not to accuse their aggressors, largely to avoid the risk of retaliation. Indeed, these risks are higher for U-visa than for VAWA applicants because the abuser (and sometimes his family as well) is undocumented and may be deported as a result of the investigation. Second, battered immigrants' trust in the authorities is already limited because they associate authorities with incarceration and deportation. Many have been convinced by their abusers that all police officers are anti-immigration, have learned about police officers working in tandem with immigration officers, or have had previous negative encounters with police officers in their country of origin or the United States). Third, battered immigrants' capacity to follow the prescribed steps in order to get certification by the police is weak because they are often in unstable living conditions: because they tend to move frequently, live in residencies without phone access, and have temporary employment, attempts of authorities to make contact with the immigrant to request and obtain collaboration tends to be unsuccessful. These survivors' circumstances contribute toward a perceived dichotomy between helpful and unhelpful victims that "run[s] the risk of reinforcing barriers to help [victims of human rights abuses] rather than removing them" (Chapkis, 2003: 935).

The legacies of coverture were palpable in my day-to-day experience at OLA, as illustrated by the cases of Claudia, Juana, and Luisa, and the fact that in my 2 years at the organization I never heard of any homosexual immigrant survivors seeking services. Claudia was a battered immigrant from Mexico and a mother of seven children: three living in Mexico, three in the United States, and one who had recently passed away. Claudia had been a victim of domestic violence since she was very young, and one of her daughters had also been victimized when she was 4 years old. Claudia had been abused by her current partner, a United States citizen, who punched her, cursed and screamed at her, pulled her hair, cut her, prevented her from working, having or spending any money, and threatened her with deportation, separation from her children, and death. However, the fact that Claudia was not married to her abusive partner or had not engaged with her partner in a common law union made her ineligible for VAWA. She could try to apply for a U-visa if she called the police on her abuser and cooperated with the authorities in the criminal investigation.

Juana was also a battered immigrant originally from Mexico, mother of seven, who had been abused physically, sexually, and psychologically. But unlike Claudia, Juana was married with a legal permanent resident, who had left her 3 years before the date of the appointment and had been living with another woman for almost as long. Juana's husband had used almost all of the abusive techniques mentioned in OLA's in-take questionnaire,<sup>8</sup> including the ones used by Claudia's abuser. Moreover, Juana had a miscarriage related to her husband's ill-treatment. 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. Initially, Juana seemed to be eligible to apply for VAWA, but OLA had to know her exact civil status: if her husband had filed a divorce without her knowledge more than 2 years before the estimated application date, she could not apply for VAWA.

Like Claudia and Juana, Luisa had migrated from Mexico escaping extreme poverty. Her abuser was a United States citizen, with whom she had cohabitated for a couple of years, and who was incarcerated at the moment because of the last violent episode that he had committed against her. Besides physical attacks, Luisa's abuser had threatened her with deportation, prohibited her to manage the money she earned in her occasional temporary jobs, and thus prevented her from sending money back to her sons in Mexico. Luisa was not married to her abuser because she had not legally divorced her original husband who still resided in Mexico. Because of her marital status, Luisa could not apply for VAWA, but rather petitioned for a U-visa.

Despite Claudia, Juana, and Luisa's histories of abuse and willingness to become citizens in the United States independently from their abusers, the legacies of coverture embedded in the immigration laws shaped their future. When OLA suggested that she call the police and cooperate with the authorities in their investigation of her abusive partner, Claudia expressed fear and mistrust. This fear was based on the negative experiences of friends, relatives and other immigrants in her community when dealing with the police, who had either reported the immigrants to immigration officers to initiate deportation procedures or had prioritized the testimonies of English speakers over non-English speakers. Claudia never returned to OLA, which probably means she did not apply for a U-visa. Juana, by contrast, was able to become a legal permanent resident once OLA resolved the confusion surrounding her marital status: fortunately for Juana, her husband had not filed a divorce and she was able to seize the opportunity opened by VAWA. Luisa, as opposed to Claudia, decided to cooperate with the police, with whom she had been in touch when her abusive partner was incarcerated, and petitioned for a U-visa. Luisa took the steps suggested by OLA, but the police refused to certify her as a U-visa applicant by claiming that she had not been cooperative enough because she had not returned their phone calls. Luisa had not been able to do so because she had moved to various temporary residences, without phone lines, due to her financial instability and the continuous threats from her abusers' family members. Even after OLA complained to the police and requested a revision of their denial, the police still refused to certify Luisa. OLA decided not to follow up on her case because of resource limitations, and so Luisa's opportunity to initiate her path to citizenship was closed.

In addition to the legacies of gender discrimination, the legacies of racial and ethnic discrimination also permeate VAWA and VTTPA: the national origin and immigration status of the abuser determine the options available for battered spouses through VAWA and VTTPA. These hierarchies were clearly visible in the cases of all the immigrants that approached OLA. For example, Angeles, Laura, Martha, Rosa, Manuela, and Ana were all survivors of extreme physical, sexual, and psychological violence perpetrated by their respective husbands in the United States. However, their abusers' nationality and immigration status put each of these battered immigrants on significantly different paths to citizenship. 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 may apply for citizenship 3 years later. This was the case of Angeles, who received her and her sons' 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 3 years later. However, the waiting period to obtain 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 illustrate this point. Laura, originally from Mexico and married to a legal permanent resident, had to wait between 6 and 8 years to obtain her 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 employment authorization (which she had to renew and pay for on a yearly basis). Laura would be able to apply for citizenship between nine and eleven years after the approval of her VAWA petition. By 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 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 3 years later.

The noncitizen status of the abusers damages their victims not only in terms of the length of the process, but also in terms of its certainty. On the one hand, if the abusive resident is deported (that is, loses his status as legal permanent resident) due to an incident of domestic violence, the survivor has 2 years to file a VAWA self-petition or else her chances to gain legal status vanish. This was the case for Rosa, a survivor of physical and psychological abuse committed by a legal permanent resident who had been deported for the abuse. But Rosa was unable to file her VAWA application in the required time period. On the other hand, if the abusive resident is deported for reasons other than domestic violence before the battered immigrant's VAWA application is approved by USCIS, all chances to gain legal status for the applicant perish instantaneously. This was the case for Manuela, a survivor of psychological and sexual abuse committed by her husband, who lost his legal permanent residency status for dealing drugs and was subsequently deported.

If abusers are neither United States citizens nor legal permanent residents, their victims cannot apply for VAWA but still have the option of applying for a U-visa. This was the case for Ana, originally from Mexico and married to an undocumented immigrant also from Mexico. In order to change her undocumented status, Ana had to cooperate with the police while they scrutinized her abuser's deeds against her. The police had to certify to USCIS that Ana had been victimized and that she had been helpful to law enforcement forces. Ana had succeeded in proving her good will and behavior, and after 2 years of working on her application, she was able to obtain her U-visa. Ana was allowed to stay in the United States without fear of deportation for up to 4 years, and was permitted to work legally for up to 3 years. After that time she could choose to apply for residency. The disparities between the cases of Angeles, Laura, Martha, Rosa, Manuela, and Ana reveal how the law prioritizes the abusers' nationality and immigration status over the immigrant survivors of violence and the wrongdoings against them.

Gender, sexual, racial, and ethnic discriminatory parameters were accompanied by similar class-based parameters. Immigrants' socioeconomic status influences their capacity to afford and complete the requirements to adjust their legal status through VAWA or VTVPA. On the one hand, the costs associated with the application process are high because of USCIS fees, the charges for supporting documentation, and legal representation. While this burden has been partially lifted by the assistance of pro-bono lawyers and nonprofit legal organizations like OLA, the costs that are not waived delay or impede the application process for those immigrants most in need. On the other hand, VAWA and VTVPA applications require immigrants to possess and provide documents, bills, payment receipts, and health reports, and to trust official authorities, such as policemen and government bureaucrats.

These requirements weed out the neediest immigrants, who either lack the ability to collect personal documents and receipts to prove identity and common residency with the abusive spouse, may not ever have possessed such papers, or may not have been able to systematically file or access them because of their abusers. Simultaneously, police reports (or cooperation with the criminal investigation in the case of VTVPA) and psychological evaluations are a threatening obstacle for applicants, who not only fear the police, but also find counseling too much of a foreign and demanding practice. Battered immigrants like Luisa, Claudia, or Susana—whose abuser had held her and her newborn in a rat-infested trailer without heat or food—were unable to overcome these class-based barriers: Claudia was fearful of the police; Luisa did not meet the police standards because she did not have a steady residence, job, or phone access; and Susana did not possess the required documentation, was not able to afford the costs, and could not fathom spending so much time preparing the application while her daughter's survival needs were so urgent that she had to prioritize work over anything else.

In this way, VAWA and VTVPA have not escaped the historic discriminatory character of the immigration system in the United States (Haney López, 1996; Glenn, 2002; Luibhéid, 2002; Ngai, 2004) or the inequalities of US society, which continues to privilege male, heterosexual, White, Protestant, middle- to upper-class citizens (Arrighi, 2007).

Implicit in the formalities of VAWA and VTVPA, gender, sexual, racial, ethnic, and class parameters have framed battered immigrants' agency. While some women—like Claudia, Luisa, Rosa, Manuela, and Susana—had been prevented from accessing the citizenship rights that, in principle, they were entitled to, other women—like Juana, Angeles, Laura, Martha, and Ana—had been able to negotiate the constraints successfully.

### **Informal frame of action: nonprofit organizations' interactional parameters**

In order to elucidate battered immigrants' agency, one must contextualize their actions by taking into account not only the aforementioned formal constraints, but also informal limitations emerging from their interactions with nonprofit workers. Juana, Angeles, Laura, Martha, and Ana were able to go through the long and complicated application process because they met both the formal requirements to become residents or citizens under VAWA or VTVPA and the informal qualifications to become clients at OLA. My 2 years of activist research at OLA revealed that the battered immigrant women who were able to successfully navigate the process had certain characteristics: they were compliant, tidy, constant, resolute, autonomous, responsible, deferent, considerate, secretive, lenient, and redeemable in the eyes of OLA staff. The combination of all these allowed these women to express their agency in the *right* amount and the *right* way, which OLA staff perceived as their ability to be *good* clients, who in turn, could become *good* applicants in the eyes of USCIS. USCIS, in turn, would probably approve their petitions because they promised to become *good* citizens, that is, citizens who would be self-sufficient, productive, and law-abiding.

Angeles, Laura, and Ana behaved as good clients from beginning to end. They were compliant—that is, they followed the formal and informal due process with resolution, constancy, autonomy, order, and without any resistance. For instance, they promptly collected all of the required paperwork, without the assistance of OLA staff, and presented it in an orderly fashion. They did not miss any scheduled appointments, and they called in advance to reschedule as needed. They showed responsibility throughout the application process and approached OLA with deference: they were careful not to bother OLA staff, never calling unless they were returning a call or had an emergency—even if they had pressing questions about the status of their applications or related matters—and would never bring their children unless they were quiet and well-behaved. These women were also considerate of OLA staff's safety: they managed to avoid bringing their abusers or their abusers' threatening relatives to the office, which meant that they had successfully kept their application affairs a secret and had mastered the skill to dissipate or avoid danger. All of these attributes demonstrated the immigrants' resilience and their ability to adapt to circumstances. These women were redeemable in the eyes of OLA: they could and should be saved.

Unlike those of Angeles, Laura, and Ana, Juana's, Leticia's and Martha's application processes were temporarily at risk because they did not meet all of these standards. However, Juana, Leticia and Martha managed to overcome some barriers through their interactions with me. Juana did not comply with OLA's request to go to the Texas Bureau of Vital Statistics to ask for official evidence

her husband had not filed for divorce. She expressed to me that she did not know how, and also faced language barriers, financial constraints, schedule conflicts, and a general mistrust of public offices. I suggested accompanying her, but she would have to miss a day's worth of work. Instead I asked the lawyer at OLA to make an exception to their rules and to allow me to get the documentation for Juana myself. Once the papers were received, Juana was able to continue with her application process. Leticia's case was at risk because of her delay in attending counseling and her need to bring her baby son (who played with some file folders and even once spilled milk on a chair) to some appointments.

As in Juana's case, I mediated between Leticia and OLA staff by explaining her specific situation. First, I explained that despite her fear of counseling, Leticia had called to schedule an appointment. However, she was refused because the waiting list was so long that they had stopped taking names and she could not afford a private counselor on her 500-dollar monthly income. Second, I contextualized Leticia's choice to bring her son along to some appointments, thus downplaying OLA staff's perception of her as an "inadequate" mother with an "uncontrollable child" (as was expressed by the lawyer; Field notes, November 23). Martha's case was at the edge of being closed because at times she would be "demanding"—she often inquired about the status of her application—and "defensive and mistrustful"—she often doubted the purpose of OLA's questioning about her past and present conditions (Field notes, February 10). However, her awareness and interest in making informed decisions offered a counterbalance. These qualities were highly valued by OLA as they fit the profile of an autonomous citizen, and would thus be prioritized over more bothersome candidates.

Juana, Leticia, and Martha's cases show the delicate balance of immigrants' agency. On a daily basis, battered immigrants who otherwise qualified for VAWA or VTVPA were either given a lower priority or discharged as clients because of their unsuitable demeanor at OLA. Claudia and Luisa (mentioned earlier) were both eligible to apply for a U-visa. However, the former was "too scared" of the police, hence, not compliant or resolute enough (Field notes, October 2), and the latter was "too needy," hence, not autonomous or responsible enough (Field notes, August 11, mid 2000 s). Patricia, a Mexican survivor of physical, sexual, and psychological abuse by a later-incarcerated United States citizen, was eligible to apply for citizenship under VAWA. However, her application was put on hold for two reasons: first, the disruptions of her two "loud" children, who often accompanied her to the office; and second, the "imprudence" she displayed when her husband, once released from jail, forcefully accompanied her to OLA, "put[ting] OLA staff at risk by bringing her husband along" (Field notes, February 9). In other words, Patricia was not secretive, deferent, or resolute enough.

Silvana, a Venezuelan survivor of multiple abuses from a citizen, also eligible to apply for citizenship under VAWA, was so "chaotic and high-maintenance" that no one in the office wanted to take care of her case, as expressed by the lawyer and one of the legal assistants (Field notes, April 20). Consequently, Silvana moved forward at a very slow pace as appointments were not offered frequently enough to her. Clara, a Colombian survivor of psychological abuse from a citizen, eligible under VAWA, was pushed down the pile of cases because she was "erratic and irresponsible," as described by her case manager (Field notes,

September 4). Rosario, a Mexican survivor of physical, sexual, and psychological abuse from a citizen, eligible under VAWA, was "too disorganized" and "cried too much." She was advised to come back when she was truly ready to go through with the process, as OLA could not "spend time organizing clients' papers or calming them down as they provided their affidavits about their abusive experiences" (Field notes, June 28).

The question remains as to whether the capacity of battered immigrants to suit informal expectations was strategic or unintended. My field observations suggest that the latter was at least as frequent as the former. In many occasions, the ability of these immigrants to blend in successfully was a reflection of their conscious efforts to do so, that is, to adapt to informal codes of behavior. However, many of the immigrants who managed to complete the application process had fit the good client profile from the very beginning. In other words, compliance, tidiness, constancy, resolution, autonomy, responsibility, deference, consideration, secrecy, and leniency were not qualities they had to acquire during the process, but were qualities they had acquired beforehand. Did this mean, then, that these immigrants just happened to be fortunate enough to casually fit the mold? Not quite. Even if they possessed these qualities to begin with, and casually blended in, they still had to keep these attributes as the guidelines of their behavior in their interactions with OLA staff. While it was easier for these immigrants to complete the application process because of preexisting qualities, they still had to work at it. Still, it is relevant to think about the conditions that allowed certain immigrants to fit the nonprofit's informal expectations.

My field observations suggest that the most destitute immigrants—the ones who came from the poorest backgrounds and, accordingly, had not received any kind of formal education—had more trouble negotiating the process than those who had slightly higher allotments of social and cultural capital, resulting from their working class status and a few years of formal education (typically, completion of elementary school). However, immigrants who came from or had achieved higher social status (lower-middle class or middle class) and had higher levels of formal education (completion of high school or higher) also had trouble negotiating the process because they were demanding and somewhat critical. The difference, of course, was that the most destitute immigrants' search for citizenship through VAWA or VTVPA would begin and end at OLA, whereas lower-middle class or middle class immigrants' searches would move on to other organizations if truncated at OLA. Overall, these discrepancies illustrate the main argument of this article: We must consider agency within structural constraints, situational conditions, and interactional dynamics if we are to understand its degrees and qualities.

## Conclusion

Do VAWA, VTVPA, and nonprofit organizations like OLA promote or hinder battered immigrants' exercise of agency? The cases of immigrants like Claudia, Juana, Luisa, Angeles, Laura, Martha, Rosa, Manuela, Ana, Susana, Leticia, Patricia, Silvana, Clara and Rosario show that the answer is contingent upon many factors. To begin with, the disadvantageous position of battered immigrants is not completely mitigated, despite the efforts of gender violence-based legislation and

nonprofits offering immigration benefits and legal services. Both the legislation and organizations are permeated by gender, sexual, racial, ethnic, and class discriminatory parameters that frame immigrants' agency. On the one hand, battered immigrant women who are working class, slightly educated, heterosexual, married to United States citizens, and considerably recovered from abuse are prioritized by the state, regardless of their history of abuse. On the other hand, battered immigrant women who are compliant, tidy, constant, resolute, autonomous, responsible, deferent, considerate, secretive, lenient, and redeemable are prioritized by nonprofit staff, independently of their traumatic histories. Battered immigrants' ability to negotiate these structural and interactional constraints depends on background, personality, and awareness. Casual compliance is oftentimes their main asset when it comes to exercising their agency in order to become citizens under VAWA and VTPVA. Battered immigrants' passage through the formal and informal gates to citizenship can be both tentative and ruthless.

This research may guide violence against women and immigrants' activists and advocates. At the policy level, measures should be taken to reduce the impact of the discriminatory legacies of the immigration system as a whole (or, on a grand scale, to reform the system comprehensively and eliminate these kinds of discriminatory patterns). At the organizational level, reflection on institutional practices and priorities should be promoted in order to reduce nonprofits' dependency on external (private and public) funding and to revive their activism and commitment in the struggle for the inclusion of all immigrant survivors of violence. But, most importantly, this research may guide battered immigrants' agency in their ability to overcome the formal and informal obstacles they encounter on their path to citizenship in this country. In the end, the value of the structure and agency theoretical debate is given by its practical implications to challenge and overcome inequality. As black and postcolonial feminist theory claims, in order to contribute to the struggle against violence against (immigrant) women, one must "focus on the ways in which they experience exploitation, marginalization, powerlessness, cultural imperialism and violence" (Mason, 2007: 309), by truly listening to their voices, and working together with them to bring about change.

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### End Notes

<sup>1</sup> Hollander and Einwohner (2004) present a review of the various ways in which agency has been equated with resistance in sociological and other social sciences literature. They show that resistance has been defined in a

wide range (from national revolutions to rebellious haircuts) and in an effort to bring some order to the conceptual chaos, they elaborate a typology of resistance. The categories are overt, covert, unwitting, target-defined, externally-defined, missed, and attempted resistance, and not resistance. While one may find similarities between my proposition and Hollander and Einwohner's, two main points distinguish us. First, I do not equate agency with resistance; contrarily, I suggest looking into compliance as a type of agency different from contentious agency. Second, I build my conceptual device from a black/postcolonial feminist approach, which does not coincide with Hollander and Einwohner's perspective. Indeed, these authors ignore black and postcolonial feminist literature in their review (for example, they omit authors like Spivak (1988), Mani (1998), and Chakrabarty (2000) in their discussion of the issue of recognition and agency, central to postcolonial theory).

<sup>2</sup> The findings of this research can be found at length in my book, *Violence Against Latina Immigrants: Citizenship, Inequality, and Community* (New York: New York University Press, 2010).

<sup>3</sup> According to data released by the Office of Immigration Statistics of the United States Department of Homeland Security. See, for example, the reports of 2007 at <http://www.dhs.gov/ximgtn/statistics/>.

<sup>4</sup> Calculation based on data available at the Bureau of Justice Statistics of the United States Department of Justice (<http://www.ojp.gov/bjs/intimate/ipv.htm#contents>), the Texas Council of Family Violence ([http://www.tcfv.org/pdf/dvam07/Year%202006%20Family%20Violence%20Statistics\(HHS\).pdf](http://www.tcfv.org/pdf/dvam07/Year%202006%20Family%20Violence%20Statistics(HHS).pdf)), and the United States Census Bureau ([http://factfinder.census.gov/servlet/ThematicMapFramesetServlet?\\_bm=y&-geo\\_id=01000US&-t\\_m\\_name=DEC\\_2000\\_SF1\\_U\\_M00092&-ds\\_name=DEC\\_2000\\_SF1\\_U&-M\\_apEvent=displayBy&-dBy=040#?306,337](http://factfinder.census.gov/servlet/ThematicMapFramesetServlet?_bm=y&-geo_id=01000US&-t_m_name=DEC_2000_SF1_U_M00092&-ds_name=DEC_2000_SF1_U&-M_apEvent=displayBy&-dBy=040#?306,337)).

<sup>5</sup> For confidentiality and security reasons, all the names used in this article are pseudonyms, and the dates are approximated on purpose. Informed consent from the immigrants and OLA staff was provided to me beforehand.

<sup>6</sup> In order to become a citizen, immigrants must first become legal permanent residents, live lawfully for five years in the United States with such status, and then, they must apply for citizenship. Married immigrants can apply for citizenship after three years of lawful permanent residency as opposed to five. The rest of the residency applications are made through employment (15%), refugee and asylum programs (13%); diversity lotteries (4%); and ad hoc exceptions (2%) (Jefferys and Monger, 2008).

<sup>7</sup> USCIS grants a maximum of 10,000 U-visas per fiscal year. These visas are distributed among noncitizen crime victims who have suffered substantial physical or mental abuse from criminal activity (including domestic violence) and are certified by law enforcement officers in their assistance in the investigation or prosecution of such criminal activity in the United States ([http://www.womenslaw.org/laws\\_state\\_type.php?id=10271&state\\_code=US](http://www.womenslaw.org/laws_state_type.php?id=10271&state_code=US)).

<sup>8</sup> A comprehensive view of the types of violence which most of these women suffered can be found at [http://www.endabuse.org/userfiles/file/Immigrant Women/Power%20and%20Control%20Tactics%20Used%20Against%20Immigrant%20Women.pdf](http://www.endabuse.org/userfiles/file/Immigrant%20Women/Power%20and%20Control%20Tactics%20Used%20Against%20Immigrant%20Women.pdf).

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