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Tears and More Tears: The Humanitarian Path to Citizenship

A dissertation submitted in partial satisfaction of the
requirements for the degree Doctor of Philosophy
in Sociology

by

Sarah Morando Lakhani

2013

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Sarah Morando Lakhani

2013

ABSTRACT OF THE DISSERTATION

Tears and More Tears: The Humanitarian Path to Citizenship

by

Sarah Morando Lakhani

Doctor of Philosophy in Sociology

University of California, Los Angeles, 2013

Professor Stefan Timmermans, Co-Chair

Professor Roger Waldinger, Co-Chair

This dissertation analyzes the legalization process as experienced by immigrant crime victims and their attorneys in Los Angeles, California. Drawing on over three years of ethnographic and qualitative research, I chart the process from the time undocumented immigrants decide they want to regularize their status through a humanitarian remedy and contact attorneys at legal non-profit organizations; through the case development phase, when immigrants collaborate with attorneys to produce compelling petitions for legal standing; to the period of application results and beyond, documenting the consequences of approvals and rejections for immigrants and their families. I also consider immigration lawyers' paths into their profession and examine how their career motivations shape their legal practice. Empirically, I focus on the experiences of female Latin American immigrants as they pursue U Visa status and the attorneys they collaborate with. Created in 2000 through the Victims of Trafficking and Violence Protection Act, the U Visa is a

temporary legal status for immigrant victims of violent crime that offers a path to permanent residency and U.S. citizenship.

This project makes three interrelated contributions to research on immigration, legal mobilization, and legal decision-making. First, I advance scholarship on international migration and immigration policy by building on conceptualizations of immigration control that center on policy interpretation and implementation by mid-level actors and institutions (Armenta, 2011; Gilboy, 1991; Marrow, 2009). By analyzing how lawyers broker between immigrants and the state and between immigrants and other mid-level intermediaries such as police officers, employers, and social services providers, I configure immigration attorneys as both agents and critics of law who simultaneously reinforce and challenge official and unofficial legal notions (Coutin, 2000). In drawing attention to attorneys' complex roles in the application of immigration policies, I show how exclusionary aspects of control characteristic of the contemporary immigration legal regime can filter into efforts intended to benefit immigrants. Second, this dissertation demonstrates critical ways in which law shapes immigrants' lives. Research has examined undocumented immigrants' attempts to acquire socioeconomic resources from a position outside the law (Abrego, 2008; Gleeson, 2009), but I further this agenda by exploring immigrants' endeavors to access benefits associated with legal standing. By analyzing the signaling mechanism involved in converting a legal identity to concrete resources, I illustrate how a political and social climate of migration control combined with a legal context characterized by the multiplication of anomalous statuses between citizen and foreigner produces stratification. Lastly, this dissertation extends the law in action paradigm (Pound, 1910). While most studies of law in action have analyzed how legal actors tailor idiosyncratic details of

discrete cases to existing precedents, I consider how law emerges within a confining legal framework that is at the same time not completely institutionalized.

The dissertation of Sarah Morando Lakhani is approved.

Rubén Hernández-León

Hiroshi Motomura

Stefan Timmermans, Committee Co-Chair

Roger Waldinger, Committee Co-Chair

University of California, Los Angeles

2013

For Amit

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VITA

2009 M.A., Sociology; University of California, Los Angeles

2006 B.A., Sociology; University of California, San Diego

ACADEMIC EMPLOYMENT

2012-2014 Law and Social Science Fellow, American Bar Foundation; Chicago, Illinois

PUBLICATIONS

Hernández-León, Rubén and Sarah Morando Lakhani. (Forthcoming). “Gender, Bilingualism, and the Early Occupational Careers of Second-Generation Mexicans in the South.” *Social Forces*.

Morando, Sarah J. (Forthcoming). “Paths to Mobility: The Mexican Second Generation at Work in a New Destination.” *The Sociological Quarterly*.

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SELECT PRESENTATIONS

Morando, Sarah J. (August 20, 2012). “Producing Immigrant Victims’ ‘Right’ to Legal Status and the Management of Legal Uncertainty.” American Sociological Association Annual Meeting; Denver, CO.

Morando, Sarah J. (June 7, 2012). “The Green Card Waiting Game: Families Anticipating the Arrival of Secure Legal Status.” Law and Society Association Annual Meeting; Honolulu, HI.

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FELLOWSHIPS AND GRANTS

- 2012 American Association of University Women American Dissertation Fellowship
American Bar Foundation Law and Social Science Dissertation Fellowship and
Mentoring Program
Employment Instability, Family Well-Being, and Social Policy Network Small
Grant (University of Chicago, School of Social Service Administration)
Ford Foundation Doctoral Dissertation Fellowship, Honorable Mention
University of California Institute for Mexico and the United States Dissertation
Research Grant
- 2011 UCLA Institute of American Cultures (Chicano Studies Research Center) Research Grant
- 2010 UCLA Center for the Study of Women Paula Stone Legal Research Fellowship
UCLA Graduate Summer Research Mentorship
UCLA Institute for Research on Labor and Employment Graduate Student Mini-Grant
- 2009 UCLA Graduate Research Mentorship
UCLA Institute of American Cultures (Chicano Studies Research Center) Research Grant
UCLA Institute for Research on Labor and Employment Graduate Student Mini-Grant
- 2008 UCLA Graduate Summer Research Mentorship
- 2007-2012 UCLA Department of Sociology, Doctoral Fellowship

CHAPTER ONE: INTRODUCTION

Yesenia sat in her lawyer's office in Los Angeles staring down toward her lap, her hands busy knitting. Having lived in the United States for 24 years outside of the law, she recalled feeling "wonderful" in 2008 upon learning the news that her U Visa application had been approved. She was optimistic about the life ahead of her, referring to her newfound legalization as a "good step." Yesenia, an undocumented¹ mother of six from Mexico living in Compton, had suffered domestic violence for decades by the time she finally received U Visa standing, a temporary legal status for victims of violent crime that currently provides a path to permanent residency and U.S. citizenship. Yesenia's U Visa status conferred various benefits on her, including permission to work, eligibility for public benefits, and the ability to qualify for some sources of financial aid for educational opportunities. As a result, Yesenia expected her circumstances to improve dramatically. Three years later, however, her expectations had gone largely unmet. Reflecting on how U Visa status had affected her life, Yesenia explained, "When someone is a 'wetback,' the way they call us here, doors are closed to you a lot... [If things continue] like this, I will never come out of poverty. I don't have a bank account. I don't have a job. I'm not completely O.K. I'm not *legally* O.K!" To her dismay, U Visa standing had not provided her with the "papers" - in this case the legendary "green card" associated with lawful permanent residency status - that she needed to be consistently recognized and treated as the legal member of society she had become.

Yesenia's experiences exemplify the precariousness of the legal and social realities faced by the millions of immigrants in the United States who are legally present yet not permanent

¹ I utilize the terms "undocumented" and "unauthorized" interchangeably throughout this dissertation to refer to immigrants who lack legal permission from the U.S. government to be present in the territory.

residents or U.S. citizens. Despite her *legal* legitimacy, Yesenia's U Visa standing had not translated into *social* legitimacy in key transactions that impacted her daily life and long-term integration in this country. Yesenia's case, one of many that inform this dissertation, reveals that there is no simple dichotomy between being documented and undocumented.

Recent scholarship has highlighted the effects of immigration law on various aspects of immigrants' lives, noting the deeply divergent courses that legal status can configure as it channels immigrants to educational and job opportunities and to public services, or leads them to exclusion and marginalization (Portes & Rumbaut, 2001; Portes & Zhou, 1993). This body of work has pointed to the impact that the legal regime, through the legal categories it creates, can have on immediate aspects of life, such as employment (Calavita, 2005; Takei, Saenz, & Li, 2009), welfare benefits (Capps, Castañeda, Chaudry, & Santos, 2007), health care (Menjívar, 2002), housing (McConnell & Marcelli, 2007; van Meeteren, 2010), and education (Gonzales, 2011; Menjívar, 2008), as well as long-term consequences that affect the prospects of immigrants in the host society (Marquardt, Steigenga, Williams, & Vásquez, 2011; Menjívar & Abrego, 2012; van Meeteren, 2010). Scholarship has also demonstrated how the enforcement of immigration law can influence behaviors and everyday practices in transformative ways, deeply shaping subjective understandings of the self (Gonzales & Chavez, 2012; Menjívar & Abrego, 2012; Menjívar & Morando Lakhani, n.d.). Therefore, it has been well established that the legal context that receives immigrants, through the legal classifications it establishes and the implementation tactics it employs, can shape life for immigrants in profound ways (Abrego, 2011; Donato & Armenta, 2011; Dreby, 2010; Menjívar, 2006; Takei, et al., 2009; see also Kasinitz, 2012).

Less attention has been given to the legalization process itself, including immigrants' experiences petitioning for legal opportunities and the intermediary social actors that are involved in those endeavors. As immigrants come into contact with U.S. immigration law through entering the country, applications for regularization, detentions and/or deportations, and the institutions and bureaucracies through which immigration policies are implemented, they internalize their position vis-à-vis the law, becoming aware of who they are and who they need to become in the eyes of the law. This awareness arises from dealing with a varied cast of players in the U.S. immigration system—from attorneys and notaries to bureaucrats and enforcement agents—during interactions ranging from the collaborative to those more adversarial in nature. It also comes from individuals' own knowledge of the power of the law cultivated in ordinary, informal settings (see Menjívar, 2011), and that contribute to immigrants' "legal consciousness," the way they understand and use the law (Merry, 1990).

This dissertation analyzes the legalization process as experienced by immigrant crime victims and their attorneys in Los Angeles, California. Drawing on over three years of ethnographic and qualitative research, I chart the process from the time undocumented immigrants decide they want to regularize their status through a victim-based remedy and contact attorneys and legal non-profit organizations; through the case development phase, when migrants collaborate with attorneys to produce compelling petitions for legal standing; to the period of application results and beyond, documenting the consequences of approvals and rejections for immigrants and their families. I also consider how non-profit immigration lawyers' idealism affects their career trajectories and the way they practice law. Empirically, I focus on the experiences of Latin American female immigrants in Los Angeles as they pursue U Visa status, and the attorneys they collaborate with.

Blood, Sweat, and Tears

Whether beginning their legalization journeys from abroad or within U.S. borders, the process that immigrants undergo to obtain legal status in the United States varies depending on the application avenue they pursue. There are three such avenues respectively marked by *blood*, *sweat*, or *tears*. When potential migrants have *blood* ties to U.S. citizens or permanent resident family members, the citizens or residents assert a right for their kin to join them on U.S. soil. When potential migrants possess unique and valuable skills demonstrable through the literal or proverbial *sweat* of their brows, U.S. employers assert a right to bring such individuals into the country in order to hire them. But immigrant crime victims, those who have suffered persecution and shed *tears* in or outside of American territory, lack an equivalent U.S. ally to assert a comparable right for them to enter the polity. Such migrants must apply for a form of what the US government calls “humanitarian” legal status without the backing and credibility associated with having a family member or employer vouching for them (Services, 2011).

Although the United States has enacted federal immigration law and promulgated policies that aim to protect migrants who are victimized within U.S. territory and abroad, immigrants’ “right” to residence in the United States is not asserted in the same way as that of family-based or employment-based migrant petitioners, nor are their petitions subject to the same adjudicatory vetting process. Instead, the claims of victim-based petitioners are frequently produced and validated by lawyers working in close collaboration with the migrants and in concert with legal and political institutions of the U.S. state. While migrants may petition for a humanitarian-based status without the aid of attorneys, legal representation has been shown to significantly increase individuals’ odds of receiving approvals (Ramji-Nogales, Schoenholtz, & Schrag, 2009; see also Heeren, 2011).

All immigrants petitioning for U.S. legal status face a legal system that, compared to other forms of U.S. law, has been characterized as particularly chaotic legislatively as well as inconsistent when it comes to adjudication of petitions (Cox, 2009; Legomsky, 2010; Wadhia, 2010). The rules of U.S. immigration law and associated provisions are often unclear, creating confusion for all players in the system: migrant applicants appealing to them, lawyers trying to utilize them on behalf of migrant clients, and the decision makers tasked with approving or denying petitioners' legal requests. Substantive and procedural immigration law is known for being, alongside tax law, the *most* complicated—and, in some areas, the most ambiguous—kind of law on the books (Einhorn, 2009; Legomsky, 2010). Its complexity is due in large measure to the ever-changing quality of immigration legal regulations that are subject to frequent modification by legal authorities, as well as the variable interpretations of individual decision makers as they apply regulations to cases. Even when the rules and provisions of immigration law are fairly straightforward, they frequently force adjudicators at the United States Citizenship and Immigration Services (USCIS) and judges in Immigration Courts² to exercise discretion in applying broadly worded statutory or regulatory language to individualized facts, making outcomes unpredictable. These legal challenges are heightened when players are confronted with substantively and procedurally new forms of legal relief. In this scenario, petitioners, their attorneys, and immigration decision makers have minimal legal precedents on which to rely when determining how to proceed.

² Since 2003 the primary immigration adjudicatory agency in the United States has been USCIS, the adjudicative branch of the Department of Homeland Security (DHS). Immigration Customs and Enforcement (ICE) is the enforcement branch of DHS. Prior to 2003, Immigration and Naturalization Services (INS) was responsible for immigration adjudication *and* enforcement under the Department of Justice. The Executive Office for Immigration Review (EOIR), which includes the US Immigration Courts where judges oversee removal proceedings and the Board of Immigration Appeals, has been part of the Department of Justice since 1983.

U Visa Status

One of few avenues to legalization available to unauthorized migrants³ in the United States today⁴, the U Visa provides temporary status to crime victims who assist law enforcement in the investigation and prosecution of the crimes they experienced. Recipients of U Visa status, created in 2000 through the Victims of Trafficking and Violence Protection Act (VTVPA), are given work permits and are eligible for certain federal benefits programs for four years. In some U.S. states, including California, U Visa holders are eligible for state and local government benefits and social services programs (Kinoshita, Bowyer, Farb, & Seitz, 2012, pp. 3-40). Despite recently becoming eligible for California state financial aid to attend college⁵, U Visa holders are not eligible for federal financial aid to attend college.

After three years as U Visa holders, migrants may apply for permanent residency. Congress currently limits U Visa status approvals to 10,000 per year, with an unlimited number of “derivative” U Visa status grants available for certain immediate relatives of the primary, “principal” victim applicants. The U Visa has grown in popularity with every year of its existence. While 5,825 principal U Visas were approved in fiscal year 2009, the first full fiscal

³ Immigrants who hold other temporary standings are also eligible to apply for U Visa status, but based on my fieldwork, most applicants are undocumented.

⁴ There are minimal opportunities for undocumented immigrants in the United States to legalize their standing. See, e.g., <http://www.immigrationpolicy.org/sites/default/files/docs/whydonttheygetinline.pdf>, accessed March 15, 2013.

⁵ As of January 1, 2013, California law AB 1899 (“Postsecondary Education Benefits for Crime Victims”) conferred U and T Visa holders with eligibility for the same state financial aid and non-resident tuition exemption as undocumented AB 540 students (see Abrego, 2008), including in-state tuition, scholarships, and financial aid at California community colleges, within the California State University and University of California systems, at private state colleges and universities, and at vocational and technical schools. See http://www.e4fc.org/images/E4FC_CADAGuide.pdf, accessed April 5, 2013.

year of its availability⁶, all 10,000 available principal U Visas were issued in fiscal years 2010, 2011, and 2012 (Services, 2012). Through fiscal year 2012, 36,108 principal and 27,176 derivative U Visa applicants have been approved.

⁶ Adjudicative regulations implementing the U Visa were not issued until 2007-2009, before which bona fide U Visa status was not available. Current regulations remain interim and subject to change.

Table 1⁷. U Visa Applications, Approvals, and Denials, Fiscal Years* (FY) 2009-2012

	Principal Applications Received	Principal Approvals Issued	Principal Denials Issued	Derivative Applications Received	Derivative Approvals Issued	Derivative Denials Issued
FY 2009	6,835	5,825	688	4,102	2,838	158
FY 2010	10,742	10,073	4,347	6,418	9,315	2,576
FY 2011	16,768	10,088	2,929	10,033	7,602	1,645
FY 2012	24,768	10,122	2,866	15,126	7,421	1,465
TOTAL	59,113	36,108	10,830	35,679	27,176	5,844

*Fiscal years run from Oct. 1 of the previous year to Sept. 30 of the year listed.

Source: Services, 2012

⁷ Note that the numbers in Table 1 for approvals plus denials in each fiscal year do not add up to the applications received. During FYs 2009 and 2010, individuals who had previously received U Visa interim status (a deferred-action standing issued starting in October 2007 to those who could provide prima facie evidence of their likely eligibility for U Visas while USCIS was developing the adjudicative regulations) were filing the remaining components of their U Visa applications and may not have been counted in numerical totals for new applications received those years. In addition, each application that USCIS receives in a given fiscal year is not necessarily approved or denied that same year, making it difficult to establish definitive grant rates. Adjudicators may hold immigrants' applications indefinitely while waiting for applicants to respond to evidence requests or for other reasons, as they are under no obligation to issue timely decisions. At the end of FY 2012, there were 19,899 principal and 15,592 derivative U Visa applications pending. In 2010, when the 10,000 cap for principal U Visa status approvals was first reached, all other applications were held until the start of the new fiscal year, when they rolled over and could be adjudicated with a renewed cap.

As success in the U Visa context yields valuable rewards, immigrants who believe they could be eligible for the remedy have a high incentive to pursue it. However, like all humanitarian immigration benefits, U Visa standing is granted on a discretionary basis. Therefore, immigrants pursuing U Visa status must demonstrate not only that they *qualify for* the relief from a rules standpoint but also that they *deserve* the status from a social and moral standpoint. In efforts to do so, petitioners may rely on attorneys to broker information and resources between them and the legal authorities with power to advance or deter their objectives. But in the first years of the full implementation and availability of the remedy, it is not completely clear to legal professionals or migrant petitioners how to facilitate the success of U Visa applications.

The U Visa regulations suggest that in order to be deemed eligible for and deserving of U Visa status, migrants must demonstrate that (1) they suffered at least one qualifying U Visa crime;⁸ (2) they endured substantial physical or mental harm from the crimes; (3) they cooperated in any resulting investigations and prosecutions; and (4) in light of their civic engagement, it would be in the public interest for any inadmissibilities⁹ to be pardoned and for

⁸ The crimes include “rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; prostitution; sexual exploitation; female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury; or attempt, conspiracy, or solicitation to commit any of the above.” See <http://www.uscis.gov/files/form/i-918instr.pdf>, accessed February 1, 2013.

⁹ Applicants for the U Visa must demonstrate that they are admissible by showing that they do not fall under any of the grounds for inadmissibility at Immigration and Nationality Act (INA) §212(a) or that, if they do, they qualify for the waiver available under INA §212(d)(14). Some of the more common inadmissibility grounds include immigration violations, such as being present in the United States without permission or parole (also known as “entering without inspection”), failure to attend removal proceedings, and misrepresentation or fraud for an immigration benefit; communicable diseases; physical or mental disorders that may pose a

them to be legally incorporated into American society.¹⁰ Meeting these grounds may be complicated for several reasons. While qualifying U Visa crimes are delineated in the VTVPA, whether victims endured one or more of them is often not plainly evident. The classification of a crime as one that qualifies for U Visa standing may reflect the subjective interpretations, statements, or opinions of victims, perpetrators, police, or victims' lawyers rather than any "correct" categorization¹¹. In addition, while U Visa hopefuls must have suffered "substantial" harm to qualify, no single factor is determinative or a prerequisite of this "substantial" bar. Furthermore, while applicants must be able to show their helpfulness in criminal investigations and prosecutions, the types and amount of evidence indicating collaboration are not enumerated in the U Visa statute or regulations. This situation is not especially unusual, as legal statutes and regulations in and outside of immigration law usually do not specify precisely how they should be applied to individual cases or how decision makers should adjudicate individual cases (Heimer, 1995; Sarat & Felstiner, 1995).

Negotiating Standing and Benefits Along the Legal Status Spectrum

U.S. immigration law has a profound impact on immigrants' lives regardless of whether it deters them from migrating. Once migrants are inside the state, their ascribed legal status

threat; drug abuse or drug addiction; and criminal acts involving moral turpitude or drug convictions. This list is not exhaustive.

¹⁰ In order to have a ground of inadmissibility waived, the applicant must show that granting the waiver is in the "public or national interest" (Kinoshita, et al., 2012, pp. 2-21). The regulations do not outline any specific requirements for demonstrating public or national interest, but USCIS officials have noted that each waiver application should include a statement explaining the discretionary grounds for granting the waiver, details of the victimization, migrants' personal reasons and circumstances ("equities") for needing the waiver, and any supporting documentation.

¹¹ This epistemological dilemma is germane to any form of categorization (see Timmermans & Epstein, 2011).

determines which rights they may exercise and the resources they may obtain. Immigrants who are naturalized citizens are formal equals to native-born citizens, enfranchised with a complete set of civic, political, and social rights. In contrast, all categories other than naturalized citizen entail some material exclusion or limitation (Bosniak, 2006; Brubaker, 1992). Therefore, while formal *equality* exists among citizens, formal *inequality* characterizes the relationship between citizens and non-citizens, and among non-citizens themselves.

Non-citizens are differentiated from each other by their particular legal standing, which determines their position along a continuum extending from undocumented to Lawful Permanent Residency (LPR) status, with a number of anomalous temporary statuses in between. Migrants' spot along this continuum, which corresponds to a sliding scale of entitlements and privileges, dictates the rights they may assert. Most status-derived rights are inaccessible to unauthorized migrants. Progressively more rights are available to individuals with temporary legal standings, including U Visa status. Permanent residents are endowed with the most rights of any non-citizen group.

Considerable research has underscored the importance of legal status to migrants' education, employment, familial well-being, health, and housing, among other outcomes (see, e.g., Abrego 2006; Gonzales, 2011; Massey, Durand, & Malone, 2002; Menjívar, 2002; Menjívar & Abrego, 2012; Reitz, 1998; Willen, 2011). Nonetheless, some scholars insist that immigrants' formal legal status may be largely irrelevant to daily activities in a period of "post-national membership," when non-citizens in liberal democracies are sometimes able to acquire benefits traditionally reserved for citizens (Sassen, 1996; Soysal, 1994). However, in recent years, researchers have begun to challenge this model by pointing out that large-scale restructurings of the immigration enforcement regime after the terrorist attacks of September 11, 2001 have made

the distinctions between and among citizens and non-citizen groups more important than before (Coutin, 2011b; Kasinitz, 2012; Menjívar & Abrego, 2012). While the eligibility criteria for formal citizen and non-citizen legal statuses are delineated in written legislation and regulations, the *acquisition of legal standing* and the *mobilization of corresponding rights* may be less clear, particularly where there is any room for interpretation or discretion in the process.

Legal scholars and social scientists have highlighted the power of law to delimit individuals' claims in immigration as well as other legal areas, constricting the platforms from and identities with which individuals may mobilize law (Coutin, 2000; Gleeson, 2012; J. M. Hagan, 1994; Kanstroom, 2007; Motomura, 2010; Villalón, 2010). Studies have examined how, in calling on law's authority, individuals may emphasize certain pre-existing aspects of their personalities or life histories that they believe square with legal norms or conventions that will enable them to achieve the results they desire (Berger, 2009b; Kim, 2011; Lakhani, 2013; Merry, 2003; Nicholls, 2011). Research on lawyers and clients often discusses the "framing" (Gitlin, 1980; Goffman, 1974), or "scripting" (Heimer & Staffen, 1998, p. 5) performed by attorneys to compel their clients' legal goals, molding and reshaping individuals' accounts into a "papereality" (Dery, 1998) aimed to appease legal decision-makers (Coutin, 2000; Mertz, 1994). This discursive process sometimes also includes lawyers explaining to clients how legal proceedings may unfold and of ways the law could be advantageously used so that clients can offer beneficial information (Coutin, 2000; McKinley, 1997). In turn, research has explored the "transformation" (Mather & Yngvesson, 1980-1981) and "negotiation" (Katz, 1982, p. 23) involved in legal complaints and disputes in how they change in form or content as a result of the interaction and involvement of participants in the legal process itself (Felstiner, Abel, & Sarat, 1980-1981).

Insofar as acquiring rights, empirical studies have highlighted the advantages of migrants who are naturalized citizens or hold the enduring and socially recognizable status of residency (Robertson, 2009; Sadiq, 2008; see also Kim 2011). Others have emphasized disadvantages that non-citizens who are undocumented migrants face when they transition from the classroom to the workforce and must “learn to be illegal” as they realize they lack important membership markers that facilitate a successful adulthood, such as social security numbers (Gonzales, 2011; see also Gleeson and Gonzales 2012). And recent examinations of migrants in Temporary Protected Status (TPS), a terminal legal position offering very few benefits, have portrayed the plights of migrants in “liminal legality” (Menjívar, 2006). In this dissertation, I extend these lines of research by investigating how immigrants transition from a position outside the law to a standing between undocumented status and permanent residency, and by showcasing the limitations migrants confront while possessing temporary standings that provide access to significant privileges and may lead to permanent residency and citizenship.

Millions of immigrants in the United States hold temporary legal statuses, occupying a liminal space in the legal “twilight” (Martin, 2005)¹². These standings, what I call “twilight statuses” in this dissertation, may be acquired via family ties to immigrants in the United States, employment skills, travel to or study in the United States, circumstances warranting

¹² Martin (2005, p. 2) calculated that within the population of 8 to 11 million undocumented immigrants in the United States, an estimated 1-1.5 million actually had “a kind of twilight status, partially recognized but not yet counting as full lawful residence”. These individuals included (1) persons with legally recognized claims to eventual legal status, such as relatives of permanent residents; and (2) persons who hold legally recognized temporary statuses. Martin’s numerical estimate (2005) included only relatives of permanent residents and migrants in TPS, the two most numerically significant classes of migrants falling in his conceptual category of “twilight status.” However, Martin suggested that the group could be expanded to include immigrants in other humanitarian categories, including the U Visa and other humanitarian statuses, without significantly altering his approximate count (2005, p. 9).

humanitarian intervention, or other means.¹³ Apart from their quantitative significance, the case of twilight statuses provides a strategic research site, ideally situated to illuminate the stratification produced by migration control policies enacted since the mid-1990s and particularly since 2001, the corresponding proliferation of formal legal statuses, the differences among them, and the ways in which a regime of “papers” limits migrants’ ability to claim rights to which they may be entitled, however limited in scope.

This dissertation examines immigrants’ experiences as they transition through the legalization process. My analyses center on the U Visa, one of a number of humanitarian twilight standings in existence today¹⁴. Legal intermediaries, among them attorneys, often facilitate immigrants’ movement across statuses. Thus, I also investigate lawyers’ involvement in the immigration legal process, including the constraints that shape attorneys’ selection of immigrants as legal clients, how lawyers facilitate migrants’ legalization goals, and how immigration lawyers’ motivations for their professional decisions affect their career trajectories and the way they practice law on migrants’ behalf.

Dissertation Goals and Contributions

This dissertation contributes to the social science and legal scholarship on international migration and immigration policy, including the literature on the convergence of immigration and criminal law (Chacon, 2009; Kanstroom, 2007; Menjívar & Abrego, 2012; Stumpf, 2006).

¹³ See:

<http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=6ef88fa29935f010VgnVCM1000000ecd190aRCRD&vgnnextchannel=b328194d3e88d010VgnVCM10000048f3d6a1RCRD>, accessed November 14, 2012.

¹⁴ For more information about the kinds of twilight statuses that exist, see:

<http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnnextchannel=92f23e4d77d73210VgnVCM100000082ca60aRCRD&vgnextoid=92f23e4d77d73210VgnVCM100000082ca60aRCRD>, accessed March 18, 2013.

Scholars have analyzed the creation of national immigration laws and policies (Freeman, 1995; Joppke, 1998b; Soysal, 1994; Tichenor, 2002), conceptualizing resulting policies at the state and local level as mechanisms of control (Kubrin, Zatz, & Martinez, 2012; Varsanyi, 2010).

Countering that perspective, work on the *implementation* of immigration policy effectively argues that the mechanisms of control are not merely the policies themselves, but how these policies are implemented. This is an important distinction because research shows that bureaucrats face constraints in their ability to carry out their immigration control mandates (Armenta, 2011; Ellermann, 2009; Wells, 2004). My work goes one step further and argues that we should broaden our conceptualization of immigration control to include other mid-level actors and institutions that interpret and apply national policies.

Scholarship has examined actors involved in the implementation of immigration policies, including those in law enforcement and courts, immigration inspectors at airports, consular staff, social services and medical providers, and teachers, counselors, and administrators in schools (Armenta, 2011; Gilboy, 1991; Gleeson, 2012; Jones-Correa, 2008; Marrow, 2009; Maynard-Moody & Musheno, 2003). I build on this research by analyzing how lawyers act as brokers both between immigrants and the state and between immigrants and *other* mid-level intermediaries such as police, employers, social services providers, and financial aid officers. My analysis configures immigration attorneys both as “agents and critics of law” (Coutin, 2000, p. 104) who, in efforts to facilitate immigrants’ mobilization of the law, simultaneously reinforce and challenge both official and unofficial legal notions. Immigration lawyers are “agents of law” in how their brokering work at base involves interpreting and applying existing legal statutes and regulations of the state to immigrants’ lives. Indeed, lawyers’ capacity to facilitate the legal inclusion of undocumented immigrants resides in their very alignment with the American state,

as professionals trained in its rules. And yet in the act of implementing those rules, by strategically laboring to enfranchise those who are not state members, lawyers can also be conceptualized as “critics of law.”

In drawing attention to the myriad and sometimes seemingly incongruous roles attorney may have in the application of immigration policies, I expand what we conceptualize as immigration control beyond law enforcement actions, which has characterized much of the research in this area. Furthermore, I complicate our understanding of mechanisms of immigration control by showing how exclusionary aspects of restriction can filter into efforts apparently intended to benefit immigrants.

My dissertation draws attention to critical ways in which immigration law shapes individuals’ lives. Research has examined how undocumented migrants contest immigration restrictions (Coutin, 2000; Ryo, 2006) and are punished by the law (Dow, 2004), but this study joins researchers exploring how immigrants attempt to work with the law. Scholars have investigated the efforts of undocumented immigrants to access legal benefits from a position outside the law (Abrego, 2008; Berger, 2009b; Bhuyan, 2008; Gleeson, 2010; Kim, 2011; Menjívar & Morando Lakhani, n.d.; Nicholls, 2011). Chapters 3 and 4 contribute to this research agenda by examining how undocumented immigrants collaborate with lawyers to prepare convincing U Visa claims. However, my dissertation goes a step beyond in chapter 6, where I examine immigrants’ efforts to access resources entitled to them once they become legal members of American society. In revealing the signaling mechanism involved in converting a legal status identity to concrete social resources, I illustrate how a political and social climate of migration control combined with a legal context characterized by the multiplication of anomalous statuses between citizen and foreigner produces stratification.

In revealing the relevance of immigrants' ongoing "alien" standing even while occupying a position of legality (Bosniak, 2006), my dissertation expands the "legal violence" lens (Menjívar & Abrego, 2012), which has been applied primarily to undocumented immigrants (but see Abrego & Lakhani, n.d.). While Menjívar and Abrego (2012) demonstrated how unauthorized immigrants are harmed in physical, structural, and symbolic ways by current immigration laws, my dissertation shows that even when individuals are legally present in the country, widespread misinformation and the practices of the contemporary multi-layered, restrictive immigration regime continue to make them targets of legal violence.

This project is also in dialogue with the law and society canon, in its focus on the distinction between the static "law in books" and the evolving "law in action" (Pound, 1910). Under circumstances of legal and bureaucratic uncertainty, I demonstrate how attorneys help fashion immigrants' lives into compelling cases for U Visa standing by mirroring apparent yet unstable norms they perceive to exist, but also by imbuing petitions with elements of uniqueness that make immigrant clients appear credible. While most studies of "law in action" have analyzed how legal actors tailor the idiosyncratic details of discrete cases to match existing precedents, I examine how law emerges within a confining legal framework that is at the same time not completely institutionalized. In doing so, I extend the "law in action" paradigm.

Dissertation Data and Methods

This dissertation examines legal mobilization, legal decision-making, and discretion in the context of Los Angeles legal non-profit organizations, as immigrant crime victims work with attorneys to compel legal standings and associated benefits. Los Angeles is an appropriate context in which to study the legalization experiences of immigrants who have survived violence or persecution, as the city has historically been a major US destination for migrants seeking

humanitarian forms of relief (Batalova & Terrazas, 2010). Aiming to examine various stages of the legalization process including individuals' transition from undocumented to temporary legal status, a Los Angeles study was also fitting since California is home to the largest population of unauthorized immigrants in the country (approximately 2.6 million), with Los Angeles County accommodating the largest number in the state (approximately one million), the majority of Mexican origin (Johnson, 2010). California was also the top destination for political asylees and refugees in 2010 (Martin, 2011).

My dissertation analyses draw on four sources of data, the primary source being participant observation at Equal Justice of Los Angeles.

Participant Observation within Equal Justice of Los Angeles

I conducted three years of ethnographic participant observation research within Equal Justice of Los Angeles (EJLA, or "Equal Justice")¹⁵ between January 2009 and December 2011. Equal Justice, a non-profit organization in Los Angeles, California, provides free legal and social services to low-income¹⁶ city and county residents with varying needs. The organization's immigration services focus on humanitarian-based forms of relief for individuals who have experienced violent crimes and forms of persecution in their countries of origin and in the United States. To maintain its confidentiality, I will not elaborate further on the organization's structure except for in chapter 2, where I discuss its funding sources. I also discuss Equal Justice in the methodological appendix, where I describe my entry to the organization, ethical issues I

¹⁵ "Equal Justice of Los Angeles" is a pseudonym used to protect the confidentiality of the actual legal organization, employees, and migrant clients.

¹⁶ In 2010, the most recent year for which organizational data was available, over 80 of EJLA clients earned below 125 percent of the federal poverty level for their household size.

encountered during research, how my study focus evolved in the course of data collection, and the researcher standpoints I occupied vis-à-vis immigrants and attorneys at EJLA.

Volunteering several days each week as a law clerk, I helped immigration lawyers and migrant petitioners apply for various victim-based forms of immigration legal relief. I primarily worked on U Visa cases, the reasons for which I detail in the methodological appendix.

However, I was also involved with cases on behalf of immigrants seeking deferred action status through the Violence Against Women Act (VAWA)¹⁷, political asylum¹⁸, and T Visa status¹⁹, as well as permanent residency, citizenship, and reunification petitions for family members still abroad²⁰. Immigrants soliciting legal status within the context of EJLA were women, men, and children from parts of Africa, Asia, Latin America, and the Middle East. The majority of clients

¹⁷ Battered spouses, children, and parents of U.S. citizens or permanent legal residents may file for immigration benefits without their abuser's knowledge by self-petitioning via VAWA, legislation initially passed as part of the Violent Crime Control and Law Enforcement Act of 1994. See <http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=b85c3e4d77d73210VgnVCM100000082ca60aRCRD&vgnnextchannel=b85c3e4d77d73210VgnVCM100000082ca60aRCRD>, accessed September 21, 2012.

¹⁸ Individuals who are “unable or unwilling to return to their country of nationality because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion” may be granted asylum in the United States. See <http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=f39d3e4d77d73210VgnVCM100000082ca60aRCRD&vgnnextchannel=f39d3e4d77d73210VgnVCM100000082ca60aRCRD>, accessed March 24, 2013.

¹⁹ T Visa status is designated for victims of human trafficking and allows victims to remain in the United States to assist in an investigation or prosecution of human trafficking. See <http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=02ed3e4d77d73210VgnVCM100000082ca60aRCRD&vgnnextchannel=02ed3e4d77d73210VgnVCM100000082ca60aRCRD>, accessed March 24, 2013.

²⁰ I draw on this data in other ongoing work.

I interacted with at Equal Justice spoke English as their second language, and some spoke no English at all.

This dissertation centers on the legalization experiences of female adult migrants from Latin America who qualified for U Visa status after surviving severe domestic violence and/or other intimate partner violence²¹, particularly sexual assault. I focus on *female* U Visa applicants and holders not because men are excluded from the legal opportunity, but rather because during the three years of my research, I only had the opportunity to observe five in-progress U Visa cases for male applicants²². Men are eligible for standing through the U Visa remedy and do succeed at acquiring the status²³. Furthermore, U Visa standing is available to victims of a wide variety of crimes other than domestic violence, but the majority of the cases I was able to observe and work on were for domestic violence and related crimes. Many of the immigrants whose cases I worked on were mothers who headed mixed-status families that included one or more U.S. citizen children.

Most immigration lawyers at EJLA and their paralegal counterparts (who handled their own legal cases, under attorneys' direction) were middle-class, ethnic minority women who spoke two or more languages. Several were immigrants themselves, having moved to the United States as children or adults; many others were children of immigrants.

²¹ "Intimate partner violence" describes physical, sexual, or psychological harm by a current or former partner or spouse. See, e.g., <http://www.cdc.gov/violenceprevention/intimatepartnerviolence/>, accessed April 4, 2013.

²² These were cases that I observed outside of Equal Justice and did not work on myself as a volunteer. Therefore, my observations of how gender affected the U Visa application process and migrants' experiences in the standing are limited.

²³ Statistics on the gender of U Visa recipients are unavailable, but I am aware of men receiving U Visa standing based on my research in Los Angeles legal non-profit organizations.

As an Equal Justice volunteer, I performed clerical legal work, including taking and editing legal declarations, composing cover letters and other documents, and completing forms to submit with migrants' applications to USCIS. As a researcher, I took detailed field notes about interactions and meetings in which I participated, sometimes taping and transcribing sessions when I was able to obtain permission from all individuals present. I recorded observations primarily in a "stepwise fashion," making mental and jotted notes that I expanded into detailed, typed narratives after exiting the field (Snow & Anderson, 1987, p. 1344). I accumulated an estimated 1,092²⁴ pages of single-spaced field notes based on observations at Equal Justice and in related sites that I elaborate on below.

In an effort to acquire a grounded understanding of the legalization process within Equal Justice, I followed attorneys and staff through their daily work routines, listening not only to what they told me as a researcher but also to what they told other attorneys and staff members, immigrant clients, and me as an office volunteer. Although my researcher and volunteer roles sometimes blended into one another, I was able to secure both "perspectives in action" as well as "perspectives of action" (Gould, Walker, Crane, & Lidz, 1974, pp. xxiv-xxvi), contributing to a dynamic data collection process.

During my three years of fieldwork at Equal Justice, I estimate that I was involved with 150 U Visa cases and a collection of 50 other cases of the types mentioned above. I worked on cases at Equal Justice for days, weeks, or months at a time, including some that lasted from the start of fieldwork to its conclusion. My sustained presence at the organization helped me to

²⁴ I came to this approximation by estimating that I wrote seven pages of single-spaced field notes on average per week during three years of fieldwork. Some weeks I definitely wrote more than 7 pages of notes, and other weeks less.

capture attorneys' and migrants' responses to difficulties, roadblocks, and successes encountered in the legalization process.

In addition to my casework, I interpreted for Spanish-speaking Equal Justice clients during interviews with adjudicators in USCIS field offices, observed case proceedings in Los Angeles' Immigration Court, and participated in clinics aiding permanent residents interested in becoming US citizens. I attended monthly meetings of Equal Justice's immigration lawyers and paralegals about case challenges and organizational concerns, and Equal Justice sponsored events and retreats. I was also given an email account at the organization during my volunteer work, which meant that I was included on communications between immigration lawyers and paralegals discussing legal questions and strategies, case wins and losses, and other topics. All of these organizational activities complemented my casework as informative data sources.

Network Meetings

In the course of working on Equal Justice attorneys' immigration cases, I was invited to attend bimonthly "Network" meetings of EJLA and other non-profit attorneys in Los Angeles who represented immigrants applying for regularization through the U Visa remedy and the Violence Against Women Act. The Network convened to discuss and strategize surrounding challenges in their casework, including the factors that constrained their selection of U Visa cases (see chapter 2), U Visa certification (see chapter 3), and subsequent petition preparation (see chapter 4). I attended Network meetings between September 2009 and November 2011, listening as lawyers exchanged information, learning from one another as well as reinforcing shared notions about what made certain immigrants desirable or undesirable legal clients. By participating in these meetings, I accumulated a rich set of ethnographic data about how lawyers

representing immigrant victims in Los Angeles understood various legal issues and client-specific concerns at particular points in time.

Observations of Initial Case Consultations at EJLA, VIDA, and AYUDA

From June to December 2011, I observed a total of 55 intake consultations (“intakes”) between immigrants hoping to apply for forms of legal relief and attorneys at Equal Justice and two other organizations whose lawyers attended Network meetings. I undertook these observations in order to examine lawyers’ case selection in more depth (see chapter 2), and to investigate how lawyers advised immigrants to approach law enforcement during the U Visa certification stage of their applications (see chapter 3). Lawyers at VIDA and AYUDA²⁵ handled similar types of immigration legal cases as attorneys at Equal Justice, although daily operations differed somewhat in that AYUDA charged immigrants modest flat fees depending on the immigration benefits they were applying for. VIDA, like EJLA, did not charge immigrants for legal services. Lawyers at all three organizations considered themselves “non-profit” or “public interest” lawyers because of their commitment to providing accessible legal services to indigent immigrants.

Intakes were structured similarly across the three organizations during the period of observation, such that attorneys met with immigrants searching for legal representation because they believed they qualified for a benefit that attorneys could assist them in obtaining. During intakes, lawyers listened to immigrants’ narratives about circumstances they endured and their legal requests, reviewing paper documents and asking relevant follow-up questions. Before the conclusion of intakes, lawyers provided a preliminary assessment of immigrants’ eligibility for legal remedies and their willingness to represent migrants as their legal clients. It appeared

²⁵ “VIDA” and “AYUDA” are both pseudonyms.

likely that 47 of the 55 immigrants whose consults I observed would become legal clients. The immigrants who allowed me to observe their consultations were from countries in Africa, Asia, Latin America, and the Middle East, and were interested in applying for various victim-based remedies as well as permanent residency, citizenship, proof of citizenship, and legal status for family members. In all, I observed 24 consultations at AYUDA (performed by three attorneys), 19 at EJLA (performed by four attorneys and one paralegal), and 12 at VIDA (performed by 3 attorneys).

Of these 55 total intakes, 40 were for immigrants who hoped to apply for U Visa status and who appeared to qualify for the remedy because they and/or family members suffered domestic violence ($n = 22$), sexual assault ($n = 7$), armed robbery ($n = 3$), murder ($n = 3$), felonious assault ($n = 3$), or attempted murder ($n = 1$); in one consultation, it was not clear what crime the individual experienced. The majority of these immigrants were from Mexico ($n = 29$), but others were from El Salvador ($n = 5$), Guatemala ($n = 3$), Nicaragua ($n = 2$), and one from an unspecified Latin American country. Most were women ($n = 35$). The U Visa intake consultations, which were free at EJLA and VIDA and cost \$25 at AYUDA, lasted between 30 minutes and two hours. Thirty-six were conducted in Spanish and four in English. I examine this set of intakes in chapters 2 and 3.

Apart from the content of the actual consultations, the “dead time” during intakes - when attorneys stepped out of the room to make copies of migrants’ paperwork or to complete other tasks - was useful because it gave me the opportunity to talk with immigrants about their experiences. Between intakes, I asked lawyers about consultations, gaining insight into how attorneys selected U Visa cases and their perceptions about immigrants’ likelihood of obtaining U Visa certification (see chapter 3).

In-depth Interviews

Between August 2010 and March 2012, I completed a total of 88 formal in-depth interviews for this project. Interviews were semi-structured and addressed various subject matters.

Immigrant Interviews

I interviewed 40 immigrant clients of Equal Justice, including 25 U Visa recipients, 11 asylees, and 4 immigrants who held deferred action through VAWA. Demographic and legal information about immigrant interviewees is included in Table 2.

Table 2. Demographic and Legal Characteristics of Immigrant Interviewees (Rounded Percentages in Parentheses)

	VAWA (<i>n</i> = 4)	Asylum (<i>n</i> = 11)	U Visa (<i>n</i> = 25)
Women / Men	4 / 0	6 / 5	25 / 0
Region of Origin (Africa/Asia/Latin America/Middle East)	0 / 0 / 4 / 0	5 / 3 / 3 / 0	0 / 0 / 25 / 0
Advanced to Permanent Residency	1 (25%)	5 (46%)	1 (0.04%)

Interviews focused on immigrants' experiences before, during, and after the legalization process, specifically around their legal status or lack thereof. Core topics included how immigrants learned of regularization opportunities for which they believed they qualified and how they located attorneys, the "easy" and "difficult" aspects of applying for legal standing, how acquiring legal status (or not) affected their lives, and whether they hoped or intended to pursue other legalization avenues and why. These interviews often touched on related subject matters as respondents raised them, including migration history, family composition and the legal standing of children, parents, and relatives, educational and work experiences in their countries of origin and the United States, and physical and mental health. All interviews were semi-structured, providing the flexibility to alter and ask clarifying questions based on the interviewee's response (Weiss, 1994).

Immigrants were assured that their decision to participate in interviews would not affect the services they were receiving at EJLA. Informants chose the location of the interviews, and most took place in Equal Justice offices, before or after appointments with their lawyers. Some interviews were conducted over the phone, if more convenient for respondents. Twenty-seven interviews were conducted in Spanish, and 13 in English, each lasting between thirty minutes and two hours. With informants' consent, interviews were audio recorded and subsequently transcribed. Interviews conducted in Spanish were transcribed in Spanish. I translated respondent statements from Spanish to English for the purpose of this dissertation. Migrants' narratives were sometimes slightly altered to protect their confidentiality.

Recruiting immigrants for formal interviews proved challenging. Some I approached were not interested in interviews; others expressed interest but did not return my phone calls to arrange dates and times. Although I had hoped to interview a larger sample of immigrants about

their legalization experiences, in reviewing my field notes, I counted hundreds of relevant conversations that occurred informally. These exchanges, which took place organically during my work on their legal cases, included a sample of 85 conversations with U Visa applicants and U Visa holders that I analyze in chapter 6.

Attorney and Legal Staff Interviews

I completed a total of 48 interviews with 22 EJLA, VIDA, AYUDA, and other Network immigration lawyers (14 of the 36 total attorney interviews were re-interviews²⁶) and 12 legal staff. “Staff” included paralegals ($n = 6$) and law student interns ($n = 6$). Including Equal Justice, the lawyers and legal staff I interviewed were employed at nine legal non-profit organizations in the greater Los Angeles area²⁷. Interviews with attorneys and legal staff investigated their career trajectories and goals, day-to-day casework activities, and “challenging” and “rewarding” cases and other aspects of their jobs. Legal staff prepared immigration legal petitions from start to finish under the supervision of attorneys, who signed off on their work as the attorneys of record before submitting immigrants’ applications. Given that lawyers and legal staff conducted much of the same work in the non-profit organizations in this study, and given the small sample of staff I interviewed, I do not analyze differences in attorneys’ and staff members’ experiences in this dissertation even while acknowledging the two groups’ distinct legal training.

²⁶ I conducted these additional interviews for an in-progress project that addresses DNA testing and medical examinations in the immigration legal process.

²⁷ Two lawyers were professors at Los Angeles law schools who directed Immigration Law Clinics in which they supervised students as they prepared immigration legal cases. Both professors had worked at immigration non-profit organizations before assuming those positions, and drew on those as well as law school clinical experiences in interviews.

Informants chose the location of interviews, with nearly all interviews being completed at attorneys' and staff members' workplaces. All interviews were conducted in English and lasted between forty-five minutes and two hours. With informants' permission, all interviews except for one were audio recorded and subsequently transcribed. In-depth interviews with attorneys and legal staff helped to clarify, and in some cases expand upon, instances I noted in my ethnographic research and more informal conversations with them.

In the chapters that follow, I utilize pseudonyms for the immigrant clients, lawyers, and legal staff discussed in this dissertation. In efforts to further protect subjects' confidentiality, I purposefully use different pseudonyms for research participants in each chapter even if the same individuals appear across chapters.

Data Analysis

I analyzed dissertation data in a modified grounded theory and analytical-induction tradition (Timmermans & Tavory, 2007), systematically coding ethnographic and interview material in dialogue with a close reading of salient themes in the international migration and law and society literatures. I began analysis early in the project and verified the emerging coding scheme with later data to make sure that my analysis captured the full spectrum of empirical manifestations. Initial coding of ethnographic data was organized by the various stages of the legalization process that I was able to observe, as follows:

- 1. Initial consultation:** Immigrants present their basic situations and experiences to lawyers, who assess immigrants' apparent qualification for forms of legal recourse.
- 2. Case diagnosis and preliminary work:** Attorneys agree to represent immigrants, and lawyers perform a more complete evaluation of migrants' eligibility for forms of relief. They decide which statuses and/or benefits to apply for. Lawyers advise immigrant clients of any

preliminary work needed to complete before beginning to prepare actual legal status applications (e.g., document gathering) and challenges they may encounter in this process.

3. Case preparation: Lawyers and immigrants collaborate to prepare compelling legal petitions and submit them to USCIS or file them in Immigration Court. Immigrants and lawyers respond to any additional requests for information from USCIS and/or prepare for Immigration Court dates. They participate in any necessary interviews with immigration authorities to assess qualification for remedies and/or appear in Immigration Court for proceedings. They wait for results.

4. Case response and aftermath: Immigrants and lawyers receive responses to their petitions and discuss results. With approvals, lawyers explain the benefits and/or limitations of newly acquired legal statuses, and what the next steps are. With denials, attorneys discuss the potential for appealing the decisions of USCIS adjudicators or immigration judges, and other recourse migrants may have. Immigrants invoke their legal status in social institutions and related situations (e.g., apply for jobs, social services benefits, financial aid) and return to lawyers with questions or reports about their experiences. They consider applying for additional legal statuses or benefits they qualify for.

I also coded for a **fifth chapter** about lawyers' motivations for becoming non-profit immigration attorneys and how their motivations affected the way they practiced law.

After the bulk of fieldwork was complete in mid-2011, I undertook several additional iterative rounds of coding and memo writing to sharpen analytical themes and identify variation (Charmaz, 1983). In particular, I relied on key literatures on categorization, brokering, lawyering, legal decision-making, the sociology of professions, and stratification in formulating these secondary coding schemes. In this sense, my research process resembled in certain

respects what Timmermans and Tavory (2012) described as “abductive analysis,” a modified grounded theory approach involving close coding of data in light of existing sociological theories in order to innovate and modify existing theories. By revisiting the phenomena I identified in my initial coding, making efforts to defamiliarize myself with earlier ideas, and imagining alternative casing for data, I followed the steps of abductive analysis. Ultimately, the structure my dissertation took resembled the format I envisioned early on in analysis, with four chapters focusing on stages of the legalization process and one on the career paths of immigration lawyers and their idealism in practice.

Dissertation Structure

Legalization poses a series of challenges for immigrant petitioners and their attorney advocates. This dissertation examines how immigration lawyers and immigrants in Los Angeles perceive and respond to vexing legal, social, and bureaucratic difficulties that emerge before, during, and after the process of applying for U Visa status.

Chapter 2 examines the case selection process performed by attorneys at Los Angeles legal non-profit organizations as they decide which immigrant crime victims seeking U Visa standing should be taken on as clients. I delineate the legislative trajectories, organizational constraints, bureaucratic binds, and policy predicaments that influence lawyers’ selection of certain immigrants as legal clients over others, tracing the factors that contribute to a categorization of female domestic violence victims as preferred U Visa clients. I identify some immediate consequences of lawyers’ case selection and propose what more protracted consequences of their decision-making may be for indigent immigrant crime victims seeking legalization through the U Visa remedy. This chapter draws on my ethnographic research at

Equal Justice and during Network meetings, my observations of initial U Visa case consultations at EJLA, VIDA, and AYUDA, and interviews with immigration attorneys and staff.

Chapter 3 investigates the legal translation and documentation of abuse by examining challenges of producing the U Visa certification form for immigrants and their attorneys. In order to apply for U Visa status, immigrants must obtain police validation of their experiences of crime and helpfulness to law enforcement via a signed “certification” form. By examining interactions between attorneys and their undocumented female clients, I explore how immigrants prepare to approach U Visa certifiers in the aftermath of violence. In offering retrospective and prospective advice to migrants about how to make effective pleas to police, attorneys arbitrate between horrific accounts of violence and the subsequent legal cases they can develop. This case of expert intermediaries brokering knowledge and resources for a vulnerable group enmeshed in a political and social context of migration control exposes the negotiated nature of legal eligibility. Data for this chapter come primarily from my observations of U Visa case consultations at Equal Justice, VIDA, and AYUDA. I also draw on ethnographic research conducted at EJLA and during Network meetings.

Chapter 4 explores how lawyers manage legal and bureaucratic uncertainties associated with humanitarian immigration law by examining their representation of undocumented crime victims petitioning for U Visa status. Immigration attorneys craft dual narratives to persuade adjudicators that their clients *qualify for* and *deserve* this new legal status, but representing migrants well creates moral dilemmas. I examine how lawyers elicit and script narratives of “clean” victimhood to demonstrate that their clients qualify for U Visa standing. Next I argue that attorneys construct narratives articulating migrants’ civic engagement to position their clients as contributing members of society who deserve legal status. The final section illustrates

how the production of these narratives generates a range of professional and ethical dilemmas for lawyers. This chapter fundamentally relies on ethnographic participant observation at EJLA and in Network meetings, but also draws from interviews with immigration attorneys and staff at Los Angeles non-profit organizations.

Chapter 5 examines the trajectories and manifestations of legal idealism through a case study of the career motivations and experiences of non-profit immigration lawyers in Los Angeles. While “cause” and “progressive” lawyering scholarship has analyzed how lawyers influence the social causes they are committed to through their job performance (see, e.g., Sarat & Scheingold, 1998), less research has examined how lawyers’ dedication to social causes shapes their career decisions and behavior as professionals, as they interact with and advise legal clients. First, I analyze lawyers’ entrée into the niche of non-profit immigration law, working to advance the legalization objectives of immigrants pursuing humanitarian forms of relief including political asylum, deferred action status through the Violence Against Women Act, and U and T Visa status. Next, I examine the aid attorneys dispense to immigrants about “ancillary” matters lawyers view as secondary to legal advice. Lastly, I consider the institutional dynamics that facilitate lawyers’ modes of casework, the consequences of attorneys’ legal idealism, and lawyers’ understanding of their professional role. Data from this chapter derive primarily from interviews with immigration attorneys and legal staff conducted across Los Angeles legal non-profit organizations, but I also draw on ethnographic participant observation at Equal Justice.

Chapter 6 examines the nature of “twilight status” (Martin, 2005) as exemplified by formerly unauthorized migrants in the United States who have ascended to U Visa standing yet encounter barriers translating their liminal legal identity to concrete educational, employment, and public benefits gains. In a social and political climate of migration control, and a legal

context characterized by the multiplication of anomalous statuses between citizen and foreigner, civic stratification is produced through institutional implementation of rights that differentiate non-citizens from citizens, and non-citizens from one another. The resulting formal inequality has important implications for migrants' legal consciousness and incorporation. This chapter draws on ethnographic research at Equal Justice and in Network meetings, as well as my observations of U Visa case consultations at EJLA, VIDA, and AYUDA. I also rely on interviews conducted with U Visa recipients and approximately 85 informal conversations with U Visa applicants and recipients that occurred at Equal Justice.

Chapter 7 concludes the dissertation with a discussion of the implications of this research for social science and legal inquiries, as well as immigration law and policy. I argue that although my dissertation analyzes immigrants' and attorneys' responses to a distinct immigration legal remedy that emerged in a particular legal, political, and social climate, my findings are relevant beyond the U Visa case. I contextualize lawyers' and immigrants' experiences during the U Visa legalization process alongside other comparable legal phenomena and amidst theoretical agenda that position the analyses of this dissertation as both timely and timeless.

CHAPTER TWO:

IMMIGRANT SCREENING ON THE LEGAL FRONTLINES

Introduction

The weeding out happens before [cases get to] Immigration [authorities], really.

-Karen, non-profit immigration attorney

Karen, a non-profit lawyer in Los Angeles, sat across from me at her desk. It was a Monday evening in January 2011 around 7:00 p.m., after a ten-hour workday. The attorney explained that when she arrived at the office at 9:00 a.m. that day, she was greeted by a line of people beginning at the front door of her organization, trailing down the steps leading to it, and wrapping around the corner and down the block. So her day of “intakes” began, evaluating immigrants’ claims of qualification for U Visa status, a temporary legal standing created through the Victims of Trafficking and Violence Protection Act (VTVPA), part of the Violence Against Women Act’s (VAWA) reauthorization in 2000. The lawyer said that for the last year and a half at least, immigrants had been lining up on the street outside of the organization’s building at 2:00 or 3:00 in the morning on Sunday nights, waiting patiently for attorneys’ U Visa intake hours to start the next day. Selecting whose cases to represent before the United States Citizenship and Immigration Services (USCIS) was difficult, Karen commented, because many of the individuals she met with during initial U Visa consultations were technically eligible for the relief by the letter of the law. However, she was unable to assist everyone who came to her door, because there were always people knocking. The attorney had to determine which immigrants would become her clients, and whom to decline. The lawyer reflected on the decision-making process that went into her selection of immigrant crime victims as U Visa clients:

Unless my heartstrings are super pulled, I don’t accept cases with criminal convictions because they take so many resources, and then I just think about how I’m using all of

these resources on this person when there are single moms that have no criminal history that aren't getting seen... Generally we have a policy that we don't take the young single dudes with criminal convictions, but then everybody makes exceptions from time to time.

This lawyer's particular remarks, which I analyze in more depth below, are suggestive of the multiple evaluative lenses attorneys apply in non-profit settings as they select U Visa clients to represent before legal authorities. Karen's reference to "resources" juxtaposed with "heartstrings," "policy" next to "exceptions," points to the intersecting logics that impact non-profit attorneys' work at this stage of the immigration legal process. The attorney's statement about her stance on "single moms" with "no criminal history" versus "young single dudes with criminal convictions" hints at a resulting prioritization of certain types of individuals over others as legal clients.

Undocumented immigrants hoping to regularize their legal status via a humanitarian-based remedy face the prospect of finding lawyers who can indicate their eligibility and are willing to advocate for them as legal clients before USCIS. While it is not imperative to have the aid of an attorney to apply for a victim-based standing, scholars and legal-decision makers have argued that contemporary immigration laws are distinctly difficult to unravel without the help of a lawyer²⁸ (Heeren, 2011). Moreover, legal representation has been shown to significantly increase individuals' odds of receiving approvals from adjudicators armed with considerable discretion to issue rejections (Ramji-Nogales, et al., 2009). Individuals without the financial means to pay steep hourly rates of private immigration attorneys may seek out alternative sources of legal assistance. Options include legal non-profit organizations that charge no fees or

²⁸ One court observed that, "[t]he proliferation of immigration laws and regulations has aptly been called a labyrinth that only a lawyer could navigate." *Hernandez v. Mukasey*, 524 F.3d 1014, 1018 (9th Cir. 2008) [quoting *Biwot v. Gonzales*, 403 F.3d 1094, 1098 (9th Cir. 2005)]. See Heeren 2011, p. 623, footnote 16.

reduced, usually flat rates on a sliding scale depending on income²⁹. Not surprisingly, the services of these organizations are in high demand, with attorneys commonly managing oversize caseloads. The situation is no different for immigration lawyers at non-profit organizations, who are inundated with requests for services from individuals who wish to legalize their immigration standing or apply for related benefits. As a result, a dilemma attorneys at these organizations routinely face is *who to help* when not all can be helped (Smurl, 1979; Tremblay, 1999). Individuals must be ranked in terms of deservingness for legal services, with some becoming clients and others filtered out.

The exercise of discretion is a critical feature of decision-making in a wide variety of legal and bureaucratic contexts where categorization procedures are involved in daily work. Police officers, regulatory inspectors, and other legal officials, as well as social service providers typically have considerable discretion in handling cases. There is substantial scholarly interest in the factors shaping the discretionary judgments of these individuals and others in similar positions. In recent years, a major concern within several disciplines is how forms of “prior knowledge” – “organized knowledge about [a] domain” used to “comprehend information and solve problems” in conditions of “time pressure, information overload, and uncertainty” - shape these decisions (Lurigio & Stalans, 1990, pp. 260-262; see also Gilboy, 1991; Lipsky, 1980; Maynard-Moody & Musheno, 2003). The nature of this prior knowledge and how it is appropriated in present situations has been variously described. Lurigio and Stalans (1990)

²⁹ There is also the option of going to a notary public, an individual who charges fees-for-service to complete immigration legal forms but is not a lawyer. While it is not illegal for notary publics to fill out immigration forms (only to falsely present themselves as attorneys), their lack of legal expertise often results in errors that land immigrants in removal proceedings. Individuals in this situation are left stranded in Immigration Court, as notary publics cannot defend applicants before judges because they are not licensed to practice law in the United States.

named two types of prior knowledge, including “content knowledge” and “procedural knowledge.” Content knowledge “tells the decision maker *what* events, persons, and systems are like” (p. 261). Procedural knowledge “tells the decision maker *how* to make a decision” (p. 261). Other scholars have analyzed how popular stereotypes constitute a kind of “prior knowledge” by influencing the way “social control agents” manage cases (Swigert & Farrell, 1977; Williams & Farrell, 1990). In turn, research on “labeling” and “labeling theory” has shown that members of certain social groups are disproportionately likely to have particular positive or negative labels attached to them (Becker, 1963; Gove, 1980; Heimer & Staffen, 1995; Matsueda, 1992; Pasternoster & Iovanni, 1989; Schur, 1971; Timmermans, 1998).

Other research, however, has presented categorization decisions as more rooted in the context in which they are contrived and issued (Emerson, 1969, 1991, 1992; Gilboy, 1991, 1992; Waegel, 1981). Studies examining societies, communities, or organizations where labeling is performed have underscored that which labels will be applied and how and to whom depends on the organizational settings in which social control decision-makers work, and the occupational orientations of workers. The imagery in much sociological work is one of legal or bureaucratic actors who over time accumulate considerable information about cases and their “typical” features, classifying them into categories (“normal cases”) that shape inquiry, interpretation of information, and case dispositions (Hawkins, 1984; Lipsky, 1980; Maynard-Moody & Musheno, 2003; Sudnow, 1965). In this vein, categorization is viewed as shaped by perceived work problems or immediate tasks for which actors, sometimes framed as “experts,” have developed notions about types of cases and related handling strategies that satisfy or at least recognize the problems to be solved or work to be done (Emerson, 1981, 1983). Detectives in Waegel’s (1981) study categorized cases as “routine” versus “nonroutine” based on paperwork demands

and the need to produce a proper number and quality of arrests. These ordinary concerns, and their associated normal case categories for sorting among cases and for directing and allocating detectives' energy and time, fundamentally determined whether and how vigorously particular cases were investigated. Similarly, Silbey's (1980-1981) study of consumer complaint processing in a Massachusetts Attorney General's office examined how "routinization" of case work (p. 881), performed to manage a high quantity of cases and byzantine laws, effectively hijacked the decision about what the job of consumer protection was to be (see also Best, 2012; Katz, 1982; Power, 1996).

Classification is constrained by the resources available and factors impinging on actors in a particular context, and by the possible courses of actions. In the neonatal intensive care units studied by Heimer and Staffen (1995), for example, families were labeled "appropriate" or "inappropriate," "good" or "bad" depending on hospital employees' assessments of their capability of caring for their premature children in the context of and in light of the institutional needs of the NICU. For example, age-dependent standards of competence were bolstered in employees' assessments, a realistic response to a core contingency - the need to discharge babies – given that problems related to parents' immaturity cannot be solved by allowing young mothers time to grow up before they take their babies home. As Heimer and Staffen (1995) point out, although parents are generally free to raise their children as they wish, when infants are critically ill the spectrum of behavior that constitutes "good enough parenting" shrinks (p. 637). Such constraints moderate the application of labels. This research suggests that legal actors may evaluate and respond to cases not based on their individual characteristics alone but with some larger unit or purposes in mind. In fact, a substantial body of theoretical and empirical work indicates that cases may be processed in ways that "take into account the

implications of other cases for the present one and vice versa” (Emerson, 1983, p. 425; see also Hawkins, 1983). Thus, the way particular cases are attended to may be affected by an official’s whole “caseload,” including the demands, issues, and impact of other current and incoming cases (Silbey, 1980-1981).

This chapter examines the case selection process performed by attorneys at Los Angeles non-profit organizations who decide whether immigrant crime victims seeking U Visa standing should be taken on as clients. It draws on my ethnographic research at Equal Justice and during Network meetings, my observations of initial U Visa case consultations at EJLA, VIDA, and AYUDA, and interviews with immigration attorneys and staff (see pp. 17-31). After situating the chapter within relevant literature, I delineate the legislative trajectories, organizational constraints, bureaucratic binds, and policy predicaments that influence lawyers’ selection of certain U-Visa-eligible immigrants as legal clients over others. In doing so, I trace the factors that contribute to a categorization of female domestic violence victims as preferred U Visa clients. I identify some immediate consequences of lawyers’ case selection and propose what more protracted consequences of their decision-making may be for indigent immigrant crime victims seeking legalization through the U Visa remedy. I argue that non-profit lawyers’ case selection is significant insofar as their presentation of certain types of individuals as deserving U Visa recipients to federal immigration authorities creates and perpetuates patterned profiles of who should be recognized under a new policy that singles out undocumented crime victims as exceptional individuals worth regularizing. In this way, attorneys’ representation decisions contribute to the emerging jurisprudence surrounding the U Visa remedy, potentially hindering the regularization of the types of individuals who are excluded.

Categorization and Discretion in Context

Understanding how officials in bureaucratic agencies make decisions has been a topic of import for socio-legal scholars for decades. Rather than focus on the government elites who create policy, Lipsky (1980, p. 3) famously argued that “street-level bureaucrats,” including “teachers, police officers and other law enforcement personnel, social workers, judges, public lawyers and other court officers, health workers, and many other public employees who grant access to government programs and provide services,” should also be considered policymakers. According to Lipsky (1980), understanding the work of street-level bureaucrats is important because they are most peoples’ point of contact with the government and they “make policy” through their “relatively high degrees of discretion and relative autonomy from organizational authority” (p. 13; see also Maynard-Moody & Moody, 2003).

Previous research on the ordinary practices of “street-level bureaucrats” describes how these individuals “make policy” through an accumulation of day-to-day decisions that produces precedents, as bureaucrats continually interpret and implement laws and guidelines. Scholars have shown that although street-level bureaucrats have statutory or organizational goals to work with in making decisions, including guidelines that set theoretical limits to official action, guidelines cannot determine how things are done within those limits or with what rationales (Heimer, 1995). By choosing among courses of action and inaction in discrete interactions and events, individual officers become the agents of clarification and elaboration of their own authorizing mandates, as routines, categories, and precedents take shape (Davis, 1972; Jowell, 1975). Bureaucrats become lawmakers, “freely” creating what Ross (1979) refers to as a third aspect of law beyond written rules or courtroom practices. This “law in action” arises in the

course of applying the formal rules of law in private settings and public bureaucracies (Pound, 1910). It is the working out of validating norms through organizational settings.

Social scientists have delineated a number of factors that may come into play as officials make discretionary decisions that affect the emerging law in action as it applies to individuals' lives or legal cases. Sociologists and criminal justice scholars studying a variety of legal contexts have described the function of "prior knowledge" in legal officials' assessment of and response to cases (Emerson, 1969; Gilboy, 1991; Hawkins, 1984; Knapp, 1981; Sudnow, 1965; Waegel, 1981). "Prior knowledge" may take many forms, with some researchers focusing on the role of popular stereotypes coming to bear on street-level actors' discretionary judgments in action (Swigert & Farrell, 1977; Williams & Farrell, 1990). Scholars have highlighted how prevailing stereotypes of particular offenses, such as domestic violence, provide an imagery about offender and victim characteristics, situational features of the offense, and the like, which is drawn on by legal actors in handling cases (Berger, 2009a; Berger, 2009b; Bhuyan, 2008; Picart, 2003). Social psychologists have also explored how decisions are affected by knowledge about other cases using the concept of "schemata" (Lurigio & Carroll, 1985) or other forms of organized prior knowledge such as records or recommendations (Carroll & Burke, 1990; Carroll, Weiner, Coates, Galegher, & Alibrio, 1982).

Research on categorization and decision-making has focused on how organizational tasks shape the construction and use of categories or typifications for the labeling of people or their actions, examining the differential treatment of members of distinct categories. Sudnow's (1965) classic study of how guilty pleas are produced in criminal legal cases through the social construction of cases into "normal cases" demonstrates that the letter of the law (in this case, the penal code itself) is less important than the power of "typification" as it plays out in the

interactive, inter-organizational work between public defenders and district attorneys. Sudnow shows that lawyers' agreements about "reasonable" (p. 262) offenses and criminal sentencing in individual cases are formulated in light of both sides' motivation to avoid trial, which would tax lawyers' ability to complete work on other cases. Emerson's (1969) subsequent study of the juvenile justice system showed that the most extreme institutional response to crime (in this case, incarceration or commitment) could often not be invoked because the legal and criminal justice system's capacity to manage the consequences was limited. In a later piece, Emerson (1991) suggested that research about categorization by agents involved in forms of social control that took a predominantly trait-driven focus missed the fundamental organizational purposes or problems underlying categorization. In particular, he called for research on how occupationally derived categories in a setting are fundamentally shaped by the problems or tasks of actors within that setting, including demands posed by other distinct cases.

Public service bureaucracies implement policy within special constraints. Agents in "street level bureaucracies" are expected to interact with clients regularly, but their work environments are pressured and stressful. Resources are limited, and mandates are too frequently ambiguous or conflicting. As a result, while the clients are the lifeblood of these organizations, they are often not the primary reference group for decision-making (Lipsky, 1980; Maynard-Moody & Musheno, 2003; Prottas, 1979; Silbey, 1980-1981). Agents cope with these stresses by developing routines, standards, categorizations, simplifications, and forms of accountability that economize on resources and meet organizational goals. For example, they may invent definitions of effectiveness that their procedures are able to meet and rationales that justify them (Armenta, 2012; Meyers, Glaser, & MacDonald, 1998). In so doing, they may alter the concept of their job, redefine their clientele, and effectively displace or at least modify their

organizations' stated mandates (Merton, 1940) and/or the broader goals they were designed to serve (Fox Piven & Cloward, 1977; Violence, 2007). These efforts may be undertaken by members of organizations to ensure the survival of their organizations and, implicitly, the survival of their organizations' goals, albeit with revisions (Banfield, 1961; Jowell, 1975).

Katz's (1982) study of legal aid lawyers in Chicago identified the organizational and socio-political contingencies that influenced poverty lawyers' shifting "philosophies of legal assistance" (p. 6). His examination revealed that the structural conditions of legal aid lawyering, such as the short-term nature of interactions between lawyers and clients, case overload, insufficient resources, and fast turnover of clients, affected how lawyers practiced law in these settings and how they conceptualized their work. Katz discusses the "routinization" of legal aid that emerges in attorneys' daily work as lawyers develop strategies to complete cases efficiently, all the while becoming disillusioned from the social justice agenda they began their careers with. Ultimately, Katz explains that the lawyers modified their professional mission so as to garner the gusto to continue as poverty lawyers. Lawyers partook instead in a "culture of significance" that defined the impact of legal aid to the poor as meaningful outside the proximate social environment, founded on various reform strategies and a collective orientation towards broader social change through class action and impact litigation. Zoloznaya and Nielsen's (2011) partial replication of Katz's work reaffirms similar difficulties faced by Chicago poverty lawyers today, delineating slight differences in their comparable "culture of significance" due to changes in restrictions on class action lawsuits and other forms of reform litigation in legal aid agencies. These studies illustrate how "street-level bureaucrats" carry out their jobs in the face of legislative, organizational, and bureaucratic constraints, modifying their understandings of what they do and why in response (see also Shdaimah, 2009).

Recently, scholars have turned their attention to how bureaucrats respond to the presence of immigrants (see, e.g., Lewis & Ramakrishnan, 2007; Marrow, 2009; van der Leun, 2003; Varsanyi, 2008), especially in light of increased local pressure to deny services to the undocumented in the United States and abroad. In the Netherlands, van der Leun (2003) describes variability in how employees in different sectors implement national policies toward unauthorized immigrants. For example, police officers that worked in immigration enforcement were selective and pragmatic about whom to detain and deport. Workers in education and health sectors found loopholes in the law and provided services to undocumented immigrants, contradicting policy directives (see also Marrow 2009).

Others have turned their attention more specifically to the immigration *enforcement* bureaucracy by examining how administrative discretion is deployed by officials implementing the Chinese Exclusion Act (Calavita, 2000), deportation officers making decisions about whom to return to their countries of origin (Ellermann 2005; Ellermann 2009), and police officers who help Immigration and Customs Enforcement by identifying removable immigrants and preparing the documents to pursue their removal (Armenta, 2012). While immigration enforcement is often imagined as being executed by some monolithic state, these studies illustrate how frontline workers interpret and apply regulations on entry and exit. Research suggests that employees in the federal immigration bureaucracy are constrained in their ability to enforce immigration policies because they are given conflicting and unclear policy directives (Magana, 2003) and have limited resources to practically execute their job duties (Ellermann, 2009).

In particular, Gilboy's (1991, 1992) research on immigration inspectors' regulation of entry at airports highlights elements of the distinct organizational context in which bureaucrats operated as significant factors playing into their discretionary judgments of individuals as

admissible or excludable. Multiple constraints come to bear on inspectors' sifting of travelers during inspection, such as time pressure, unreliable technological systems, the challenge of policing unfamiliar strangers in brief moments in time, and the sheer labor intensity implied in asking each traveler a battery of questions designed to discern the legitimacy of individuals' immigration visas and rationales for entry. Making reference to a 1932 study at Ellis Island describing the "well-defined mental pigeonholes" inspectors placed each immigrant into and "routines" they applied as they were "compelled to work rapidly" (see Van Vleck, 1932, p. 45), Gilboy also drew attention to the schemas airport inspectors developed to quickly winnow down streams of individuals passing through screening stations. In a local culture of efficiency and accuracy, officers treated individuals differentially depending on officers' perceptions of characteristics like nationality, age, gender, and visa type. Gilboy's work underscores the ways in which the nature of categorization and practical decision-making of individuals are shaped by broader agency or organizational concerns.

But examinations of how discretion and categorization affects immigration *adjudication* processes – from lawyers' work with immigrants to apply for benefits to decision-makers' responses – are less prevalent. Several scholars have explored how immigrants learn of legalization opportunities they may qualify for and decide they want to apply for them (Bloemraad, 2006; Gilbertson & Singer, 2003; Hagan, 1994). Others have analyzed how legal casework unfolds, when immigrants and attorneys prepare compelling petitions for legal standing and related recourse and learn of application results (Coutin, 2000; Ong, 2003; Salcido & Menjívar, 2012; Villalón, 2010). However, the initial stage of the process, when immigrants secure lawyers' assistance and become legal clients, has received minimal attention.

Coutin's (2000) ethnography of Salvadoran immigrants' efforts to redefine their legal status included only a small section on the "case diagnosis" process of legal services providers at the Los Angeles organizations she studied. Coutin explains that diagnosing immigrants' potential cases involved "assessing clients' current legal situations, their potential for legalization, and their legalization options" (p. 87), part of which meant reading clients' stories in anticipation of how they would eventually be judged by legal decision-makers. Coutin delves into how lawyers help demonstrate migrant clients' deservingness vis-à-vis legal authorities, but her analysis of how lawyers decide to accept certain individuals as legal clients and deny others is largely absent. Curiously, she notes that advocates usually "used the state's criteria to assess the merits of clients' cases," but "sometimes accepted cases that had the potential to establish precedents that would further legal justice," such as "HIV-positive asylum seekers, sexual orientation asylum cases, domestic-violence suspension cases, and emotionally based past persecution cases." In these cases, Coutin writes, "advocacy sought to stretch or redefine the legal meanings of 'hardship,' 'persecution,' 'refugee,' and 'social group'" (p. 93). Yet by and large, legal-services providers at these organizations faced the "dilemma" of how to select cases in a context of a "continual shortage of resources" by "limit[ing] legal representation to cases that may win" over "morally compelling cases that have little chances of winning" (p. 93). Thus, Coutin's foray into case diagnosis hints at a systematic ordering of certain cases over others, but stops short of drawing out additional concerns that may be driving lawyers' decisions at this stage.

Villalón's (2010) study of Latina immigrant applicants in domestic violence situations explored some of the processes at play that defined battered immigrants as legitimate or illegitimate subjects of law. Like Coutin, however, Villalón's work largely focuses on lawyers'

actual casework on clients' claims that leads them to label some immigrants as "good clients" and others as "troubled" after the lawyer-client relationship is established, as opposed to the conditions underlying legal staff's initial selection of certain immigrants as legal clients. Her ethnographic examination of a Texas non-profit group that offered services to immigrant victims of intimate partner violence revealed how immigrant clients who were compliant, tidy, constant, resolute, autonomous, responsible, deferent, considerate, discreet, redeemable, considerably recovered from the battering, and "good parents" were prioritized by non-profit staff. She observed that individuals labeled as "troubled clients" ultimately end up either with significantly longer application processes (because their "files would be pushed down the pile") or, in worse cases, with nothing at all (because attorneys would decide to drop immigrants' cases). Villalón's examination of how lawyers separate the "good clients" from the "bad" did not investigate legal staff members' preliminary categorization of individuals as clients to begin with, focusing instead on how lawyers' labeling influenced their labor on clients' cases and the eventual outcomes.

The labeling of individuals as suitable or unsuitable legal clients who will either receive legal representation or be escorted out the door is a dominant feature of the social organization of non-profit legal organizations, where indigent people seek free or low-cost legal assistance to amend their grievances or mobilize a perceived opportunity. Although lawyers' U Visa case selection lacks the official character of court decisions and other legal determinations, attorneys' assessments at this stage determine whether immigrants will receive free or low-cost aid and is therefore a critical moment in these immigrants' efforts to negotiate their legal standing in the United States.

A Context of Constraints

Immigrants whose U Visa cases non-profit lawyers accepted were not necessarily those with the most legal merit based on the fit of their circumstances with relevant laws, policies, and legal regulations. Other legislative, organizational, bureaucratic, and policy considerations played into lawyers' selection of immigrant crime victims as legal clients.

Legislative Trajectories

Processes set in motion via related, earlier policies affected who was aware of the U Visa remedy once it was created, and thus, who arrived at organizations seeking U Visa standing to begin with. The legal and social context in which the U Visa emerged provides an important foundation from which to begin to understand not-for-profit lawyers' case selection of immigrants as their U Visa clients.

The U Visa, created in the Victims of Trafficking and Violence Protection Act (VTVPA) of 2000, was established during a legislative renewal of the Violence Against Women Act of 1994, a bipartisan Congressional effort to curb domestic violence (Moline, 2000). By providing funding for police, prosecutors, battered women service providers, state domestic violence coalitions, and a national domestic violence hotline, VAWA was designed to promote awareness of and education and training about domestic violence among police and justice system personnel, community service providers, and the lay public, with the overarching goal of enhancing services for victims. When VAWA 1994 was enacted, Congress presented the Act as “an essential step in forging a national consensus that our society will not tolerate violence against women”³⁰. In citing statistics conveying that domestic violence threatened the lives, safety, and welfare of millions of women and children in the United States each year, and that

³⁰ S. Rep. No. 103-138, at 41-42 (1993). See Orloff & Kaguyutan 2002, p. 109.

domestic violence crimes were vastly under-reported, political elites advanced domestic violence as a pervasive and serious social problem (Tjaden & Thoennes, 2000).

While VAWA 1994 was not an immigration remedy in principal, it included special provisions for battered immigrants and children abused by U.S. citizen or permanent resident spouses or parents, with Congress noting that U.S. immigration laws were part of a larger societal failure to confront domestic violence. The House of Representatives Committee on the Judiciary found that domestic abuse problems were “terribly exacerbated in marriages where one spouse is not a citizen and the non-citizen’s legal status depends on his or her marriage to the abuser”³¹ because it places control of the alien spouse’s ability to gain legal status in the hands of the citizen or resident batterer (Salcido & Adelman, 2004; Salcido & Menjívar, 2012).

By way of VAWA, Congress intended to provide these select immigrants with an avenue to secure lawful immigration status independently of their abusers, with immigration laws allowing them a “means of escape” (Orloff & Kaguyutan, 2002, p. 113). The VAWA 1994 immigration provisions enabled victims in this subject position to “self-petition” for deferred action³², lawful permanent resident status³³, or VAWA suspension of deportation³⁴. Since these

³¹ H.R. Rep. No. 103-395, at 26. See Orloff & Kaguyutan 2002, p. 97.

³² Immigrant victims of domestic violence by a spouse, parent, or child who are undocumented can apply for “deferred action” status via VAWA, which can, but does not necessarily, lead to permanent residency. With a “deferred action” standing, individuals are eligible for work authorization and some federal, state, and local public benefits and financial assistance.

³³ Immigrant victims of domestic violence by a spouse, parent, or child whose abuser has already petitioned for legal status for them may be eligible to apply immediately for permanent residency via VAWA.

³⁴ Immigrant victims of domestic violence by a spouse, parent, or child who are in removal proceedings may apply for a suspension of the proceedings via VAWA and petition for deferred action afterwards.

immigration benefits were gender-neutral in their legislative fine print, application for relief via VAWA could theoretically be filed by abused wives, husbands, or children of either sex, but the political discourse and legislative language in Congressional documents associated with VAWA, including its very name, suggested a favoring of female victims among the adult applicants, and of mothers. VAWA's framing, presented alongside references to domestic violence statistics configuring women as common targets in Congressional proceedings, positioned women as the most likely, and thus most deserving victims of the remedy (Berger, 2009b; Bhuyan, 2008; Picart, 2003; Villalón, 2010).

In the aftermath of VAWA 1994, domestic violence and immigration advocates argued that the legislative protections for battered immigrants remained incomplete. One problem they perceived was that VAWA did not offer any protection to several important categories of battered immigrants, including those abused by citizen and lawful permanent resident *non-married partners* and children and intimate partners abused by *undocumented perpetrators*. Through bipartisan efforts of sympathetic members of Congress working collaboratively with the advocacy community, Congress passed the VTVPA as part of the 2000 reauthorization of VAWA. In the VTVPA, VAWA 2000 created a new nonimmigrant standing, the U Visa, for certain battered non-citizens and other crime victims not protected by the original iteration of VAWA. The U Visa was designed for non-citizen crime victims who have suffered substantial physical or mental abuse flowing from criminal activity and who have cooperated with government officials investigating or prosecuting such criminal activity. The U Visa offered legal immigration status to immigrants who were victims of a broader range of crimes than VAWA, and a broader set of perpetrators. As in VAWA 1994, some discourse in the policy was technically gender neutral.

VAWA 2000 addresses the residual immigration law obstacles standing in the path of battered immigrant spouses and children seeking to free themselves from abusive relationships that...had not come to the attention of the drafters of VAWA 1994³⁵.

Yet elsewhere, Congressional findings make clear references to the gender of intended beneficiaries:

Immigrant *women* and children are often targeted to be victims of crimes committed against them in the United States, including rape, torture, kidnapping, trafficking, incest, domestic violence, sexual assault, *female* genital mutilation, forced prostitution, involuntary servitude, being held hostage or being criminally restrained. All *women* and children who are victims of these crimes committed against them in the United States must be able to report these crimes to law enforcement and fully participate in the investigation of the crimes committed against them and the prosecution of the perpetrators of such crimes³⁶. (emphasis added)

Furthermore, while the U-Visa-relevant crimes covered by section 101(a)(15)(U)(iii) of the Immigration and Nationality Act include a wide range of offenses that do not necessarily connote female victimhood or have a history of targeting women (such as being held hostage, involuntary servitude, slave trade, kidnapping, abduction, unlawful criminal restraint, false imprisonment, blackmail, extortion, manslaughter, murder, felonious assault, witness tampering, obstruction of justice, perjury or any similar activity in violation of federal, state or local criminal law), the three crimes repeatedly mentioned by Congress in published findings and proceedings associated with the VTVPA and VAWA 2000 are crimes that usually befall women and are perpetrated by men. For example, in the legislation delineating VAWA 2000 itself, Congress finds that:

[The] creat[ion] [of] a new nonimmigrant visa classification will strengthen the ability of law enforcement agencies to detect, investigate, and prosecute cases of domestic violence, sexual assault, trafficking of aliens, and other crimes described in section 101(a)(15)(U)(iii) of the Immigration and Nationality Act committed against aliens,

³⁵ 146 Cong. Rec. S10, 195 (daily ed. Oct. 11, 2000) (Violence Against Women Act of 2000 Section-by-Section Summary). See Orloff & Kaguyutan 2002, p. 144.

³⁶ VAWA 2000 § 1513, 8 U.S.C. § 1184. See Orloff et al. 2010, p. 633.

while offering protection to victims of such offenses in keeping with the humanitarian interests of the United States.”³⁷

The gendered preferences embedded in VAWA are sometimes veiled but nonetheless discernible (Berger, 2009b; Salcido & Menjívar, 2012; Villalón, 2010).

Although VAWA 2000 technically expanded legal protections beyond domestic violence and child abuse for immigrant crime victims, the legislative history of the Violence Against Women Acts of 1994, 2000, 2005, and 2013³⁸ is replete with references to, explanations of, and justifications for Congress’ intended purpose of VAWA: to strengthen relief and protection for victims of domestic violence, sexual assault, and trafficking (Orloff, et al., 2010, p. 620). The U Visa “law in books” is inextricably bound up with VAWA’s aims. In the U Visa “law in action,” which is unfolding now, we see that judges and other legal decision-makers applying the U Visa provisions in courtrooms and elsewhere are emphasizing to lawyers and other street-level providers the “importance of interpreting VAWA’s immigration protections” in their service work “in a manner that [is] ‘mindful of Congress’s intent’”³⁹.

The legacy of VAWA, with its explicit and implicit goals and expectations, has filtered into legal and social services practitioners’ interpretations and implementation of these policies

³⁷ VAWA 2000 § 1513, 8 U.S.C. § 1184. See Orloff et al. 2010, p. 634.

³⁸ President Obama signed a 2013 reauthorization of the Violence Against Women Act (including the Victims of Trafficking and Violence Protection Act) into law on March 7, 2013. The reauthorization bill, S.47: Violence Against Women Reauthorization Act of 2013, resembles previous iterations for the most part, but provides expanded protections for Native Americans and gays and lesbians. With regard to the U Visa remedy in particular, perhaps the most significant change was the addition of “stalking” to the list of crimes covered by the remedy. See <http://www.govtrack.us/congress/bills/113/s47/text>, accessed March 28, 2013. See also <http://4vawa.org/pages/summary-of-changes>, accessed March 28, 2013. I do not analyze the 2013 bill in this dissertation.

³⁹ VAWA 2000 § 1513, 8 U.S.C. § 1184. See Orloff et al. 2010, p. 634.

in a number of ways. As Patricia, a VIDA immigration attorney, explained, an organized “DV (Domestic Violence) community” was created in the wake of VAWA 1994, such that when the U Visa was introduced during VAWA 2000 that could benefit a more heterogeneous population of individuals, domestic violence victims remained the most likely population to learn of the remedy and approach her office for legal help.

[Most of my U Visa cases are] DV-related because there was already a lot of awareness about immigration remedies in the DV community due to VAWA, and a lot of organized advocacy and collaboration in terms of shelters referring clients to legal aid agencies and DV advocates having contacts with law enforcement. The DV community is the one that’s known about the U Visa all along, right? The DV community, the shelters, the counselors, have always been sending people [to us] for VAWA and then at some point, we – “we” meaning the broader “we” of the legal services community – started talking about the U Visa. So the DV community...has been sending people to us even before...there was actually a U Visa available. They probably just said, “Oh, DV and you’re undocumented. Go see if you qualify for VAWA,” and then [once U Visa status was available] we were the ones that would say, “No, you don’t qualify for VAWA because of this and that but you could qualify for a U Visa.” So DV I think is the highest rate probably of who gets U Visas because that’s who knows to come, that there is such a thing as the U Visa. It’s in the DV community. When I did outreach to the Glendale Police Department [in 2009], the only detectives that knew about the U Visa were the DV detectives... [F]or other types of crimes, there’s not an organized community... There’s not this critical mass of people trying to get U certifications from the police or U Visas in those other crimes.

In passing provisions for battered immigrants in VAWA 1994, Congress recognized the potential dangers faced by immigrants who were trapped by abusive spouses. In response, non-profit lawyers, social service providers, and other programs funded through VAWA’s provisions (such as law enforcement departments) sprung into action to serve this population, setting processes in motion that established an extensive, powerful “DV community.” Growing awareness surrounding the Violence Against Women Act developed into an organized “DV community” with interest groups committed to its mission, producing a path dependent system that led to more and more domestic violence victims arriving at the legal organization where Patricia worked. Even nine years after the U Visa remedy’s initiation, outside of the domestic violence

beat, police officers had little to no awareness of U Visa standing. Given that the VTVPA was passed in VAWA's wake, the context in which U Visa status was initiated as a remedy for undocumented crime victims constrained the pool of potential U Visa legal cases non-profit immigration lawyers evaluated during case selection.

Organizational Constraints

In the legal non-profit organizations considered in this study, reliance on outside funding agencies and grants to provide services affected lawyers' U Visa case selection. As recipients of monies from the Legal Services Corporation (LSC), the non-profit organization that administers federal funding for legal services, Equal Justice and VIDA lawyers were limited in terms of the non-citizens they could accept as clients (Heeren, 2011; Orloff & Kaguyutan, 2002). In general, LSC-funded attorneys (known as "legal aid" lawyers) have only been allowed to represent immigrants who already have a bona-fide legal status that is either non-expiring or, if temporary, carries with it the possibility of eventual permanent standing, leaving out undocumented immigrants⁴⁰. However, since 1997⁴¹, legal aid lawyers have been permitted to represent select groups of unauthorized immigrants, including those who experienced domestic violence, human

⁴⁰ Despite the immigrant beginnings of legal aid (Heeren, 2011; Smith, 1919), during the Reagan years, Congress slashed federal legal aid funding for representation of indigent immigrants, attaching restrictions to the remainder concerning the types of cases legal services offices could handle. A 1982 restriction barred representation of all but certain limited categories of non-citizens (see Heeren, 2011, pp. 621-626). LSC restrictions authorize legal representation only to those immigrants who are expected to remain in the United States permanently. For example, undocumented individuals whose relatives have filed family petitions for them with USCIS that are pending may receive legal services at an LSC-funded agency. Although they are residing in the country outside of the law, LSC does not consider them "undocumented," presuming they will ultimately obtain permanent residency through their kin ties.

⁴¹ At this time, Congress added a provision to the LSC appropriation allowing for representation of otherwise ineligible immigrant abuse victims on legal matters related to the abuse. This provision is commonly called the "Kennedy Amendment" after Senator Edward Kennedy, who proposed it (see Heeren, 2011, pp. 654-655).

trafficking, or sexual assault and qualify for relief under the Violence Against Women Act or for U or T Visa standing⁴². Further shifts in 2000 and 2005 in LSC regulations enabled legal aid attorneys to assist *anyone* who qualifies for a U Visa, a broad category of people that includes undocumented victims of a number of serious crimes who cooperated with law enforcement in the crimes' investigation and/or prosecution (see Heeren, 2011). Non-LSC funded lawyers, including those at AYUDA, are not subject to LSC restrictions but deal with other funding-related constraints on their legal representation of immigrants.

While grants ensured the institutional viability of attorneys' organizations, they came with rules about what lawyers, as grantees, could do with funds; this curtailed lawyers' freedom to choose cases based on criteria they devised on their own. When EJLA, AYUDA, and VIDA were granted funds, their staff lawyers made efforts to meet grantors' expectations in terms of the quality and quantity of U Visa cases solved. The enabling yet constraining power of grants has been critically analyzed, particularly in the context of non-profit organizations as long as the restrictions have tended to moderate the radical character of grassroots movements that became institutionalized and funded or, as some have argued, co-opted (Fox Piven & Cloward, 1977; see also Rhode, 2008). Scholars have examined how the ability of legal services organizations that serve low-income and other vulnerable populations to carry out the missions they were founded on can be restricted by their dependence on external funders, as they organize their work around the goals of outsiders with varying motivations and priorities (Nielsen & Albiston, 2004; Villalón, 2010; Violence, 2007). Legal aid lawyers practicing immigration law have conveyed

⁴² T Visa standing is a temporary standing for victims of sex and labor trafficking specifically. It was created via the VTVPA along with U Visa standing. See <http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=829c3e4d77d73210VgnVCM100000082ca60aRCRD&vgnnextchannel=829c3e4d77d73210VgnVCM100000082ca60aRCRD>, accessed December 14, 2012.

dissatisfaction that their work has had to be narrowly confined to certain categories of people rather than the broader communities they wish to serve, lamenting their inability to “serve immigrants as immigrants” (Lee & Ortiz, 2010; see also Orloff & Kaguyutan, 2002).

Issues surrounding resources and funding were constant concerns within the Los Angeles legal non-profits examined in this study. Grants attorneys received specified particular groups of people who, an attorney said, were “worthy” of free legal assistance. Lawyers’ time, which grants paid for, was supposed to be allocated towards those individuals to fulfill grant terms. Indeed, non-profit lawyers conveyed that the perceived “fit” of immigrant victims with these “worthy,” privileged social groups was a key factor affecting their selection as U Visa clients. As Linda, a VIDA lawyer, explained, “We choose our cases almost entirely based on whether they fit into a specific grant. We help people more whom we can report that we assisted in certain ways.” Grant agencies typically have reporting requirements that obligate recipients to explain how funds are expended. Lawyers were accountable to funders both in terms of whom they accepted as clients, and how many people of certain types they served. Therefore, immigrants’ “reportability” as deserving types entered into lawyers’ case selection mechanisms as an important consideration apart from individuals’ apparent qualification for U Visa standing.

Attorneys felt constrained by funders’ expectations because meeting them meant devoting time and effort towards “administrative,” non-legal issues when they were already busy managing the legal challenges of their jobs. However, although lawyers often complained that funding constraints cut into their lawyering work on behalf of immigrant constituencies significantly, they perceived that fulfilling funders’ expectations was important, worrying that failure to do so could cost them future grant support and threaten continued work. In describing an average day of work at Equal Justice, attorney Inez pointed to the less obvious aspects of

practicing immigration law that lengthened her representation of individual clients and that were difficult to capture in funding reports.

There are just so many steps along the way. It's not just, "Oh, I got them a work permit," and that's it. It continues to the green card and, you know, [there are] a lot of waivers and applications or possible appeals and trying to make Immigration understand, so there's a lot of work. I'm sure overloaded with the amount of [legal] work that we need to deal with, but [we] still have to deal with the administrative side of things.

Inez believed that the raw numbers of cases she completed did not reveal the extent or quality of her legal work. But because "good case numbers" mattered to funding agencies, the completion of administrative, organizational tasks figured significantly into her and others' quotidian attorney work, including their selection of U Visa cases. Common topics of conversation during meetings I observed between lawyers in each of the three non-profit organizations included whether attorneys could accept certain U Visa cases given funding requirements, grant reports coming due, and how to "boost numbers" of U Visa cases opened and closed.

Lawyers explained that some grants required submission of reports to funding agencies, while others were accompanied by visits from agency representatives. During these on-site evaluations, funding representatives ascertained whether organizations were utilizing grants appropriately. Representatives of the LSC visited Equal Justice periodically to observe organization activities for this purpose, compiling reports afterward that they gave to directors. In 2010, evaluators concluded that EJLA immigration attorneys could better serve low-income immigrants, noting that case statistics lawyers produced fell significantly below the national median in LSC-funded non-profits for individuals aided. The LSC report suggested that EJLA lawyers "systematically review" their record-keeping system to "assure the numbers accurately reflect the services" being provided, and consider accepting more new cases. At a meeting

called soon after the report was circulated, immigration attorneys discussed LSC's instructions to assess their case selection process and tabulation procedures for keeping track of their work.

One lawyer remarked, "I think everyone knows that our numbers don't reflect what we do." Another lawyer, calling into the meeting on speakerphone, responded with, "We should sacrifice our image here regarding numbers and focus more on the issues involved in our cases." Her remark was quickly shot down, with several people saying things like, "Our numbers dictate our funding, which we need to do future work." It became clear that most immigration attorneys at EJLA had been opening one case per individual client (or with families, one case was opened per family), the one case remaining open as lawyers provided any number of discrete services and closed only when migrants became permanent residents. Lawyers commented on the inadequacy of this system; they were not "getting credit" for all the "outcomes" they had been producing for people. However, the attorneys agreed that changes needed to be made to demonstrate their work, since "funding is based on performance."

At the next meeting a month later, lawyers decided to try a new procedure for recording their U Visa and other casework: they would open and close a case for each individual client and for each individual issue. Not all were content with this shift, with one lawyer anticipating that "if we open a new file for every issue and for each derivative, our caseload will skyrocket by 700 percent"; this could mean that fewer individuals received legal aid in total. In the end, however, the attorneys agreed that appeasing LSC by increasing the numerical yields of their U Visa and other work was necessary if they were to continue providing legal services at all. While the procedure would create added work for them with no added benefit for immigrants, they would implement it. This was framed as a compromise necessary to aid poor immigrant crime victims, the population they were ideologically committed to helping.

Bureaucratic Binds

Lawyers' impressions of the officials who adjudicate U Visa petitions altered their evaluation and selection of immigrants as clients. A specially trained "VAWA Unit" at the Department of Homeland Security's Vermont Service Center (VSC) adjudicates all VAWA self-petitions and applications for U and T Visa standing. The unit, first established in 1997, was

created “to ensure uniformity” in the adjudication of VAWA petitions (see Orloff, et al., 2010, p. 645). In 2001, once the U and T Visa standings had been created, the adjudication of those petitions was also consolidated at the VSC. Since adjudicators at a single office decided all of immigration lawyers’ U Visa cases, attorneys perceived that they had an incentive to understand these officials inasmuch as officials’ particular training, expectations, or preferences could be anticipated, and insofar as their perspectives and orientations could bear on their judgments of U Visa applications.

Lawyers suspected that Vermont adjudicators harbored certain “expectations” about the types of U Visa cases that they, as not-for-profit attorneys, should be bringing. As one lawyer explained, “[There is] kind of a sense of not having a lot of control over, say, my caseload...I think there are layers of expectations, all the way up to USCIS, about what we should be producing.” As attorneys who were not being paid directly by clients for their professional services⁴³, but rather by third parties (including grants from U.S. federal, state, and local government sources, like the Department of Justice and Los Angeles County, for example), lawyers believed adjudicators viewed cases brought by them through a different lens than those brought by private attorneys. Mia, an Equal Justice attorney, explained the situation this way:

We are a legal aid organization, meaning we’re funded by the Legal Services Corporation, which is funded by the federal government. Along with that comes our certain restrictions, funding-wise, but also along with that comes...a degree of

⁴³ AYUDA attorneys charged fees to clients for their U Visa casework. As of June 2011, for a principal U Visa applicant, fees ranged from \$500-\$700 depending on whether individuals had any inadmissibility issues that would require extra attorney labor to explain in applications. Derivative U Visa applications cost \$200 if applicants were in the United States, and \$250 if they were abroad. However, AYUDA clients from Mexico could obtain up to \$1,000 for their U Visa case expenses from the Mexican Consulate under an arrangement the organization had brokered with them. According to AYUDA attorneys, their fees were far less than those of private attorneys (who charged by the hour for casework), and notary publics (whose fees varied wildly).

recognition...that we're in that network that provides legal aid to the most vulnerable people, who most need help.

Mia felt her position as a legal aid lawyer promoted a particular “recognition,” a signaling, of the types of cases she took on that could be advantageous to her immigrant clients. She thought her employment standing, with its corresponding reputation of aiding the “most vulnerable” individuals in society (as opposed to whoever could pay her bill), influenced adjudicators to judge her clients through a filter of marginality that could compel them to deem clients deserving for a legal status contingent on victimhood.

Non-profit lawyers across the three organizations perceived that they were “known for representing good guys.” In the U Visa context, “good guys” were immigrants with “strong cases” who were “meritorious” both in terms of the basic facts of their cases that configured them as eligible for the relief and in terms of their social deservingness for the standing as moral, law-abiding, proto-citizens (see chapter 4). As an Equal Justice attorney conveyed,

I think we're well known for being a serious organization that will do good work and won't take advantage of a client or have a weak case. Like everywhere I go, I say I work for EJLA and everybody's like, “Oh, really? Oh, my God, that's really good.” They think that we have good attorneys and good staff.

Attorneys believed that their status as public interest lawyers and the fact that their relationships with clients were not based on an economic trade helped cast clients' legal cases in a more compelling light than if those same legal cases had been brought by private lawyers as immigrants' “hired guns” (Luban, 1983) or “mouthpieces” (Larson, 1985, p. 445). Not-for-profit immigration attorneys perceived that consciously or not, adjudicators were less skeptical of the U Visa candidates they offered as worthy recipients than those presented by private immigration attorneys.

Scholars have examined ethical issues that immigration attorneys confront in the course of legal practice and how lawyers respond to them vis-à-vis clients and legal authorities (Levin, 2012; see also Coutin, 2000; Villalón, 2010). Researchers have pointed to a high potential for fraud in immigration legal transactions given the stakes involved for both migrant petitioners and their attorneys. As success in the immigration legal context can yield exceptionally valuable rewards – namely, an opportunity to work, access to benefits, and continued presence if not permanent residence – migrants may have motivation to embellish, misrepresent, or lie about their experiences if they think not doing so could thwart approval of their legalization applications (see chapter 4). As migrants’ legal advocates, attorneys may also have motivation to shade clients’ accounts if, for example, their clients constitute their paychecks, as is the case with private lawyers. In this light, non-profit lawyers in this study perceived that all immigration attorneys (and the migrants whose claims they were advancing) had the potential to be viewed skeptically by legal decision-makers. However, they believed that any suspicions directed towards *them* in particular were likely to be moderated because of their professional status as not-for-profit practitioners. Accordingly, the lawyers in this study aimed to distinguish themselves from private attorneys as much as possible because they believed their own reputations as “good attorneys” who do “good work” could benefit their immigrant clients. They made efforts to cultivate, nurture, and protect that reputation in the course of their U Visa case selection and subsequent casework, as well as in other ancillary work related to it.

During 2011, the Network began advocacy work with USCIS on behalf of their VAWA clients whose subsequent permanent residency applications were adjudicated at field offices in the greater Los Angeles area and had to appear for in-person interviews with adjudicators there

as part of their residency applications⁴⁴. Lawyers were concerned that adjudicators at Los Angeles field offices had not been properly educated about domestic violence and trained on crime victim sensitivity such that during green card interviews, their clients were being asked unnecessary and/or inappropriate questions about their circumstances and legal cases. USCIS employees who worked out of downtown Los Angeles, including the District Director, agreed to meet with Network lawyers every few months starting in January to remedy the situation. By May, lawyers had succeeded at convincing the Director to appoint a special team of adjudicators at the District's field offices who would receive training in domestic violence and then handle all residency applications and interviews for VAWA petitioners. The Director also identified specific individuals at each field office, or "points of contact," whom Network lawyers could call directly if they felt their victim-based cases were not handled appropriately. During these bimonthly meetings, which I was able to observe, it appeared that USCIS adjudicators did indeed view non-profit immigration attorneys in a distinctly positive light, as lawyers had suggested. As

⁴⁴ The organizational structure of USCIS is quite complex, with each USCIS unit handling different bureaucratic tasks. As far as I understand it, USCIS operations are divided into Application Support Centers (for "fingerprinting and related services"), Asylum Offices (for "scheduled interviews for asylum-related issues only"), four Service Centers (California, Nebraska, Texas, Vermont) and a National Benefits Center (that "receive and process a large variety of applications and petitions"), Local Offices (that "handle scheduled interviews on other applications" and "provide limited information and customer services"), and a National Records Center (which "receives and processes Freedom of Information Act requests and applications for genealogy information"). See <https://egov.uscis.gov/crisgwi/go?action=offices>, accessed March 29, 2013. Each "Local Office," also known as a "Field Office," is part of a "District." There are twenty-six Districts throughout the United States, which of which includes several Field Offices. District 23 includes four Field Offices (Los Angeles Field Office, Los Angeles County Field Office, Santa Ana Field Office, and San Bernardino Field Office), and is headquartered out of the Los Angeles County Field Office and the Los Angeles Field Office, which occupy the same location in downtown Los Angeles. See www.uscis.gov/files/nativedocuments/domestic_map.pdf and https://egov.uscis.gov/crisgwi/go?action=offices.summary&OfficeLocator.office_type=LO&OfficeLocator.statecode=CA, accessed March 29, 2013. My analysis here refers to advocacy lawyers undertook with respect to USCIS District 23.

the Director informed Network lawyers of her plans for the special team and points of contact, she explained:

It really hit home when *you* told us all these things [about adjudicators' misconduct during interviews]. If you don't tell us, we usually don't know it. With you experts, we can make it better, and we're happy to help. (emphasis in original)

The Director referred to the not-profit Network lawyers as “experts” whose knowledge and authority on legal problems facing migrant victim petitioners was taken seriously as a result.

The salience of this remark was not lost on the lawyers themselves. At a follow-up Network meeting, the lawyers celebrated their success and debated whether to share their points of contact with other Los Angeles immigration attorneys who were not part of the non-profit Network. One attorney was in favor of disseminating the contacts because doing so could benefit a larger population of immigrant petitioners. But others were more reluctant.

The Network's moderator explained her thoughts on the matter: “She [the Director] has never said we couldn't do that. But I think that they were more loose with what they told us and were willing to do for us because we're non-profit advocates. The Network was initially created for non-profit organizations and law school clinics who can't afford to join AILA⁴⁵. Private attorneys have never been permitted to join, and I think we have been able to do more as a Network with it structured that way. *We're* not going to be submitting fraudulent applications, and they know that. (emphasis in original)

Concerns about developing and maintaining their credibility and reputations as efficacious public interest lawyers with legal decision-makers affected how non-profit immigration lawyers selected U Visa clients as well. In choosing U Visa cases, immigration lawyers were careful to pick clients who would not make them look “fool[ish]” vis-à-vis adjudicators. As “repeat players” (Galanter, 1974) who consistently submit U Visa petitions to

⁴⁵ The American Immigration Lawyers Association (AILA) is the national association of over 11,000 attorneys and law professors who practice and teach immigration law. At a cost of several hundred dollars per year, AILA membership is expensive so many non-profit lawyers do not belong to the organization (Levin, 2009).

the same USCIS office, lawyers perceived that their “reputations” become wrapped up in the cases they represent. They were concerned that if they accepted and submitted a case that challenged adjudicators’ expectations of them, they could “tarnish” the non-profit reputation that they believed functioned to diminish decision-makers’ doubts about their U Visa clients’ eligibility and deservingness. These concerns emerged as lawyers evaluated immigrants’ potential U Visa cases during initial consultations. During a U Visa intake at AYUDA, attorney Christina met with Veronica, a mother of six from Mexico. At the beginning of the meeting, Veronica explained that her U.S. citizen son, Mateo, now seven, had been shot in gun crossfire when he was just three years old. Veronica, who was undocumented, said she recently found out about the U Visa and hoped to apply for it on behalf of Mateo because of what happened to him⁴⁶. If she succeeded, she could regularize her legal standing as well as that of her sixteen year-old son Daniel. As the consult progressed, the lawyer asked Veronica for her children’s birth certificates to fill in some information in her organization’s records. Handing a small stack of certificates across the table to Christina, Veronica said:

Veronica: And this here is my husband’s. I wanted to ask you...my husband committed something... He stole from a store. Could he qualify or not?

Christina: He doesn’t have any violence [on his record]?

Veronica: Hardly anything... He had a case of domestic violence with me. It was nothing like he tried to kill me. He already paid for it. It was two years ago, [and] he did the classes and everything.

Christina: *You* can probably qualify based on what happened to your son, but we are not going to help your husband because there’s a big conflict between you. I think his case would be impossible to win because of the case of domestic violence, if not the robbery... It’s his fault that he behaved like this, so he has to deal with the

⁴⁶ Crime victims under the age of 21 years who are eligible for U Visa standing may apply for their parents as derivatives, as well as a spouse, any unmarried children under the age of 21, and unmarried siblings under the age of 18.

consequences. I mean, you could probably pay an attorney a lot of money to reopen the case... it would cost thousands of dollars to do it [and] it would be incredibly difficult. If he wants to do a [U Visa] case, he can do it, but he'd have to do it separately, with a private attorney. With these types of incidents [shooting of Veronica's son], he [Veronica's husband] is legally eligible to apply. But you have to understand that the Immigration office that makes the decisions on U Visa cases – they are very aligned on the side of the victims.

Veronica said she understood, and would contact a private attorney Christina recommended after her and her son's U Visa petitions had been filed. The meeting ended, and Christina escorted Veronica to the waiting room, returning to her office where I remained. She sat down in her desk chair and let out a pronounced sigh.

I'm going up in front of these adjudicators all the time, so I can't just ask for crazy things just because they [immigrant clients] want me to ask for them. I have a reputation to maintain. Private attorneys, they're getting paid, so they will do what the client tells them to do because they're paying them, right? It would have been ludicrous for me to apply for that woman's husband. I'd look like a fool and she'd look like a fool... Asking for things that you know they're not going to get will tarnish your reputation.

Representing immigrant crime victims whom lawyers assumed Vermont adjudicators would not approve of was risky for non-profit lawyers, as it could call into question attorneys' carefully cultivated and presumably powerful positionality. For their part, however, immigrant petitioners whose U Visa cases adjudicators rejected would probably not find themselves at a greater risk of deportation than before their failed legalization attempt⁴⁷. Thus, in a highly restrictive immigration legal context offering few legalization opportunities to the unauthorized, it made sense for immigrants who thought they had a chance for U Visa standing to try their luck. But immigrants who could not convince non-profit attorneys to take their cases and could not afford

⁴⁷ USCIS has indicated that the files and identifying information of rejected U Visa applicants will not to be forwarded to Immigration Court for removal proceedings, or to Immigration and Customs Enforcement (ICE), either of which could result in their deportation (Kinoshita, et al., 2012, pp. 3-34).

to hire private immigration attorneys faced the prospect of limited access to the legalization opportunity.

Policy Predicaments

There are always more people that need help than you can provide it, so there are always issues with managing the actual practicalities and the realities on the ground.

-Mia, non-profit immigration attorney

Non-profit lawyers described that their organizations were flooded with requests for assistance from immigrant crime victims who believed they qualified for U Visa status and hoped to secure an attorney's aid to apply. But there were only so many hours in the day that the immigration lawyers at these institutions could devote to U Visa casework, producing a situation where "you just can't help everybody who comes through the intake line," an attorney explained. In response to the predicament of "finite resources and infinite demand," lawyers assessed that they "had to be choosy" in their U Visa case selection.

Yet lawyers' reasons for being "choosy" during U Visa case selection were broader than organizational constraints. Public interest attorneys perceived that the immigrants they chose as U Visa clients and whose cases they submitted to Vermont adjudicators were important outside of the individual cases themselves. Lawyers' "manag[ement] [of] the actual practicalities and the realities" of U Visa case selection "on the ground," as Mia said, involved consideration of cases' policy currency apart from their immigrant clients' legalization in and of itself. Believing adjudicators were apt or at least primed to view their U Visa cases through a meritorious lens, non-profit lawyers internalized a sense of responsibility for the cases they submitted that extended beyond the individuals who could be helped in each particular case. Although lawyers were at base direct services legal practitioners who assisted individual immigrants day in and day

out, they also saw themselves as pseudo policy workers because of the impact they believed their discrete U Visa legal cases could have in the VAWA policy arena.

Immigrants and their lawyers discussed in this chapter appealed to USCIS for legal status through a tenuous remedy. Given the U Visa's recent creation (in 2000) and even more recent availability (2007), any precedents surrounding which types of immigrant crime victims were promising U Visa candidates were inherently unstable and subject to change. The extent to which an attorney could predict any given immigrant's likelihood of U Visa approval was therefore limited. But the U Visa remedy was tenuous in a broader, legislative sense as well, not least because it – as part of the Violence Against Women Act's immigration benefits – represented basically “the only thing that's available for undocumented people at this point,” as one lawyer noted. VAWA expires every five years, at each reauthorization window its content and continued existence falling into doubt. Indeed, since VAWA was first established in 1994, revisions have been made to its provisions in each cycle, in 2000, 2005, and 2013 (Orloff, et al., 2010; Orloff & Kaguyutan, 2002). The most recent iteration of VAWA expired in 2011 and was not renewed until March 2013 because of legislative gridlock over proposed amendments. During this gap period, individuals could continue to apply for the immigration remedies encompassed in VAWA, including deferred action status remedy for domestic violence victims, U Visa status, and T Visa status; the immigration provisions did not disappear because there is no “sunset date” specifically attached to them, at which time they would expire⁴⁸.

In this precarious political climate, not-for-profit immigration attorneys in Los Angeles worried that the immigration benefits in VAWA could be totally or partially written out of its

⁴⁸ This was explained to me by one of the lawyers who participated in this research, in a personal communication dated November 2, 2012.

next version. While they certainly did not see these immigration benefits as perfect remedies, like the attorneys in Bhuyan's (2008) research, they saw the VAWA provisions for immigrant crime victims as among "the few bright spots" in contemporary U.S. immigration law (p. 154) and did not want them to be eliminated.

While the lawyers in this study could not participate in direct policy work⁴⁹, they aimed to contribute to a policy agenda in an ancillary way via the U Visa cases they selected. Anticipating that continued renewal of VAWA's immigration benefits would be contingent on bipartisan Congressional support of success stories the legislation facilitated, non-profit lawyers perceived that U Visa cases most likely to appeal to legislators from both sides of the political aisle would be those for female undocumented immigrants who could be categorized as domestic violence victims. One lawyer called U Visa cases for victims of domestic violence "slam-dunk cases" because of their broad political appeal. Another explained:

The majority [of our clients are] women and DV... DV victims are some of the most compelling - to adjudicators, to policy makers, to us! So, we want to prioritize them.

In their efforts to bolster against the loss or severe curtailment of VAWA provisions, lawyers selected individuals as U Visa clients whose stories appeared to fit most neatly with this deserving prototype. They believed these U Visa cases, if approved, could be valuable to policy advocates' efforts, because these individuals could be readily held up as examples of normatively

⁴⁹ Working within charitable institutions designated as tax-exempt 501(c)(3) not-for-profit organizations by the Internal Revenue Service (IRS), attorneys were prohibited from participating in certain policy-related activities, including political campaigns and forms of lobbying, although rules are opaque. See, e.g., [http://www.irs.gov/Charities-&-Non-Profits/Charitable-Organizations/The-Restriction-of-Political-Campaign-Intervention-by-Section-501\(c\)\(3\)-Tax-Exempt-Organizations](http://www.irs.gov/Charities-&-Non-Profits/Charitable-Organizations/The-Restriction-of-Political-Campaign-Intervention-by-Section-501(c)(3)-Tax-Exempt-Organizations), accessed March 29, 2013. Lawyers were generally wary of involving themselves in activities that could be construed as policy work by the IRS for fear that their tax-exempt status could be revoked. But that was not the case here, given that the policy "work" they believed they were engaged in was evident only in the form of direct services casework.

worthy beneficiaries to wary members of Congress; this tactic was not new in VAWA advocacy endeavors (see, e.g., Orloff & Kaguyutan, 2002). In working to fill the annual quota of 10,000 U Visa approvals with these types of recipients, lawyers aimed to promote the worth of VAWA's immigration remedies to legislators.

Yet attorneys explained that they did not absolutely limit their case selection to that deserving type. Cases that seemed especially "sad" were sometimes accepted if attorneys were emotionally moved to help immigrants. As Equal Justice lawyer Inez related, "You just start listening to some of these stories and that's all it takes." If a case "feels comfortable to me and it feels like the right thing to do, the natural thing to do," Inez tended to accept it. The attorney gave an example of one such case she took on recently that she "maybe shouldn't have" because it was not on behalf of a domestic violence victim.

Our priorities are the CalWORKS cases⁵⁰. Those ones we come across, definitely those we absolutely take. But you can use your judgment in the cases that you take on. Like last time I got a client, it was a U Visa client. He was not a CalWORKS [case]. We're supposed to take on about – well, I am - 36 new cases this year. And I'm waiting for CalWORKS cases and they're not coming, and this guy came in. He's U Visa eligible. And his daughter, his seven year-old daughter, got killed. The guy's showing me pictures of his little girl. It literally happened within a month of his coming to the office. It's just very sad and heart wrenching. You start hearing stories and they're so sad, so I want to do it. I was like, "I'm going to take it." So I called my supervisor, and I told him it was not CalWORKS but I really want to do this case, and he's like, "Well, OK, OK, go ahead and do it." So, you know, there's leeway.

Other lawyers also conveyed that they had "leeway" to select cases in the context of their non-profit organizations. Dora, an AYUDA lawyer, said her boss was not very "micro-manage-y"

⁵⁰ Equal Justice receives funding from California state to represent U Visa petitioners who are receiving assistance through the welfare-to-work California Work Opportunities and Responsibility to Kids ("CalWORKS") program. CalWORKS provides temporary financial assistance and employment-focused services to families with minor children who have income and property below state minimum limits for their family size. See <http://www.cdss.ca.gov/calworks/>, accessed March 29, 2013.

when it came to selecting U Visa cases. And Sophie, a VIDA lawyer, explained, “no one’s breathing down [her] neck” when she evaluated a potential case, and that “you are given a degree of autonomy.” Nonetheless, she affirmed that that autonomy needed to be exercised carefully and within limits, the selection of each case involving a distinct “judgment call” in light of various constraints. Another lawyer related that case selection was “never cut and dry... You’re always thinking strategically.”

The kinds of crimes individuals had endured and how “heart wrenching” or “sad” they were amounted to only one of the axes along which lawyers evaluated immigrants’ potential U Visa cases. Immigrants’ moral and responsible character was of equal importance. Cases that lawyer perceived as “marginal” along this axis, the prime example being immigrant crime victims who had also perpetrated crimes on others, were judged carefully. Immigrant victim-perpetrators whose narrative accounts “pulled at” lawyers’ “heartstrings” were far more likely to be selected as deserving legal clients than those who did not. Karen, an AYUDA attorney quoted at the beginning of this chapter, described her typical reaction to crime victims with convictions who approached her office seeking U Visa standing. She explained that even if these individuals had suffered qualifying crimes,

Unless my heartstrings are super pulled, I don’t accept cases with criminal convictions because they take so many resources, and then I just think about how I’m using all of these resources on this person when there are single moms that have no criminal history that aren’t getting seen. We’ll get a lot of...like young dudes who are loosely involved in criminal activity, but then something really horrible happens and it’s like, I want someone to help them but I also don’t want that to be at the expense of the people that I’m not going to be able to help if I take that case.

Attorneys were limited insofar as their own time and resources were concerned; they could only work on so many U Visa cases, and they were motivated to convert as many of those as possible to approvals, whether to satisfy organizational goals and expectations, or to facilitate

VAWA's endurance as an immigration remedy. The 10,000 cap on the number of U Visa approvals that were available each fiscal year also limited lawyers. If Karen chose to help a "young convict" over a "single mom," as she put it, that "single mom" could lose her chance for legal standing via the U Visa remedy, not least because the "mom" would miss out on legal assistance at AYUDA. The "young convict" could take the very spot that the "single mom" could have filled amongst the other 10,000 U Visa approvals issued that year. In addition, since cases for U Visa petitioners with criminal convictions "take so many resources" to prepare adequately, attorneys were concerned that more than one "single mom" could lose out on the chance for legal standing if they devoted their scarce time to "young convict[s]" or other victim-perpetrators. As AYUDA lawyer Christina explained:

We mainly take U Visa cases for female domestic violence victims because they're easy cases to present. Guys tend to have more criminal issues and fewer mitigating factors as a whole, so their cases are more complex. With limited resources, we want to help the ladies and the kids.

Lawyers working at other non-profit organizations expressed a similar reluctance to accept U Visa cases for immigrants with criminal convictions because of the ramifications they perceived that taking those cases could have. Miranda, who primarily represents immigrant children, explained that she and her colleagues rarely accept cases for abused children who have abused others, referring to the cascading effects of selecting those U Visa cases for the rest of their caseload and their reputations with USCIS.

It is really rare that we accept a case for a child who sexually abused another child...but most of the perpetrators who are children are also victims, so it's really awful. But we just have real concerns about those cases with the Immigration Service [and] in order to properly present those cases, I think you really need to invest a substantial amount of resources into really getting as much evidence of rehabilitation or mitigation, so we've made a general decision not to file those cases. We don't tell the children they're not eligible, but we don't generally take them. But there can always be exceptions, [like] a statutory rape case where there's a pretty straightforward explanation why [no one] was particularly harmed.

As Miranda conveyed, she had “real concerns” about how USCIS would react to cases for child victims who were also crime perpetrators, despite how common it was. The extra “resources” they would need to devote to crafting compelling U Visa petitions for convicts would take away from the time they would otherwise have for other cases. Yet there could “always be exceptions” to the general rule, she added.

At EJLA, VIDA, and AYUDA, I observed as lawyers debated which cases should be deemed “exceptions” to their general rules. During a March 2010 meeting of the Equal Justice immigration lawyers, one attorney proposed establishing “more clear criteria for case acceptance,” including “specifically stat[ing] that we don’t represent clients who have domestic violence violations on their record.” Victoria, the lawyer, said she had “a problem” with it because she thought “there [was] tension there” for their organization and wanted to “draw the line.”

Molly, another immigration attorney participating in the meeting, said that it would be unlikely for her to agree with implementing a blanket rule not to represent abusers. “If we put the brakes on at the front end, it would be hard to get to the level of detail that we would need to find out about a person’s case to see if we wanted to represent them,” she explained. For example, Molly had an 18 year-old U Visa client who committed domestic violence on his girlfriend, but he grew up in an abusive household where violence was a normal way to resolve conflict. Molly posed the question: “Should he be outright excluded from representation?” Glancing around the room to judge others’ reactions, Victoria responded, “It just seems like kind of a contradiction, especially down the line for domestic violence funding.” Gabrielle, another immigration lawyer, said she thought extenuating circumstances justifying a moral imperative to take a case should be taken into account at the case selection stage, including those in Molly’s client’s situation.

No agreement about the issue was reached during the meeting, highlighting the multiple lenses lawyers applied and the constraints they considered when evaluating potential U Visa cases. In this situation, one attorney focused on the implications of case selection for her organization’s credibility with funders. Another dwelled on the “moral imperative[s]” that should be weighed.

This particular case selection decision aside, here we see clearly attorneys' belief that their case choices had implications beyond each individual immigrant they accepted or turned away. In determining whether to select or reject an individual immigrant as a U Visa legal client, lawyers anticipated the consequences that could result from the case outside of its discrete adjudication. As one attorney put it, "the cases you take can have ripple effects and affect your career."

Non-profit lawyers believed that the U Visa cases they accepted and presented to Vermont adjudicators contributed to the development of an evolving track record of "meritorious" case types that stemmed from their institutional credibility. They perceived that this developing dossier was fundamentally connected to their reputation for taking cases for the "most vulnerable" and "most deserving" immigrants, which helped compel approvals for their chosen cases. Natalie, an EJLA immigration lawyer, remarked that, "we [Equal Justice] lead the pack with regard to VAWA and U Visas. We are a leading program, and adjudicators take signals from us." The more they, as non-profit lawyers, endorsed certain case prototypes as deserving U Visa petitioners and garnered approvals, the more these prototypes were expected from adjudicators and the faster adjudicators tended to approve them when they reached their desks.

As this process of meritorious typification appeared to become more entrenched and predictable, lawyers' U Visa cases started "sort of speak[ing] for themselves," as one attorney put it, and became "eas[ier] to present" to legal decision-makers. This enabled lawyers to effect a model of "just mass processing [U Visa cases] as quickly as possible," an AYUDA attorney explained, and this facilitated their "ultimate policy goal of helping as many people as possible." Karen projected that between her and another AYUDA attorney, they submitted and won "over 500 U Visa cases a year... It turns out to be a huge number". As several other non-profit lawyers

also conveyed, approvals of their U Visa cases became so frequent and so routine as to be expected.

I'm not used to getting cases denied...because our cases are meritorious. We don't file them generally if they're not. -Morgen, AYUDA immigration attorney

We win our cases because we file things that have merit, so we usually get things approved. It's to the point where you just expect the approval. -Mia, EJLA immigration attorney

I haven't had any cases that have been denied. I think...we [the attorneys in her organization] can count [on one hand]...how many have been denied. We do a very thorough screening before we take a case or file anything [to] make sure that it is a type of case that's strong...and compelling. -Aurelia, VIDA immigration paralegal

We always present very, very strong cases and we rarely lose a case. I don't know if other organizations can say the same. -Graciela, EJLA immigration paralegal

Opening, winning, and closing a high volume of U Visa cases rapidly was valuable in its effect of meeting non-profit attorneys' direct service goal to immigrants (i.e., helping them regularize their legal status) and it facilitated their policy goal of filling many of the 10,000 annual U Visa spots with stories that would appeal to policymakers. Beyond that, being able to produce concrete results of their U Visa casework in the form of high numerical yields helped ensure they met funders' expectations and boded well for future support for their organizations' viability as institutions. This also served to protect lawyers' employment security, and enabled them to continue assisting indigent immigrant petitioners, work they considered socially important and personally gratifying.

Some attorneys pointed to pitfalls of organizing their U Visa case selection along narrow immigrant victim types with "easy" cases. One attorney explained:

[We] purposefully screen out complicated cases. We don't take on cases that we don't think will get approved. Worse, though, we don't take on cases with red flags that could still work under the law.

By only selecting and submitting cases that appeared to conform sufficiently to emerging meritorious prototypes and reflected the Congressional intent of the VAWA provisions, non-profit lawyers realized they could be ultimately backing themselves into somewhat of a jurisprudential corner. In submitting a high volume of a limited range of U Visa case types during the early years of the remedy's adjudication, lawyers worried their work perpetuated the deservingness of these sorts of immigrant victims in the eyes of legislators and to Vermont adjudicators at the expense of other types that "could still work under the law."

As social actors outside the state but still very much connected to it, immigration attorneys interpret and apply laws and policies in their legal practice and thus have the potential to broaden or constrain the terms under which immigrants are recognized. Thus, when immigration lawyers take up the legal discourse of the immigrant victim in their U Visa casework, they are both inheriting the complex tensions and hierarchies within the existing discourse while also participating in its potential transformation. To achieve U Visa approvals, attorneys accepted the dichotomization of certain immigrant categories as either worthy or unworthy that were presented explicitly and implicitly by the legal regime. They used the categories in both their case selection and preparation (see chapters 3 and 4). While lawyers endeavored to carefully widen the definition of "worthy" by including non-conforming types that pulled at their heartstrings, their case selection rationales, formulated as they were around whether a certain individual crime victim or type of crime victim would be compelling to policy makers, ultimately helped to solidify the exclusionary, dichotomous construction advanced by the state.

However, given attorneys' focus on warding off policy changes that could alter for the worse or abolish the U Visa remedy entirely, lawyers saw their case selection methods as

productive. Losing the U Visa was a far more detrimental prospect in their minds than prioritizing certain types of immigrant crime victims over others in choosing clients. As intermediaries between immigrants and state agents, attorneys were “parastate actors” because their ability to do their job depended on the existence of legal remedies for immigrants in the first place and on USCIS approving their submitted cases (Wolch, 1990). Aiming to maintain VAWA’s immigration remedies and their clients’ U Visa successes, lawyers chose cases they anticipated would appease both policy makers and USCIS adjudicators.

Conclusion

This chapter examined the case selection process performed by attorneys at Los Angeles non-profit organizations as they decided which immigrant crime victims seeking U Visa standing should be taken on as their legal clients. I delineated the legislative trajectories, organizational constraints, bureaucratic binds, and policy predicaments that influenced lawyers’ selection of certain U-Visa-eligible immigrants as legal clients over others, tracing the factors that contributed to a patterned categorization of female domestic violence victims as favored U Visa clients. I identified some immediate consequences of lawyers’ case selection and pointed to what more protracted consequences of their decision-making may be for indigent immigrant crime victims seeking legalization through the U Visa remedy.

The U Visa remedy’s emergence as part of the Violence Against Women Act affected which immigrant crime victims were aware of U Visa standing and arrived at lawyers’ doors to begin with via the “DV community” mobilized in VAWA’s wake. In turn, lawyers were mindful of Congress’s intent in establishing immigration remedies for specific, vulnerable communities, cautious of deviating from the explicit and implicit assumptions embedded in legislative documents produced about U Visa standing and who deserved it. As non-profit lawyers funded

by external grants and donations, attorneys were constrained in terms of the non-citizens they could accept as clients. Accountable to grantors regarding the types of U Visa clients they accepted and the number of approvals they compelled, lawyers organized their U Visa case selection so they could produce the “grant deliverables” funders wanted to see.

Suspecting that legal decision-makers at the Vermont Service Center expected them to bring U Visa cases for “the most vulnerable people” who “most need help,” non-profit lawyers limited their clients to those with especially “sad,” “slam-dunk” stories, often domestic violence cases for immigrant women. In turn, as “repeat players” (Galanter, 1974) who consistently submitted U Visa petitions to the same USCIS office, lawyers believed their “reputation” as “good attorneys” who represented “good guys” became wrapped up in their case choices. Attorneys were careful to pick clients who would uphold this reputation and not make them look “fool[ish]” vis-à-vis adjudicators. Representing immigrant crime victims whom lawyers assumed Vermont officials would not approve of was risky, as it could challenge attorneys’ carefully cultivated and presumably powerful positionality.

Believing adjudicators were likely to view their U Visa petitions through a meritorious lens and approve them, lawyers internalized a sense of responsibility for the cases they submitted that extended beyond the individuals who could be helped in each distinct case. Lawyers saw themselves as pseudo policy workers because of the impact they anticipated their U Visa cases could have in the VAWA policy arena. In a precarious political climate of immigration control, not-for-profit immigration attorneys in Los Angeles worried that the immigration benefits in the Violence Against Women Act could be totally or partially written out of its next version. Expecting that a renewal of VAWA’s immigration benefits would be contingent on bipartisan Congressional support, non-profit lawyers perceived that U Visa cases most likely to appeal to

legislators from both sides of the political aisle were those for female undocumented immigrants who could be categorized as domestic violence victims. Attorneys did not restrict their case selection to that deserving type. But for the most part, lawyers avoided immigrant crime victims who had perpetrated violence on others, fearing Congressional backlash if legislators hoping to eliminate VAWA's immigration benefits zeroed in on U Visa recipients who could be held up as undesirable criminals aided through a policy loophole. Indeed, in the Congressional debates over VAWA's 2013 reauthorization, legislators disagreed over which immigrants "deserve[d] protection," with some House members arguing that "some victims [wer]en't legitimate enough" (Stegman, 2012).

The various considerations that impinged on non-profit lawyers' U Visa case selection were not necessarily discrete factors. Constraints overlapped with each other, such that lawyers' response to one constraint informed their management of another. The more non-profit lawyers endorsed certain case prototypes via their U Visa client choices because of legislative trajectories and garnered USCIS approvals, the more those prototypes were expected from decision-makers and the faster adjudicators tended to approve them. As a process of meritorious typification set in, lawyers' U Visa cases started "speak[ing] for themselves," those cases becoming "eas[ier] to present" to legal decision-makers. This enabled lawyers to open, win, and close a high volume of U Visa cases rapidly; this allowed attorneys to meet funders' expectations, and facilitated their policy goal of filling many of the 10,000 annual U Visa spots with stories that would appeal to policymakers, bolstering against the loss of VAWA's immigration provisions.

As a "bright spot" (Bhuyan, 2008) in an otherwise restrictive immigration legal regime, VAWA represented an important legalization path that Los Angeles non-profit attorneys wanted to protect as much as they could. To facilitate U Visa approvals for immigrants, non-profit

lawyers accepted the dichotomization of certain immigrant “categories” as either worthy or unworthy that were presented explicitly and implicitly by legal authorities, advancing the cases of select individuals. They endeavored to widen the definition of worthy by including non-conforming types that pulled at their “heartstrings.” But their case selection rationales, formulated around whether immigrant crime victims would be compelling to policy makers, ultimately helped to solidify exclusionary constructions advanced by the state.

In recent years, research on social control decision-making has focused on the role of “prior knowledge” in case processing. In particular, studies have shown how heavily some officials rely on shared categorization schemes about people and events in responding to cases. Underlying much of the research in this area is an individual case-oriented approach to social control decision-making. Emerson (1991) described the limitations of research that focuses on the narrowly interpretive processes of case categorization by social control agents, an approach that typically presupposes and neglects why particular categories have emerged and are being employed by social control agents. In this chapter, I drew on and added to these insights in analyzing decision-making in a seldom-explored area: immigration lawyering work. Using Emerson's organizationally grounded approach in a study of social control decision-making, I investigated how attorneys' categorization surrounding which immigrants became U Visa legal clients was shaped by the institutional realities of their work that simultaneously constrained and enabled their legalization efforts.

As Silbey (1980-1981, p. 881) articulated, “Law is a social control system whose legitimacy rests on claims to generality, objectivity, consistency, and clarity. It is distinguished from personalized and subjective forms of decision making (Trubek, 1972; Weber, 1954). Yet, it also rests upon practicality and reasonableness (Fuller, 1969). By its very generality and

objectivity, law is available and open, and must be defined by its uses that are circumstantial and organizationally rooted.” Because immigrant crime victims were evaluated in the context of organizations whose functional operation depended on rules, routines, and rationales, the selection of one U Visa case affected subsequent case selections. Just as public defenders’ legal strategies depended on whether a burglary presented as a “normal burglary” (Sudnow, 1965), so immigration attorneys’ reactions to potential U Visa clients were shaped by notions of what a “good” U Visa client looked like. Those notions hinged on indicators produced via legislative trajectories, organizational constraints, bureaucratic binds, and policy predicaments that affected lawyers’ daily work.

Organizations that provide free or low-cost legal services to the undocumented are situated in complex ways vis-à-vis immigrants, government authorities, and immigration law itself (Bhuyan, 2012; Coutin, 2000; Villalón, 2010). As “parastate actors” (Wolch, 1990) and “street-level bureaucrats” (Lipsky, 1980), social actors outside the state but still very much connected to it, non-profit immigration attorneys interpreted and applied laws and policies in their U Visa case selection and legal practice and thus had the potential to widen the terms under which immigrants are recognized. However, because lawyers’ advocacy depended on legal notions that derived from the state, advocates served as state agents by reproducing official legal notions that limited which immigrant crime victims could derive U Visa status (see Violence, 2007).

Los Angeles attorneys carefully chose immigrant crime victims as clients whose cases they perceived would sustain the U Visa remedy and enable lawyers to continue their non-profit advocacy for the immigrant community. Lawyers perceived their patterned selectivity of U Visa clients as a necessary part of their work. Yet insofar as “the decisions of street-level bureaucrats,

the routines they establish, and the devices they invent to cope with uncertainties and work pressures effectively *become* the public policies they carry out” (Lipsky, 1980, p. xii, emphasis in original), non-profit attorneys were cognizant of their role in restricting the legalization opportunities of those they did not help (see also Maynard-Moody & Musheno, 2003).

Attorneys were concerned about the impact their “choos[iness]” could have on the legalization of non-conforming “types” of victims who qualified for the U Visa, but who failed to secure legal assistance or encountered suspicious adjudicators unaccustomed to U Visa petitions from victims like them. It was frustrating to lawyers that tactics designed to compel the legal *inclusion* of immigrants could simultaneously promote their *exclusion* (see Brubaker, 1989). This caused lawyers to be critical of their case selection strategies even as they continued to deploy them.

While juridical citizenship remains under the purview of federal authorities, immigration lawyers play a significant gate-keeping role in determining who can appeal to decision-makers in the first place. By selecting U Visa cases likely to suit apparent categories of organizational, bureaucratic, and political desirability, immigration attorneys in this study (albeit unintentionally) created, perpetuated, and reified constructed categories and notions of who belongs as members of American society and who does not. In deciding who was worthy to become a legal client and who was not, immigration lawyers contributed to the construction of legal deservingness under VAWA.

CHAPTER THREE:

THE LEGAL TRANSLATION AND DOCUMENTATION OF IMMIGRANT ABUSE

Introduction

The U Visa provides temporary legal status to immigrant crime victims who assist law enforcement in the investigation and prosecution of the crimes they experienced. But U Visa standing is granted on a discretionary basis, making the process of attaining the legal status more challenging than demonstrating *qualification* for it from a rules standpoint. Successful applicants must also convince decision-makers that they *deserve* the status from a social and moral standpoint (Lakhani, 2013). In efforts to do so, petitioners may rely on attorneys to broker information and resources between them and the legal authorities with power to advance or deter their objectives. Yet in the first years of the full implementation and availability of the U Visa remedy, it is not completely clear to legal professionals nor immigrants how to facilitate the success of U Visa applications.

The U Visa regulations specify several criteria that applicants must demonstrate in order to be deemed worthy of status, but meeting these grounds may be complicated for immigrant applicants and their attorneys for any number of reasons (see pp. 6-10). There are differences of opinion among legal practitioners about the information immigrants should include in U Visa petitions to demonstrate eligibility criteria. However, a signed law enforcement certification form is a required component. The form, which must be completed by a law enforcement agency prior to application submission, functions as confirmation to USCIS that the applicant previously experienced a qualifying crime and was helpful, is presently being helpful, or is likely to be helpful in a future investigation or prosecution. While all other aspects of the U Visa application process are completed via mail submission of documentary evidence (including but

not limited to police reports and immigrants' affidavits), completion of the certification form typically requires face-to-face interactions between immigrant hopefuls – most who are undocumented - and police officers. Officers may be wary of certifying cases if they are suspicious of legal mobilization by immigrants whose very presence in the country is illegal. Officers may also be unsure of the significance of their signatures in the new U Visa application process. And despite having already reported crimes to police, as individuals residing in the United States without authorization, immigrants may be reluctant to confront those associated with the law. But without a signed certification form, immigrants may not apply for U Visa standing. Given the high number of approvals and relatively low numerical denials of U Visa petitions in recent years (see Table 1), the certification stage assumes special importance in this legalization process⁵¹.

This chapter investigates the legal translation and documentation of abuse by examining challenges of producing the U Visa certification form for immigrant petitioners and their attorneys. In analyzing this social and legal process, I draw on classic and contemporary frameworks such as the “law in action” paradigm (Pound, 1910), the archaeology of law optic (Coutin, 2011a; Merry, 2004), and the “legal violence” lens (Menjívar & Abrego, 2012), as well as work on criminal justice and immigration control practices (Chacon, 2009; Garland, 2001; Simon, 2007; Stumpf, 2006). Relying primarily on my observations of initial consultations at Los Angeles non-profit organizations between attorneys and a group of mostly female, Latin American immigrants who experienced domestic violence and/or sexual assault, I explore how immigrants prepare to approach certifiers after violence. I also draw on ethnographic research

⁵¹ To my knowledge, comprehensive data on approvals and denials of U Visa certification requests are not publicly available.

conducted at Equal Justice and during Network meetings (see pp. 17-31). Lawyers identify leverage and tension points in migrants' static paper records and active verbal narratives of their crimes and police cooperation, priming them for upcoming interactions with officers who have discretion to refuse certification. In offering retrospective and prospective advice about making effective U Visa pleas to police, attorneys arbitrate between accounts of past violence and the present-day legal cases they can develop from them, a tactic employed by attorneys in other legal efforts as well (see, e.g., Coutin, 2000; Mann, 1999). This case of expert intermediaries brokering knowledge and resources for a vulnerable group enmeshed in a political and social context of migration control reveals the negotiated nature of legal eligibility as shaped by classic and current phenomena in U.S. law, society, and immigration policy.

Immigrants' Responses to Crime and the Role of Brokers in an Era of Control

Research involving immigration and crime has tended to focus on assessing whether immigrants commit crimes, what crimes they commit, and how frequently (Hagan & Palloni, 1998; Kubrin & Ishizawa, 2012). It often neglects immigrants themselves, most of whom do not commit crimes but like other marginalized social groups, are at risk of becoming victims. While extensive research has examined why, sociologically and structurally, violence against immigrants occurs (see, e.g., Bui & Morash, 1999), this chapter examines one way immigrants may respond to violence: by reporting it to law enforcement and pursuing associated legal benefits.

It has been noted that immigrants see and interpret their experiences and social institutions in settlement countries through "bifocal lenses" (Menjívar & Bejarano, 2004, p. 127, p. 127), using their status and backgrounds in home countries as points of reference. Menjívar and Bejarano (2004) found that Latino immigrants' perceptions of how police reacted to crime in

countries of origin significantly influenced their attitudes towards U.S. police. Migrants' expectations also affected their responses to crime, which squares with other research documenting a positive correlation between immigrants' comfort level with law enforcement and crime reporting behavior (Davis et al., 1998). Thus, immigrants' past experiences with law and legal systems shape their present "legal consciousness," their understanding and use of the law (Merry, 1990).

Immigrants' responses to crime may vary by gender, legal status, and type of crime endured. Scholars studying domestic violence against immigrant women have demonstrated that isolation from family and community, limited economic mobility, and uncertain legal status may affect reactions to crime (Abraham, 2000). These factors may make alternatives to living with abusers more constrained for immigrant than native-born women, mitigating against immigrant women reaching out to police and other sources of aid. Even when immigrant women live close to family and friends, orthodox views about marriage and gender roles may prevent victims from reporting crimes and/or leaving violent situations (Dasgupta, 2000). This reinforces the acceptability of domestic violence through the belief that it is a private matter, an idea that is exacerbated when reflected in laws that enable battering.

Immigrant women can be in vulnerable situations because the legality of their stay in receiving countries is often linked to spouses. Family reunification laws in the United States and Europe, for example, tend to make immigrant women rely on partners as sponsors for obtaining legal status (Salcido & Menjívar, 2012). Immigrant women in the United States report that abusive husbands threaten to call immigration authorities, withdraw residency petitions, and destroy legal paperwork. For fear of deportation in an era of restrictive immigration control

(Chacon, 2009; Menjívar & Abrego, 2012; Stumpf, 2006), undocumented victims may hesitate to contact police, law offices, and social services providers.

Some immigrants respond to crime by accessing information and services. Research suggests that authorities' interventions among battered immigrants are similar to interventions among the native-born, with results varying from helpful to damaging (Mama, 1993). Cultural sensitivity and immigrant-language skills affect professionals' communication with crime survivors and comprehension of how specific crimes are understood in a particular group. The concept of "cultural brokering" has been applied to situations where a middleman reduces "gaps" in the transaction of meaning between people by mediating knowledge or values (Geertz, 1960). The model of cultural brokering has been applied to linguistic and cultural translators in medical, legal, and social services settings, who, as lay people or professionals, convey information to and on behalf of family and non-kin (Orellana, 2009; Park, Chesla, Rehm, & Chun, 2011). In this study, immigration attorneys served as cultural brokers by advising migrants how to convince police to sign U Visa certification forms.

Lawyers' brokering involved explaining the static "law in books" regarding immigrants' theoretical legalization options and anticipating what the "law in action" would practically yield (Pound, 1910). Attorneys considered relevant legal "archaeology," that is, "the layering of documents, statutes, court cases, notices, and records that t[ook] form at particular historical moments" (Coutin, 2011a, p. 570; see also Merry 2004, p. 570) and that would matter during immigrants' legal present or future. The restrictionism embodied in the contemporary U.S. immigration regime characterized by enforcement-oriented policies (Chacon, 2009; Stumpf, 2006) maps onto a pervasive "culture of control" (Garland, 2001) and fear of crime that have infused the country's criminal justice system since the late 1970s (Simon, 2007). These

dynamics, via explicit policy shifts and the implicit assumptions embedded in them, have subjected immigrants to “legal violence” (Menjívar & Abrego, 2012). “Legal violence” captures the normalized but cumulatively injurious effects of current immigration laws, implemented in fragmented, arbitrary ways by individuals including state and local law enforcement officers and federal immigration agents and increasingly intertwined with criminal law. It is in this context that immigrant crime victims approached cops for authorization.

The U Visa Certification Process

U Visa certification must come from a federal, state, or local law enforcement agency, prosecutor, or criminal court that investigated, is investigating, prosecuted, or is prosecuting the criminal activity migrants endured. Child Protective Services, the Equal Employment Opportunity Commission, the Department of Labor, and others could also qualify as certifying agencies if they had criminal investigative jurisdiction in their area of expertise (Kinoshita, et al., 2012, pp. 3-13 to 13-19).

Although immigration attorneys may facilitate the signing of migrants’ U Visa forms by contacting certifiers, individuals may not be compelled to certify cases. Signing certifications is at the discretion of law enforcement agents or other qualifying individuals. When weighing whether to sign immigrants’ forms, certifiers are expected to consider the type of crime and victims’ helpfulness.

Lawyers at Equal Justice and Network organizations carried heavy caseloads and usually did not have the resources to dedicate significant time towards their clients’ certification efforts, counting on migrants to obtain signed forms before beginning other casework⁵². Although there

⁵² The non-profit attorneys in this study were inundated with demand for services. Beyond brokering advice, lawyers typically only involved themselves in certification when clients had already approached certifiers who declined to sign or when migrants’ police reports indicated

were sometimes several individuals with the authority to certify migrants' cases, attorneys almost exclusively suggested migrants approach the police detectives or officers who responded to their initial calls for help and investigated their crimes firsthand. Lawyers believed police were more likely than other potential certifiers to recall or have access to records documenting details of migrants' cases that could encourage them to perceive migrants as victims and quickly sign their certifications. Therefore, my examination of lawyers' brokering centers on advice about how migrants should present themselves to police.

Getting the "Magic Paper": Negotiating Legal Eligibility

In order to apply for U Visa status, migrants had to convince police to sign their certification forms. Without this "papel mágico" (magic paper), as one attorney referred to it in a client meeting, there would be no case. Although (and perhaps *because*) attorneys were rarely involved in asking officers to sign clients' certification forms, lawyers thoroughly prepared them with suggestions about how to navigate the process⁵³. Lawyers extended two types of brokering tips that hinged on leverage and tension points in migrants' paper documentation and oral testimonials about the crimes they experienced: *retrospective* advice on how to talk about their pasts, and *prospective* advice about how to behave in the future.

Retrospective Brokering

they had not suffered qualifying crimes but attorneys believed they had. In both scenarios, attorneys contacted police (usually by phone), and tried to persuade them to sign. I observed both scenarios during fieldwork, but both were uncommon.

⁵³ Attorneys also provided immigrant applicants with a brief letter summarizing the details of their case to present as part of their U Visa certification request.

Before meeting in-person with clients, attorneys reviewed migrants' documentation of the experiences they believed could qualify them for U Visa status. During this initial scan, lawyers attempted to adopt the mindset of a suspicious certifier assessing qualification for U Visa standing so as to simulate as much as possible how police could respond to migrants' requests and prepare clients accordingly. Upon bringing migrants into their offices, lawyers asked pointed questions their preliminary assessments raised, zeroing in on tension points in clients' stated stories and recorded documentation that they believed could mitigate against officers' validation. Attorneys communicated ways migrants could reframe their records or narrative explanations of events by underscoring or downplaying parts, or supplementing accounts with additional information or alternative explanations of relevant circumstances. Lawyers focused primarily on two parts of migrants' accounts in offering retrospective advice: how crimes had been depicted by law enforcement in police reports, and how migrants' interactions with law enforcement at crime scenes and afterwards were portrayed in police reports and related records.

A) Physicality of On-Record Violence

Attorneys considered how crimes had been characterized in written reports, and how well the "official" records comported with migrants' stated reality. Both the *kind of harm* and the *extent of harm* the crimes induced guided lawyers' responses to migrants keen on regularizing their status. While physical *or* mental abuse constitute qualifying violence for the U Visa, attorneys found that law enforcement officers were generally more receptive to signing certifications if the violence included a physical aspect. And while one qualifying act of physical violence could compel certification, depending on the officer it also could not. Lawyers

conveyed to migrants that if they could point to *severe, repeated, physical* violence in the written text of their police reports, they were in a superior position to request U Visa certification⁵⁴.

When police reports documented what lawyers thought police could consider a “minimal” amount of physical violence or injuries, lawyers pressed migrants about the reports’ accuracy and thoroughness. They also inquired about other documented or undocumented instances of violence migrants suffered that could help enhance the “weak” components of their legal claims vis-à-vis certifiers.

Before meeting with Araceli, a mother of three from Mexico, attorney Raquel told me “there’s not that much physical evidence” in her client’s police report, “so it might be hard to get the cert.” The report said the suspect “pushed victim to the ground, attempted to pull victim’s pants down, [victim] held pants on, phoned police, suspect fled.” Raquel added that the police report said this was the second time Araceli had contacted them; she would ask Araceli if she had another report, and what happened on that occasion. When the meeting began, Araceli said that the police did not do a report when she first called because by the time they arrived, her abusive partner had fled. According to Araceli, the police said they could not do anything at that point. Raquel was not deterred.

Raquel: But did he ever hit you?

Araceli: Hits no, but he would always yell at me, taunt me, and in very strong tones.

Raquel: Did he threaten you?

⁵⁴ This understanding stemmed in part from lawyers’ anticipations of subsequent framing work they would do in other application documents to underscore the “substantial” abuse migrants endured (Lakhani, 2013). USCIS has indicated that adjudicators can take abuse histories – including unreported accounts – into consideration in determining whether abuse in its totality rose to the level of “substantial” (Kinoshita, et al., 2012, p. 2-13).

Araceli: Yes. He would threaten me all the time saying, “If I’m not happy, you’re not going to be happy either.”... And then the worse was that he would say that the kids weren’t his and that I slept with other men. He said that daily.

Raquel: But there weren’t beatings.

Araceli: No. One time yes, he hit me, but that was a long time ago. It was when my first son was a baby still. But after that there weren’t hits. Just words and all of that.

Raquel: OK. The reason I ask you is that we’ve had problems with the police, because it’s the[ir] discretion if they want to sign the paper. If they don’t sign, we can’t do the case. And we have had problems with them because sometimes they see the report and they see that there isn’t physical harm and sometimes that’s a reason they give for not signing. If that happens, you can tell them that the determination about whether you suffered sufficient harm is made by Immigration and not the police.

Via dialogue that could be interpreted as insensitive during migrants’ tragic narratives, lawyers coached clients to enhance their presentation of case documents that were blatantly inaccurate or failed to fully capture the extent of crimes migrants endured. Attorneys perceived this discursive training as necessary in the U Visa certification context, where official *documentation* of violence assumed a power that sometimes seemed independent of the violence itself. Social scientists would argue that lawyers’ retrospective brokering constituted a type of “legal construction” of migrant clients, whose knowledge of the certification process was comparably limited (Sarat & Felstiner, 1995, p. 147).

As migrants did not construct their own records, and because police reports and other pertinent documents were usually generated during moments of high distress and confusion, it was not uncommon for erroneous information or incomplete descriptions of events to have been logged by police. Such circumstances created incongruence between migrants’ lived experiences and what has been called “papereality” (Dery, 1998), a chronicle of individuals’ lives as summarized in standing, “official” documents.

Lawyers considered it part of their jobs as brokers to indicate such potentially problematic pieces of information to migrants and help them rehearse actionable and compelling legal claims for U Visa status before they approached certifiers. Lawyers tried to discern trends in agencies' certifications in order to tailor client advice to the agency they would visit. The Network served as a sort of staging ground for attorneys in these efforts. During meetings, shared advice about how to reach police officers across stations in Los Angeles, and circulated tactics gleaned from immigration legal list-serves, manuals, and their own practices that had appeared to work in convincing certifiers to sign clients' forms. However, attorneys' anticipatory work was constrained because not all agencies utilized the same criteria to evaluate certifications. Lawyers perceived Los Angeles law enforcement agencies⁵⁵ as extremely inconsistent from one to the next (and sometimes even within the same agency) in officers' willingness to endorse migrants' forms and to disclose reasons for their decisions. At a May 2011 Network meeting, attorney Bea griped that victims of one-time "purse-snatchings" whom she represented were sometimes certified while repeat victims of child abuse were not. And during a November 2011 meeting, attorney Leila voiced concern over a police department who had recently told her client she would have to be "hospitalized" with "a broken nose" and "broken ribs" for them to consider certifying her case. Meanwhile, Leila explained, on the very same day she learned that a department signed for a client who witnessed her mother being beaten but was not physically harmed herself.

⁵⁵ There are over 100 distinct law enforcement agencies in Los Angeles County, including municipal police departments in some cities, many of which are subdivided into precincts. Other cities and unincorporated County areas contract for police services with the Los Angeles Sheriff's Department, which is divided into patrol stations.

This overall inconsistency across certifying agencies notwithstanding, lawyers conveyed to migrants that in general, they had a favorable chance at obtaining signed certifications if they had experienced physical violence that left graphic bodily wounds police saw and recorded at crime scenes. Elvira, who moved to Los Angeles from Mexico in the late 1980s, met Rodolfo while grocery shopping when he was joking with her grandson. It was not until a month later that Elvira realized Rodolfo was a gang member and had a mercurial temper. When her grandson was around, Rodolfo behaved “like an angel,” but when the child left the room, Rodolfo reproached Elvira. “He always threatened me, saying he had killed people before. He would always grab me like this around the neck and hold a screwdriver or a knife to my neck. He did that with whatever he could find in the house.” Elvira described to her attorney that she had been terrified Rodolfo would murder her if she called the police, as he claimed to have done to others. She was also scared that the police would not believe her accounts of Rodolfo's violence, as he spoke fluent English and “knew how to manipulate people with words,” unlike her. In any event, Elvira said, Rodolfo's choking rarely left physical wounds she could point to as concrete proof of the abuse. But one day, while the two were at a park, Rodolfo became enraged and started shoving Elvira.

He got angrier, and started choking me when two patrol cars passed right in front of us... Rodolfo was leaning over me, choking me, but when he saw the cars, he acted like he was going in to kiss me. After the police drove by, he started beating me again. He threw me to the ground three times, and I tried to escape but he threw me down again. That was what the Sheriffs saw.

Reviewing Elvira's police report of the incident, attorney Ariana remarked, “God. Well, at least they documented the abuse very well. But it says that you didn't suffer any *injuries*. Is that correct?” Elvira explained that, “That day I didn't suffer any injuries because he was grabbing me around the neck. He was asphyxiating me. He was also hitting me, on my body,

but the only thing I had were bruises...that didn't appear for a couple of days after." The attorney nodded as Elvira went on about other abuse Rodolfo had perpetrated, physically shaking. Ariana stopped her mid-sentence. "And did you communicate all of that to the Sheriff?" Elvira shook her head no.

Because every time that he does that, you should communicate it to the detective. Everything, even just saying, "I am going to kill you." That is a crime. It's a felony. *I'm* already convinced that you are scared and you have good reason to be, but I want you to talk with *the detectives*. Right now you don't have to tell *me* about all of the things that he's done because *I* know you already have a lot of reasons to be scared.

During U Visa certification casework, lawyers' counseling could appear inconsiderate or hard-edged because it concentrated not on migrants' horrific experiences themselves but on how those experiences could be effectively demonstrated to police. Yet Ariana's approach - encouraging her client to save the most harrowing account for certifying gatekeepers - in fact exhibited significant concern for her client's plight, formulated to compel sympathy from officers not obligated to advance migrants' U Visa cases.

B) Helpfulness

With very few exceptions, migrants were required to have at least one police report of a qualifying U Visa crime before meeting with Equal Justice and Network attorneys as a matter of organizational policy. Thus, all immigrants included in this analysis had interacted with law enforcement about their crime experiences at least once. In assessing the likelihood of migrants' cases being certified, lawyers considered how clients' cooperation with law enforcement had been depicted in police reports taken at crime scenes and in related papers produced afterwards, and whether those depictions matched migrants' recollections of events. While immigrants applying for U Visa status must be able to show their helpfulness in the investigation or prosecution of criminal activity, the types and amount of evidence indicating collaboration with

law enforcement are not spelled out in the U Visa statute or regulations. Thus, the determination of whether migrants were cooperative is largely subjective and discretionary.

Police have the prerogative to refuse to sign migrants' certification forms based on any perceived indication of unhelpfulness. As a result, when offering advice to migrants about how to approach certifiers, lawyers inquired about the cops that had responded to migrants' calls. Attorneys were particularly curious what police asked their clients at crime scenes and how they answered. Sometimes it surfaced that migrants had withheld pieces of relevant information from police that could call their "helpfulness" into doubt.

Pilar, an undocumented 17-year-old high school student who was born in Mexico, visited a male friend one evening. Sitting in his living room talking, he served Pilar a drink and went to another room. Pilar took a sip of the drink, became dizzy, and started vomiting. Waking up the next morning in an empty house wearing only a blouse, Pilar remembered only glimpses of the previous night after the room started spinning. Frightened, she grabbed her things and quickly returned to her family's home. At school the next day, Pilar disclosed what had happened to a teacher, who called the police.

Narrating the events to her attorney Amanda, Pilar described that she was anxious to talk with police because she feared they would not believe her admittedly cloudy account of her rape, in part because of her legal status. Thinking a more complete story ending in the same result would be "easier to tell," Pilar initially lied about what happened, claiming she had been attacked and raped by a group of men. A detective listened to her account, Pilar said, asking her other questions about her relationships with current and former boyfriends. Hours later, upon realizing she should not have lied, Pilar recanted her story and told the truth to the detective and her

parents. Pilar described the detective's reaction: "She told me, 'OK, it's all right, but it's not all right that you didn't tell the truth.'" Pilar was arrested a few minutes later.

They told me that since I had had sex with my boyfriend⁵⁶...I was going to be arrested for that, like for 3 hours... But I felt that I didn't commit any crime. I was the victim, and for that reason I went to the police to report it, and they told me it was my fault... The detective said, "He told me you said OK, so the case is closed." I said to her, "Can I have some help or something?" And she told me, "You have to go home now."... I tried to talk to the detective [days later] but they told me she wasn't there.

While it is common for crime victims to withhold information about what they endured as an emotional defense mechanism (Abraham, 2000), and although law enforcement officers know undocumented immigrants may be reluctant to report crimes for fear of deportation, Pilar's temporary fabrication was not accorded much leniency. During Pilar's initial contacts with the law in this case, she almost literally could not be helpful given her circumstances. Nevertheless, the social and psychological factors that shaped her helpfulness at early legal moments continued to haunt her legal present and future.

With Pilar's arrest in mind, and judging from the detective's unwillingness to assist the girl in the aftermath of her rape, Amanda was pessimistic about Pilar's chances for U Visa status despite the case's apparent merit. She urged Pilar to return to the department soon for certification and talk to any detective who would listen. Perhaps the detective she had dealt with would be at another precinct, Amanda anticipated, and Pilar would encounter a more empathetic officer. But glancing at the paperwork Pilar had provided, she remarked, "They actually wrote the word 'lie' in their report of the crime. Police don't like that word."

The kinds of violent crimes that count legally in the U Visa context may be difficult for survivors to disclose to both police and close friends and family, whether in the immediate

⁵⁶ It was unclear exactly why Pilar was arrested, but it seemed related to her sexual relations with her boyfriend, both who were under the legal age of consent (18) in California.

aftermath of crimes or during subsequent investigations and prosecutions. In domestic violence cases, where abuses are often ongoing instead of one-shot crimes, it may be particularly challenging for victims to maintain transparent relationships with legal authorities if victims fear their abusers more than the wrath of the law, or doubt the ability or willingness of police or others to protect them.

Catalina, an undocumented mother from Mexico, had two children with an abusive partner, Jorge. During their meeting, Catalina explained to her attorney Julia that after a particularly egregious incident in a long history of abuse, she called the police and her batterer was arrested. Julia asked if the police had contacted her after the incident with any questions. Catalina said yes; the detective asked her to testify against Jorge and she agreed. Catalina started crying as she told Julia that on the morning of her court date, a friend of Jorge's called, cautioning that although Catalina was "allowed" to testify that Jorge had tried to push her off the balcony of their apartment building, she was to say that she broke free of his grip and then slipped off the edge, causing her own fall. In reality, Jorge had shoved the petite Catalina off the building, and she shattered her hip and ankle. The friend said that if Catalina did not repeat his version of the story in court, he would "do something" to Mimi and Roberto, her children. To Julia, Catalina said she felt she "had to lie" on the stand that day to protect her family, but the detective was very upset with her afterward even though she told him what happened.

Conveying that she understood what a horrible predicament Catalina had been in, Julia warned her that the detective might be reluctant to certify her case if he viewed her faulty testimony as a lack of cooperation that overshadowed her initial crime report. Julia was also concerned about Catalina's chances of certification because the crime had occurred several years

beforehand⁵⁷. If Catalina could not locate the detective she had worked with, who knew the details of her case, Julia anticipated that obtaining certification would be even harder because Catalina was “on record” having presented conflicting accounts. Despite communicating the violent crime against her at the outset, events related to the crime itself (i.e., continued threats) could deter Catalina from obtaining U Visa status. In both Pilar and Catalina’s cases, circumstances stemming from the immigrants’ undocumented legal status combined with their social standings as women, mothers, immigrants, and crime victims to mitigate against their maintaining purely “helpful” relationships with law enforcement about their experiences.

Lawyers issued explicit or implicit advice to clients about the “luck” involved in the U Visa certification process to prepare migrants for what they could face as they sought to rectify who they were in the past (“vulnerable” crime victims) with who they needed to become (“helpful” police informants). In this context, the gap between the law in action and law in books that always threatens to stifle claims-making was accentuated by the contemporary “culture of control” (Garland, 2001) and the political and social phenomenon of immigration restriction (Chacon, 2009).

Prospective Brokering

When lawyers provided *prospective* advice, they advised migrants about behaviors they could adopt in the future to facilitate U Visa certification, as their cases of victimization moved through the criminal justice system. All of lawyers’ prospective brokering advice – despite content varying from *when* to approach U Visa certifiers, *who* to approach, and *how* - was

⁵⁷ There is no statute of limitations constraining the time that may elapse between when crimes were reported and U Visa certification, but lawyers perceived that immigrants were more likely to acquire signed certifications if that time was brief.

designed to help migrants make their responses to violent crimes more visible and therefore more actionable.

In the U Visa context, migrants' legally actionable responses to violent crimes were limited to those that could be recognized as uniformly "helpful" to law enforcement. But displaying helpfulness to law enforcement could work against victims actually helping themselves as they were recovering from violence and learning they could assert legally powerful claims notwithstanding their illegality. Many migrant respondents associated police with mistreatment and deportation, not as benevolent maintainers of order and justice in their communities. Attorneys were aware of and empathetic to migrants' perceptions of police. However, to improve their chances of certification, lawyers urged clients to present themselves as responsive and reliable to the very officials they had strategically avoided in order to maintain a rendition of themselves as police allies in the crime-fighting process.

At Equal Justice one afternoon, I had the opportunity to talk with Kelly, a law student clerking at the organization. She explained that she had been trying to reach a police officer to persuade him to certify a client's U Visa case.

Kelly said the cop didn't want to sign because he thinks the client hasn't been "cooperative." "She has a restraining order against her abuser, [and] the police want her to give them a phone bill that would provide concrete evidence that her abuser is calling her [in violation of the order], but she doesn't want to give it to them." Kelly described that she spoke with the client and learned that, "The police knock on her door whenever they want, at all hours, and she doesn't appreciate that. She doesn't want to have to be at their beck and call, but I'm trying to tell her that if she wants the U cert to get signed, she needs to work with the police."

In many cases, demonstrating "cooperation" with police meant immigrants needed to be constantly available to cops and comply with every request, even if their abusers continued threatening or hurting them and even though migrants continued to be deportable during this time.

Idalí, an undocumented mother in her late twenties from Guatemala, arrived at Equal Justice with her three children, ages 7 years, 2 years, and 7 months, in tow. She explained that her husband, an American journalist, had started abusing her a year beforehand. However, she had only recently reported it to the police, and went to court the week prior for a restraining order. Sitting down to her meeting with attorney Carrie, Idalí pulled out some photographs that included several with purple welts on her arms and neck, and a few family photographs before the violence started. She teared up as she recounted what her husband whispered to her as they were waiting their turn in court the week before.

“I didn’t hit you,” he said. “I only pushed you.” I told him, “You bruised me,” because he made a fist with his hand and made a bruise right here [she pointed to a discolored spot on her arm]. He said, “Well, prove that it was me.” I was so upset I didn’t say anything.

Idalí explained that she was supposed to return to court the following week for mediation about the custody arrangement for her children, but she was scared of her husband. She admitted to Carrie that she was not sure she could face him again. “No, no, no,” Carrie replied. “If he tries to talk to you, talk to the bailiff. Tell him, ‘I have a restraining order and he’s talking to me’...and they will make sure he doesn’t come close. But no matter what, make sure you go to court if you want to get a U Visa... The most important document is the certification,” Carrie asserted. “The police have to sign [a certification] saying that you were a victim of one of the crimes... But with the certification, they are also saying that you *cooperated*.”

“Cooperation” can be calling the police and giving them details about the crime, or returning phone calls from the police. That could be it. However, I have clients who say to me, “Well, I called the police but the day I went to court I didn’t want to testify against him.” [The police] could say, “Ah, you didn’t cooperate and we can’t sign the certification.” There is nothing in the law that says they have to sign.

During another occasion, Equal Justice attorney Jennifer explained the certification process to me by emphasizing that law enforcement agencies will sometimes “look for a reason”

to refuse to sign certification forms, so it was best for immigrants not to give them any “ammunition.” One form of “ammunition” could be delaying approaching law enforcement for certification until months or years after qualifying crimes occurred, as in Catalina’s case. In cases like Idalí’s, when immigrants conferred with lawyers soon after reporting crimes, attorneys urged them not to wait long before asking detectives to sign certifications. Carrie stressed that Idalí would be wise to approach law enforcement immediately because the details of her case – including her name, face, and body – would be “memorable” to officers. And at this early stage, the detective who investigated Idalí’s case may have a personal interest in seeing her obtain U Visa status; this could encourage him to perceive Idalí as especially deserving of aid and to quickly endorse her case, thereby expediting her legalization.

Discussions about U Visa certification often revolved around the particular detectives that had responded to migrants’ calls for help, and the distinct law enforcement agencies they worked within. The location of the crimes was significant insofar as it determined which police unit investigated it, and thus, which agency migrants would need to approach. Although law enforcement agencies in Los Angeles seemed to invoke varying justifications for certification decisions, lawyers developed a patchwork understanding of agencies’ U Visa reputations and shared the information with clients. In one meeting I observed, attorney Helen told client Esmeralda that although the police report of her crime “didn’t look good,” fortunately the officer she would need to ask for certification was “very nice.” Helen said she thought “he like[d] to sign certifications because he [had] already signed” for her “several times... Normally with the [particularly agency], eh, but with him there’s a good vibe.”

Ultimately, the picture attorneys painted for immigrants at the certification phase was that their likelihood of securing U Visa standing was not predicated on what they had experienced,

but how actionable the legal case they could derive from it was. That depended on how they had responded to crimes vis-à-vis law enforcement in the past, and how they responded in the future as their cases evolved. Attorneys offered retrospective and prospective advice designed to help migrants effectively navigate their way to U Visa certification and legalization.

Conclusion

This chapter examined the legal translation and documentation of abuse and of “helpfulness” by investigating the particular challenges that producing the U Visa certification form involved for a group of predominantly female, Latina immigrant crime victims and their attorneys. Offering retrospective and prospective advice, lawyers coached their undocumented clients for upcoming interactions with police officers who would judge their experiences of violent crime and efforts to help law enforcement afterwards. Attorneys educated immigrants about how to frame their pasts in ways that would shade account problems stemming from how clients’ crimes and cooperation with law enforcement were depicted in police reports and other relevant records. Lawyers also encouraged migrants to behave in ways that would enhance the visibility of their helpfulness to police, thereby promoting their own legal eligibility in a highly discretionary process. Attorneys’ targeted brokering advice prepared migrants for encounters with skeptical police mired in a political and social context of immigration control who, as one lawyer explained, “see things like this all the time” and may need to be primed to recognize migrants’ experiences as convincing U Visa cases.

While researchers have studied the legal construction of social meanings (see, e.g., Merry, 1990) and the integration and disassociation of such meanings in judicial doctrine (see, e.g., Dalton, 1985), few have approached the topic of how law itself is made socially meaningful. Lawyers play a major role in that process because of their knowledge of how particular legal

processes work (or seem to work) and of ways the law might be used in individuals' favor. In advising immigrant clients, the attorneys in this study underscored the significance of the "magic" certification, dispelling the myth many immigrants held that officials guided by neutral, objective legal criteria would evaluate their claims. Foundational literature on legal consciousness by Merry (1990) and others has asserted that law is far more than formal statutes and regulations, and that matters extraneous to doctrine influence legal potentialities. In fact, one cannot even speak of "law" without considering the social practices of ordinary, or "street-level" individuals (Lipsky, 1980). But while lawyers are intimately familiar with the human dimensions of the legal process, their clients often are not.

In their best efforts to provide aid, lawyers worked within constraints imposed by their knowledge of immigration "law in action" (Pound, 1910) that, at the U Visa certification stage, caused them to direct their counseling more to the investigations of migrants' crimes than to the appalling experiences migrants endured. The legal "archaeology" of the U Visa remedy as applied to the cases discussed here produced situations that highlighted how when we go back in time legally to resolve current conflicts, the law of the past is not always in line with present-day legal and social realities (Merry, 2004). It is for precisely this reason that no one is intrinsically eligible for U Visa standing or any other legal remedies; they have to be *made* eligible through "excavations" and reconstructions of the past, as fulfilled through present-day presentations that anticipate future opportunities (Coutin, 2011a). These dynamics emerge in many kinds of legal proceedings within and beyond immigration law (see, e.g., Coutin, 2000; Mann, 1999). However, in the U Visa case, the "legal construction" (Sarat & Felstiner, 1995, p. 147) required to prepare effective claims is arguably more extreme given the high obscurity around administrative and adjudicatory regulations and their realization in an era of immigration control,

and because acquiring U Visa standing is more explicitly dependent on the certification than other aspects of the application.

The practice of certification itself suggests that distinctions can be made between those U Visa seekers for whom “truthful” qualification can be established, and those whose accounts cannot be validated one way or the other. Yet the reality presented here - in illuminating with particular acuity the complex temporal and performative dimensions of “living law” (Brandeis, 1916) that are relevant to legal processes more generally - contests this idea. Perhaps this disjuncture is inevitable in the U Visa context, since crimes that qualify individuals are, in many cases, physically invisible⁵⁸ after a couple of weeks; thus, a well-fashioned offering of one’s experiences becomes necessary to demonstrate suitability for the legal opportunity.

Regardless of its capacity to distill individuals’ “true” eligibility for the U Visa remedy, as a government document endorsed by state agents that attests to immigrants’ experiences of violence and helpfulness, the signed certification form acts as an alternative to – if not a substitute for - petitioners’ own words. While immigrants must submit a personal statement about their experiences and may send other supportive papers, as one of two required application forms created by USCIS itself⁵⁹, the certification retains distinct significance in the U Visa application process. Asking law enforcement authorities to confirm the violent and degrading treatment suffered by immigrants exemplifies the commingling of immigration and criminal law in recent years (Menjívar & Abrego, 2012) and means reminding migrants that their personal

⁵⁸ Some forms of violence, such as psychological and emotional abuse, leave no visible corporeal marks to begin with.

⁵⁹ These are Forms I-918 and I-918, Supplement B. See <http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnexto id=c70ab2036b0f4110VgnVCM1000004718190aRCRD&vgnextchannel=db029c7755cb9010VgnVCM10000045f3d6a1RCRD>, accessed March 15, 2013.

“truth” counts for little to nothing (see Fassin & Rechtman, 2009). In extending retrospective and prospective advice, immigration lawyers became involved in this depersonalizing process to some extent, despite their fundamental alliance with victims.

Attorneys’ advice was undoubtedly formulated with dynamics specific to Los Angeles in mind, but given lawyers’ reliance on nationwide legal list-serves and published resource manuals, I would not expect their tips to vary significantly in other U.S. geographical contexts⁶⁰. Moreover, the circumstances that lawyers in Los Angeles believed would configure immigrants’ requests for legal legitimacy as compelling – including having experienced graphic corporeal violence – are persuasive in other immigration legal proceedings in the United States and abroad, in cases for both female and male claimants. Without having observed many attorney-client consultations for male U Visa applicants, I cannot definitively speak to how gender may have informed lawyers’ brokering strategies. However, research on asylum seekers in Europe and the United States has chronicled how female and male immigrants’ body-based accounts of violence have facilitated the conversion of victimhood to state-sanctioned legal inclusion (see, e.g., Berger, 2009a; Fassin & Rechtman, 2009; Ticktin, 2011).

⁶⁰ However, I do believe it would be reasonable to expect overall certification grant *rates* to vary geographically in relation to community political attitudes towards immigration.

CHAPTER FOUR:

PRODUCING IMMIGRANT VICTIMS’ “RIGHT” TO LEGAL STATUS AND THE MANAGEMENT OF LEGAL UNCERTAINTY

Introduction

Written law typically retains an “inherent ambiguity” that must be negotiated by practicing attorneys (Silbey, 1980-1981, p. 881) as they collaborate with legal clients and work to convert clients’ “problems of living” to problems of law that will be recognized as legitimate (McEwen, Mather, & Maiman, 1994, p. 169). A common approach lawyers adopt in this endeavor is to tailor the idiosyncratic details of their discrete cases to match any extant precedents that are relevant to the legal issues at play in their clients’ claims and that may facilitate clients’ goals.

Immigration law is notorious for its complexities, which are aggravated in cases of substantively and procedurally new forms of legal relief (see pp. 4-5). In this scenario, petitioners seeking to benefit from remedies, their attorneys, and immigration decision makers to boot may have minimal legal precedents on which to rely when determining how to proceed. As the “living law” (Brandeis, 1916) associated with the new U Visa remedy evolves, immigrants and their attorneys find themselves soliciting the status from adjudicators at the USCIS Vermont Service Center with only a tenuous understanding of the elements they should address in their applications and how their cases will be evaluated. In deciding their case presentation strategies, lawyers may look to the victim-based narratives of successful asylum, VAWA, or other humanitarian status applicants, but the guidance they can glean from apparent precedents associated with those remedies is limited given the distinct eligibility requirements of U Visa

candidates and the particular decision makers who will evaluate claims⁶¹. Although attorneys are aware that Vermont adjudicators receive special training in domestic violence to be sensitive to issues unique to migrant crime victims, Vermont adjudicators have the discretion to determine the point at which petitioners' proof of eligibility and deservingness are sufficiently compelling to warrant U Visa approvals.

This chapter investigates how lawyers manage legal and bureaucratic uncertainties associated with humanitarian immigration law by examining their representation of undocumented crime victims who are petitioning for U Visa standing. I rely on ethnographic participant observation at EJLA and in Network meetings, but also draw on interviews with immigration attorneys and staff at Los Angeles non-profit organizations (see pp. 17-31). I show that immigration lawyers craft dual narratives to persuade adjudicators that their clients both qualify for and deserve this new legal status, but I also demonstrate that representing migrants well produces moral dilemmas for these attorneys on a professional and personal level. First, I explore how lawyers elicit and script narratives of "clean" victimhood to prove that their clients qualify for U Visa status. In the next section I argue that attorneys craft narratives articulating migrants' civic engagement to position their clients as contributing members of society who are deserving of legal status. The last section illustrates how the construction of these narratives creates a range of professional and ethical dilemmas for immigration lawyers. I contend that this case of "law in action" (Pound, 1910) reveals the interactional, dialectical complexity of

⁶¹ Adjudicators at the Vermont Service Center evaluate all applications for U Visa standing, status through VAWA, and T Visa status for trafficking victims, as well as select asylum petitions. Asylum applications are adjudicated in Immigration Courts or at USCIS Service Centers in California, Nebraska, Texas, or Vermont. All humanitarian statuses have unique application requirements that petitioners must demonstrate. See <http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=194b901bf9873210VgnVCM100000082ca60aRCRD&vgnextchannel=194b901bf9873210VgnVCM100000082ca60aRCRD>, accessed December 6, 2012.

successfully petitioning for legal status as experienced by migrant applicants and their attorneys in various areas of immigration law. The constraints with which immigration lawyers grapple resemble those operating in legal practice outside of the immigration field as well. My examination of how law is developed within a confining legal framework that is at the same time not totally institutionalized extends the “law in action” paradigm, which has been animated primarily by analyses of how legal actors tailor the idiosyncratic details of discrete cases to match existing precedents.

Immigration Law in Action

The evolutionary process during which attorneys negotiate “law on the books” and transform it into “law in action” occurs largely in organizational settings, including those where law is practiced, as lawyers formulate cases (Silbey, 1980-1981; see also Heimer, 1995). To remain aware of changes in legal statutes and procedures and to stay apprised of developments in adjudication processes, attorneys participate in professional or informal groups associated with their area of practice and read legal listservs (Levin, 2005). Their involvement in various “communities of practice” with other lawyers, whether within their organizations or firms or with advocates external to their immediate workplaces, helps shape attorneys’ decision making regarding individual cases (Mather, McEwen, & Maiman, 2001, p. 6; see also Levin, 2009).

Social scientists and legal scholars traditionally theorized lawyers as intermediaries between clients and the legal system who listen to clients’ grievances and explain aspects of legal doctrine to them, advising clients of their legal rights and how they can exercise them with the aid of attorneys (Parsons, 1954). While that model is still valid, contemporary researchers have underscored that the typical lawyer-client relationship does not amount to a simple service transaction, but is much more of an “interactive process” in which definitions of client positions

and identities, and their corresponding legal narratives, are “produced through negotiations” (Katz, 1982, p. 23).

All legal narratives are, in a sense, constructed (Mertz, 1994). As contracted advocates for their clients, attorneys present clients’ cases to legal decision makers in the most favorable ways possible by painting compelling portraits of their lives. In determining how to do so, they rely on the structure and embedded assumptions of applicable laws and regulations, as well as on what they know about legal authorities’ relevant previous decisions. Analyzing U.S. criminal trials, Bennett and Feldman (1981) argued that laws, regulations, and legal precedent, along with the bureaucratic context in which they are implemented and developed, provide a set of conventions that helps establish the nature of the legally persuasive story (see also Heimer, 2001). For individuals appealing to law, legal infrastructures “create a space in which to act” (Edelman, 1964, p. 103) by “assign[ing] characteristics and roles to people, [and] constructing the positions from which they speak” (Gilkerson, 1992, pp. 871-872).

Legal scholars and social scientists have highlighted the power of law to delimit individuals’ claims in many areas, including immigration. There have been important examinations of how, in calling on law’s authority, individuals—or their attorney proxies—may emphasize certain aspects of their personalities or life histories that they believe square with legal norms or conventions that will enable them to achieve the results they desire. For example, Coutin’s (2000) work on Salvadoran immigrants’ efforts to redefine their legal status analyzed individuals’ struggles over the legitimacy of their political asylum claims both within and outside the context of lawyers’ offices. Berger (2009b) examined how VAWA guidelines and requirements encourage battered women to remake themselves as powerless, moral, and compliant. Along these lines, Villalón’s (2010) study of Latina immigrant applicants in

domestic violence situations explored how legally successful cases reproduce gender, class, sexual, and racial hierarchies by highlighting their fit with certain conceptions of who deserves protection under VAWA. In turn, Bhuyan (2008) examined how advocates interpret the ideologies on which VAWA is based, with direct repercussions for who can apply for this dispensation. Kim (Kim, 2011, p. 761) investigated how migrants and bureaucrats in South Korea invoke various types of “identity tags”—documents, performance, or biometric information—to establish or deny the authenticity of kinship ties and to confirm or disclaim particular understandings of personhood, belonging, and entitlement. However, when published legal standards and related norms are new, emergent, or unclear, as in the case of the U Visa adjudication process, attorneys may rely more heavily on personal or informal knowledge or impressions they and their colleagues have gleaned from paper, phone, or in-person interactions with decision makers during daily legal practice, as well as the results of their previous clients’ comparable cases.

Attorneys’ presentation of case materials involves an analysis of which aspects to emphasize or de-emphasize given the arguments that lawyers can and want to make, and of how they anticipate that legal authorities will respond. In this process, lawyers may engage in a form of light “manipulation” (Coutin, 2000, p. 79) vis-à-vis legal decision makers that entails both interpreting and recasting the meaning of legal categories to argue persuasively that their clients fit within them, as well as “framing” (Gitlin, 1980; Goffman, 1974) or “script[ing]” (Heimer & Staffen, 1998, p. 5) clients’ accounts in advantageous ways. “Frames” or “scripts” have been defined as “schemata of interpretation” that aid in the perception, identification, and understanding of an occurrence (Goffman, 1974, p. 21), or as “principles of selection, emphasis, and presentation composed of little tacit theories about what exists, what happens, and what

matters” (Gitlin, 1980, p. 6). In advocating for non-citizen immigrant clients in the context of a discretion-filled adjudication system, immigration lawyers’ framing involves reconfiguring clients’ statements as grounds for legalization and as evidence of U.S. membership or proto-citizenship. Given the immense power of language in the construction, interpretation, and mobilization of law (Gibbons, 1994), attorneys have agency to chronicle their clients’ claims and histories creatively without violating the ethical rules of their profession requiring them to represent their clients “in good faith”—that is, solely on the basis of clients’ renditions of their lives.

This scripting occurs across the entire spectrum of the legal profession. For example, studies of criminal defense in the United States and abroad have demonstrated how attorneys effectively package clients’ claims via techniques of selective highlighting and coding (Goodwin, 1994; ; see also Mann, 1985; Mann, 1999). These lawyers subtly and indirectly deploy practices designed to limit learning about clients’ behaviors if they are “unworkable” in the context of criminal law or to hone in on their “workable” aspects (Halldorsdottir, 2006). However, attorneys who represent undocumented immigrants are situated in especially complex ways vis-à-vis their clients, immigration authorities, and immigration law itself. Documenting officially “undocumented” lives may present unique constraints, as well as opportunities, to lawyers. Individuals who have resided in the United States without authorization may have purposefully avoided leaving traces of their activities. Thus, on the one hand, corroborating validating aspects of migrants’ actions and character may be challenging for lawyers. On the other hand, in the absence of extensive records of their clients’ illicit presence in the United States, it may be ethically easier for lawyers to neglect to include certain details about their undocumented clients that could discredit their immigration petitions. In turn, it may be less

complicated for undocumented migrants to withhold pieces of information from their attorneys about themselves for which there is no evidence and that they believe could redound against the legalization they desire. This background could include acts that are illegal under U.S. law for all individuals or behaviors that constitute law violations only because they were committed by undocumented immigrants, such as working without legal authorization.

Sometimes, immigrants have ample understanding of the law (Calavita, 1998; De Genova, 2002; Menjívar, 2011). At other times, immigrants are uninformed or misinformed (Menjívar, 2006). They may not know how to recount their lives to attorneys in the most advantageous yet honest way, including which aspects to highlight or leave unmentioned. They also may not be aware that certain experiences, activities, or relationships either qualify or disqualify them for the conferral of U Visa status. In addition, immigration clients and attorneys often do not share the same primary language and may come from different cultural and socioeconomic backgrounds (Coutin, 2000, p. 88). As a compounding constraint, immigrants applying for victim-based status who have suffered violent crimes, persecution, or torture may be reluctant to discuss details of their pasts with lawyers because such a recitation is emotionally painful (Kenney & Schrag, 2008; Villalón, 2010).

Attorneys rely on experience with immigration law to evaluate clients' situations, but their ability to do so depends on the basic information they receive. As legal gatekeepers, then, immigration attorneys may engage in a targeted story or fact elicitation in order to complete the "scripts" they want to construct for their clients (McKinley, 1997). This interaction entails subtly and sometimes more overtly educating clients and promoting their immigration-related "legal consciousness" (Merry, 1990) by providing knowledge of how legal processes work and the ways extant laws might be used in their clients' favor. In the process of legal representation,

then, immigration attorneys may be situated both as “agents and critics of law” (Coutin, 2000, p. 104) who simultaneously reinforce and challenge both official and unofficial legal notions. Immigration lawyers are “agents of law” in how their interactions with clients as they submit their petitions are influenced by the legal statutes and regulations to which they are appealing. Concurrently, they are “critics of law” in how they frame the “right” narrative from clients, which may involve selective information gathering and presentation, careful crafting of language in legal documents, and/or the persuasive bending of legal rules. Lawyers’ work along these lines is complicated by the fact that they find themselves fashioning clients’ claims to align with legal scaffolding that is still being assembled.

Giving Violence Legal Legs: The U Visa Adjudication Process

Unlike the case in applying for many other forms of immigration legal status, U Visa petitioners do not face mandatory interviews with adjudicators or appearances in front of immigration judges. The U Visa application process is completed via paper exchanges with USCIS. An assembled application packet includes several USCIS forms, an identity document, and a signed statement (declaration) from the migrant petitioner addressing the U Visa requirements. Applicants may also include additional supporting evidence to help demonstrate eligibility and deservingness. This supplementary evidence may be in the form of trial transcripts, court documents, news articles, police reports, orders of protection, affidavits of other witnesses (such as medical or social services personnel, friends, or family members), photographs of injuries, and medical records. Through the application components Equal Justice and Network lawyers aimed to communicate the image, or narrative, of their migrant clients that they thought would be compelling to adjudicators.

In some cases, this narrative was produced mostly in the form of several sentence answers to different questions on the U Visa application forms and conveyed through supporting documents. More frequently, this constructed narrative was corroborated via migrants' declarations, which were written from the perspective of the migrant addressing the adjudicator who would be evaluating it. Once U Visa petition packets were complete, migrants submitted them to USCIS and, on average, had a response from USCIS four to six months later⁶². If adjudicators wanted clarification or more information, they issued Requests for Evidence (RFEs) to the petitioners and their attorneys. The parties typically had one to three months to compose responses to USCIS, after which they waited for a final decision (Kinoshita, Bowyer, & Ward-Seitz, 2010, pp. 3-21).

In the first few years of the U Visa's availability, immigration lawyers in this study had little broad-based legal or bureaucratic precedent on which they could confidently rely to inform their case preparation work. By way of alternative, they primarily turned to their own successful U Visa cases and those of their colleagues in coming to an understanding of how best to craft clients' narratives. Lawyers developed and sharpened tactics to predict adjudicators' reactions at Network meetings, but significant ambiguity remained concerning the factors adjudicators appeared to care most about when reviewing U Visa applications. "Some want documents, some want a story, [and] some want nothing," one lawyer complained at a May 2010 gathering. Ultimately, Equal Justice and Network immigration attorneys anticipated that U Visa petitions

⁶² During the first two years (2009 and 2010) that I volunteered at Equal Justice, I regularly observed lawyers tell their clients that they should expect to wait at least four to six months for their U Visa applications to be adjudicated. By 2011, the adjudication process appeared to slow considerably, and attorneys began extending their estimated waiting periods. One Network lawyer, for example, told immigrants that they could expect to wait between three and fifteen months for a decision. There is no absolute deadline by which adjudicators must issue approvals or rejections of U Visa applications.

including dual narrative scripts of what they called “clean” victimization and civic engagement were likely to demonstrate that their clients qualified for and deserved the legal status.

Constructing “Clean,” Qualified Victims

When assisting migrants to solicit U Visas, EJLA lawyers sought to shape clients’ personal stories into legal narratives that squarely marked the applicants as victims. In constructing these narratives, attorneys endeavored to present their battered clients’ status as victims of violent crimes in the form of their “master” trait (Hughes, 1971). Through the scripts they developed from migrants’ accounts, attorneys aimed to convey that their clients’ victimization placed such severe physical and mental restrictions on them that it shaped their every act. They believed that such an approach would enable them to fulfill the “substantial” abuse requirement of the U Visa, rendering their claims for humanitarian-based status as legally bona fide. Configuring migrants’ criminal victimization as “exceptional” and “dramatic” (Ticktin, 2011, p. 129) helped lawyers meet another legal requirement of the U Visa remedy, since the “substantial” nature of the abuse migrants endured could be mobilized as a rationale for their collaboration with U.S. law enforcement, however significant or minimal the cooperation was. Immigration attorneys invoked two interactional strategies vis-à-vis immigrant clients to build “clean” victim narratives. The first involved transforming migrants’ “messy” accounts of abuse into more clean-cut experiences. Attorneys also discouraged their clients from introducing “messy” details to begin with in order to avoid excessive editing work later.

Transforming “Messy” Victimization

To meet the “substantial” abuse ground of the U Visa remedy, attorneys attempted to underscore the control of their clients’ victimizers, many of whom were spouses or partners. The ideal narrative was one of mutually exclusive power and control that portrayed migrants as the

sole degraded and vulnerable party—that is, as “pure victim[s]” (Picart, 2003, p. 97). To construct clients’ U Visa narratives, lawyers or other staff typically met with migrants a few times in person or conversed over the phone to gather first-hand accounts about the violence migrants had suffered. However, in the cases I worked on and observed, only rarely did clients’ self-described accounts entirely mirror the victim narrative that attorneys aimed to present. Attorneys edited clients’ accounts as they were being uttered and, afterward, statements that lawyers considered damaging or irrelevant were omitted, downplayed, or rephrased. Via these social processes, lawyers interactionally and dialectically helped immigrants to “become” the kinds of victims that they thought would be recognizable to Vermont adjudicators (see Holstein & Miller, 1990). They also relied on documentary evidence produced by clients to compose “clean” cases of victimhood. In some instances, the amount of attorney transformation involved in this endeavor was minimal, while other cases required more tinkering, sometimes in the face of questionable information.

Attorneys adjusted migrants’ narratives as they considered clients’ stated, “unofficial” versions of their experiences alongside any “official” records of events. During a declaration preparation meeting with Isabel at Equal Justice, I asked about the domestic violence incident that had prompted her to call the police several years ago. EJLA had recently received an RFE about Isabel’s original U Visa petition, with USCIS asking Isabel (and by extension her attorney, Betty) to provide more information about the incident. Isabel recounted that she had been in the kitchen and dropped a bowl of fruit on the floor, where it shattered. Her husband told Isabel to pick up the fruit, but she refused. Isabel said that she then instructed her daughter to collect the fruit, but the girl also refused. After gathering the fruit himself, all the while yelling at her, Isabel’s husband proceeded to slap her. He then began to beat her with his fists, said Isabel, and

drag her around by her hair.

In looking through Isabel's file after our meeting to see what her original Equal Justice attorney (not Betty) had said about the incident in Isabel's initial U Visa application, I found the police report. Isabel's articulated account differed from what was documented. The report indicated that Isabel's daughter had dropped the bowl of fruit and that Isabel was spanking her daughter with a nylon strap when her husband came in and started hitting Isabel. The police report documented that Isabel was issued a child abuse report and that the Department of Child and Family Services (DCFS) was contacted. When I asked Betty about the discrepancies, she initially commented that sometimes police reports were incorrect; however, as I told her about the child abuse charge detailed in the report, Betty's eyebrows raised. Although it was evident that Isabel was a victim of abuse, she may also have perpetrated violence, casting into doubt the identity of powerless victim that the original attorney had wanted to advance on her client's behalf. In particular, the fact that the violence Isabel may have committed could not be construed as a form of defense was especially problematic. In assessing the corroborative information we had about Isabel, the immigration lawyer asked whether we had submitted the police report with Isabel's U Visa petition (we had not) and whether there was any information on a follow-up from DCFS (there was not). Betty said that since we had not included the police report earlier, we did not need to address the disparities. She went on to comment:

We don't need to introduce information they [USCIS] don't already know about. We don't even probably need to include all of the minute details about the incident. It would probably be enough to just say that the client and her ex were in the kitchen and then describe the DV that occurred, or say something like, "There was a bowl of fruit on the floor, and my ex was yelling at me to pick it up, and then he started beating me."

This excerpt exemplifies the interactional processes through which "clean" migrant victims are determined and constructed by attorneys in the U Visa context. It also suggests the

space for agency that migrant clients have vis-à-vis their attorneys in how they may categorize themselves as victims, advocating for a distinctive understanding of themselves and their circumstances through their verbal statements and the paper evidence they provide. Because no written record of child abuse had been established in Isabel's original immigration petition and because Isabel had not mentioned the child abuse charge herself, Betty felt that as Isabel's advocate she could—and should—overlook this “messy” detail of her client's life. To the extent that they could do so ethically, EJLA lawyers believed it imperative to advance an unmitigated image of their U Visa clients as deferential law abiders and to distance them from accounts that could frame them as law violators. With a “mark” (Pager, 2003) already against their clients on the basis of unauthorized standing, immigration lawyers perceived this as necessary protection.

Certain U Visa clients appeared to be fairly savvy in how they narrated and corroborated their stories to lawyers, thereby assisting attorneys in the scripts they were trying to project to USCIS. Not all migrants, however, took part in this politics of description (see Foucault, 1972) or “information game”⁶³ (Goffman, 1959, p. 8) by carefully communicating their stories in beneficial ways. Their not doing so put more onus on immigration attorneys to guide clients' descriptions of documented and undocumented events in particular ways, as well as to revise statements and cull paper proof to reconfigure clients' victimhood in alignment with the image they wanted to construct. Importantly, though, immigration lawyers were not entirely sure of

⁶³ Goffman characterizes each interaction between any two individuals as an “information game” because each party brings a distinct set of knowledge and motivations to the communication. Therefore, each interaction involves a “potentially infinite cycle of concealment, discovery, false revelation, and rediscovery” (1959, p. 8).

what the most advantageous image of a U Visa petitioner was, preparing clients' cases as they were in a context of significant legal uncertainty⁶⁴.

Eliciting statements from their migrant clients that would enable attorneys to script the “right” U Visa narratives sometimes involved asking targeted questions and making hints to prompt clients to tell them what they thought they wanted to hear. Even if they were satisfied with migrants' spoken accounts, attorneys often had to reword them to produce the final version of a script. In Equal Justice cases I observed, lawyers made efforts to narrate migrants' unauthorized entries into the United States as compelled by their batterers in some way, even if that was not entirely how clients conveyed those acts. If migrants did not explicitly identify this nexus themselves, lawyers asked questions that attempted to draw out testimony that suggested this narrative element.

The following example illustrates this point. Ariel, an EJLA attorney, said that we definitely needed to talk with Guadalupe, a U Visa client, about her unauthorized entry into the country, both because it could prevent her application from being granted if we did not address it and because the details could potentially contribute to the sympathetic aspects of her victimization narrative. If Guadalupe was fleeing her husband's abuse in Mexico when she first entered, or if her husband Jose came to the United States first and insisted she and the children follow him, that would be compelling. Ariel indicated that I should call Guadalupe and obtain more information about her entry, and also about the fake visas she and her children had unsuccessfully presented at the border. She offered some examples of questions I could pose:

⁶⁴ Importantly, the uncertainties of this legal process do not stem from U Visa applicants' deportability. USCIS has indicated that the files and identifying information of rejected U Visa applicants will not be forwarded to Immigration Court for removal proceedings, or to Immigration Customs and Enforcement, either of which actions could result in individuals' deportation (Kinoshita, et al., 2012, pp. 3-34).

“Whose idea was it to use the documents? Was it Jose’s? Why did she decide to use fake documents as opposed to any other way of crossing? Had she heard stories of people dying in the hills? How did she feel about using the fake documents? Had she ever done anything illegal before?”

During our phone conversation, Guadalupe explained that Jose came to Los Angeles about four months before she and her children did. She left Mexico to reunite with him because he “asked” her to, hoping that in a new environment, away from bad influences, Jose’s abuse would stop. Jose, reported Guadalupe, had the idea that she should use a “coyote” (human smuggler) to help her cross the Mexico-U.S. border, and he put her in touch with one. The coyote gave her the fake documents to present to immigration officials at the border because it was too dangerous to cross through the hills with her two little children, then eight and three years old. She said that she had never done anything illegal in Mexico before, and was anxious about relying on false documents, but her husband made all the decisions.

After I got off the phone, I composed a few more sentences for Guadalupe’s declaration and met with Ariel to discuss my additions. Ariel explained that I should try to “paint a picture of Guadalupe’s life in her own words” but choose words to which the Vermont staff would respond. For example, she said that I should change “My husband left four months before I did, and then he *asked* me to come join him” to “My husband left four months before I did, and then he *told* me to come join him.” Guadalupe’s verbatim explanation of her entry implied that she could have chosen to remain in Mexico. Yet, after I asked other questions on the phone, it surfaced that Jose “made all the decisions” in their relationship and even organized her attempted crossing into the United States. Thus, Ariel felt that a retooling of Guadalupe’s language was both fitting and necessary to signal Guadalupe’s lack of active involvement in the decision-

making process surrounding her subsequent violation of U.S. law in entering the country without authorization.

In her discussion of the battered women's movement and the "shift in subjectivity" required by abused women as they interface with legal authorities and attempt the transition from victim to legally empowered survivor, Merry (2003, p. 353) writes that to be labeled worthy in this context "depends on being [a] rational person." In the context of international migration, scholars have argued that it is highly "rational" to move from a poorer state such as Mexico to a richer country such as the United States (see, e.g., Carens, 1987). In turn, it could also be argued that it is "rational" to invoke humanitarian claims if that is what is needed to gain legal status in that richer country (see Ryo, Forthcoming). Interestingly, however, for undocumented migrants applying for U Visa status from within the United States, successful invocation of humanitarian claims often requires immigrants to argue that they did not migrate for economically "rational" reasons but under coercion. In reality, motives for international migration are rarely pure but instead mixed (Ryo, 2006). This is the case with many refugee movements, for example, where political, economic, and persecutory factors are often co-present (Coutin, 2000). Consequently, highlighting the coercive elements of clients' unlawful cross-border moves and obscuring the voluntary become essential components of immigration attorneys' work on behalf of U Visa applicants. A combination of those elements is also reason for Vermont adjudicators to be wary of applicants' claims.

To qualify for U Visa status, migrants must demonstrate that they experienced extensive violence in the United States and that they responded to acts of violence in ways deemed appropriate by the legal and judicial regimes of the United States (see Merry, 2003). In the U Visa context, the "appropriate" response to suffering violent crimes is to contact and collaborate

with law enforcement agencies in any criminal investigations and prosecutions that result. To script the most compelling U Visa cases for clients that they could, Equal Justice and Network attorneys encouraged their undocumented migrant clients to produce oral testimony and documents that attested to their work with police officers in relation to the crimes they endured. In many cases, because they feared reporting crimes to police officers, immigrants had only minimal evidence of crimes they had experienced when in fact they had suffered years or decades of related violence (Menjívar & Bejarano, 2004; Villalón, 2010). In such instances, immigration attorneys suggested to U Visa clients how they might furnish additional documentation of their severe abuse that would support their narratives of victimization.

Another example may prove instructive. Before inviting her in from the waiting room, Alejandra, a Network attorney, told me about Carla's case, reading from the client's police report. "They have been together for six years, one child in common; became upset with victim for talking on the phone; suspect strangled victim, and pinched victim several times on the neck and on the hip." Once the meeting got underway, Alejandra asked Carla whether the batterer was arrested after the incident. Carla said no. When the lawyer asked Carla whether she had any other police reports of her partner's abuse, Carla, after thinking for a few seconds, answered no but said she had been hit several other times. Looking through papers in Carla's file, Alejandra commented, "I see that you have photos of your injuries. That helps. Are you in therapy for domestic violence now?" Carla said that currently she was not but that she was searching for a therapist. The attorney explained that if Carla did indeed go to therapy, that would also help her case. Alejandra instructed Carla to try to get a letter from her therapist documenting what she had suffered in more detail than the police report and confirming that she was enrolled in therapy for domestic violence.

In advising Carla to begin counseling so that she could obtain a letter from the therapist, Alejandra conveyed that armed with this “expert” evidence she would more easily be able to script Carla’s suffering as “substantial.” In turn, Carla’s photos of her injuries could be used to show her “appropriate” response to criminal violence. As physical evidence that she gave to law enforcement, the photos constituted documentation of her cooperation with police, another qualifying ground of U Visa status. Although Carla did not call the police after every instance of the criminal abuse she experienced, an argument could be made that the totality of the violence had finally taken a toll on Carla and that the most recent episode of abuse—albeit one that Alejandra wondered whether Vermont would consider “substantial” enough—had roused Carla to action. Moreover, since the human body has come to be considered the site of ultimate “truth” (Fassin & d’Halluin, 2005) in humanitarian-based immigration legal processes in the United States and abroad, Carla’s evidence of her abuse experiences will likely enhance the credibility of her victimization narrative. A therapist’s letter could help Alejandra to argue that Carla’s abuse was substantial enough to warrant the intervention of civil society to resolve. It also could serve as evidence of Carla’s civic engagement through her seeking out redress and interacting with U.S. institutions, as discussed below.

Blocking “Messy” Details

Attorneys utilized a second strategy to construct “clean” victimization narratives for U Visa clients. Along with molding potentially discrediting “messy” information that migrants presented them with, lawyers sought to deter their clients from mentioning such details in the first place. Part of giving clients agency to produce what the attorneys anticipated would be “relevant” information for their U Visa narratives amounted to curtailing migrants’ agency by

trying not to elicit “irrelevant” information that could threaten intended scripts (see Halldorsdottir, 2006).

Mona, a Network attorney, was meeting with her undocumented client Paula, a middle-aged Mexican woman who had dated an abusive gang member on and off for several years. While she was completing some preliminary forms for the case that documented the involved parties, Mona asked Paula what the batterer’s name was. Paula responded that he used various names, and she did not know which one of two was his correct name. Mona looked at one of the police reports Paula had brought to the office, commenting that it identified the perpetrator as Antonio Miguel Rios. “Yeah,” replied Paula, “that is one of them, and the other one is Antonio Miguel Guerra.” As Mona flipped through two other police reports, there was a pause in the conversation. Paula took the opportunity to ask a question.

Paula: What happens since *I* worked with another name?

Mona: No, it’s okay. I don’t need to know about *that*.

Paula: No?

Mona: No. The entire world does that. . . . Let me ask *you* the questions. If I don’t need to know, I’m not going to ask you. It’s between you and your God. . . . Because there are some things that it’s much easier if I don’t know. . . . You should think of me as a sort of anti-pope. . . . You don’t need to confess everything to me unless I ask you for information.

When Paula, an undocumented immigrant, told her lawyer she had used a name that was not her own to obtain employment, Mona quickly hushed her, knowing that if she learned more about Paula’s deviant behavior, her ability to represent her client as a “clean” victim and law-abiding proto-citizen could fall into jeopardy. In these tricky moments, lawyers attempted to steer clients away from offering up additional discrediting information. However, if attorneys felt that information they had already heard was specifically “material” to their clients’ U Visa

petitions, they figured out how to contextualize it amid the larger scripted narratives of victimization.

In establishing, as Mona did, “golden rules” of communication, immigration lawyers limited clients’ immediate sense of agency in disclosing certain things. However, this maneuver was performed in an attempt to protect migrant clients. The more lawyers were aware of potentially damaging information about their clients, the less wiggle room they had to script clients’ narratives in productive ways while still upholding a “good-faith” legal practice⁶⁵. In this way, curbing migrant clients’ discursive agency actually endowed them with more legal agency. EJLA and Network lawyers made efforts to signal to clients the kinds of information they thought they would absolutely need to know in order to properly represent them and advance their claims. They encouraged immigrants to offer up information of those kinds and nothing more. This tactic is common among attorneys across various areas of practice, particularly criminal defense work (Goodwin, 1994; Mann, 1985, 1999).

It must be remembered that the migrants whose experiences are discussed in this chapter were not legally present in the United States, a fact that in and of itself was discreditable to their U Visa petitions for legalization. Not only did they violate laws by entering without authorization or by exceeding time limits prescribed by temporary standing, but they also were constantly pushed toward continued law violation in order simply to survive, since being out of status excluded them from legally engaging in work. Living “outside the law” (Motomura,

⁶⁵ Part of attorneys’ professional code of ethics involves maintaining what is known as a “good-faith standard” in how they present clients’ cases in legal filings and settings. In their role as advocates, attorneys are supposed to present reasonable and truthful “good-faith” accounts that reflect clients’ explanations of their circumstances to them. In practice, however, particularly during the information-gathering stage of legal cases that occurs behind closed office doors, there is little oversight of and few substantial checks on lawyers’ “good-faith” representation.

2008) makes it inherently difficult for migrants to maintain the “good citizen” (Berger, 2009b, p. 202) image needed to make themselves acceptable to adjudicators, paradoxically putting excessively honest applicants at risk of failure and making it likely that most, if not all, applicants arrive at lawyers’ offices with details that might discredit their petitions.

For example, Laura’s client Tatiana, an undocumented mother from Mexico who fled her abusive husband, came to Equal Justice for help in filing a U Visa application. When it came time to write her declaration and gather documents that demonstrated her eligibility and deservingness, Tatiana brought in several letters of support. In a meeting with Laura, who asked me to draft Tatiana’s declaration, she showed me the client’s letters. One was from Tatiana’s employer, for whom she was working by using her mother’s Social Security number. (Her mother, a permanent resident under U.S. law, was living in Mexico.) “While it’s a very nice letter,” Laura said about how it praised Tatiana’s work ethic and dependability, “we can’t use it in her application.” Laura suggested that when I met with Tatiana I should ask her about her job skills and work experience, but not if she was currently working since she was not supposed to be. Laura explained that it was important to speak about Tatiana’s abilities in general terms to indicate what kind of economic contributions she might be able to make if given the chance to work here legally, foreshadowing the kind of productive citizen Tatiana would be (Berger, 2009b; Ong, 2003; Villalón, 2010).

I adhered to Laura’s instructions, but when I asked Tatiana about her current contact with Diego, her husband, she told me that the year before he had started stalking her while she was at home and at work. I approached Laura to ask whether and how I should include the information Tatiana had conveyed about the criminally violent behavior she had experienced while on the way to participate in what was technically an illegal act itself. Laura replied that while the basic

information (Tatiana's being stalked on the way to work) was compelling in terms of the substantial abuse she suffered, it revealed that Tatiana had been (and thus probably still was) working without authorization. She said that including one vague reference to "work" in the context of Tatiana's victimization would probably be acceptable but that "it wouldn't hurt to change the language" in the sentence I had drafted about Diego's stalking her to "at home and other places" instead of "at home and work."

Undocumented status motivates immigrants to live in a way that reduces documentary evidence of their presence and activities (Abrego, 2011; Gonzales, 2011; Gonzales & Chavez, 2012). On the one hand, that tendency may deprive them of information needed to gain legal status. On the other hand, it may make it easier to obscure unhelpful details. Since successful U Visa applicants have to walk a very fine line between being honest enough but not overly so, their ignorance of an exceptionally complicated legal universe may lead to further complications, which are compounded by the potential for cultural, class, and linguistic barriers between migrants and the attorneys representing them.

Crafting Civic Engagement to Claim Deservingness

In addition to constructing narratives of victimization to argue that their clients qualified for U Visa status, attorneys crafted narratives articulating migrants' civic engagement to demonstrate that their clients were contributing members of U.S. society who deserved legal status. Lawyers believed that in order to be successful, civic engagement narratives should convince readers in Vermont of two factors: that the petitioners (1) were moral and responsible de facto members of U.S. society who obeyed laws despite their illicit presence; and (2) practiced the substance of citizenship without formal status.

Good Moral Character

All immigrants applying for temporary visas or other statuses, including permanent residency and citizenship, must show “good moral character.” Precise requirements for good moral character, a fairly nebulous legal concept, vary. It is generally recognized as the absence of the following behaviors and activities: conviction of murder or of an aggravated felony or federal crime; failing to register for the Selective Service; providing false information in documents; and falsely claiming U.S. citizenship. In practice, however, good moral character is often understood to mean staying out of trouble with the law altogether and acting in civically expected ways, since the determination of good moral character is performed on a case-by-case basis by immigration legal authorities.

U Visa applicants who may be considered to lack good moral character may apply for a waiver of this inadmissibility ground⁶⁶. This fact suggests that demonstrating good moral character may be of somewhat reduced importance for U Visa petitioners as compared to other immigrant petitioners. Nonetheless, in their U Visa casework, lawyers sought to follow norms associated with good moral character in terms of how they and colleagues had demonstrated it successfully in other kinds of immigration cases. Not knowing how the concept would be ascertained for U Visa applicants, lawyers endeavored to prepare narratives of civic engagement that presented clients as deserving of formal inclusion because of their morally responsible behaviors. To do this, attorneys elicited and constructed accounts from migrants that affirmatively demonstrated such qualities, including abiding by laws despite being “legally nonexisten[t]” individuals (Coutin, 2000, p. 27). The goal was to argue that migrants already

⁶⁶ The opportunity to apply for a waiver of the ground does not mean that a waiver, if submitted, will be approved.

fulfilled characteristics of U.S. citizens, so obtaining legal status was the natural—and deserved—next step. While there was debate over how much attorneys should help to compose migrants’ U Visa narratives, both EJLA and Network lawyers attempted to gloss over, hide, or reframe possible red flags related to their clients’ life choices that could be interpreted by Vermont staff as immoral or irresponsible. They likened this approach to a buffering technique, one they hoped would lessen the possibility of adjudicators focusing on migrants’ fundamental political illegality if not other factors that might cast a shadow on migrants’ claims of “clean” victimhood. For example, lawyers sometimes kept out of their clients’ narratives that they had experienced signs of mental illness, that they had no interest in gainful employment in the future (or had already been employed but without legal authorization), that they had alcohol or drug problems, or that they had displayed poor parenting skills.

Similar to attorneys’ approach when constructing clients’ victimhood narratives, helping them become deserving applicants in the U Visa context entailed both eliciting facts to strengthen accounts of migrants’ civic engagement and trying not to elicit adverse information. As in any negotiation between professionals and clients, undocumented immigrants petitioning for U Visa standing and their lawyers possess different types of information that bring them together for a purpose. Unauthorized migrants know their histories and want to regularize their legal status. Immigration attorneys know the law, regulations, and legal decision makers’ track records, and their job involves assisting clients to produce narratives that will enable their legalization. In describing the U Visa case preparation process, one Network attorney explained: “We spend time bridging clients’ understanding of their legal issues with ours.”

A key part of this “bridging” process for lawyers was to encourage undocumented clients to view and present themselves as civically engaged members in ways they anticipated would

count for Vermont adjudicators. In explaining how she facilitated such a transaction, Zoe, an experienced law student clerking at EJLA, described a recent meeting with an undocumented U Visa client, Faustina, for whom she was composing a declaration. Pulled over for having a taillight out, Faustina ultimately was given a ticket for driving without a license. Zoe explained that she was working on the part of Faustina's narrative in which she must ask USCIS for forgiveness of her potential inadmissibility issues. After trying to elicit statements from Faustina that suggested responsibility and moral repentance that she could insert into the affidavit, Zoe remarked:

Sometimes you kind of know what [clients] want to say already, but they can't articulate it. So then you're kind of hinting at it, but you want them to say it. It becomes this whole issue of how much prodding do I do. . . . I asked her, "How many hours of community service did you do? Did you pay a fine?" I mean, I had the information with me, but she needs to confirm it because it's her declaration. I'm not writing it for her. I mean, I am, but in her words. And I'm like, "So what did you learn from it?" And she just kind of looked at me. . . . "My taillights were out." I was like, "Well, you still need to kind of explain that you learned something from the incident and you'll never do it again." And she was like, "Oh. Well, I have to obey the laws, and I learned that my taillights can cause a danger to motorists around me." After she said that, I was like, "That's good. We can stop there. It's just a taillight."

Equal Justice and Network lawyers attempted to extract useful statements from undocumented clients that would help them script compelling U Visa narratives of civic incorporation. However, as the example of Faustina illustrates, eliciting such details sometimes required attorneys to persist in "dig[ging]" deeper about issues that could have significant legal importance but that immigrant clients may have considered as irrelevant to their cases (see Coutin, 2000, p. 96). Zoe had intended to give Faustina the authority to draft her personal legal claims; however, as Faustina responded to cues from Zoe about what to articulate, Zoe as the legal expert, having heard enough, ultimately compelled and crafted her client's account. Greenhouse (1996, p. 209) noted that in institutionalized legal contexts, claimants' personal life

stories are inevitably “constructed out of forms and circumstances that are already legible.” This occurs even in the U Visa context, where precedents that might inform lawyers’ tailoring strategies are thin and uncertain.

Social “Citizens” without Status

In addition to scripting clients’ narratives of good moral character, attorneys inquired into migrants’ ties and other evidence of civic integration into the United States that they had developed in spite of their unauthorized presence. Lawyers thus endeavored to construct their clients as social “citizens” who lacked only legal recognition of their membership.

The only stated requirement of the U Visa remedy regarding petitioners’ children is to list their names, birthdates, and birthplaces on the application form; however, if migrants had children, the attorneys discussed them at length in clients’ application materials. EJLA and Network lawyers considered U.S.-citizen children as particularly compelling to U Visa narratives because, as their caretakers, migrants could cite their dependent “American” children as reasons for being anchored in the United States. In turn, if immigrants’ U.S.-citizen children performed well in school or other symbolically “American” endeavors, attorneys could point to the accomplishments as evidence of their clients’ moral rectitude, given that they as parents could be presumed to have helped cultivate their children’s character and aspirations.

I observed a meeting between an EJLA law clerk named April and Melissa, an attorney, about a U Visa case for Olivia, an undocumented mother from Mexico. Melissa instructed April, who was drafting a cover letter for the client’s U Visa petition, to “definitely play up” the fact that Olivia’s daughter was attending a U.S. university on scholarship and that the young woman hoped to become a lawyer after college. She suggested some phrasing for April, who was

learning the ropes: “Her daughter is, you know, hard-working, [and] with her [mother’s] support, got a scholarship to UC Merced and wants to be an attorney.”

Attending church, taking English classes or other courses, going to therapy to heal from the crimes they suffered, and volunteering at their children’s schools were other activities attorneys asked their clients about when constructing their narratives pertaining to civic engagement. Lawyers hoped to script applicants’ membership through acts that demonstrated their clients’ participation in and contributions to the “American mainstream” (Alba & Nee, 2003) as a rationale for legalization. For example, in a meeting between Bridget, an Equal Justice attorney, and Jessica, a volunteer attorney, Jessica had a few questions about which details of a client’s life and supporting documents to include in her U Visa application.

Jessica: She [the client] submitted an attendance letter written by her pastor. I don’t know how that’s relevant.

Bridget: Yeah, we submit those. . . . She’s a person of faith, you know. Those kinds of things we do include because it shows ties to the community. . . . [F]ocus on sympathetic factors that can compel her story.

Perhaps ironically, being able to present their undocumented U Visa clients as already embedded in U.S. society and its civil institutions was presumed to comprise compelling evidence for migrant applicants.

Berger (2009b, p. 202) argued that since the late 1970s “the norms of good citizenship have stressed individual autonomy, responsibility, and economic self-sufficiency: the neoliberalized self, in other words.” She posited that a “neoliberal logic” has profoundly shaped immigration and related discourses on family and welfare over the last thirty years and established firm boundary markers for “good citizen-subjects” (see also Bhuyan, 2008; Ong, 2003; Villalón, 2010). Attorneys for U Visa applicants seeking bona fide “citizenship” positioned their clients’ claims and experiences within the available grounds of acceptability they

perceived were at play in the emerging adjudication process, however contrived the process may have seemed to them or their clients.

Professional and Ethical Dilemmas in “Legitimizing” Lives

In this evolving legal and bureaucratic context, immigration attorneys believed that crafting dual narratives of victimization and civic engagement was the most effective way to demonstrate to adjudicators that their clients both qualified for and deserved U Visa standing. However, the process of representing migrants well often produced professional and ethical dilemmas for the lawyers. One dilemma stemmed from the tension of crafting client narratives that reflected apparent U Visa norms yet were also congruent with migrants’ individual lives and vantage points. A second dilemma concerned the fact that, given the basic uncertainties of the U Visa application and adjudication processes, even if attorneys performed their jobs to the best of their ability they could not guarantee status to clients they believed were eligible and deserving. In particular, lawyers feared that one aspect of doing their job well—eliciting horrific, very personal details of clients’ experiences that would pull at decision makers’ heartstrings—could lead to nothing and that they thereby would inadvertently contribute to further victimization of immigrants they intended only to help.

Ensuring that Narrative Scripts Ring “True”

To diminish the uncertainty of the U Visa adjudication process for themselves and their clients, immigration lawyers anticipated that migrants’ narratives should mirror other approved, and thus normatively qualifying and deserving, U Visa cases. However, as the U Visa framework was just unfolding, any norms that lawyers inferred from their own and colleagues’ burgeoning successes were inherently subject to change as adjudicators became more familiar with regulations and their application to specific cases. Molding clients’ claims to conform to

emerging norms was also an unstable strategy for lawyers because, if their U Visa narratives became too normative and ubiquitous, Vermont adjudicators could become suspicious of applicants' credibility. Consequently, for clients' accounts to be believable, Equal Justice and Network attorneys decided that their narrative testimonies should speak to yet also deviate from shifting norms lest they be taken as invented or canned. Paradoxically, to claim that their evidence squared with extant case norms, applicants had to present individualized biographical accounts (Heimer, 2001; Merry, 1994).

Attorneys attempted to apprise clients of the importance of providing individualizing details that would enhance the coherence and credibility of their scripted accounts. During the first few minutes of a meeting with Rita, a young undocumented woman from Mexico who had separated from her abusive citizen husband about a year earlier, Equal Justice attorney Amy explained that she would be taking Rita's U Visa declaration. Amy tried to prepare her client for the more normative types of information they would need to include, while also alerting Rita to the fact that providing evidence unique to her victimization experiences would strengthen her account. Amy explained to Rita:

I'm going to give a quick intro of you. . . . After that we're going to move more deeply into the incident where the police got involved, because for your U Visa we need to establish that you helped the authorities investigate the matter. That's why I'm going to grill you a little more on like, "What did you tell the police?" Remember, this is your narrative. . . . You're not going to have an interview with Immigration. So the only reason why I might ask for a little more detail is to make sure [that] Rita Ortega comes through the papers and [that] you're not just this other number on their pile.

Producing narratives that spoke to emerging norms in the U Visa framework yet maintained clients' own voices and unique details of their experiences required lawyers to manage migrants' biographical accounts both as they were being offered during meetings and phone calls and as

lawyers rendered them “visible and legible and actionable” in final petitions (Malkki, 2007, p. 339).

Making migrants’ U Visa claims credible, however, was not achieved solely through lawyers’ inclusion of idiosyncratic details in their clients’ narratives. Another dimension of this process entailed preserving a “typical” immigrant voice in clients’ U Visa narratives. Legal-resource manuals warned attorneys against relying too heavily on normative models or imposing legalistic jargon when preparing migrants’ U Visa narratives:

[US]CIS has stated repeatedly, in several different settings, that it is critically important that a declaration or affidavit from your client [...] be in your client’s own voice. While there are sample[s . . .] and tools you may use as templates for your client’s declaration, ultimately you must make the tone and language ring true as coming from your client. (Kinoshita, et al., 2010, pp. 4-10)

As the United States limited the entry of “foreigners” into its politically enfranchised ranks and as immigrant “fakers” were regarded as ever more prevalent, lawyers anticipated that they needed to construct migrant narratives that smacked of both “general” U Visa norms they understood to exist and “particular” details of migrants’ histories conveyed in an authentic voice (Malkki, 2007, pp. 337-338).

This tactic in case preparation was also adopted to ward off what EJLA and Network lawyers perceived to be efforts by Vermont adjudicators to bureaucratize their assessment process in order to manage swelling numbers of U Visa applications (see Table 1). By the end of 2009 and in early 2010, lawyers began noticing increasing rejections of their clients’ petitions that they believed were unwarranted, as well as high numbers of what they called “boilerplate RFEs.” The latter included Requests for Evidence in U Visa cases for information that lawyers had already included in clients’ applications. The attorneys believed that these rejections and RFEs had been issued by mistake, since adjudicators responded to the flood of cases by

implementing error-prone processing techniques to streamline decisions. They thus sought to orient their U Visa clients to these dynamics so that they could contribute more actively to the “process of self-making” (Ong, 1996, p. 738) facilitating their acquisition of legal status.

Attorneys resisted producing inauthentic narratives, yet they felt that they would be doing their clients a disservice if they did not tailor migrants’ accounts. Lucy, a Network attorney, explained that while she was preparing immigrants’ U Visa petitions in collaboration, she never tried to “put words in their mouths,” since doing so would be unethical. However, she also felt that it would be irresponsible to submit a client’s petition to USCIS that she did not think would be compelling to adjudicators. Lucy identified a “fine line” between prompting migrants to talk about their lives in ways she thought would promote sympathy from immigration authorities and being migrants’ “hired gun” (Luban, 1988, p. 20) or “mouthpiece” (Larson, 1985, p. 445) who would say whatever was needed regardless of its veracity. In her opinion, that was inappropriate. However, it was not completely clear when persuasive framing crossed over to advocacy of a more inventive kind.

Such a “fine line” aside, EJLA and Network lawyers perceived that their strategic scripting of migrants’ accounts was not unethical because they were not pulling clients’ narratives out of thin air but recounting them in the most convincing ways possible. Moreover, as the legal advocates of undocumented migrants trying to gain legal status in what they considered an adversarial adjudication process, attorneys felt justified in tailoring clients’ histories. They believed that doing so could give migrants a slight “edge” with decision makers who otherwise operated under an unfair “cloak of discretion” when deciding to approve or deny their clients’ applications. To “protect clients’ interests,” Equal Justice attorney Lisa asserted:

We [immigration attorneys] need to legitimize clients’ claims. That’s our role. I don’t want to say their claims aren’t valid, but people often look down on undocumented

people. It's our job to put people's packets together and reframe them to remind [Vermont adjudicators that the claimants are] victims.

Legal Enfranchisement or Further Victimization?

The instability of the U Visa application and adjudication processes created another dilemma for attorneys. They could extend no assurances to their hopeful clients that their extensive and emotionally taxing case-preparation work would be worthwhile for them legally. While the availability of the U Visa remedy and other humanitarian-based statuses means that undocumented immigrant crime victims are afforded the space to make potentially powerful legal claims on the U.S. government, their "right" to do so exists within unpredictable legal and bureaucratic frameworks (Hamlin, 2009). Reflecting on the challenges of her legal practice, Equal Justice attorney Nicole remarked:

It's not the law that makes [humanitarian-based immigration statuses] difficult to attain, because in reality the statute sets very reasonable standards. . . . It is the adjudication of the standards that makes [them] very, very difficult to obtain. What's in the books and what actually occurs in reality are very different.

Since the adjudication of U Visa and other victim-based applications is done as a matter of discretion, lawyers perceived that they had to make adjudicators "care" about the plights of their clients. As Equal Justice attorney Diana articulated:

The tricky part of these [cases] is [that] everyone's got a sob story, and it's completely subjective, so it just depends [on] who reviews your application and whether they care enough. . . . It's different from saying, "This is the law, these are the facts, and my client is entitled to this right under the law."

Indeed, scholars have noted that there is a fundamental difference between asserting legal "rights" and compelling "humanitarianism." In her examination of humanitarian relief for undocumented immigrants in France, Ticktin (2006, p. 45) writes:

Rights entail a concept of justice, which includes standards of obligation and implies equality between individuals. Humanitarianism is based on engaging other people in relationships of empathy and in this way demonstrating one's common humanity; this is

an ethics that, when taken to the extreme, entails selling one's suffering, bartering for membership with one's life and one's body.

Attorneys' perceptions of the currency through which to make adjudicators "care" about their U Visa clients were honed during the course of their everyday legal representation of migrants as well as in Network meetings and activities. During a meeting of Network attorneys with staff of a local USCIS Field Office to address inconsistencies in the adjudication of their clients' permanent residency petitions, the District Director⁶⁷ asked the Network lawyers: "What do you call your people?" A few attorneys responded with "clients." The Director chuckled and said that at USCIS they called immigrant petitioners "customers." While the Director's comment may have been somewhat in jest, in revealing how adjudicators might approach their task of evaluating migrants' applications, it supplied lawyers with a mitigating rationale for the detailed eliciting and scripting work they performed on behalf of clients that often felt invasive and contrived.

Part of "legitimizing" migrants' legal claims meant that when clients recounted instances of victimization or abuse, lawyers asked for the dates and locations of incidents, the names of those involved, and so forth. As one Network attorney explained in an interview, "look[ing] out for all of your clients' interests" in her job of representing U Visa applicants often required her to put her clients' legal interests ahead of their psychological interests. She explained: "You need to be like [to your clients], 'No, I need you to tell me about the time that your dad raped you, and I need you to tell me all this shit that you probably never even told your therapist because the crazier your story is, the stronger it is with Immigration.'"

⁶⁷ See footnote 44 for an explanation of USCIS's organizational structure and information about the "Field Office" and "District" referred to here.

The fact that there are so many applicants for U Visa status undergirds lawyers' perception that they need to stimulate empathetic feelings among adjudicators. At the same time, adjudicators may be compelled to repress empathetic instincts in efforts to expedite the process by which they evaluate petitions and reduce the emotional labor involved in reviewing repeated, disturbing accounts of victimization (Heimer, 2001; Silbey, 1980-1981). With this in mind, Equal Justice and Network attorneys anticipated that part of carrying out their professional obligations to clients—eliciting migrant accounts that they believed would tug at adjudicators' heartstrings and motivate approvals of their petitions—could produce dissatisfying and even troubling results.

Fitting migrants' narratives into the legal straightjacket they anticipated, but did not know for sure, would be most effective often caused lawyers to feel discouraged about their interpersonal interactions with clients. They decided to go into this line of work because of their commitment to aiding immigrant crime victims, whom they saw as some of the “most vulnerable” people in society. However, not confident that their grueling case-preparation work with clients would culminate in legalization, lawyers sometimes felt implicitly involved in what Rebecca, a Network attorney, called their “double victimization.”

I think one of the worst things about this kind of a practice is not being able to tell your clients [what is going to happen to them]. I mean, they're already victims, they're already [undocumented] immigrants, and you have to give them an “I don't know” because you don't know. They've gone through so much uncertainty and victimization thus far [that] it really weighs on me as a practitioner to tell them [again], “Um, I don't know.”

Frustrated with this unavoidable bind, some lawyers struggled with the extent to which they were actually assisting or empowering their clients. This was the case even if clients' U Visa applications were ultimately approved by USCIS.

Conclusion

This chapter examined how attorneys deal with legal and bureaucratic uncertainties associated with humanitarian immigration law by investigating their representation of undocumented crime victims applying for U Visas. I showed how lawyers elicited and scripted narratives of “clean” victimhood to demonstrate that their clients legally qualified for the U Visa. Attorneys employed two strategies in this process: (1) transforming “messy” details of clients’ lives; and (2) attempting to block unhelpful information from being introduced. I also exhibited how attorneys constructed narratives of civic engagement that presented their clients as moral and responsible community members and as “Americans in waiting” (Motomura, 2006) who practiced the substance of citizenship without legal recognition. In doing so, I demonstrated how crafting such dual narratives for their U Visa clients caused immigration attorneys to confront a range of professional and ethical dilemmas. Lawyers struggled professionally with the ethical ramifications of preparing client narratives that reflected U Visa norms in the evolving adjudication process yet also authentically portrayed their clients’ lives and experiences. Attorneys were concerned about including either too few or too many details of their clients’ experiences, lest their petitions came across as unbelievable.

Equal Justice and Network attorneys faced a second ethical dilemma as a result of the narrative tailoring they performed for clients. Given the instability of the U Visa adjudication process, lawyers pondered the ethics of performing their jobs “well” if they could not give any guarantee to their clients of petition success. Soliciting details from clients about gruesome forms of violence they had endured was taxing for migrants, and attorneys were forced to consider whether their work could have the unintended effect of “entrap[ping]” them in “another subject position that [might] be different but not necessarily freer” (Berger, 2009b, p. 214).

Attorneys harbored such concerns for all U Visa clients, regardless of whether their status applications were eventually approved. Crafting sympathetic U Visa narratives imposed legal categories on the complexity of migrants' lives. However, despite the "seeming cultural and political hegemony" in which immigration attorneys sometimes felt they were involved (Coutin, 2000, pp. 98-99), lawyers ultimately felt that not to script clients' stories in effective ways would be to do them an injustice because it was via this process that they could make the transition from the ranks of the illicit to legally legitimate members of U.S. society.

Aihwa Ong has argued that citizenship in Western democracies amounts to "a cultural process of 'subjectification' in the Foucauldian sense of self-making and being made by power relations that produce consent through schemes of surveillance, discipline, control, and administration" (Ong, 1996, p. 737; see also Foucault, 1989, 1991). The notion that citizenship acquisition is a dialectical process is rooted in Foucault's concept of governmentality, which refers to the ways in which the regulatory forms of government, via discourse, enmesh individuals at all levels of society (1991). For Foucault and Ong, the power to construct citizens is partially the domain of government institutions such as USCIS, but it is also exercised in civil institutions, including legal organizations, by attorneys trying to make their clients into the cultural "citizens" the nation-state will accept. Citizenship thus is "dialectically determined by the state *and* its subjects" (Ong, 1996, p. 738; emphasis added), which is apparent throughout this chapter in terms of how U Visa applicants participated in their enfranchisement by presenting experiences to lawyers in ways that filled the legalization molds attorneys believed would curry favor with adjudicators.

As success in this context yields exceptionally valuable rewards—namely, continued presence, an opportunity to work, access to benefits, and, potentially, access to permanent

residency—migrants may be motivated to lie or withhold information if they think it could thwart U Visa approval. As migrants’ legal advocates, attorneys may be motivated to shade clients’ accounts as well. In turn, decision makers at USCIS are undoubtedly motivated both to be skeptical toward applicants’ claims and to limit the size of the population reaping these benefits, since exclusion—not inclusion—is the inherent goal of U.S. immigration laws and policies (Walzer, 1983). The latter factor explains why the immigration adjudication process in the United States is filled with so much legal and bureaucratic uncertainty. It is inherently cloudy and purposefully so. For much the same reason, it is resistant to the production of stable norms, making the work of immigration attorneys and immigrant petitioners all the more difficult.

This case of “law in action” (Pound, 1910) illustrates the interactional, dialectical complexity of successfully petitioning for legal status as experienced by immigrant applicants and their lawyers in many areas of immigration law. Under circumstances of legal and bureaucratic uncertainty, I demonstrated how attorneys managed to fashion their clients’ “messy” lives into compelling cases for U Visa standing by mirroring apparent norms they perceived to exist, but also by imbuing petitions with elements of uniqueness that made immigrants appear credible. While most studies of “law in action” to date have examined how attorneys mold the details of claimants’ cases to square with extant precedents, in examining how law emerges within a confining legal framework that is at the same time not completely institutionalized, I broadened the “law in action” paradigm. Beyond the world of immigration law, the constraints faced by immigration lawyers in this study occur in attorneys’ work across the entire legal profession.

CHAPTER FIVE:

TRAJECTORIES AND MANIFESTATIONS OF LEGAL IDEALISM

Introduction

At professional schools and in related apprenticeships, professionals-in-the-making – whether in law, medicine, or other professions - acquire specialized language as well as ways of thinking, reasoning, defining problems, and crafting and implementing solutions to navigate their chosen world. However, as the literatures on “cause lawyering” and “progressive lawyering” suggest, some professionals - lawyers in this case - may pursue particular career paths in service of one or more social, cultural, political, economic, moral, or legal “causes” or out of a strong ideological commitment to social justice issues (Luban, 1988; Scheingold & Sarat, 2004; Shdaimah, 2009). “Cause” lawyers enter law school and/or lawyering jobs with a set of convictions they are dedicated to applying to their legal careers, and thus, they may not fit neatly within the margins of the legal bar’s expressed professional project. As distinct from “conventional” or “client” lawyers, who deploy a set of technical skills to facilitate ends determined by clients (Fried, 1976; Silver & Cross, 2000), cause lawyers’ idea and practice of lawyering involves service to one or more of their own causes in some way, as embodied in intent and/or behavior (Scheingold & Sarat, 2004). Clients’ interests and cause lawyers’ personal interests often align, which need not be the case for conventional lawyers. Research on cause lawyering has examined the way lawyers shape, work with, and find professional and personal identity in causes (see, e.g., Sarat & Scheingold, 1998; Scheingold & Sarat, 2004). Scholarship has also examined the opportunities that various practice types and settings create for cause lawyers (see, e.g., Sarat & Scheingold, 2005; Sarat & Scheingold, 2006, 2008). But

much of this literature has ignored how attorneys' dedication to social causes shapes their behavior as professionals, as they interact with and advise legal clients.

Individuals may contact lawyers to advise them about and help remedy various personal problems. As a social group, immigrants may be more likely than others to experience life challenges when settling in uncharted surroundings; their challenges may be related to or separate from legal status concerns specifically. Despite being an immigrant-receiving country for centuries with robust laws about migrants' entry into the territory and polity, the United States has very weak policies that facilitate immigrants' social incorporation as they navigate a new government, set of laws, and civil society (Bloemraad, 2006; Ramakrishnan & Bloemraad, 2008). In the absence of significant supportive programs, immigrants pursuing legalization or other aid may arrive at attorneys' offices with an array of questions, seeking assistance for concerns beyond their primary "problem." Historically, integration assistance for immigrants in the United States was available from an ad hoc network of several institutions, including voluntary associations (Moya, 2005). Today, non-profit organizations, community-based organizations, and non-governmental organizations often serve as liaisons between immigrant ethnic groups and other institutions, such as government agencies, employers, elected officials, healthcare providers, and schools, providing legal, educational, employment, health, linguistic, and other social services to immigrants and facilitating their social incorporation (Cordero-Guzmán, 2005; Modarres & Kitson, 2008; Schrover & Vermeulen, 2005). These organizations address needs no longer met by shrinking public programs that face contracting federal and state budgets. However, the capability of these institutions to respond to a wide range of queries by immigrants may be limited because of constrained resources, employees' bounded expertise, as

well as any professional ethics or norms that constrain service provision (Shdaimah, 2009; Smurl, 1979; Tremblay, 1999).

In non-profit or community-based *legal* organizations that cater to immigrants, attorneys may be motivated to provide forms of assistance to clients that stray from the legal aid their professional role specifically calls for, knowing clients' struggles well and aware of resources that could improve their lives. Yet high community demand for legal services means non-profit staff must decide how to allocate any secondary assistance they extend. This may limit who is served, which areas of need are addressed, and what range of services is provided.

This chapter investigates how the moral and political commitments of cause lawyers affect their career choices and legal practice through a case study of Los Angeles non-profit attorneys who represent immigrant crime victims. I begin with a discussion of relevant literature, including studies on lawyers' entry into the profession and their behavior during legal practice, work on immigrant integration in the United States as facilitated by civil society actors, and research on immigration attorneys specifically. Drawing on ethnographic participant observation and in-depth interviews and ethnographic participant observation (see pp. 17-31), I then present my findings. First, I explore lawyers' paths into their profession. Next, I examine the aid attorneys dispense to immigrants about "ancillary" matters lawyers view as secondary to legal advice. Lastly, I consider the institutional dynamics that facilitate lawyers' modes of client representation, the consequences of attorneys' legal idealism, and lawyers' understanding of their professional role.

Attorneys' Entry into the Legal Profession and Behavior in Practice

Early writings on attorneys in the United States treated lawyers as part of an essentially undifferentiated profession composed of like-minded individuals dedicated to serving the public interest (Parsons, 1939, 1954). By the 1960s, empirical research on lawyers revealed variations in attorneys' behavior across practice types and legal settings that challenged the idea of a unified profession (see, e.g. Carlin, 1962; Smigel, 1964). Critics argued that lawyers should not necessarily be understood as virtuous, self-restrained experts whose behaviors were dictated by a uniform professional ideology, but rather as members of particularistic social groups with unique interests and constraints that affected their behavior vis-à-vis clients. Sociological work in this vein, particularly that of Larson (1977), laid the foundation for a series of studies documenting the ways in which a lawyer's background (including such factors as gender, race, geographical location, and parental occupations) shaped career path and professional motivations (Abel & Lewis, 1989; see also Carson, 2004; Dávila, 1987; Heinz, Laumann, Nelson, & Michelson, 1998; Wilkins, 1998).

Researchers also began to analyze how the content of lawyers' work is affected by who their clients are. In the wake of the Watergate scandal, for example, concerns for the ethical standards of lawyers inspired inquiries into the extent to which lawyers become the "hired gun[s]" (Luban, 1988, p. 20) for or the "mouthpieces" (Larson, 1985, p. 445) of their clients (see also Nelson, 1985). Sociolegal scholars have since attempted to identify the ways in which lawyers come to understand their professional roles and the norms of legal practice in a variety of practice settings. Nelson and Trubek (1992, p. 179) developed the concept "arenas of professionalism" to describe the four institutional settings in which lawyers construct their

professional values, whether explicitly or implicitly: legal education, bar associations, the workplace, and disciplinary enforcement (p. 185). The “arenas” perspective allowed for the possibility that lawyers could develop different versions of the professional ideal in response to political, ideological, and situational concerns.

Nelson and Trubek (1992) conceived of the “workplace” where professional values are communicated and inculcated as the individual large law firm or other discrete organizations within which lawyers labor (pp. 205-210). However, particularly in the solo- and small-practice context, the “workplace” as an “arena of professionalism” may be a looser association of lawyers who share office space or provide advice, even if they are not formally associated or even physically near (Carlin, 1966; Levin, 2001). For these lawyers, Mather et al.’s (2001, p. 6) concept of “communities of practice” may be more useful. In their examination of divorce attorneys in small law firms, Mather, McEwen, and Maiman (2001) documented the ways in which socialization and identity created spaces for lawyers to shape a culture of professional labor outside of their proximate professional environment.

The extent to which communities of practice exercise collegial influence and controls on individual attorneys may hinge on a variety of factors, including how and how much lawyers associate with the group, the congruence between attorneys’ self-interest and collegial expectations, and the degree to which members of collegial groups share language and experience. The timing of exposure to communities of practice in the course of an attorney’s career may also affect the extent to which a lawyer internalizes the professional values and practice norms of a relevant collegial group. New lawyers closely observe experienced attorneys as they learn to practice law (Levin, 2001; Seron, 1996). Observation and advice from other lawyers in their own offices is a major source of learning in practice (Garth & Martin, 1993;

Zemans & Rosenblum, 1981). Once lawyers have decided how to resolve a question in practice, they are likely to resolve the same question in a similar manner when it arises in the future (Langevoort, 1997; Levin, 2004; Rostain, 1999). Thus, lawyers' early professional development and career paths deserve careful attention by researchers interested in understanding how professional ideologies develop and affect legal decision-making.

Besides communities of practice, scholars have pointed to factors such as workplace commitments, client resources, lawyers' background and personal characteristics, formal rules, and cognitive biases as additional factors that influence attorneys' behavior in practice (Langevoort, 1993; Wilkins, 1990). "Cause" lawyers may choose legal careers or use their legal skills in order to pursue or reflect ends, ideals, and personal commitments that transcend basic client service and requests (Sarat & Scheingold, 1998). For example, cause lawyers may select clients and cases in order to pursue their personal ideological and redistributive projects or to contribute to broader social movements outside of discrete legal cases. At least in principle, cause lawyering differs considerably from traditional conceptions of professional lawyering, according to which attorneys are expected to provide case-by-case service without reference to either their own or to their clients' values, policy preferences, and political and social commitments. In practice, however, researchers have demonstrated that cause and conventional lawyering may overlap (Sarat & Scheingold, 2001; Shamir & Chinsky, 1998). Cause and conventional lawyers may also construct and reconstruct their professional identities and practices as a result of their experiences.

Studies on cause lawyering have examined the way lawyers shape, work with, and find professional and personal identity in causes (see, e.g., Sarat & Scheingold, 1998; Scheingold & Sarat, 2004). Scholarship has also examined the opportunities that various practice types and

settings foster for cause lawyers (see, e.g., Sarat & Scheingold, 2005; Sarat & Scheingold, 2006, 2008). But much of the cause lawyering literature has overlooked how attorneys' dedication to social causes affects their professional behavior. Research on cause lawyers' actual legal representation is important. Without such investigations, cause lawyering remains a partially realized project, as it may be underestimating elements that shape the practice of cause lawyering and discounting important consequences of it (see Shdaimah, 2009).

Immigrant Integration and Civil Society Actors

Legal and social incorporation assistance for immigrants in the United States has historically been available from a collective of institutions, including voluntary and charitable associations, among them legal aid societies (Heeren, 2011; Moya, 2005). These collectives grew into modern-day manifestations in the form of non-profit organizations, community-based organizations, and non-governmental organizations (Modarres & Kitson, 2008). These organizations have provided important services to immigrants and other socially marginalized populations in American society particularly since the 1970s, when the push for privatization of the American welfare state meant that the government contracted more of its services to non-profit organizations (see de Graauw, 2008). In recent decades, however, as the magnitude of immigration increased, the capacity of these institutions diminished because of funding cuts to government grants and contracts for non-profits (Gleeson & Bloemraad, 2012; Modarres & Kitson, 2008).

Despite the significance of non-profits and other civic organizations as providers of legal and social services to immigrants, the study of contemporary immigrant community organizations is in its infancy (Ramakrishnan & Bloemraad 2008). The immigrant adaptation literature in sociology and related fields has focused primarily on economic and demographic

outcomes, with much less attention to civic institutions and processes (Alba & Nee, 2003; Bean & Stevens, 2003). Scholars of the “migration industry” have analyzed the profit-driven enterprises and actors who have interest in facilitating migration (Hernández-León, 2008; Spener, 2009). Recently, however, scholars have argued that the migration industry could encompass civil society actors who perform similar roles yet are involved in the rehabilitation of vulnerable immigrant populations (Agustin, 2007; Garapich, 2008; see also Hernández-León, Forthcoming; Shih, Forthcoming). Without profiting directly from either the facilitation or the control of migration, these actors have become key players in the development of interpretive frames and institutional infrastructures to manage migratory flows. Some of this research has examined the role of organizations in these endeavors (Agustin, 2007; Shih, Forthcoming). Nonetheless, organizations have generally taken a back seat to other collectives, notably the family and household unit, and the ethnic group, in research on facilitators of immigrant integration (see, e.g., Kibria, 1993; Menjívar, 2000; Pessar, 1999; Portes & Bach, 1985; Zhou & Bankston, 1998).

Recent research has identified community organizations as successful sites of immigrant incorporation. Through their service provision and advocacy work, non-profits help immigrants acquire the skills and resources that facilitate their participation in local civic and political life. Via daily interaction with immigrants, these non-profits collect valuable information about the people they serve, which puts them on the frontline of developing, assessing, and meeting immigrants’ needs (Cordero-Guzmán, 2005). Employees of these organizations are often immigrants themselves or the children of immigrants, and they generally have firsthand experience with the issues facing immigrant communities (Wong, 2006). At the same time, scholars have documented stratification in how services are distributed, in part because limited

resources and expertise encourage staff to prioritize aid dispensation around certain issues or populations (Villalón, 2010; Wong, 2006). De Graauw's research on immigrant non-profit organizations in San Francisco showed that staff members tended to focus resource-building and political mobilization efforts on immigrants who already had a basic level of skills and interest that staff believed would encourage active political participation (2008).

A related issue is that the services offered by non-profit organizations or other well-intentioned social actors to immigrants may prove counterproductive. Bhuyan's (2012) study of domestic violence shelter staff in Toronto illustrated how benevolent social services providers could unintentionally deprive immigrants of knowledge and support required to negotiate their legal rights by giving immigrants incomplete or inaccurate information about legal assistance, health care opportunities, housing services, and welfare funds. Bhuyan found that busy shelter staff invoked various strategies to connect immigrants with outside sources of advice, their patchwork and uncoordinated approach resulting in only some immigrants reaching the aid they sought.

Immigration Attorneys

Immigration lawyers have been conceptualized as "gatekeepers" (Villalón, 2010, p. 79) and "guardians at the gate" (Levin, 2009, p. 399) because of the significant role they may play in immigrants' lives. Fundamentally, migrants' experiences with immigration attorneys often determine whether they are able to obtain or retain legal status (Ramji-Nogales, et al., 2009). Along with human, economic, and social capital, legal standing has been shown to be a central determinant of an immigrant's and his or her children's life chances (Donato & Armenta, 2011; Kasinitz, 2012; Massey & Bartley, 2005; Menjivar & Abrego, 2012; Yoshikawa, 2011). Furthermore, migrants' experiences with immigration lawyers have been shown to affect their

views of lawyers in general, of the U.S. legal system, and of American society as a whole (Coutin, 2000; Menjívar, 2011). Although immigration lawyers help some of the most marginalized members of society and despite the fact they work in and through an extraordinarily complex area of administrative law, little has been written about U.S. immigration lawyers, with some important exceptions.

Levin examined the backgrounds, career paths, and early professional development of private immigration lawyers in New York City (2009, 2011, 2012). Through qualitative interviews with seventy-one immigration lawyers, she found that two-thirds were born overseas or had at least one foreign-born parent. Others had or felt a strong connection with the immigrant experience, even when they were not immigrants or the children of immigrants themselves. These factors contributed to the lawyers' becoming immigration attorneys (2009). During their careers, Levin found that immigration attorneys formed different communities of practice depending upon the type of legal work they did, the offices in which they worked, and the clients they represented (2009). In suggesting areas for further research, Levin (2009) proposed that by identifying the backgrounds and personal characteristics of immigration lawyers and how and why they entered the immigration field, it may be possible to better understand their views about and approaches to their work.

In her research on the legalization efforts of Central American refugees, Coutin conceptualized immigrants' non-profit attorneys as "cause lawyers" because of the "complicated politics" of their legal work (2001, p. 118; see also 2006). Coutin argued that by virtue of representing undocumented migrants in their regularization attempts, lawyers were active participants in radical social movements (2001). To help realize their clients' goals, lawyers

drew on models of statehood, membership, and legitimacy that positioned them as political advocates whose work extended beyond the bounds of the conventional lawyering role (2006).

Ideals and Realities of Legal Services Lawyering for Immigrants

This chapter explores the meanings and manifestations of the intersecting identities encompassed in being cause lawyers serving immigrants in non-profit settings. In contrast to other explorations of how cause lawyers shape social movements and moral, ethical, and political agendas as a result of their labor on individual legal cases, this chapter analyzes cause lawyers' career trajectories and how their personal and professional commitments affect the act of lawyering itself.

Professional Paths

All of the immigration lawyers who participated in this study perceived their work as part of something "larger". David, a Network attorney who has been representing domestic violence victims in their VAWA and U Visa status pursuits for ten years, explained, "I see myself as a foot soldier. I do the day-to-day...but I think I'm part of a large campaign, a larger war in that sense." Katharine, whose EJLA clients include asylum, VAWA, and U and T Visa petitioners, has been a public interest immigration lawyer for over fifteen years. Among other reasons, Katharine described that she "love[d]" her career because she "can really get into the trenches" of immigrant social movements. A practicing lawyer when the 2000 Victims of Trafficking and Violence Protection Act was passed and the T Visa for trafficking victims was established, Katharine recounted that:

When you see something move, it's inspiring to be a part of that movement. "Trafficking," for example, didn't even exist before 2000. People didn't even know what that was. I didn't even really know what that was. Now there's this whole movement that is very grassroots and really vibrant, and I'm part of that. It feels like you're helping a lot of people by spreading something.

Although the “larger war” and “movement[s]” these and other attorneys referenced may be somewhat amorphous, their conception of lawyering and its potential to contribute to broader agendas exerted a strong influence on career choices. Indeed, most of the lawyers in this study worked in what could be described as social movement organizations (McCarthy & Zald, 1977) that were spawned from or began as part of movements: the immigrant rights movement, the women’s movement, the labor movement, and others.

Without exception, lawyers explicitly chose the legal profession as a means to promote social change, an orientation that was especially apparent in comments like the following. An Equal Justice attorney for survivors of domestic violence and other violent crimes, Katie described her rationale for choosing a career in public interest law.

The decision to do non-profit, I think I just made that a long time ago. I did not do this [become a lawyer] to go make a lot of money. I did it so that I [could] secure difficult-to-get information. I felt like [I] sort of had a responsibility, having been given the privilege and the opportunity to do it [attend law school], to try to share that knowledge.

The lawyer’s explanation of her decision to become a non-profit attorney, in its emphasis on developing a resource set that she could use to help others, echoed those of other immigration lawyers who participated in this study. Embedded in attorneys’ statements was an underlying belief in the efficacy of the law to remedy social injustices. They saw it as their calling to promote the remedial power of the law to lay individuals by translating arcane legal knowledge into comprehensible sources of enfranchisement.

For most immigration attorneys in this study, it was the cause rather than the law that was the centrifugal force motivating their decisions to become lawyers and their choice of career path after law school. All lawyers identified personal connections to the immigrant experience. They themselves, family members, or friends were immigrants; those unrelated to immigrants via blood or kinship ties recalled experiences when an otherwise strong alliance with immigrants

was forged. In interviews, many attorneys pointed to distinct transformative experiences, usually as teenagers or young adults in high school or college, that galvanized their career choices.

Network attorney Ana described the event that took her “interest” in immigration to a “dedicat[ion].”

I come from immigrant parents and I grew up in an immigrant community, so that’s kind of what sparked my interest initially. And then I think around when I was in college or so, my sister’s husband was deported... Seeing the effects that had on her and on my nephews - she has to go and come back from Mexico with the kids to go see their father - kind of pushed me over the edge. [I realized that] this happens on a day-to-day basis here and I want to do something to help. And so that’s why I’m dedicated to immigration.

Attorneys’ values and sense of obligation to the immigrant community and other related constituencies shaped their career interests both before and after they became attorneys. Inspired by the free speech movement, Network attorney Mariella entered law school with the goal of becoming a civil rights activist and afterward landed a job doing civil rights litigation. However, the job was not what she expected, as she felt like “clients got lost in the whole thing.” After three years and some “re-evaluation” of her “goals,” she shifted career tracks to work in non-profit immigrant rights advocacy representing U Visa, T Visa, and VAWA petitioners. Mariella traced the thought process she went through in realizing the best career “fit” for her.

I didn’t like the civil rights job because the vast majority of my time was spent literally engaging in a paper war with opposing counsel rather than with clients. I thought, I have to just go back to my first love. I loved immigrants’ rights, I love working with clients, and I loved serving the Latino community... I would say on a personal level is where my interest came from. My mom is an immigrant from Mexico and I’m really close to her. She always raised me with an awareness of our community and our culture and the privileges that I have in comparison to other people in my community by virtue of the fact that I’m born here, I was raised middle-class, and I had access to quality education - all these things that people in the Latino community don’t really have access to.

Many attorneys in this study expressed a long-held commitment to social justice generally and immigrant issues specifically during interviews. Sometimes these interests led them to law school immediately following college, as in Mariella’s case. But for a number of

lawyers, a career in the law was not in fact their first choice, and they decided to practice law only after weighing the instrumental value of a law degree and the leverage that came with it. Hannah, an Equal Justice lawyer, became a social worker after graduating from college and started her career working for the Department of Children and Family Services (DCFS). Hannah described that she enjoyed her job, but experiences during a training placement while in graduate school primed her to notice the limitations of her social worker role soon after she started working at DCFS.

By sheer coincidence, in my first year of my MSW program, I was placed at a public interest law firm and I knew nothing at all about law... [But] I got to work closely with the attorneys and I just saw day in and day out how the law was used to really make an impact on a client's life or do something that clients really needed done. I also noticed that the individuals who were able to take the clients' wishes and wield the most power, so to speak, were the lawyers. While supplemental reports or anything I did to stabilize the clients' lives were fine, there was something to be said for the ability to go into court. That's what got me thinking strategically about how to have the most impact.

Like Hannah, who began law school in her late twenties, some other attorneys in this study worked in related "helping" professions or job sectors and decided that they could not advance their career or social change goals without a law school education. They considered law a good choice because of the prestige and professional flexibility of a law degree. Indeed, many lawyers saw their legal degree as "a means to an end," a tool through which to actualize their political, social, moral, and personal goals. More than one described that they had been involved in what they framed or directly referred to as "legal" or "social movement" activities in other careers before becoming lawyers. Katie, an EJLA attorney quoted above, was a high school teacher before she went to law school. Ultimately she chose law as the best avenue to educate the immigrant youth she encountered via her work in the classroom.

I was a high school teacher here in L.A. before I went to law school, and I worked with a lot of young people who were really unbelievably committed. They had done everything right, everything that the adults in their lives had told them to do, and then

they were graduating and had no way of going to college, basically. They had no funding and they weren't eligible for financial aid because they weren't documented. I just saw that kind of wall that they hit and how frustrating that was. In thinking about their situation and what their options might be, I tried to sort of seek out information way before I even thought about being an attorney... I knew that I wanted to do more to try to support folks. Oftentimes when I was teaching, there were just so many needs that it felt a little more urgent than making sure they could correctly craft a paragraph.

Katie, like Hannah, chose law only after attempting a career that she regarded as a promising avenue for social change. In all cases, lawyers looked for means to maximize their personal efficacy to best serve their chosen social change agendas and constituents. After an unfulfilling job in corporate law after graduate school, Clare started over as a non-profit immigration lawyer at Equal Justice representing asylum applicants. She perceived that in her current job, her own experience as a refugee enabled her to relate well to clients.

I'm a refugee from Vietnam... My family, including myself, we fled by boat, so I grew up with this refugee legacy. I think that the fact that I have the experience of being a refugee helps me to understand the experience, enables me to relate, and enables me to have a certain sense of empathy that otherwise could not be obtained unless you share the same experience. When I look into the eyes of the clients, I know exactly what they're feeling and it actually drives me.

Converting her empathy for this population into legalization efforts for asylee clients was Clare's way of maximizing her personal effectiveness in her professional career. Lawyers' remarks configured their professional identities as inextricably connected to their personal sense of self.

“Ancillary” Aid

As lawyers collaborated with and prepared legal status petitions for immigrants, their motivations to participate in social justice efforts and ideological commitments to improving immigrants' lives filtered into their client interactions. During ethnographic research, I observed attorneys as they dispensed non-legal assistance to immigrant clients in a variety of forms. They emailed co-workers asking for clothing and toy donations for clients' children. They helped immigrant clients search for jobs and housing. They organized free, informative workshops

around issues they perceived contingents of clients were grappling with, such as how to prepare emotionally to reunite with family members they had been physically separated from for years, and how to apply and pay for educational and occupational training programs. They helped immigrant clients who were domestic violence victims to apply for legal name changes so as not to be reminded of their abusive ex-spouses.

When I asked attorneys about this assistance, lawyers framed the guidance and resources as “ancillary” aid, “supportive services,” or “extra” help. Lawyers explained that the aid was secondary to the legal services they provided, and therefore they did not extend it to all immigrant clients even while acknowledging that all of them could probably benefit from additional guidance beyond the realm of legalization. I identified two types of occasions where attorneys tended to offer interventions of secondary aid. These included when attorneys 1) learned of an ancillary issue during a client’s legal casework that they could offer information about without significant added labor; and 2) viewed ancillary help as integral to a client’s ability to realize the goals that promoted him or her to engage the legal system in the first place. Analysis of these occasions provides a window into how immigration cause lawyers’ ideals manifested in context.

A) When “Life Issues” “Come Up”

Immigration attorneys often extended “extra” or “ancillary” guidance and resources to clients when an issue arose during casework that lawyers felt they could advise immigrants about without added investigation or significant diversion from their primary legal tasks. A number of attorneys shared EJLA attorney Katie’s sentiments about supportive aid offered in such occasions.

Things come up all the time that really are more social work related. When these issues come up that are big issues that normally your immigration attorney wouldn’t be

handling for you, I do my best to at least give [clients] resources or do whatever limited research I can to make sure they have a number to call...because people are in kind of desperate situations sometimes and I'm kind of the person in their life who has access to some information. I think providing a more holistic service to the clients is an important piece. I'm happy to do these things, but that's what makes it difficult when the caseload is so large. There is the potential to do that much work in every case. But at some point, you kind of stumble upon some need or someone is vocal or you just happen to know.

Many lawyers perceived that they were among their immigrant clients' few middle class allies in navigating American society. They believed that it was their responsibility to share "holistic" types of non-legal advice with clients that could improve immigrants' lives and that they might otherwise not be aware of. As Rosario, an Equal Justice paralegal, put it, "Our role is limited, so we don't get into all details of a person's life. But you get a little deeper and find out they're \$40K in debt from trade school, for example, and they think they will get a good job after. So, it's difficult not to want to help them."

Erin, a Network paralegal, maintained that ancillary "life issues" commonly surfaced in her legal work with immigrant crime victims. The paralegal, who prepares U Visa and VAWA deferred action petitions, felt it was "incumbent" to address clients' ancillary concerns as much as her time and resources allowed.

I think that almost all of them [immigrant clients] are going to need at least some help with other issues. I think it's incumbent. You're spending so much time with them that you're going to hear about things. And if we don't help them with it, who else? They may never have had this kind of service [legal assistance], so they mention that they've got housing problems. Then it's, you know, my son just got kicked out of school. So we go, "Oh, OK. What's going on with that?" We make sure that either we can help or we can provide referrals, and sometimes it's as easy as this. [I have a client] whose son had some disease where your body burns and itches on the inside. At school he couldn't stay still, he couldn't keep his shoes on, because he was constantly itching. And [on top of that] he had limited food [to eat at home]. She [the client] had been told on a piece of paper from the children's hospital specialist what he had and they sent him back to the doctor so they could give him medication that might help him. [To me] she was like, "I have an IEP [Individualized Education Program] for him, but I've gone through so many IEPs that I don't know if they're going to listen to me anymore." So I'm like, "OK, let's look it up online." And there was a website for kids that have this disability, and a school guide on what to do with the IEP and how best to serve these clients. So I printed it out

in English and in Spanish, called the school, and I faxed it over to them and I said, “Take a look at this.” I was so tempted to go with her to the IEP [appointment] because I wanted to make sure that they were going to do it right, but there’s kind of a line, you know?

Immigration lawyers invoked various terminologies to reference the boundaries of their secondary supportive resources to clients. It was apparent that all had internalized a limit that demarcated the extent of “extra” aid they could offer to immigrant legal clients. Attorneys described that their ancillary aid primarily entailed “connecting” immigrants with other agencies or individuals (through phone calls or emails, for example) that could assist them, as Erin’s case demonstrated. Sometimes aid was also dispensed in the form of concrete gift items, such as clothing, toys, or devices, as mentioned above. During an attorney-client meeting I observed at Equal Justice, attorney Clare offered an asylee client her ten-year-old laptop computer. The man, a homeless poet and revolutionary from Bangladesh who had recently been robbed of his sole possession (a cell phone), described what happened as he worked with the attorney to prepare his permanent residency application. Clare responded, “Well, Ali, I do have a laptop that’s like 10 years old. You can have that laptop if you want, as a gift. The law doesn’t allow me to give you money, but I can give you the laptop. At least you will have a computer so you can write, you can use Microsoft Word and you can type up your life story and play games.” To Clare, offering her out-of-use computer to Ali was a form of ancillary help that she anticipated would stabilize her client’s mental and emotional welfare, her way of contributing to the client’s “holistic” recovery. To me, Clare explained that she hoped having the computer would facilitate the success of Ali’s legalization case as well, as it was often difficult for her to understand the linear progression of her client’s life as he explained events in meetings. If he had the opportunity to record instances himself, Clare hoped she would be able to triangulate the written accounts with Ali’s narrated versions to produce a superior legal petition on his behalf.

Moreover, giving her client an old computer did not require extra research or work on Clare's end, but she felt the resource could significantly improve Ali's situation.

A number of lawyers besides Clare recalled moments when they had considered giving their immigrant clients money as a form of ancillary assistance. Like Clare, they acknowledged that despite personal inclinations to help clients in this way, such an act would stretch their professional ideology too far⁶⁸. Instead, they considered ways to confer similar benefits they imagined money could provide. Network attorney Bonnie described circumstances that had prompted her to contemplate offering a client's family money for food but decided to research how they could access several food banks near their home.

I had this really sad U Visa case. It was awful, awful domestic abuse from over ten years ago. She [the client] had separated from him, and she had a long-term boyfriend she decided to marry. She had three kids from her previous marriage and they had five kids together. He does construction, he's undocumented, [and he has] no work right now. The family was getting some CalWORKS⁶⁹ money, but only for the couple U.S.-born kids they had, which wasn't very much considering they have eight kids. So, what happened was the eldest daughter got arrested for shoplifting. When I was talking to her [about it], she said, "I was shoplifting for things we needed for the family." I almost cried, and I was like, "You have to stay out of trouble." She was like, "I had bread, so I stole food for the family like peanut butter. Things that we can eat so that we wouldn't be hungry." Oh my God. I was like [thinking], give her some money, but I can't. I can't give a client money. But I *can* make sure that she's going to get connected to the food banks near her home so that they can go to more than one food bank.

⁶⁸ One attorney disclosed that she gave a client money at the outset of her legal career and was reprimanded – but not fired - by her boss for it. She said she realized in retrospect that what she did was inappropriate.

⁶⁹ The welfare-to-work California Work Opportunities and Responsibility to Kids ("CalWORKS") program provides temporary financial assistance and employment-focused services to families with minor children who have income and property below state minimum limits for their family size.

As Bonnie's and others' statements demonstrated, immigration cause lawyers' personal and professional ideologies and identities often converged during legal practice, producing a range of moral and ethical binds that attorneys had to manage.

B) Making the Law "Work"

Immigration attorneys frequently extended forms of ancillary assistance if they perceived that the aid was elemental to their clients' realization of their personal goals for applying for legal status. In many cases, after immigrants received the legal status or benefit they had petitioned for with attorneys' help, the formal attorney-client relationship ended. Lawyers would explain to immigrants the conditions associated with their new legal standing or benefit, and immigrants were told if and when they could return to the organization to see if attorneys could assist them with subsequent petitions. However, this chain of events did not always result. In interviews, lawyers recalled instances when they felt they "had to fight" more for immigrant clients. These instances exemplified the second type of occasion that prompted ancillary aid from immigration cause lawyers.

Attorney Katie explained that her U Visa client Devi had a five-year-old son in her home country that she left behind when she was trafficked to the United States. Katie helped the client apply for U Visa standing, and as part of that process, Devi was able to include her son on the petition. According to Katie, Devi had made it clear from the outset of their attorney-client relationship that reuniting with her son was her primary motive for applying for U Visa standing. Once Devi and her son's U Visa petitions were approved, Katie's work as Devi's attorney was officially complete, but Katie did not see her job as done. She explained that Devi had not seen her son since he was one year old, and Katie was worried about a number of "potential issues"

that could come up during their reunification, including the economic and logistical issues of arranging for the child's transportation from Southeast Asia to Los Angeles. Another issue was that "the child doesn't even know the parent." Katie described the "extra legwork" she did to facilitate her client's family reunification, which she perceived as a key part of the success of Devi's U Visa case even while acknowledging that she did not "normally do those kinds of things" for clients.

There is an organization called the Offices of International Migration (IOM) that will help reunify trafficking survivors with family members... So I filled out the form, [and] requested assistance from IOM, basically because that organization will then pay for the child's flight here. It will accompany the child and go with the child to their counselor appointments... [There is a] limited amount that I can do [after a client acquires legal standing], so when I know of that kind of opportunity, of course I'm going to contact IOM and do the forms and touch base with them and get the information about when the child's coming. And I was even going to potentially go as backup to LAX [Los Angeles International Airport] to make sure that the parent was there and the child was unified okay. But fortunately at that point I was able to contact the Coalition to Abolish Slavery and Trafficking and they agreed to meet with her and provide some support services to her and financial services, and go to LAX. [M]ost people's immigration attorney's not going to go and make sure your kid gets off the plane and into the car seat, but that's what I would have done had I not been able to get somebody who really had more skills and information in those areas to go and do that. [N]ormally, the client just has to figure it all out. [But] in situations when I know that there are options that will bring other supportive services to the client that I can help facilitate, I do it. [It] takes extra work, but at the same time, it's also very connected to the work I need to do, because that's part of her immigration case. It's just, it can be more sort of on *her* to kind of work it out, or I can take some of that on to try to assist her. And to me it's worth it, especially when I know the client.

Katie explained that Devi's immigration legal case included reunification "work" involved with the client's son. However, Katie's reunification role technically only entailed completing a compelling legal petition for the young boy's U Visa, not planning the parent and child's physical reunification itself. Yet from Katie's perspective, it was "worth it" for her to broaden her notion of "relevant" reunification case work in certain cases, particularly "when she kn[ew] the client" and was well aware of her client's reasons for mobilizing the law. In this case, a

reunification of Devi and her son that was successful both legally and personally was Katie's goal, and she undertook "extra" efforts to ensure those results. This approach and understanding of a lawyer's role vis-à-vis clients reflected Katie's position as a cause lawyer with ideological commitments and motivations that extended beyond basic service provision.

In examining closely the kinds of issues immigration cause lawyers considered as "connected to" their clients' legalization cases, it became evident how their personal ideologies filtered into their professional positions. During an interview with Network lawyer Jessica, the attorney explained that the weekend before, she had done something "very powerful" for one of her immigrant clients, a U Visa holder. The client, Leticia, had recently acquired U Visa status stemming from her husband's domestic violence that occurred both in Mexico, where her four children still lived, and in Los Angeles, where the couple had moved three years prior. Leticia's daughter Citlali, age 16, had been included on Leticia's U Visa application, and her petition had been approved. The teen had valid U.S. legal standing, but because she was located in Mexico and not the United States, she "didn't *really* have it," the attorney said. To enter the United States, Citlali needed a valid Mexican passport; since Citlali was a minor, her passport had to be signed by a parent. Although Citlali's father had been deported to Mexico and therefore could sign the passport, he refused to do so, knowing that it would facilitate Citlali's passage to the United States into the arms of her mother. Citlali's mother Leticia also could not sign the passport. Although Leticia held valid legal standing as a U Visa holder, if she re-entered Mexico to meet her daughter, she would trigger legal barriers⁷⁰ that could prevent her from being able to

⁷⁰ While it is possible for U Visa holders to exit the United States and re-enter successfully, they may face a number of legal and bureaucratic problems that could prevent them from doing so. Any non-citizen who leaves the country and then seeks to return is subject to various "grounds of inadmissibility" when seeking a visa at the consulate or reentry at the border, even if he or she is a valid visa holder. Therefore, a U Visa recipient who leaves the country must be sure that he or

re-enter the United States and from adjusting to permanent residency later on. It seemed Citlali was stuck, the very source of her legal status opportunity in the United States (her father's domestic violence) effectively thwarting her ability to claim it. On top of refusing to sign Citlali's passport, her father had kicked Citlali out of his house, and the girl had been living with a boyfriend who was also abusive. As Jessica explained the situation, Citlali had recently fled her boyfriend and had been traveling toward the Mexico-U.S. border without food or money hoping she could locate a coyote to help her cross into the country and assume the U Visa standing awaiting her.

Jessica explained that she thought it was "ludicrous" for Citlali to put herself in danger trying to cross into the United States illegally when in fact she was legally authorized to be in the country. This was, in Jessica's words, one case among many that starkly exemplified ways in which U.S. immigration laws "were not working." Jessica described that while she confronted many similarly frustrating situations in which resolution was fundamentally out of reach, Citlali's issue was something she "could do something about." The lawyer recounted that she drove to San Ysidro, California with Leticia in tow, a short walk across the political border separating mother from daughter. Leaving Leticia parked in the United States, Jessica – a U.S. citizen not concerned about her re-entry ability - entered Mexico, where she met Citlali and

she did not trigger any inadmissibility grounds after being granted U Visa status and will not trigger any more upon their departure. One inadmissibility ground that Leticia would have faced if she traveled to Mexico was what is known as the ten-year unlawful presence bar, because she was in the United States without legal status for more than one year before adjusting to U Visa standing. This bar is theoretically waivable, but due to other joint barriers – including constraints associated with "continuous presence" requirements in the United States that U Visa holders must meet in order to qualify for permanent residency and inconsistent processing practices in U.S. Consular offices abroad for U Visa holders – immigration attorneys in this study advised their U Visa clients not to travel abroad until they acquired residency unless it was absolutely necessary (see Kinoshita, et al., 2012, pp. 9-8 to 9-12).

subsequently persuaded Border Patrol agents to permit the girl's passage into the country. Showing me a photo of Leticia and Citlali embracing moments afterward, Jessica exclaimed, "*This* is why I do what I do!"

Image 1. Leticia and Citlali Embracing⁷¹



⁷¹ The individuals featured in this photograph gave me permission to use the image in my dissertation.

A dramatic example of the extent of lawyers' commitments to immigrants' interests beyond their basic legal needs, other lawyers related accounts of their efforts to "holistically" help immigrant clients in similar terms. For example, EJLA lawyer Katharine made sure that the guidance counselor at her asylee client's high school placed Juan in classes that would lead to his eventual graduation instead of remedial classes. With a high school diploma, Juan would be able to find a better-paying job that would enable him to financially support his mother, the young man's objective when applying for asylum. In all of these situations, lawyers conveyed that they saw their efforts as opportunities to facilitate results that immigrant clients had been motivated by when they initially engaged the legal system, even if results were not "legal" in and of themselves. For this reason, although lawyers marked their actions as "ancillary" assistance, attorneys nevertheless perceived their efforts as related to clients' legal cases.

Immigration cause lawyers extended ancillary aid to their legal clients in a variety of ways but shared similar sentiments about and rationales for its dispensation. As Network attorney Mariella put it, "These things are totally outside of the scope of my primary job duties, but when you're really going to serve a client, these are the types of things that need to be addressed to really, truly get them on their feet." Indeed, lawyers' ancillary efforts appeared to significantly aid clients' rehabilitation in the cases they described during interviews and in cases I witnessed myself. Yet considering that attorneys were only able to help select clients in these "extra" ways because of limited resources and expertise, and given that they targeted

idiosyncratic problems afflicting individual clients in most cases, lawyers' efforts essentially amounted to band-aid assistance because they failed to address underlying structural problems that caused fractures in their clients' lives.

Legal Idealism and its Discontents

Attorneys' dispensation of selective ancillary aid to immigrant clients pointed to their adherence to certain limits of their professional lawyer role. And yet all showed a willingness to bend those boundaries when confronted with particular client circumstances during casework. This suggested that lawyers' social change commitments were ultimately stronger than their deference to certain normative practice techniques or guidelines of their workplaces (Shdaimah, 2006). However, it also pointed to important institutional and organizational dynamics that in fact facilitated attorneys' modes of legal representation.

Immigration lawyers' accounts illuminated these phenomena. As non-profit attorneys not required to charge their clients fees for each minute of case labor, the institutional spaces in which lawyers worked enabled their ancillary services. This factor contributed to immigration lawyers' rationalization of their secondary services as critical. EJLA attorney Hannah explained that she felt fortunate that, given her non-profit position, she could devote time to assisting immigrant legal clients with non-legal issues as she saw fit.

With some of those really compelling cases, I figure if I have to put in a little extra work on my end, well, that's my call. You know, it's the beauty about kind of what we do and [my supervisor] is so supportive. If you just kind of want to put in the extra mile to do that, you can.

Non-profit lawyers in this study were not responsible for meeting billable hour requirements to safeguard their employment in the same way that typical private attorneys are. This, and the fact that external sources and not immigrant clients funded their work enabled

attorneys to invest “extra” time and resources into a particular case if they wanted to do so. Moreover, in the context of non-profit social movement organizations, immigration cause lawyers could “put in the extra mile” without disappointing their bosses, who shared similar personal and professional ideologies. This gave attorneys a degree of autonomy when collaborating with immigrant clients, which, as Hannah described, was “beaut[iful]” in certain respects. However, lawyers’ narratives also revealed the erosive effects their ancillary assistance could have on the lives of individuals they intended to help. Network attorney David, who practiced both immigration and family law on behalf of immigrant groups, explained how, why, and with what consequences he utilized this non-profit autonomy vis-à-vis clients.

There’s something that I do that I think borders on being unethical in the sense that I know that I can take a case to trial because the client’s not losing any money. They’re not paying me, so I can use that against opposing counsel. Some people may call that unethical because it’s basically playing the system because I know that any way that I look at it, I can stay in court for hours and hours and hours if I feel that the client is not getting their fair shake. More often than not, if I see a fair settlement, I will really try to get my client to see the reasonableness of it or if it’s a really good settlement offer, I’ll tell you, “You’re not going to get a better deal from the judge,” but if we feel that we can still get a better deal from the judge, I’m not on the clock, I’m not under pressure to have to bill my client \$300 an hour and be costing them money, so I will just be stubborn and I’ll say, “No, we’re going to take it all the way.” This has actually caused a lot of opposing counsel sometimes to retreat... I learned early on that it is a bargaining chip... That’s an advantage of being a public interest attorney... But I mean, the downside is that the time that you’re wasting in court, you’re not being able to attend to some of your other clients.

At the same time as David promoted a perk of being a non-profit immigration attorney – that is, that he could mobilize his positionality to garner clients what he perceived as a “fair shake” – his remarks alluded to drawbacks that can result from cause lawyers’ efforts. Spending extra time on one particular case meant there was less time available for other casework. The tone of his comments was repeated in those of other immigration attorneys.

In an interview with Emily, who represents immigrants petitioning for a variety of victim-based legal statuses at EJLA, she recounted that earlier that day she spent time at work contacting the psychiatric institution where a client's son was hospitalized. She had heard that an employee at the institution had assaulted the young man, an undocumented and schizophrenic teenager. She explained: "Angelica [the client] was beside herself and didn't know what to do, so she called me. It's well outside of the scope of immigration law, but what are you going to do? They [the hospital] are not going to listen to her. Maybe if an attorney calls, they'll shape up." Emphasizing to me that she was "glad" to have been able to help her client in the capacity of her non-profit position, Emily acknowledged the problematic aspects of placing such "important calls" in this and other cases.

The very hands-off management [at my organization]...produces a lack of consistency [across attorneys]. It can be kind of nice, because everyone can do their own thing, but that produces inconsistent results, and it's really not fair to a lot of people...to people working here and also to clients.

The lawyer implied that while limited groups of immigrants benefited from additive forms of assistance during their casework with lawyers at Equal Justice, a "fair shake" for a few did not amount to a "fair shake" for all. Moreover, the lack of clear organizational guidelines about what lawyers' work vis-à-vis clients should entail caused Emily personal anxiety about the ethicality of her efforts with immigrant clients. She was not sure what was appropriate to do for her legal clients and what was not when it came to supportive services. Other immigration cause lawyers employed at EJLA and in Network organization shared Emily's doubts. Equal Justice attorney Eliana spoke generally about the discrepant modes of legal and ancillary services lawyers offered to clients at her organization, conveying that the dynamics caused her to feel disconnected from what she wished were a more cohesive community of practice.

The way I describe it is we are all like individual solo practitioners here. We're not a unit. We're not a law firm. Everybody does whatever they want on whatever case they want in whatever fashion they want.

Eliana and other immigration cause lawyers were frustrated when they realized their limited ability to facilitate substantial changes in the lives of all those they assisted and systemic shifts to the broader social groups their clients were part of. Attorneys pointed to moments in their careers when they questioned the worth of their work. Network lawyer Marritt reflected on the extent to which she truly helped mend the “broken li[ves]” of her immigrant clients and wondered whether her work was at all diminishing the deep-seeded social problems that caused those breaks in the first place.

There are lots of people that you can work with that have so many problems and there's this whole broken life that needs years and years... I mean, it's really satisfying [to help them], but it's also incredibly unjust that it would even need to be done, and I'm doing nothing to combat the situation. There's definitely tension within the organization because we have an education department that organiz[es] parents around school issues and stuff like that, and...I know that they look at the work that we do as being...it's like, “It's just one service for one person and they walk away and it's like repeating the same dynamics that exist.” It's true to a point.

In considering how their work did or did not function as a palliative to unjust situations in their clients' and others' lives, attorneys speculated about their competency to provide the kinds of advice they found themselves doling out during legal practice. Some lawyers complained that they were not utilizing the legal skills that they were actually trained in enough. Instead, lawyers described that they ended up wearing many “hats” in their role as non-profit immigration attorneys whether they wanted to or not, and regardless of their aptitude. Recounting challenging aspects of her job, EJLA attorney Clare remarked:

I think that all of these cases [demand that] we wear various hats. I think half the time I am a therapist...even though I have no training whatsoever and I wish I could get some training. I might have to say that 60-70% of my energy goes to that.

Clare explained that while donning her “therapist” hat, she found herself “pray[ing]” with clients, “giv[ing] them assurances,” “just sit[ting] and cry[ing] together,” “hold[ing] [their] hand[s],” and taking “lots of breaks” during meetings that lasted for “hours.” The attorney was not alone in pining for additional training or social workers on staff at legal non-profit organizations to help address immigrant clients’ ancillary personal issues that arose during casework. Katie, also an EJLA attorney, commented:

Ideally, we would have more social workers available who could do more about it, and a more complete job certainly than I do. But I do sort of the piece that I can.

Some of the organizations that lawyers in this study worked at had social workers on staff who were available to help immigrant clients with certain concerns. However, like the lawyers at these organizations, social workers were equally inundated with requests for aid, which sometimes compelled attorneys to step in and act as pseudo-therapists and social workers in whatever capacity they could.

Lawyers coped with concerns about the effectiveness of their legal and ancillary assistance by keeping in mind that what were perhaps inadequate victories were nonetheless meaningful. Marritt reflected that:

There are so many problems and so many ways to work on them... If you didn’t have legal status, you’d probably want a good attorney to help you out with that. [The work we’re doing], it’s not evolutionary. No, we’re not changing the structure of things, but that doesn’t make it not valuable. I have been reminding myself of that.

Marritt pointed to a concrete example of how her approach to everyday legal casework had evolved during her 3.5-year career.

When I first came here as an intern, I probably submitted three cases the entire summer, and I got to know my clients, and my notes at that time are so funny. I’ll go back to a case and it’ll always talk about my client’s emotional state at the interview and stuff like that, “She seemed down, like she’s missing her husband,” and now it’s like, “Client came in, she’s missing these documents,” you know.

When meeting with immigrant clients at the outset of her career, Marritt explained that she was responsive both to her clients' legal issues and other problems they conveyed in an effort to help them in "holistic" ways. This approach reflected her reasons for deciding to become an immigration attorney in the first place: to fight the many "injustices" perpetrated against Central Americans by the U.S. government. However, as Marritt accumulated years of legal experience, she reached the understanding that it was through her lawyering skills that she could most effectively aid the individuals who came to her for help. She still offered ancillary advice to some clients in the course of casework, but realized that her expertise ultimately resided with the law. By applying her honed knowledge of the immigration laws, regulations, and procedures that were a means through which her Central American clients could improve their lot, Marritt perceived that she was chipping away at the "injustices" that drove her career choice, one person at a time.

Other immigration cause lawyers spoke of similar "learning" experiences that altered the way they understood their work. Equal Justice lawyer Katharine referred to her casework on behalf of Juan, mentioned above, as she articulated the challenge of reconciling her hopes and ideals for the client with what 13 years of practice had taught her about the "limits of the law."

One thing that's really hard for me [and] frustrating is the limits of the law. You feel that, OK, now I got him asylum, so everything should be working out fine... But even though I tried to...help him with school, you see that...there are limits. I can't fix his whole life. I can fix that [legal] part, and that's a big part. That's good. It helps. But I can't fix the whole thing even though I really want him to succeed. I've been doing this so long, but I'm still trying to, in my mind, not put that burden on me.

Lawyers who had been in practice for lengthy periods of time described similar epiphanies about realizing the limitations of their work, which affected how they perceived and responded to each individual case. Equal Justice attorney Eleanor, who has been practicing for nine years, described that while many immigration lawyers viewed themselves as the "personal

saviors” of their clients, seasoned immigration practitioners like her realized that lawyers were only capable of changing the *legal* lives of clients. In her words, “You can’t do everything, but you can do *something*.” Over the course of their ongoing careers, immigration lawyers conveyed that while their commitments remained the same, the way they applied their ideologies in practice had shifted. They still extended “ancillary” forms of advice to clients, but dwelled most on making effective legal arguments.

Conclusion

This chapter examined how attorneys’ ideological motivations and dedication to social causes shaped their career trajectories and behavior as legal professionals through a case study of non-profit immigration cause lawyers in Los Angeles. Others have examined how cause lawyers shape social movements and moral, ethical, and political agendas through their legal labor (see, e.g., Sarat & Scheingold, 2005; Sarat & Scheingold, 2006). In contrast, I analyzed how cause lawyers’ personal motivations for their career choices affected what the act of lawyering itself became.

First, I considered the career motivations of non-profit immigration cause attorneys in Los Angeles. I found that all respondents conceptualized their work as part of larger “campaign[s]” or “movement[s]” to enhance the rights of social groups including the immigrant population. Most conveyed that they entered law school knowing they wanted to pursue careers in some kind of public interest law, with many identifying a long-standing interest in immigration. Although their professional paths varied, all came to their careers hoping to reconcile personal commitments to effectively enhance the lives of immigrants with a professional role that facilitated that effort.

Next, I examined lawyers' career ideals in the context of their casework by exploring the "ancillary" assistance they offered to immigrant clients about matters they considered secondary to legal advice. While lawyers perceived that all of their clients could benefit from ancillary assistance, because of resources constraints of their non-profit jobs, attorneys tended to dispense ancillary resources to select clients, under certain circumstances. Lawyers were inclined to extend ancillary aid when faced with two kinds of scenarios. One was when attorneys learned of personal issues during clients' legal casework that they could offer secondary support about without significant added work. Immigration lawyers were also willing to render ancillary assistance if they perceived clients' personal issues as connected to their reasons for engaging the legal system in the first place. I argued that while lawyers' responses in these situations appeared to benefit the select individuals aided, attorneys' ancillary assistance ultimately amounted to band-aid help since it did not confront the deeper structural issues creating the fissures in clients' lives. Lawyers' efforts could even be considered counterproductive insofar as spending "extra" time on one client's predicaments meant other cases fell to the wayside.

I also investigated the institutional dynamics that encouraged attorneys' modes of client representation, the ramifications of attorneys' legal idealism, and lawyers' evolving understanding of their professional role. Lawyers were appreciative of the flexibility of working in non-profit organizations, such that they could go an "extra mile" for immigrant clients and extend ancillary guidance if they deemed it necessary for clients to get a "fair shake." Yet organizational uncertainty about what were appropriate kinds of ancillary aid caused lawyers to worry about the "fair[ness]" their efforts ultimately reflected. With "everyone...do[ing] their own thing," attorneys were unsure what the limits of their relationships with clients should be, and felt they sometimes acted more as pseudo-therapists and social workers than lawyers.

Immigration attorneys' behaviors changed as their understanding of what being an effective immigration cause lawyer shifted over the course of their careers. Attorneys who had been practicing for spans of several years or more described that while they entered their careers imagining they would effect significant, "holistic" changes in immigrants' lives as lawyers, they had developed an appreciation of the "limits of the law." They recognized that they could "do something" but not "everything" for clients. This realization helped immigration cause lawyers moderate how their ideological ambitions played out in their professional lives. Coming full circle, attorneys endeavored to focus on what they were best at doing: fixing immigrants' legal lives, not their whole lives.

Studying immigration lawyers provides an important lens through which to observe immigrants' experiences in host communities. Studies on acculturation have documented how family and friends affect immigrants' integration in destination societies (Kibria, 1993; Menjívar, 2000; Pessar, 1999; Portes & Bach, 1985; Zhou & Bankston, 1998). Research has also investigated the role of various non-kin brokers in shaping immigrants' incorporation experiences (Hernández-León, 2008; Park, 2011; Spener, 2009). Lawyers – whether non-profit or private attorneys - deserve consideration as facilitators of immigrant integration and as migration industry actors. Findings from this chapter revealed the complex roles that attorneys can play in immigrants' lives. I showed how lawyers can significantly bolster immigrants' knowledge about and access to social institutions and resources that can improve their lives and promote mobility. However, access to this information was largely unpredictable from where immigrants were standing, hinging as it did on attorneys' particularistic knowledge of social services and on their understanding of and reaction to migrants' personal goals for engaging the

legal system. I highlighted how the actions of attorneys, like other intermediaries, could have both helpful and ultimately deleterious effects in immigrants' lives.

These findings echo the scholarship on street-level bureaucrats as well as migration industry actors for whom researchers have found multifaceted roles (Lipsky, 1980; Villalón, 2010). Spener (2009) found that the motives of “coyotes” (the individuals who facilitate unauthorized border crossings between Mexico and the United States) were financially driven but also rooted in ideals of mutual aid and reciprocity. Marrow’s (2009) work on the “bureaucratic incorporation” of immigrants in North Carolina illustrated how actors in law enforcement and courts, educational institutions, and social benefits and medical offices responded differently to immigrants’ requests for services or aid depending on their interpretations of professional missions and government policies, shaping immigrants’ experiences of inclusion and opportunities for mobility. In her research on the efforts of domestic violence shelter employees to offer tips about legal, medical, housing, and welfare aid, Bhuyan (2012, p. 225) noted that although workers’ “advocacy strategies [we]re successful for individual women,” they “often [did] not address broader structural issues of inequality and exclusion” that immigrants faced and that shelter staff were ideologically motivated to remedy. Attorneys could be conceptualized and analyzed as actors in a similar vein because of how their behaviors and interactions with immigrants can both promote and hinder integration and advancement.

Findings from this chapter enhanced our understanding of the professional development, orientation, and socialization of immigration lawyers and of the U.S. legal profession at large. The problems described here also arise in other areas of legal practice. Perhaps most notably, non-profit immigration lawyers share similarities with public defenders who provide services to

marginalized and multiply-challenged clients under severe practice constraints (Goodwin, 1994; Van Cleve, 2012). But small firm attorneys and solo practitioners also face resource constraints that shape and limit their practice (Levin, 2012; Seron, 1996), and divorce lawyers deal with clients who seek help with personal concerns (Mather, et al., 2001; Sarat & Felstiner, 1995). Lawyers share a professional ethics code that may lead them to perceive these issues similarly. Moreover, the strong influence of law school socialization is well documented and likely influences lawyers' perceptions, framing, and problem-solving approaches in ways that attorneys' might not fully apprehend (Mertz, 2007). There may be some differences, however, including that non-profit immigration cause lawyers experience such concerns within a framework of values that includes equality and empowerment and that exerts sway on their professional behavior vis-à-vis legal clients (Shdaimah, 2009).

Chapter results also improved our understanding of professionals more generally. In examining how personal and professional identities converged in the legal practice of immigration cause lawyers, I illuminated challenges faced by all kinds of professionals who provide direct services to personal clients—from doctors and other health professionals to therapists, social workers, and teachers (see, e.g., Anspach, 1993; Bhuyan, 2012; Maynard-Moody & Musheno, 2003; Timmermans, 1999). Among these are tensions between professional expertise and client autonomy, strain surrounding the boundaries of client-professional relationships formed via bonds of personal intimacy and empathy, and tension between what professional ethics and knowledge may prescribe and what clients' and professionals' capacities may permit. These strains surface in all kinds of institutional settings, as professionals who provide direct services to personal clients decide how to serve individuals effectively and appropriately, and rationalize their actions to themselves and others.

CHAPTER SIX:

LEGITIMACY WITHIN LIMITS

Introduction

U.S. immigration law has a profound impact on immigrants' lives regardless of whether it deters them from migrating. Once migrants are inside the state, their ascribed legal status determines which rights they may exercise and the resources they may obtain. Migrants' legal standing starkly dictates whether they qualify as full or partial participants in American *society*, and this shapes intergenerational relations and migrants' perceptions of their place within their *families*. Immigrants who are naturalized citizens are formal equals to native-born citizens, enfranchised with a complete set of civic, political, and social rights. In contrast, all categories other than naturalized citizen entail some material exclusion or limitation (Bosniak, 2006; Brubaker, 1992). Therefore, while formal *equality* exists among citizens, formal *inequality* characterizes the relationship between citizens and non-citizens, and among non-citizens themselves.

Non-citizens are differentiated from each other by their particular legal standing, which determines their position along a continuum extending from undocumented to permanent residency status, with a number of anomalous temporary statuses in between. Migrants' spot along this continuum, which corresponds to a sliding scale of entitlements and privileges, dictates the rights they may assert. As such, the hierarchical legal status ladder created by the contemporary immigration legal regime produces formalized "civic stratification" (Lockwood, 1996), a system of ordered rights that favors some non-citizens over others by bestowing varied forms of membership in U.S. society (see also Morris, 2002). This civic stratification is evident in the processes through which largely intangible legal identities are converted into concrete rights in social institutions that administer benefits (Torpey, 2000). Most status-derived rights are inaccessible to unauthorized migrants. Progressively more rights are available to individuals with legal standing such as that conferred by a temporary, or "twilight status" (Martin, 2005), a current or incipient claim to legal status. Permanent residents are endowed with the most rights of any non-citizen group.

Considerable research has underscored the importance of legal status to migrants' education, employment, familial well-being, health, and housing, among other outcomes (see, e.g., Abrego, 2006; Gonzales, 2011; Massey, et al., 2002; Menjívar, 2002; Menjívar & Abrego, 2012; Reitz, 1998; Willen, 2011). Nonetheless, some scholars insist that immigrants' formal legal status may be largely irrelevant to daily activities in a period of "post-national membership," when non-citizens in liberal democracies are sometimes able to acquire benefits traditionally reserved for citizens (Sassen, 1996; Soysal, 1994). However, in recent years, researchers have begun to challenge this model by pointing out that large-scale restructurings of the immigration enforcement regime after 9/11 have made the distinctions between and among

citizens and non-citizen groups more important than before (Coutin, 2011b; Kasinitz, 2012; Menjívar & Abrego, 2012). While the eligibility criteria for formal citizen and non-citizen legal statuses are delineated in written legislation and regulations, the implementation of corresponding rights may be less clear, particularly where there is any room for interpretation or discretion in the process. Insofar as acquiring rights, empirical studies have highlighted the advantages of migrants who are naturalized citizens or hold the enduring and socially recognizable status of residency (Robertson, 2009; Sadiq, 2008; see also Kim 2011). Others have emphasized disadvantages that non-citizens who are undocumented migrants face when they transition from the classroom to the workforce and must “learn to be illegal” as they realize they lack important membership markers that facilitate a successful adulthood, such as social security numbers (Gonzales, 2011; see also Gleeson and Gonzales 2012). And recent examinations of migrants in Temporary Protected Status (TPS)⁷², a terminal legal position offering very few benefits (and no path to more enduring statuses), have portrayed the plights of migrants in “liminal legality” (Menjívar, 2006). I extend this line of research by showing the limitations migrants confront while possessing a “twilight status”: a legal standing that, albeit temporary, provides significant privileges and may lead to permanent residency and citizenship (see Martin, 2005). The U Visa is one of many twilight statuses in existence today⁷³.

⁷² See

<http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=848f7f2ef0745210VgnVCM100000082ca60aRCRD&vgnnextchannel=848f7f2ef0745210VgnVCM100000082ca60aRCRD>, accessed April 4, 2013.

⁷³ Martin’s (2005) conceptualization of “twilight statuses” included legal standings that did not lead to permanent residency. Mine differs in that I use the concept of “twilight status” to refer to temporary legal standings that offer a path to (although do not guarantee) permanent residency. This includes U Visa status and many others.

Millions of immigrants occupy these lesser-known twilight statuses (see pp. 13-14). These standings may be acquired via family ties to immigrants in the United States, employment skills, travel to or study in the United States, circumstances warranting humanitarian intervention, or other means⁷⁴. Apart from their quantitative significance, the case of twilight statuses provides a strategic research site, ideally situated to illuminate the civic stratification produced by migration control policies enacted since the mid-1990s and particularly since 2001, the corresponding proliferation of formal legal statuses, the differences among them, and the ways in which a regime of “papers” limits migrants’ ability to claim rights to which they may be entitled, however limited in scope. Civic stratification stems from the phenomenon of citizenship on the one hand, and states’ inability to completely cut themselves off from the world around them, on the other. Therefore, foreigners entering the territory of another state are not always or are not solely “immigrants,” but are always “aliens,” a legal class of people who are “transnational migrants with a status short of citizenship” (Bosniak, 2006). While states cannot isolate themselves from the world in which they are situated, liberal states in particular cannot fully control movement across their boundaries. This is why migration control always produces undocumented immigrants, adding a category of persons to those “aliens” legally present in the territory (Ngai 2004; Zolberg 1999). Yet as sovereign entities, states need to manage the flow of persons across their territories, selecting a very small number for permanent residency while allowing a much larger number to enter for predetermined periods of time, with pre-specified statuses, thus creating a population of what the U.S. government refers to as “nonimmigrant” aliens that is highly differentiated by formal status and entitlement (Massey & Bartley, 2005).

⁷⁴ See <http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=6ef88fa29935f010VgnVCM1000000ecd190aRCRD&vgnnextchannel=b328194d3e88d010VgnVCM10000048f3d6a1RCRD>, accessed November 14, 2012.

These individuals exist alongside the “unprecedentedly large population of long-standing semi-permanent undocumented residents who are part of the society economically, socially, and culturally but not politically” (Kasinitz, 2012, p. 586), and whose experiences researchers have examined in considerable detail in recent years (see Donato & Armenta, 2011).

Regardless of legal standing, “aliens” develop ties to institutions and to citizens with greater entitlements. Consequently, the walls dividing statuses become permeable, though only via formal admission. The legal boundaries between non-citizen categories are at least theoretically “bright,” with immigrants’ capacity for transitioning from one standing to another spelled out in laws and regulations. However, the social and psychic boundaries separating non-citizen standings tend to be “blurred” (Alba, 2005), with many immigrants in legal statuses short of residency unclear about their actual capacity to apply for green cards and citizenship (Menjívar, 2006). This uncertainty may prevent them from accessing the more comprehensive set of benefits enjoyed by permanent residents and citizens (Abrego & Lakhani, n.d.). It may also hinder their ability to consistently draw resources associated with their particular non-citizen standing.

For individuals who reside in the United States as undocumented migrants before regularizing their status, the experience of having lived “shadowed lives” (Chavez, 1992) may limit immigrants’ awareness of new entitlements and their willingness to claim resources after ascending into the legal twilight. Neither citizens nor foreigners, many immigrants in the various twilight statuses available today do have considerable rights. Yet the non-standard character of the twilight legal identity means that oftentimes neither its bearers nor the persons to whom it is signaled understand precisely the extent of associated entitlements. The ability to project a valid legal identity to others is essential to mobilizing an approved legal status to garner other valued

statuses, including the socio-economic stability and advancement that accompanies the attainment of education, secure employment, and supplementary welfare benefits like food stamps and health insurance. By focusing on a group in transition from the most disadvantaged “alien” status to an improved yet still inferior one, I show both how movement across statuses takes place and how this system of civic stratification impinges on migrants’ ability to exercise and claim rights.

This chapter examines individuals in this marginal condition, detailing its consequences on both a personal and familial level. I explore the nature of twilight legal status by analyzing the experiences of formerly undocumented, primarily female U Visa holders who endured forms of intimate partner violence. I begin by laying out a framework that brings together the concepts and major findings of the social science literature on international migration and legal incorporation with studies on legal consciousness and immigrant families. Next, I consider U Visa recipients’ access to education, employment, and public benefits because resources associated with these socio-economic domains are among the primary benefits promoted to migrants in U Visa legislation and regulations; they are also key assets offered to migrants in other twilight statuses. Furthermore, gains in these areas are correlated with the incorporation and mobility of migrants and their families more generally (Alba & Nee, 2003). My analyses draw on ethnographic research at Equal Justice and in Network meetings, observations of initial attorney-client U Visa consultations, approximately 85 informal conversations with U Visa applicants or recipients that occurred at EJLA, and 25 interviews with U Visa recipients (see pp. 17-31). I conclude with a discussion of the broader themes that emerge in light of existing immigration literature and theories surrounding the importance of legal status for contemporary migrants and their families.

While this examination focuses on female U Visa recipients who experienced intimate partner violence, conclusions are meaningful for other kinds of U Visa holders (including, for example, men and immigrants who experienced other qualifying violent crimes) and immigrants in comparable temporary statuses. These include “twilight” standings that provide a path to residency such as deferred action through VAWA, political asylum, and T Visa standing, as well as temporary statuses like TPS, Humanitarian Parole⁷⁵, and the newly enacted Deferred Action for Childhood Arrivals⁷⁶ that provide benefits for prescribed time periods but do not allow adjustment to residency. All immigrants who are legally present yet not “green card” holders⁷⁷ or citizens occupy a tenuous legal, social, and psychic space, having ascended from stigmatized undocumented status and yet still short of the well-known residency and citizenship. The ability of immigrants in this precarious position to receive resources their legal status entitles them to depends on others’ interpretation of their claims. The outcomes of immigrants’ resource mobilization efforts in twilight status carry significant consequences for their legal consciousness and social incorporation.

Migrant Legality in Everyday Life

⁷⁵ See <http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextto=id=accc3e4d77d73210VgnVCM100000082ca60aRCRD&vgnextchannel=accc3e4d77d73210VgnVCM100000082ca60aRCRD>, accessed December 18, 2012.

⁷⁶ See <http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextto=id=f2ef2f19470f7310VgnVCM100000082ca60aRCRD&vgnextchannel=f2ef2f19470f7310VgnVCM100000082ca60aRCRD>, accessed December 18, 2012.

⁷⁷ Permanent residents are colloquially known as “green card” holders for the color of the identity document they carry.

Studies of law and society typically investigate the “instrumental” and “constitutive” dimensions of how law affects society. “Instrumental” facets of law are those that attempt to enable or control individuals’ behaviors, while “constitutive” aspects of law shape society by adapting the internal, personal meanings individuals derive from law (Sarat & Kearns, 1993). In the United States, *immigration* laws and policies that delimit the number, type, and legal status of individuals admitted and are the purview of the federal government, intersect with *immigrant* policies that influence migrants’ integration once inside nation-state borders, often through local government implementation of migrants’ legal entitlements to social and economic benefits. Immigrant policies require that migrants mobilize an identity document that embodies their legal standing by being valid to service providers. By their very non-standard, in-between nature, twilight statuses may be difficult for holders to signal to officials, and such legal identities may lose their social significance as migrants miss out on crucial opportunities they anticipated their legality would provide them with.

In her analysis of Central American migrants in states of “legal limbo,” Menjívar (2006) argued that immigration legal categories create a “stratified system of belonging” (p. 1006), shaping migrants’ experiences in multiple civic spheres, from access to education, well-paid jobs, social services, and housing, to their involvement in churches and other activities (see also Massey & Bartley, 2005). Given that migrants’ non-nativity often makes their legal standing supremely important, it is striking, then, that their place in this “stratified system” is encapsulated, communicated, and evaluated in the inherently tenuous medium of “papers,” a development that dates back to the Chinese Exclusion laws (1882-1943) in the United States (Lau, 2006; Lee, 2003). It was during this time period that the American government first attempted to exclude members of a particular immigrant group from entering the nation-state

whose relevant characteristics were knowable only on the basis of documents (Torpey, 2000). But since then, and particularly in the aftermath of the Immigration Reform and Control Act of 1986, the importance of “papers” *within* American territorial borders has also escalated. The Employment Authorization Document (EAD), or work permit, was created, followed more recently by authentication technologies like E-Verify⁷⁸, measures of internal migration control designed to supplement control at the country’s external borders (Kanstroom, 2007).

The confluence of American *immigration* and *immigrant* legal infrastructures also affects migrants’ families in instrumental and constitutive ways. Individuals’ ascribed legal identities and their documentation of legal standing affect their families’ ability to physically reside in the United States together, and facilitate or deny access to concrete resources and opportunities that affect migrants’ capacity to financially support and maintain the health and well-being of their families (Dreby, 2010; Menjívar & Abrego, 2012). Parents’ marginal legal status has been shown to have detrimental effects on the socio-economic attainment of their children (Bean, Leach, Brown, Bachmeier, & Hipp, 2011), and on their biological and psychological development (Suárez-Orozco, Yoshikawa, Teranishi, & Suárez-Orozco, 2011; Yoshikawa, 2011), which will almost certainly carry ramifications for the mobility prospects of migrants’ children – often U.S. citizens - as the latter age (Kasinitz, 2012).

⁷⁸ E-Verify is an online system set up under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 and operated by the Department of Homeland Security in partnership with the Social Security Administration. It enables participating employers to electronically verify the work authorization of their newly hired employees. While participation in the status-check program is voluntary for most businesses, some companies may be required by state law or federal regulation to use E-Verify. In California, for example, it is currently illegal for the state, cities, and counties to mandate that private employers use E-Verify, but employers are able to use the program on a voluntary basis or as required by federal contracts.

The possession or lack of rights and resources associated with migrants' legal positions are often most acutely felt within the domain of the family. In "mixed-status families," when family members hold *different* legal statuses, it may be that some but not all individuals qualify for coveted benefits or opportunities like financial aid to offset the costs of attending college, or health insurance to receive medical care (Fix & Zimmerman, 2001). And even when all members of a family share the *same* legal status, tensions can occur as a result of children and parents attaching different constitutive meanings to their status due to life-stage at migration and its corresponding effect on socio-economic aspirations. For example, although all undocumented immigrants in the United States are legal pariahs, scholars have shown that those who migrated as adults tend to associate their standing with fear, inhibiting their interactions with social institutions; in contrast, those who migrated as children and grew up in American society are more likely to conceptualize their legal standing as a source of stigma when they realize it may limit their ambitions. However, they are much less afraid to participate in political mobilization efforts or other forms of civic engagement than similarly situated older adults (Abrego, 2011; Gonzales, 2011). Therefore, instrumental and constitutive effects of immigration laws and their associated legal statuses can affect family life and may add tension to already contentious intergenerational dynamics between parents born and raised outside the United States and children coming of age in American society (Foner & Dreby, 2011).

Instrumental effects of non-citizens' legal positions may generate symbolic or constitutive consequences for how migrants internalize the meaning of their legality, and in turn, how they decide to invoke the concrete rights they *do* have or seek out the resources they *can* obtain. However, migrants' "legal consciousness" (Merry, 1990), the way(s) they both understand and use the *law*, may also create distinct understandings of *social* membership and

belonging. This is because legal consciousness develops via a dialectical social process, in and through individuals' experiences that are explicitly legal or bureaucratic and those that are not. People come to understand the constitutive meaning of the law for them and act (or not act) on it in the context of formal institutions *and* informal socio-cultural structures, such as the family (Gilbertson & Singer, 2003). Thus, immigrants' experiences where legal or bureaucratic issues are at the fore may influence the personal meanings migrants attach to their legal positions, and affect their relationships with others, including family members (Menjívar & Abrego, 2009). In turn, migrants' interpersonal relationships and cognitive beliefs about their legal status may also inform how and why they interface with legal and bureaucratic institutions, or whether they do so at all (see Bumiller, 1988).

“You’re Hanging There, Not in the Sky and Not on Earth”: Twilight Status and Legal Ambiguity

Migrants' legal statuses shaped their personal and familial experiences in multiple spheres of daily life. Their testimonies before and after acquiring U Visa status revealed improvements in educational opportunities, work conditions, and access to public benefits, with positive repercussions for family relationships. Yet U Visa holders encountered barriers that impeded their higher education hopes, and resistance from employers and government bureaucrats who did not recognize their legal status as one that permitted them to work legally in the United States and to derive social benefits to support their families.

“Un Paso Adelante, Un Paso Atrás” (One Step Forward, One Step Back): Higher Education and Deferred Dreams

Migrant respondents associated the ability to pursue education with stability and success in the American context, and thus as a critical junction in their transition out of illegality and the throws of violence into U Visa status. Jimena, a domestic violence survivor and U Visa

recipient, explained that “more than anything, I want to study so I can improve myself and move on with my life” in the United States. She arrived undocumented in Los Angeles in the early 1990s hoping to create a better life than the one she imagined she would have in Mexico. Within a couple of years, while attending English classes, she met and fell in love with the man who would later become her husband. But soon after she became pregnant, about a year into their courtship, their relationship became violent and Jimena began to suffer frequent physical and emotional abuse. Worried that she would get deported if she called the police, Jimena endured domestic violence and infidelity from her husband for seven years. One evening, furious, she confronted him about his cheating, which he denied. After Jimena broke a dish in protest, he became so enraged that he started choking her and grabbed for a knife. Just as he did, Jimena’s daughter stepped in to protect her, and she dialed 911. When the police came, they arrested her husband and told Jimena that she should consider going to Equal Justice to see if an attorney could help her with her immigration status. Although nervous to do so, she visited the organization and met her attorney, Celeste. Celeste helped Jimena obtain U Visa status, which she had held for about two years when I interviewed her.

Jimena explained that regularizing her legal status “opened windows and doors” for her and her family in what social scientists would consider instrumental and constitutive ways. Aside from helping her get a U Visa, Celeste bolstered Jimena’s understanding of the value of her new legal identity by positioning education as a realistic possibility for her, both financially and psychically. Celeste pointed Jimena to places where she could apply for monetary assistance to attend school, and encouraged her to act on her desire to obtain higher education despite her reservations about her English skills and academic ability.

They [Equal Justice] told me where I can go to get some advice for everything, not only the legal stuff... For example, they told me that I have rights, that I can go and ask for

some help...like some money for every month, with food, with a place to live and schools. I mean, education for my kids and for me. It was just everything I needed.

Having spent nearly ten years avoiding contact with American social institutions for fear of exposing her illegality, and because her batterer limited such interactions, Jimena's formerly "shadowed life" (see Chavez, 1992) initially inhibited her ability to recognize her entitlements in the legal "twilight" and to mobilize them. But after developing a legal consciousness more in line with her newfound legality and less with a deep-seated timidity, Jimena began to invoke her legal identity. She applied for funds from the social services program CalWORKS⁷⁹ to go to school, enrolling in a General Educational Development (GED) program to take the first steps toward her ultimate goal of becoming an elementary school teacher. Yet for Jimena, a significant benefit of obtaining U Visa standing and having the means to pursue her goals was that it prompted her children to develop greater aspirations for themselves after witnessing her resilience. Jimena explained that before she got U Visa status and returned to school, her 18-year-old son, a U.S. citizen, was not interested in attending college. However, once he observed his mother's determination,

It provided my son with encouragement to go to college. [Getting a U Visa] put a little thing in my head that I can do everything. Then my son saw me, and he just came back from Washington, from the college of cardiologists and physicians and surgeons. Now he wants to be a cardiologist. It's not easy to get to college, but he's got very good grades. He's going to graduate [from high school], and he got accepted already in three or four colleges. And that's all because of this [the U Visa]. It's more than just a paper to me.

As Jimena's comments suggest, the instrumental and constitutive implications of legalization and rights awareness may extend beyond the immediate beneficiary to other family members, regardless of legal status (see Menjívar & Abrego, 2012).

⁷⁹ See footnote 50 for an explanation of the CalWORKS program.

Migrant parents' evolving legal statuses influenced their knowledge of and access to educational opportunities, and even children's aspirations. However, the relationship also worked in the opposite direction, where a child's educational hopes influenced a parent to initiate legalization through the U Visa avenue. Alba, at 17 years old, had already decided that she wanted to become a physical therapist. Although still in high school, she had enrolled in an occupational college part-time to learn skills that would eventually advance her career goals. But lacking legal status, Alba anticipated that her dreams would be stalled or denied. Even if she were able to complete the required classes for her desired career, she would likely be unable to apply her degree(s) in a physical therapist job without the legal validation embodied in a government-issued social security number (see Torpey, 1998).

Alba's undocumented mother Lorena, a domestic violence victim, initially contacted a Network attorney in 2010 to see if she was eligible to petition for the U Visa. The lawyer encouraged her to apply, and gave her instructions to start gathering relevant documents. Afterwards, however, Lorena did not follow through with compiling the paperwork. Lorena explained that when she returned home after the visit, she broke down, realizing that all she could handle at the time in terms of dealing with her abuse was going to therapy. She described why she was now re-initiating the U Visa process a year later, in 2011.

It's still really hard for me to confront these things, but I feel that it's much more necessary for me to obtain those documents now for my daughter, because she's 17. She's going to [an occupational college] now, but the other day she told me, "Mom, I'm not even going to be able to get a degree, or even attend a regular college." Or, if she gets the degree, she's not going to be able to use it. So this time I feel much more driven to complete the process. Yesterday I said to her, "Hold on. I'm going tomorrow [to the legal organization], and hopefully everything will be OK." It's so painful to have to tell your daughter that. She came here when she was less than two years old. Imagine what she feels like. She can't continue when she already feels like her life is here.

The experience of having suffered severe crimes was a salient barrier that threatened to prevent migrants from pursuing legalization and/or its entitlements, as pursuing either required respondents to claim the identity of victim. Some migrants resisted a victim label because it forced them to relive their abuse by recounting it to lawyers in the process of preparing a compelling status petition. And even after obtaining U Visa standing, some respondents resisted asserting their victim-based status to apply for benefits because of the shame such an identity signaled to them, and to others (see Holstein & Miller, 1990). Several respondents, all of whom had immigrated to the United States as adults, conveyed that the personal and/or social price of asserting victimhood in exchange for legal recognition or legal rights bordered on being too high with respect to the socio-economic rewards they could reap.

Undocumented adults often feel less marginalized socio-economically by their status than undocumented youth who are socialized in the United States (Abrego, 2011). In particular, undocumented children who are raised and educated in the United States frequently develop different career aspirations than their parents, although their legal status often restricts them to what they regard as objectionable jobs, limiting their life chances (Gonzales, 2011). In the case of undocumented families, given members' varying social positions and ideologies that guide their expected roles as well as their ambitions, it is likely that parents and children each have specific interests when it comes to legalization and legal mobilization in the U Visa context (Abrego & Menjivar, 2011). Getting by financially by combining odd and temporary jobs cleaning houses, walking dogs, and helping out at a beauty salon, Lorena described that she was mostly content with her own circumstances. If her daughter's legal status were not a concern, Lorena said she probably would not have pursued the U Visa. Her primary reason for applying for it was to advance Alba's dreams; Lorena may include Alba as a "derivative" on her U Visa

petition, and if Alba's application were approved, she would obtain the legal identity she needs to proceed.

But gaining a U Visa did not always lead to the kinds of educational opportunities immigrants envisioned. Noemi, a 21 year-old woman who was born in Mexico but has lived in the United States since age six, obtained U Visa status as a derivative on her mother's application several years ago, yet has been unable to realize her educational goals. A high school graduate, Noemi aspires to attend college to study criminal justice, something she anticipated being able to do as a U Visa holder. Although working full-time as a cashier at a fast-food restaurant, after rent, bills, and costs associated with her four year-old son Elias, Noemi was struggling to make ends meet each month. To return to school, Noemi needed significant financial aid. While similar victim-based immigration remedies, including status derived through VAWA and the T Visa, enable recipients to apply for federal financial aid, the U Visa currently does not. As a result, U Visa holders who need substantial financial assistance to attend higher education institutions must wait until they become permanent residents to solicit it⁸⁰.

The problematic nature of "twilight status" is especially apparent here. Noemi and her mother's experience of domestic violence could have made them eligible for the

⁸⁰ At the time this interview was conducted, U Visa recipients were not eligible for in-state tuition, scholarships, or financial aid in California. Although they are currently eligible for such aid (see footnote 5), given the current fiscal struggles of California state, financial aid funds are generally limited. See <http://www.csac.ca.gov/>, accessed April 5, 2013. Had financial aid been available to Noemi at the time of interview, the funds she received may not have been enough to facilitate her educational hopes. This was the case for some AB 540 students in Abrego's (2008) research, and will likely be the case for U Visa recipients who apply for California state financial aid now that they are eligible.

related twilight status of VAWA deferred action⁸¹, which would have enabled Noemi to apply for federal financial aid to advance educationally. The expansion of different non-citizen statuses fosters forms of civic stratification in which inequality is shaped by formal – yet apparently ambiguous – requirements that sort non-citizens depending on their specific legal status and the seemingly arbitrary, varied access to rights that goes along with it.

With U Visa standing, Noemi said she felt more fortunate than her undocumented friends from high school, though still at a standstill. She and her mother recently petitioned for residency, but when I asked her how long it would take before she heard the results of her green card application, Noemi said she was not sure because her attorney did not know.

I think the most difficult [part] is waiting, because you cannot get a lot of stuff if you don't have them [green cards]... [Y]ou could be waiting up to five years until they call you and they tell you that you finally got something... I'm waiting for my residency so I can be able to get a scholarship [financial aid], so it's hard.

Although she was no longer undocumented in the eyes of the state, Noemi still felt stuck in her new legal position upon realizing that her U Visa status did not make higher education an option for her.

(Un)Employment and “Good Papers”

The capacity to pursue work, openly and legally, was understood by many respondents as the greatest benefit of the U Visa. Attaining legal status had particularly powerful constitutive and instrumental implications because of the social standing associated with employment, and

⁸¹ I cannot speak authoritatively to Noemi's attorney's rationale for advising Noemi to apply for U Visa standing instead of status through VAWA, nor do I intend to question her legal expertise. There are many potential reasons why Noemi petitioned for U Visa status and not VAWA, including that adjusting to LPR status as a U Visa holder can be easier and/or faster in certain cases (see Kinoshita, et al., 2012).

because of the financial and psychological independence the act of working generated and denoted. For some, it literally facilitated and/or symbolically signified their socio-economic liberation from their abusive and controlling partners. For others, who had been free of violence for some time but undocumented and trying to support their families by working in non-standard jobs or using others' legal identities, it signaled an end to constantly looking over their shoulders, fearing discovery.

If applying for U Visa status from within the United States, as most individuals do, approved petitioners do not receive actual visa documents that clearly display their legal standing⁸². U Visa holders are given basic work permits as proof of their legality. They may mobilize their EADs (which indicate authorization to work within the span of certain dates) to obtain jobs, and/or to apply for social security numbers, driver's licenses, and other resources. Gaining EADs was significant to respondents in a sudden, tangible way because they could immediately, openly seek employment and other valuable assets to support their families. But acquiring EADs was also meaningful because the work permits embodied concrete progress towards eventually becoming enfranchised permanent residents of American society, a step respondents believed would facilitate lasting stability for their families.

Soledad, a mother of three who survived a near-death armed attack from her abusive husband and witnessed his subsequent assassination of her mother and his own suicide, remembered the day her EAD arrived. During the time Soledad's U Visa application was

⁸² The U Visa is not technically a "visa," a document used to pass through a port of entry. Rather, the U Visa is a visa *category* that provides a "nonimmigrant status" to individuals, a form of legal immigration standing for "a specific purpose to be accomplished during a temporary stay" (Aleinikoff, et al., 2012). It is granted to migrants who were in the United States at the time of application, or once they are present inside the territorial boundaries of the country, and does not facilitate cross-border departures and re-entries. This distinction is important insofar as it highlights the legally sanctioned differences among migrants who are lawfully present in the United States.

pending, she had enrolled in a medical certification program, taking classes in phlebotomy and other techniques that would facilitate her proximate goal of becoming a medical assistant. But as her course series was winding down, she realized that in order to complete the program, she had to sit for a licensing test, and she needed a work permit to do so. Without an EAD, Soledad was not only prevented from finishing her program; she would not be able to apply her skills in a medical position because she was not legally authorized to work. However, just as she was grappling with how to confront her predicament, Soledad's work permit came. She took and passed her exam. "The timing was unbelievable," Soledad said.

It was a very happy day for me. You have no idea. She [Soledad's attorney] called me and told me that she had something in the office for me and I just came like crazy. When she handed it to me, I started dancing, and I didn't know what to say. It was a very good experience to see it, to have it, to know now that you are someone and you can do something. You can have everything for your kids. When I had the permit, I knew that all the sacrifice I had been doing was for something.

After surviving such a frightening and traumatic experience as a family, the recuperation process had been very difficult, particularly for Soledad's four children. They had tried therapy, but purely talking about how to move on had not seemed to help. Through physically demonstrating to her children that she had made positive instrumental changes in her life after the violence by completing a medical certification program, Soledad's verbal exhortations that everything would eventually be all right finally started resonating with her family. Soledad explained that she had landed a job as a medical assistant after all, but now had her sights on becoming a Licensed Vocational Nurse, and ultimately a Registered Nurse (RN). At the time of interview, she was working in an independent medical clinic, but aspired to work in a hospital setting. However, to become an RN, she had to graduate from college, which would be an ample financial undertaking. To be able to afford to attend college, Soledad said she would need

financial aid, and to be eligible for those funds, she must have a green card⁸³. She also had to be a resident in order to work in a hospital. Therefore, while Soledad was proud of her gains, she anticipated becoming a resident so she could achieve more. Meanwhile, she would remain in U Visa status, enabled to work with her EAD yet still stymied by the liminal mobility it provided. While Soledad's work permit established an empowering identity, that identity did not validate her eligibility for all key resources.

While having "papers" (i.e., being legally present in the country) was important to respondents in and of itself, U Visa status was valuable for what it subsequently allowed them to do in society. Fundamentally, the ability to project a valid identity is essential to converting one social status into other prized statuses (Torpey, 2000). Migrants in this study signaled their approved legal standing to employers via an EAD, the primary identity document associated with their U Visa status. But furnishing U Visa-derived EADs at the workplace did not consistently enable migrants to obtain or hold onto jobs they were eligible for. Nineteen year-old U Visa holder Vera, a single mother of one whose family brought her from Mexico to the United States at age five, was waiting to hear from USCIS about her pending residency application. In our interview, Vera discussed her life before and after acquiring a U Visa. With the legal standing, Vera had been able to access certain public benefits that were previously off limits, and for that she was thankful. However, despite having a valid work permit, she recently lost a job because of issues related to her U Visa status. Vera had landed a position at a nutritional center for new mothers and their babies, an "ideal" job for her because it paid well and she enjoyed the work

⁸³ At the time of interview, Soledad was not eligible for in-state tuition, scholarships, and financial aid in California as a U Visa holder. Even had she been eligible for these opportunities, as a single mother of four children, she may not have received enough financial assistance to attend college. See footnote 82.

itself. But a couple of weeks into the job, when Vera presented her EAD to complete the payroll paperwork, her boss questioned its authenticity.

When I brought my last card [in], the lady even told me, “This is fake. Is this fake?” I’m like, “No, it’s not.”... [T]hey didn’t even want to see my lawyer, so that I could go back to work. And I even had something that approved me, but they didn’t want to accept it. Right now I feel like I can’t do anything because I don’t have good papers. I’m halfway, but they [employers] actually want the green card.

With advocacy from her immigration lawyer, Vera maintained the job for about a month, but she was ultimately fired when her boss decided that she did not want to “deal with” Vera’s “paperwork.” In response to her employer’s rejection, Vera felt as if she “can’t do anything” despite already being “halfway” in the legalization process between illegality and residency. Armed with valid legality, she was nonetheless prevented from realizing its full potential, which held her back socio-economically and personally. Vera likened herself to some of her undocumented friends, explaining that if employers did not recognize her legal authorization to work, it was “like it wasn’t real.”

While she now possessed a legitimate work permit in the eyes of the law, she did not have what her *employer* held up as - and what she herself came to consider were - “good papers”. In contrast to Soledad, who furnished her EAD and successfully obtained a job, Vera’s situation demonstrates that the validity of the U Visa identity may not always be recognized by the gatekeepers who ultimately establish its social currency. Interestingly, in the domain of work, U Visa holders do not suffer in the same way from the anomalous aspect of their twilight status that negatively affects their access to education and public benefits, discussed below. Aside from a few digits meaningful only to attorneys with U Visa experience and well-trained immigration officials, the EADs associated with U Visa status are indistinct from those issued to migrants with other temporary legal statuses that allow them to work. Amidst heightened suspicion of

migrants in the American workplace, as evidenced by the rise of E-Verify and the criminalization of false document use to procure jobs, U Visa recipients' non-distinct work permits subject them to extra surveillance. The decision to give U Visa holders standard EADs may have been made to protect their vulnerable status as crime victims, yet ironically, non-differentiation in this context can contribute to their marginality. While Vera encountered resistance from an employer who did not trust the authenticity of her non-citizen standing, other U Visa respondents reported no problems in this regard, underscoring how legal status distinctions and their import are specific to place, and perhaps to time as well (Donato & Armenta, 2011).

In addition to being of limited use and enjoying limited social recognition, U Visa standing – like other twilight statuses – is a precarious legal position insofar as it is liable to be withheld at the will of others. U Visa holders in this study dealt with problems stemming from their solicitation of EAD renewals⁸⁴ and new work permits⁸⁵, as well as perpetual USCIS backlogs that delayed applications from being processed in a timely manner. At Equal Justice, attorneys typically filed for their clients' EAD renewals three months in advance of their expiration to prevent a gap between expired and current permits. Three months was usually sufficient time for permits to be renewed, but not always, as EJLA attorney Grace explained. Grace said that in situations where U Visa clients are left without valid work permits because of adjudication delays, she is often successful at convincing employers not to fire her clients,

⁸⁴ U Visa applicants who previously held U Visa interim status (see footnote 7) and were given EADS with annual expiration dates had to apply for work permit renewals once their U Visa status was formally approved.

⁸⁵ Approved U Visa principal applicants are automatically issued EADs, but derivatives must petition separately for them, after learning of U Visa approval.

although sometimes they are placed on a “deferred status” at work until their new permits arrive. These delays, which disproportionately affect migrants in twilight standing who must regularly renew their temporary status or associated documents, produce a situation such that some EAD renewals are inevitably not processed on time, even those filed on migrants’ behalf by experienced attorneys (see Menjívar, 2006). As a matter of theory, this demonstrates the “ultimately political and negotiated nature of rights” (Morris, 2001, p. 497) in the face of the optimistic conceptualization of post-national citizenship for migrants, which proposed extended rights to a largely homogenous group of non-citizens (Soysal, 1994). Practically speaking, immigrant families that rely on one income – the profile of most U Visa recipients considered in this study – remain at the brink of poverty when wage earners’ ability to secure steady, remunerative jobs is constrained as a result of legal and bureaucratic hold-ups out of their control.

In the case of U Visa holders applying for new EADs, bureaucratic delays not only prolonged the wait for proof of legal permission to work, but for proof of permission to reside in the country. Migrants’ EADs were the main government-issued photo ID cards that documented their U Visa status, at least initially. With work permits, U Visa recipients could apply for other forms of U.S. identification. Without EADs, U Visa holders had minimal evidence of their legality to protect themselves from detention or deportation by law enforcement or ICE agents if apprehended. As such, attorneys advised their U Visa clients to obtain employment authorization for adults and eligible children even if they were not old enough to work.

“I Need It, So I Have to Go Do It”: Accessing Public Benefits

Public benefits such as food stamps and Medicaid can be critical sources of assistance for U Visa and other twilight status holders and their families as they endeavor to stabilize their

lives. However, in the wake of the 1996 Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) and the Illegal Immigration Reform and Immigrant Responsibility Act, immigrants – particularly non-citizens - face an increasingly restrictive context in which to attain support. While PRWORA bars recent, lawfully present non-citizens (i.e., those who arrived after the law’s enactment on August 22, 1996) from accessing federally-funded public benefits to which citizens are entitled, states may provide state and local benefits to non-citizens by establishing laws that affirmatively provide for their eligibility.

California state law SB 1569, passed in 2007, allows non-citizens who are victims of serious crimes such as domestic violence to access a variety of state and local benefits and social services programs, including CalWORKS, Medi-Cal (the California state equivalent of Medicaid), General Assistance, State Food Stamps, and Healthy Families. While SB 1569 makes U Visa applicants and recipients eligible for these benefits, to receive them, individuals must verify to workers at the Department of Public Social Services (DPSS) and other offices that they have submitted requests for U Visa status to USCIS, or that they are U Visa holders. Migrants must assert their bona fide entitlement to benefits by producing convincing paper documentation of their legal identity.

Respondents in this study often encountered obstacles when trying to obtain the benefits associated with their actual or presumed U Visa legal status. Some DPSS staff that migrants approached had not heard of U Visa standing, failing to recognize the atypical “U-1 non-immigrant” status imprinted on migrants’ application or approval documents as a form of eligibility for benefits. Migrants recalled instances when they presented their U Visa paperwork to DPSS employees who refused to assist them, asking instead for migrants’ green cards, which they did not have. Others recounted that they did not receive the correct types of benefits, or the

correct amounts. While employee confusion surrounding individuals' eligibility for government and other services is not uncommon in bureaucratic settings (Lipsky, 1980), it may have particularly insidious effects on newly legal immigrants who are themselves struggling to understand their entitlements and how to claim them.

Juana, a U Visa holder and mother of six, explained that she had never received the type of Medi-Cal she thought she was eligible for, and was currently not receiving the right amount of cash aid, despite her attorney Tanya's help.

Tanya said I should have regular Medi-Cal, but I've been having just emergency Medi-Cal, and she even gave me a letter to give them [DPSS] that I qualified because of the U Visa, and for money. They were giving me money, but not enough. About the cash aid, I was like, "It's fine. Whatever they give me helps." But the Medi-Cal, they never give it to me regular. I gave them the letter. They always say they're going to fix it, but they don't do anything. Tanya told me not to give up, but I don't want to go. I think it's a waste of time. If I have to go to the doctor, I'll just pay it out of my pocket. The good thing is that [although] I pay to see the doctor, if I get a prescription, it covers for it. Sometimes it doesn't cover for everything, but at least it's something.

Later in the interview, when I asked Juana if she was planning on returning to the DPSS office to try to fix her benefits, she said yes, with a tenor of resignation in her voice. Juana said that although the DPSS employees were less than kind and did not seem to know what they were doing, she was concerned about being able to pay her rent next month. "I don't like the attitude from the people, but I need it, so I have to go do it. Where will my kids sleep if we get kicked out?" Juana's case, including the "take-what-you-can-get" attitude she adopted in response to her situation, exemplifies the devastating instrumental and constitutive consequences that non-standard legal categories can produce. Not only did Juana have trouble claiming her full complement of tangible benefits as a result of her anomalous U Visa status; her sense of personal self-worth also became intertwined with the unpredictable aid she received.

The status conferred by the non-citizen U Visa and other temporary standings is inherently ambiguous in ways that residency green cards and citizenship are not. In public service bureaucracies where entitlements delineated in laws and regulations are actually doled out, it becomes evident how consequential the liminality of twilight statuses can be when neither their possessors nor the persons to whom they are proffered know exactly the limits of related privileges.

Another barrier that prevented some U Visa holders from drawing benefits was their basic lack of knowledge about their eligibility. In a poignant example, when attorney Joyce casually asked client Roberta how she had been since their last meeting, U Visa holder Roberta explained that about six months prior, she injured her left hand at work when a heavy box of frozen food fell on it in a storage room. Roberta said she had seen a doctor, who advised her that she might need surgery if the pain persisted. But Roberta doubted she would be able to afford it. As tears fell down her cheeks, she said that her hand was so painful to the touch that it was difficult to embrace her own children, who needed lots of affection from her now that their abusive father was no longer in the picture. Joyce asked what doctor Roberta had seen, and Roberta answered that she went to a free clinic near her apartment. Joyce told Roberta that as a U Visa recipient, she was eligible for a health insurance program called Medicaid, and that the program could cover at least some of the costs for surgery at a hospital, if it was deemed necessary. She directed Roberta to a social worker at EJLA who could give her more information.

Muddled or nonexistent knowledge about their benefits eligibility prevented U Visa holders from effectively making claims to resources they were entitled to. Respondents' varied legal consciousness facilitated "stratified levels of rights awareness" that caused them to interpret

their newly legal lives in distinct ways and to engage in unique forms of legal mobilization surrounding the U Visa statute (Abrego, 2011, p. 341). The experience of having lived as undocumented migrants during much of their time in the United States – which required a certain level of self-concealment (Gonzales & Chavez, 2012; Menjívar & Abrego, 2012) – likely contributed to U Visa holders’ constrained legal consciousness in twilight status.

Even if U Visa holders were aware of their ability to claim benefits for themselves or family members, some chose not to because it required that they proactively claim their legality vis-à-vis doubtful others. In a meeting between Anna, an attorney, and Lizette, a U Visa recipient who was gathering paperwork for her residency application, the topic of public benefits came up. Lizette said she had gone to her DPSS caseworker to petition for benefits, but the employee alleged that drawing benefits could affect Lizette’s ability to obtain a green card. Visibly upset, Anna responded to Lizette, “Some people think that, but for people with U Visas, that is not true”. Affirming to Lizette that she *did* qualify and that getting benefits would *not* affect her residency, Anna asked if Lizette had given the caseworker the letter she wrote for her that explained her eligibility. Lizette answered that she had, but the caseworker repeated her warning, so Lizette was scared to apply.

In the aftermath of immigration and welfare reforms in the 1990s, migrants applying for residency who had previously procured public benefits – even if they had done so legally – were deemed “public charges” and faced significant delays in their legalization applications; in some cases, they were even unable to become residents (Park, 2011). Migrants with victim-based statuses, such as U and T Visa standing and status through VAWA, as well as asylees, are not subject to the same public charge constraints, and may draw benefits without ramifications for their residency. Nonetheless, the fear generated by stories of public charge bars to residency or

problems resulting from acquiring benefits in immigrant communities affected U Visa holders' willingness to apply for resources, even as their attorneys and other advocates reassured them. And as in Lizette's case, some respondents reported that they were not receiving benefits because authoritative (albeit misinformed) DPSS workers – not just lay friends and neighbors – said that if they applied for them, they might not be able to get green cards in the future. Public benefits workers who are unfamiliar with the nuances of the public charge laws only amplify fears generated in the community context (see Hagan et al., 2003).

I interviewed Lizette a couple of months after the meeting, inquiring if she had started receiving benefits. She explained that she went back to the DPSS office once, but that time her caseworker said that DPSS needed the original documents demonstrating her U Visa status in order to process her welfare. Lizette recounted telling Anna what happened, who insisted that a photocopy of her U Visa approval notice should suffice, and that giving DPSS her original notice would be unwise because they could lose it. Anna suggested that Lizette return again to the office. But after all the back-and-forth, Lizette made a personal calculation that it was not worth it to her anymore to attempt demanding benefits. She explained her rationale.

My friend was telling me, "Why don't you apply? Why not? You're really needy and you're not applying." I said, "Because I don't want more pressure." It was at the moment when I was most in crisis, I think. I told her, "I don't want them telling me, 'And then the receipt, and the letter, and that, and the other.'" I would rather stop buying things that aren't indispensable.

Lizette explained that she did not care about getting benefits for herself as long as her U.S. citizen children continued getting Medi-Cal.

The anxiety respondents associated with DPSS caused some to dodge social services offices altogether even when the resources could significantly help their families. Others said they would eventually return to DPSS, but after such negative encounters, they preferred to wait

until they could bring their more clearly identifiable and well-recognized green cards with them. The added challenges of healing from violence and learning how to navigate American social institutions as newly legal members after living outside of the law for years likely contributed to U Visa holders' restraint when it came to mobilizing their status for related privileges. However, if migrants do not or are not able to access the resources they are entitled to during the four years they are U Visa holders, their own wellness may suffer, but so could that of family members who may directly or indirectly depend on the aid. In turn, the fear and sense of undeservingness immigrants internalized from unsuccessful benefits claims appeared to deter at least some from further mobilization efforts. These findings illustrate how instrumental and constitutive consequences of legal identities in social life may have mutually reinforcing effects on immigrants' legal consciousness and incorporation.

Conclusion

This chapter examined the nature of twilight status as exemplified by formerly unauthorized migrants in the United States who had ascended to legitimate U Visa status yet continued to face barriers translating their liminal legal identity to concrete educational, employment, and public benefits gains. While some educational opportunities were available to U Visa holders, respondents' inability to obtain sufficient financial aid meant that many had to put college on hold until they became permanent residents. Migrants gained the capacity to work in the mainstream U.S. economy with their U Visa status, and informants described that they had access to a wider variety of jobs and more remunerative employment. However, some reported difficulties with employers who doubted the veracity of their work permits, and others realized that their desired jobs or pathways to them were only open to those with green cards. Although U Visa status qualified respondents for various public welfare benefits, their ability to claim

resources was hindered. Some barriers stemmed from social services workers' misconceptions about eligibility criteria, and others from migrants' reluctance to interact with benefits officers, either in response to previous negative experiences with them or out of fear that drawing public benefits could prevent them from acquiring residency. Others were unaware that they qualified for resources to begin with. Importantly, much of migrants' angst surrounding laying claim to entitlements appeared to be rooted in a habit of self-concealment borne of their previous deportability. In a legal and bureaucratic context characterized by multiple immigration statuses conferring varied social benefits, the case of U Visa holders illustrates how civic stratification is produced through institutional implementation of rights that differentiates non-citizens from citizens and non-citizens from one another. Neither citizens nor foreigners, U Visa holders did possess substantial rights to social goods, but their inability to consistently signal their entitlements to others via an imperfect regime of "papers" impinged on their mobility efforts, revealing the relevance of their ongoing "alien" standing even while occupying a position of legality (Bosniak, 2006). The formal inequality that resulted from migrants' twilight status had critical implications for their symbolic understanding and concrete use of their legal standing in U.S. society.

While respondents' lives and those of their families improved after acquiring U Visa status, benefits associated with their twilight standing were sometimes experienced or perceived as incremental or brief as migrants came face to face with the remedy's limits. Some respondents internalized the alienation implicit in slights from employers and DPSS workers, and educational constraints, causing them to regard their U Visa status as less legally meaningful than it was (see Gonzales & Chavez, 2012). Such slights often had the effect of deterring immigrants' efforts to demand legal recognition and draw essential resources. Limitations of

twilight status also affected migrants' legal consciousness. Recipients who had anticipated that their U Visa standing would lead to significant social advancements revised their initial assumptions, instead pinning their hopes on obtaining the more recognizable, stable, and therefore advantageous permanent residency⁸⁶. Findings suggest that legal and bureaucratic uncertainties associated with the new U Visa status can have significant negative consequences for immigrants and their families in tangible, concrete ways and in more constitutive ways, in terms of immigrants' understanding of the extent to which it seems "worth it" to mobilize the benefits of their legality. While studies tend to focus on the effects of law that are either solely "instrumental" or "constitutive" in nature, this examination considered how the two aspects of law are in fact interrelated dimensions, as the "instrumental" implications of law can lead to or inform how individuals experience the "constitutive" effects of law, and vice versa.

In investigating how obtaining legal status affected socio-economic and interpersonal aspects of immigrants' and their families' lives, this chapter intended to contribute to ongoing discussions among social scientists regarding the social import of legal status and citizenship in the present-day United States and other liberal democracies. Some scholars insist that immigrants' formal legal status may be immaterial to most of their quotidian activities in today's era of "post-national membership" (Soysal, 1994), as non-citizens in liberal democracies can occasionally obtain civic, social, and political benefits traditionally associated with citizenship. Researchers have (perhaps unintentionally) lent support to proponents of "post-national

⁸⁶ The matter of how stable permanent residency may feel to individuals or ultimately be for them is an open question. There are a number of conditions of permanent residency, such that if conditions are not satisfied, the standing may be revoked. See <http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=f1903a4107083210VgnVCM100000082ca60aRCRD&vgnnextchannel=f1903a4107083210VgnVCM100000082ca60aRCRD>, accessed December 18, 2012.

membership” models developed in Europe by demonstrating that undocumented migrants in the United States have made strides in voting (Varsanyi, 2006), education (Abrego, 2008), and political advocacy (Abrego, 2011); such activities have been touted as exceptional given unauthorized migrants’ official “legal nonexistence” (Coutin, 2000). But researchers have also drawn attention to the stark disadvantages undocumented migrants face in American society, particularly in the domain of employment, challenging the extent and conceptual power of “post-national membership” (Gleeson, 2010). This chapter posed a distinct, additional challenge to the model by showing the limitations migrants in the United States confront *even while possessing a valid legal status*.

While scholars have delineated the “rights” of undocumented “Others” in some American contexts, this chapter underscored how those with rights may nonetheless remain “Others” despite their legitimate legality (see Motomura, 2010). While the law formally endowed U Visa holders with certain rights, the anomalous nature of their status, the stigma associated with its non-standard character, and constraints rooted in migrants’ formerly undocumented mindset made it difficult for recipients to successfully obtain their entitlements. By examining U Visa holders’ assessments of their educational and employment experiences, and attempts to access public benefits, I demonstrated that secure forms of legal status are in fact *especially* important for the welfare and advancement of contemporary immigrant families. Findings revealed the enduring importance of formal rights in the current American state, despite – or perhaps because of – its averred commitment to liberal democratic principles, to immigrants as a fundamental social group, and to immigrants’ legal and socio-economic incorporation.

Scholarship on the role of legal status tends to emphasize the consequences of legalization for migrants in largely saccharine terms, but the stories highlighted in this chapter

suggest that the more bittersweet aspects of the application process – regardless of positive final results - deserve more attention. The same could be said for the post-legalization “socialization” process, as migrants navigate U.S. social institutions and settings – some familiar, some not - with a new legal identity and discover its value firsthand. Once immigrants solicit forms of legal status or benefits they are entitled to, they often must linger in limbo for results, as the bureaucratic and legal bodies charged with deciding upon their immigration requests or doling out resources are not generally subject to strict response deadlines or much oversight (see Benson, 2002). Perceiving that so much was riding on becoming a resident, Alicia, a U Visa client of Equal Justice who finally got her green card, called it her “Miracle Card” in a thank-you note to her attorney. Yet even if migrants ultimately obtain the status or resource they applied for, there are significant costs associated with the process of waiting for requests to be granted that may effectively block formerly available opportunities or affect migrants’ lives or familial relationships forever, diminishing or dimming the advantages associated with legally successful outcomes.

Immigration laws and policies are designed to protect national security and the sovereignty of the nation, and to preserve the rights of U.S. citizens (Walzer, 1983). Though in their exclusivity, immigration laws and policies directly affect non-citizens, including the undocumented and documented alike, whether they possess temporary, terminal statuses or more enduring twilight legal identities that offer a chance at residency and citizenship. Current citizens are perhaps the “ultimate” members of the state in that they are bestowed a full set of civic, social, and political rights and privileges. However, those on a *path* to citizenship - a group that includes U Visa holders and others in twilight status that may potentially adjust to

residency⁸⁷ – are effectively “Americans in waiting” (Motomura, 2006). They are definitively – or at least conceivably, in certain cases - future citizen members. Understanding the impact of immigration laws and policies on future state members is imperative because the impressions they develop of the worth of their legal status, and their opinions of the government and society that admitted them may affect their desire to become fully integrated and enfranchised as citizens. Moreover, as members of families and communities, individual immigrants’ experiences with U.S. legal and bureaucratic institutions, educational systems, and employers will likely affect how other potential citizens discern the meaning of their legal identity and their place in the American social order.

CHAPTER SEVEN: CONCLUSION

Although this dissertation focused on one piece of the larger U.S. immigration story, the many challenges that U Visa applicants and their attorneys experienced during the process of petitioning for relief speak to broader trends for immigrants pursuing other humanitarian statuses, and family- and employment-based statuses as well. No migrant, whether petitioning through a *blood, sweat, or tears* avenue, is automatically granted a right to enter the United States and become a politically enfranchised member. Discretion is involved in decisions on humanitarian-, family- and employment-based immigration applications. Thus, all immigrants applying for temporary or more enduring U.S. legal statuses face an uncertain adjudication system that requires them to demonstrate that they *qualify for* and *deserve* legal standing.

⁸⁷ This group could be expanded to include undocumented migrants and those in temporary, terminal standings who may eventually have the opportunity to regularize their status.

Immigrants may rely on attorney intermediaries to help them navigate the U.S. immigration legal labyrinth and compel the legal standing they desire (see Heeren, 2011).

Yet even after acquiring desired legal status, immigrants may continue to experience social marginalization stemming from the incomplete and unpredictable inclusion afforded by standings short of permanent residency and citizenship. Importantly, vulnerability in one domain of life, in one institution, at the hands of even one individual, can trigger a domino effect in the lives of newly legal immigrants striving to stabilize and improve their conditions. Irma, a 41-year-old mother of two from Mexico, adjusted her status from undocumented to U Visa holder at Equal Justice in 2008. Meeting with her attorney three years later to discuss her petition for permanent residency (she would soon become eligible to apply), it surfaced that the work permit Irma received with her U Visa standing years before did not help her obtain a job in the mainstream economy. Instead, with no foreseeable options for a consistent paid position, Irma had pieced together a monthly income of about \$1,110.

What happens is that if you call me and you say, “Can you clean my house?” “Oh,” I say to you, “Yes.” And if someone else calls and says to me, “Can you take my dog out for a walk?” I tell them, “Yes.” It’s like, I do a lot of things for money, but I don’t have an office. Normally I clean houses. Right now a friend of mine has a beauty salon, and she doesn’t have anyone who helps her cut hair. So I go with her, and she pays me because I keep the salon clean, organized. For example, she tells me, “Oh, wash her hair.” She says, “You’re my assistant.” So I also do that.

Given the complicated nature of her work situation, Irma had experienced difficulty mobilizing her legal standing to garner social services benefits she was entitled to as a U Visa holder. Her explanation highlights the liminality of “twilight” standings.

One time [the welfare office] cut off my food stamps because I didn’t bring them proof that says, “Here’s my income.” Why? Because the person pays me cash. She wouldn’t give me a letter. If I say [to the caseworkers], “I work with Maria and Elena,” they want the person I work for to write a letter for me that says, “She comes with me on Tuesday, Thursday, and Friday from 2:00 to 5:00.” And when I asked the person, “Will you write me a letter?” “Oh no, I don’t want to wind up with problems.” They are scared about

what I'm going to do with the employment paper. When they don't give it to me, I say to myself, they're doing me a favor hiring me. I can't be demanding too much. It's really difficult when people [caseworkers] want a paper, because you end up saying it's better not to apply.

Unable to convert her U Visa status to a formal job, Irma was left in the vulnerable position of asking her multiple and hesitant informal employers to vouch for her work. In this series of events, Irma was unable to regain her food stamps and worried about feeding her two U.S. citizen children as a single parent. As a legal, documented immigrant, Irma was nonetheless “very limited” in her ability to draw tangible benefits from her acquired legality. Irma anticipated the opportunity to apply for permanent residency, hoping that legal outcome would confer more social legitimacy and lead to realistic mobility options. Fortunately, Irma's lawyer was optimistic that residency was attainable for her, and the two began work on Irma's green card petition.

This dissertation analyzed the experiences of immigrants who go are going *through* the legalization process, not the many who do not have a chance of doing so or face legal dead ends given the nature of their statuses. There are an estimated 11 million undocumented immigrants living in the United States today, the great majority of whom have no recourse for legalization (Center, 2013; Passell & Cohn, 2012). There is a growing literature that documents the effects of immigration law and its implementation on the lives of these immigrants, many of whom alter their daily routines and practices to avoid being detained and deported (Abrego, 2011; Gonzales & Chavez, 2012). My dissertation parallels and contributes to this scholarship in that I also examine changes of behavior in direct response to the current legal regime, except that in the cases I studied individuals initiate behavioral changes and practices in efforts to exit the legal “shadows” (Chavez, 1992) and step into the legal “twilight” (Martin, 2005). They seek out

immigration lawyers to help them convert their experiences of violent crime into legal incorporation.

The immigrants whose experiences I examined act within the same hostile immigration regime that drives some to live under the radar of the law's sway and tailor their activities and aspirations to prevent removal. The intensification of restrictions and tightening of immigration controls have created more demands to prove belonging and at the same time such restrictions have intensified the need for immigrants to demonstrate their civic deservingness (Abrego & Lakhani, n.d.; Filindra, 2012; Menjívar & Abrego, 2012; Menjívar & Morando Lakhani, n.d.). At the advice of their lawyers, one way the U Visa applicants in this study portrayed proto-citizenship was by acting as police informants even as they continued to associate law enforcement officers with mistreatment in many cases. Like immigrants living outside of the law, who change their behaviors and routines in order to avoid legal detection (Gonzales & Chavez, 2012), the immigrants on whom I focused also altered their lives in response to law, albeit to comport with legal criteria and norms that appeared to offer an opportunity for them to obtain legal status. Fundamentally, they changed their lives not out of fear of deportation (arguably the ultimate form of exclusion), but in hopes of inclusion, of being considered as deserving of membership and accepted as politically legitimate members of U.S. society.

As immigrants refashion themselves in the legalization process with help from attorney proxies and other intermediaries, they shape the nature and meaning of citizenship more broadly. By producing versions of themselves that they hope will resonate with categories of legal inclusion, immigrants (albeit unwittingly) reify constructed categories and notions of who is fit to belong as permanent and full member of society and who is not. In doing so, they reproduce the exclusionary principles at the heart of the legal regime that bar individuals unable to realize

these transformations and normalize images of those fit to belong. Thus, the dual process of “being made and self-making” (Ong, 2003) that applicants undergo and attorneys facilitate in this context reinforces the regulating mechanisms inherent in the law, which serve as the basis to evaluate immigrants along dominant ideological values for different social markers (Bhuyan, 2008; Katz, 2001; Lakhani, 2013) and to exclude those who are less able to conform.

Invoking Foucault’s (1991) notion of governmentality helps to illuminate the tools that the state uses in its control of immigrant populations in addition to and apart from overtly coercive tactics, threats of deportation, and fear-inducing practices. Through providing the apparently non-coercive benefit of legalization, the state exerts its power over immigrants, by “taking control of life...[and] ensuring that they are not only disciplined but regularized” (Foucault, 2003, pp. 246-247), to craft themselves into the individuals the state evidently needs and will reward. This is where Foucault’s (1993) conceptualization is particularly illuminative, as the process of legalization does not only dictate what the state wants and what kind of individuals it will reward with inclusion, but does so through an equilibrium between coercion and “processes through which the self is constructed and modified by himself” (p. 203-4), thereby engendering transformations in the subjects it seeks to control. As Chauvin and Garcés-Mascareñas (2012, p. 254) observe, “[m]igrants take active part in the process... Being part of the concrete, legal, bureaucratically existing population, they may, perhaps, more successfully and more legitimately claim a space among the people.” Employing attorneys as mediators in this disciplinary “modif[cation]” process of immigrants, the state further deflects responsibility from interventions (Foucault, 1993, pp. 203-204).

Throughout history immigrants have transformed themselves via legal, social, and cultural shifts in identity and conduct in order to fit into the American social fabric, altering their

ways of life and even their names. In many ways, the receiving society expects immigrants to adapt their behaviors in order to “belong,” to “act American,” and to become “like us” (Nicholls, Forthcoming). In contexts of anti-immigrant sentiment, including the contemporary era (Chacon, 2009; Menjívar & Abrego, 2012; Stumpf, 2006), immigrants may feel heightened pressured to change their legal and social lives to promote inclusion. They may find themselves turning to attorney experts to help them maneuver within the increasingly complex legal terrain they confront and locate a legal “space” (Gilkerson, 1992, pp. 871-872). Yet U.S. immigration law and policies have always been inherently restrictive, marked by long and unwieldy paths to citizenship even for the select individuals deemed deserving at various points in history (Kanstroom, 2007; Motomura, 2006; Neuman, 1993). My examination is therefore timeless and timely, relevant always and also particularly so now in light of the current immigration regime in place in the United States.

METHODOLOGICAL APPENDIX

Entry

When I began this study, I wanted to analyze the legal incorporation of immigrants in the United States, having identified what I felt was a significant research vacuum. While the act of traversing state borders made international migration by definition a legal phenomenon, social scientists seemed to discount the legal boundaries separating people “of the state” from people who were physically “in the state.” It seemed obvious that this distinction – which pointed to a variety of legal standings short of citizenship - would significantly affect immigrants’ socio-economic, linguistic, political, and residential integration in the country (Alba & Nee, 2003;

Joppke, 1998a). Yet I did not find much research explicitly investigating how legal status impacted assimilation and mobility opportunities. Most of the research I did locate focused on undocumented immigrants and the social marginalization they experienced in American society (see, e.g., Abrego, 2006; De Genova, 2002). Inspired primarily by Jacqueline Hagan's "Deciding To Be Legal" (1994), which examined immigrants' rationales for taking advantage of the 1986 Immigration Reform and Control Act's (IRCA) legalization provisions, I became interested in studying immigrants' legalization endeavors in the 21st century. At the time, I knew little about the legal "side" of immigration besides that U.S. immigration law favored family-based legalization, but offered some employment visas for skilled immigrants and agricultural workers, and had a political asylum program for people who fled violence in their countries of origin. I was unaware of the U Visa.

This was early January 2009, and I was enrolled in an ethnographic methods course taught by Stefan Timmermans. Stefan encouraged us to explore potential field sites during the first weeks of class where we could conduct at least 5-10 hours of observations a week for the next 6 months of the course. In pursuing my burgeoning interest in immigration law, it occurred to me that an appropriate field site might be a law firm, legal organization, or related institution, but having worked at private law firms before, I doubted one would hire me for so few hours and be willing to allow me to do research in their midst. My next thought was that I could volunteer at a legal non-profit or community-based organization in Los Angeles that provided free or low cost legal services to low-income individuals. Unaware of existing organizations in the area, I took to the Internet, and learned that some focused their work exclusively on immigration, while others had expertise across several areas of law. On one organization's website, I noticed a sidebar soliciting volunteers to come work at the organization. Reading on, I saw that the

organization preferred volunteer and pro bono lawyers and law students, but they sometimes accepted volunteers from the community at large who were not pursuing a legal career.

Intrigued, I submitted an application to Equal Justice of Los Angeles. Meanwhile, I pursued other field site opportunities that strayed near and far from immigration law, but none appeared promising. Fortunately, I heard back from EJLA within a couple of weeks, and went to the office for an interview.

During my interview with Jane, an immigration attorney, I was told that the organization handled exclusively victim-based immigration cases, with a particular emphasis on female domestic violence victims applying for legal status through the Violence Against Women Act and the U Visa, but that other work focused on political asylum, trafficking, and citizenship. Jane asked about my Spanish fluency right away, which I had indicated in my volunteer application, and at her initiation, we switched out of English as a test of my competency. Jane was pleased, and said that while a non-law student volunteer had not volunteered with them before, I was “definitely qualified” as a Spanish-speaking Ph.D. student with law firm experience. She asked me what sorts of things I was interested in doing at the firm. I told her that I was hoping to interact with as many immigrant clients as possible, for two reasons. Before going to graduate school in sociology, I had contemplated applying to law school. I knew in college that I wanted a career working with immigrants, and at the time I saw my two best options as 1) a sociologist (my undergraduate major) studying immigration; and 2) an immigration lawyer. I selected sociology, I told her, but had not ruled out law school at some point in the future. So, I explained, I was hoping to help out on as many immigration legal cases as possible to learn what the process of preparing immigrants’ legalization petitions was like. I told Jane that I also wanted to interact with as many clients as possible to meet the requirements

of my ethnography course at UCLA. I described the class requirements of observing interactions at a field site for 5-10 hours a week, and taking field notes about what was happening around me. Aware of lawyers' caution about maintaining attorney-client confidentiality, I explained right away that although I hoped to write notes about immigration legal cases, lawyers' advice to clients, and how legal cases were prepared, I would not use the organization's name or any client, attorney, or staff member names so as to maintain the confidentiality and anonymity of everyone involved. Jane's first reaction was that my plan sounded appropriate, and she did not think that my doing research at the organization while volunteering would breach attorney-confidentiality. She said she would talk with her supervisor, Bill, and the General Counsel (attorney for the organization) at Equal Justice, Morty, to ensure that was correct. In the meantime, she asked me to sign a confidentiality agreement with the organization asserting that I would not share private, privileged information about any clients or staff. Jane said they would be happy to have me as a volunteer for as much time as I could give, and we planned that I would start the following week.

Jane explained that my Spanish skills would be helpful over the next several months because there would be an influx of work for Spanish-speaking U Visa clients. I could meet with them and help take their declarations, for example. Jane conveyed that the adjudicative regulations for U Visa status had just recently taken effect after a nine-year wait since the status was created legislatively. The lawyer said she had approximately 80 U Visa clients whom she had helped apply for what was called U Visa "interim relief," a temporary standing that had been created in October 2007 to allow certain crime victims to receive temporary benefits until the regulations governing U Visas were published. Now that the regulations were out, all of Jane's interim relief clients (and those of other immigration attorneys at the organization) would need to

file complete U Visa applications before the end of 2009, when U Visa interim relief was dismantled⁸⁸. If recipients of interim relief had not filed complete U Visa applications before December 31, 2009, they would become undocumented⁸⁹. There was going to be a mad rush of U Visa work, Jane said, so much of my time at EJLA would be occupied with that. If and when the rush died down, she would make sure I worked on other types of cases. As it turned out, I was able to work on other types of cases, but U Visa cases would constitute the bulk of my work⁹⁰.

Ethical Issues

During my involvement with the organization, and particularly in the first year of fieldwork, issues surrounding confidentiality and attorney-client privilege⁹¹ came up at several junctures. In the first few months of 2009, I was required to give my field notes to Jane, who would read them and redact parts that she thought should be omitted. These were minor

⁸⁸ It was not known in January 2009 that U Visa interim relief would end in December 2009, but lawyers anticipated that it would be eliminated around that time.

⁸⁹ See <http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnexto id=1c4cb1be1ce85210VgnVCM100000082ca60aRCRD>, accessed March 20, 2013.

⁹⁰ Over the course of fieldwork, I continually requested to work on a variety of case types, but I had limited control over my volunteer workload. I was trained extensively on the U Visa at the beginning of fieldwork to help with the influx of interim relief cases. After the influx died down, most lawyers did not want to spend significant time training me on different types of cases knowing that I was already equipped to assist with U Visa cases, and that I was a volunteer who could stop working at EJLA at any time.

⁹¹ As I understand it, “attorney-client privilege” refers to “a client's privilege to refuse to disclose, and to prevent any other person from disclosing, confidential communications between the client and his or her attorney... The attorney-client privilege encourages clients to disclose to their attorneys all pertinent information in legal matters by protecting such disclosures from discovery at trial. The privileged information, held strictly between the attorney and the client, may remain private as long as a court does not force disclosure.” See <http://legal-dictionary.thefreedictionary.com/attorney-client+privilege>, accessed March 20, 2013.

descriptive details, including names of cities in Los Angeles where clients lived and the particular fast-food restaurants they worked at, for example. Eventually Jane told me she did not need to see my field notes anymore because she trusted that I was protecting the confidentiality of clients and the organization.

My research was covered by the UCLA Institutional Review Board (IRB) as work for a university course from January through June 2009. In order to continue my research after that time, I had to apply for my own IRB authorization, and issues around attorney-client privilege at Equal Justice emerged. I received IRB approval of my research (IRB No. 11-002773), and as a condition of the protocol, I was required to fully disclose my researcher role to the organization. Several of the immigration attorneys (including Bill and also Morty) already knew about my research by that time, but the executive director who oversaw all practice areas of the organization did not. When I first approached Rosa, she was reluctant to allow the research because of concerns surrounding attorney-client privilege. Namely, she worried that attorney-client privilege covering me as a volunteer at the organization would not apply when I “switched” roles to researcher in my communications with clients.

Nervous my research hopes would be dashed, I did some investigations of my own on the subject of attorney-client privilege. I spoke with my father, David Faigman, a law professor, who explained attorney-client privilege to me in detail. He suggested I contact his colleague, Professor Geoff Hazard, a legal ethics expert. I wrote to Professor Hazard, who kindly agreed to advise me. He acknowledged that EJLA was right to have concerns about attorney-client privilege, but reassured me that there were ways to solve them. First, Professor Hazard explained that in his opinion, since my research would take place within the context of clients working with attorneys pursuant to their legal cases, my ethnographic research would not pierce

attorney-client privilege. As long as the information I used for research was invoked anonymously and without attribution to any clients, I should not abridge or otherwise impact the attorney-client privilege. Professor Hazard explained, however, that the law was opaque on the issue of whether volunteers in my situation were technically covered by attorney-client privilege rules. He suggested that one way to ensure attorney-client privilege would not be jeopardized would be for the organization to hire me as a paralegal and pay me a nominal weekly salary of perhaps \$5.00 a week. That way, I would be an official employee of Equal Justice, and certainly covered. He reiterated that hiring me would be a way of clearly resolving the attorney-client privilege issue, but in his mind the privilege would still extend to me as a volunteer. Going forward, he noted that there would be some risk in keeping me on as a volunteer instead of an employee, but not much, and that the organization would need to make the judgment call on that. As a second idea, Professor Hazard suggested that I sign some sort of agreement with EJLA stipulating that I could observe interactions in the office, but would maintain absolute confidentiality as to the details of those interactions, and that any impressions I took away from them would be used for purely academic purposes. He offered to write a letter to EJLA affirming this position, that is, offering a professional letter of support providing the legal authority for his conclusions; he even said he could speak directly to with the lawyers if they wished.

I conveyed all of this information to Rosa, Morty, and Bill, who seemed impressed that I had consulted an ethics expert. In the meantime, Morty had located a Los Angeles County Bar Association Opinion from the 1970s suggesting that non-attorneys undertaking research at legal services programs could access confidential information about clients with their consent. The opinion appeared to satisfy Morty that my research at the organization would not breach

attorney-client privilege because I, as a “non-attorney staff member...function[ed] as [an] agent of attorney[s]” (“Confidential Information - Legal Services Program - Research by Non-Attorney,” 1978, p. 79).

Rosa was satisfied with my coverage under attorney-client privilege after hearing Professor Hazard’s thoughts, conveyed by me, and Morty’s opinion. She said she understood Professor Hazard’s suggestion about my employment with Equal Justice as a way to ensure attorney-client privilege were not breached, but she balked at hiring me as a law clerk or paralegal, citing difficulties it would cause with EJLA’s union. But Rosa had another concern, which Jane shared. Attorney-client privilege aside, Rosa worried about the “power dynamics” involved when, as part of my IRB protocol, I would ask clients for their oral consent for me to observe their attorney meetings. She worried that clients might not comprehend what was happening when I asked them, and feel pressured to agree because of my position of authority at EJLA. I suggested that one solution could be for the lawyer involved in each case to briefly explain my study to the immigrant client and ask if he or she was interested in participating; if yes, I could join them and do informed consent following IRB protocol. Such a resolution would not eliminate any existing power imbalances between attorney and client, the existence of which has been well documented (see, e.g., Sarat & Felstiner, 1995). Nonetheless, this seemed like the most appropriate and feasible way of addressing lawyers’ concern without putting a stop to the research. Rosa approved of my suggestion.

In the end, despite lingering uncertainty about my protection under EJLA’s attorney-client privilege, the organization allowed me to proceed with research as long as I was also volunteering. I was very careful not to write any client or attorney names or identifying

information down on paper that left the office in order to protect study participants should I be subpoenaed in a court of law.

Study Focus and Researcher Standpoints

Researchers must always make efforts to be reflexive about the perspectives we bring to data collection and analysis. This is particularly important for ethnographers conducting participant observation research, who are often situated as both insiders and outsiders within their fields of study. In service of that effort, what follows is an account of the roles I felt I occupied during dissertation research, including consideration of how my positionality may have shaped my findings and analyses.

Widely credited with the advent of participant observation ethnography, anthropologist Bronislaw Malinowski believed the ethnographer's goal when undertaking research should be to "grasp the native's point of view, his relation to life, to realize *his* vision of *his* world" (p. 25, 1961 edition of Malinowski, 1922). Accordingly, he advised ethnographers to get to know the "natives" by living among them, learning their language, and even adopting their point of view. Doing so required spending a long time in the field, taking copious field notes, and locating and interviewing key informants in order to produce data-driven accounts. Although most ethnographers no longer regard their research subjects as "natives" in a pejorative sense, these fieldwork practices remain central to ethnographic research on legal and other topics (Coutin, 2002; Darian-Smith, 2004).

As mentioned above, my initial interest when beginning this study was to understand the legal incorporation of immigrants. I anticipated that conducting research at a legal organization where immigrants applied for legal status was one place where I could observe these dynamics. But during the first few months of research at Equal Justice, I realized I would need to shift my

focus a bit, given the data I was collecting. I was able to observe how immigration petitions were crafted and edited (in fact, I was preparing petitions myself, with lawyers' guidance). I was able to see how lawyers advised immigrants about aspects of their legal cases as they were unfolding. I was able to witness immigrants describe to lawyers how they were denied social services benefits that their legal status entitled them to. In sum, I realized I was seeing many stages of the *legalization* process, but missing a key preceding stage of the *legal incorporation* process I had hoped to observe: namely, when immigrants became aware of legal mobilization options and decided to pursue them.

Within the context of a legal organization, I could gather post-facto accounts from immigrants about the initial moments their "legal consciousness" (Merry, 1990) was raised, but I could not witness those moments as they were unfolding, as Hagan (1994) did in her neighborhood-based study. By living amongst an immigrant population in Houston, she was present during informal conversations as individuals learned about IRCA and discussed if and how they might apply for legalization benefits. I considered trying to incorporate a "community" aspect to my study, but decided to stick with an institutional ethnography of immigration legal phenomena. It was around this time that I discovered Susan Bibler Coutin's research on Salvadoran immigrants' legalization efforts (see, e.g., Coutin, 2000). Her work convinced me that the data I had access to within the scope of Equal Justice was valuable in and of itself.

Moving forward, I decided to re-frame my dissertation as a study of the *legalization* process. Ultimately I did end up analyzing immigrants' legal incorporation and legal consciousness in chapter 6 (using interviews and conversations with immigrant petitioners), but the rest of the dissertation focused on stages of the immigration legalization process itself, with

lawyers the primary subjects. Unintentionally, my dissertation became an effort at “studying up,” Laura Nader’s conceptualization of research that analyzes educated, privileged, or powerful individuals (1969).

The non-profit lawyers in this study positioned themselves and were positioned by others as immigrant “advocates”. Their behaviors vis-à-vis immigrants were presumed to be helpful and their efforts altruistic. But as I began this study, I wanted to study more than what the lawyers said they were doing, like “We help the neediest immigrants” (as Jane told me during my Equal Justice volunteer interview) and “We provide legal advice to immigrants and they decide how to proceed” (I heard this many times throughout fieldwork). My goal was to examine their everyday practices, believing like Foucault that “People know what they do; they frequently know why they do what they do; but what they don’t know is *what* what they do does” (quoted in Dreyfus & Rabinow, 1982, p. 187, emphasis mine). People in so called “helping professions” such as law, medicine, and social work often aim to effect welfare but are unaware if they are not succeeding; if they are aware, they tend to externalize problems and blame others (see, e.g., Villalón, 2010). I strongly believe that the immigration lawyers who participated in this research were committed to the welfare of their clients. However, I also believe in the value of critically examining their work in efforts to expose and ameliorate social, legal, and bureaucratic constraints that impinged on it. Some constraints I discuss in this dissertation were external to legal organizations. For example, chapter 4 examines how lawyers prepare compelling U Visa petitions on immigrants’ behalf in a context of significant legal and bureaucratic uncertainty. Other constraints were internal. Chapter 5 analyzes how attorneys’ legal idealism and efforts to “holistically” help their clients ultimately fall short, partially

because their ancillary assistance fails to address underlying structural issues that trigger clients' problems. Their erosive efforts are facilitated by the organizational conditions that they work in.

The issue of which direction research takes – “up,” “down,” even “sideways” – originates in a wider debate in the social sciences around the idea that a detached observer can do objective research. In theory, ethnographers are expected to arrive at their study sites and observe and record existing customs and interactions, trying to abstain from imposing their own judgments. Yet scholars have disputed the very notion of objective research, arguing that everyone has a stake in their own research. Instead of pretending that objective research is even possible, researchers should “situate knowledge” by explaining the various standpoints they brought to bear on their work (Haraway, 1988; Harding, 1987).

Part of this exercise for most, if not all ethnographers should be discussion of one's status as “insider” or “outsider” in the group studied, the assumption being that groups are cohesive enough for the researcher's status to be of critical importance. If the researcher is an “insider,” she is presumed to understand the group's social relationships and subtleties in their concerns. If the researcher is an “outsider,” she does not. But the idea of a dichotomy between inside and outside has been thoroughly questioned (see, e.g., Mullings, 1999), since one's status as insider to a group could be compromised by another status. In my case, I could be considered an “insider” amongst lawyers because of my level of higher education, but an “outsider” because I am not a lawyer. Ultimately, my fieldwork experiences during this project demonstrated that an ethnographer's acceptance by a group depends on empathy, which sometimes occurs between people who apparently have little in common.

My own position in the field was a mix of insider and outsider, and shifted according to the conditions of the moment. At times I identified with immigrant clients seeking legal

assistance, anxious to understand what legal narratives would facilitate regularization and frustrated by lawyers' inability to give definitive answers. Although I have legal work experience myself, and more than a few legal professionals in my family, I am not a lawyer. I wished I were a lawyer at many times throughout this project, imagining a legal education would help me understand the legal minutiae that shaped lawyers' case preparation strategies in more depth. At those moments, I was fortunate to have family members to turn to and the research skills of a Ph.D. student to develop a passing understanding of the legal concepts I was interested in. The immigrants I was working with were not as fortunate. Many had only a few years of formal education, and some were illiterate. If I felt bewildered by attorneys' explanations of legal conundrums, I could only imagine how bewildered some clients were.

While many factors separated me from the immigrants who participated in this study – including socio-economic status, race and ethnicity, and language skills – at times I felt I could relate to them on the subject of law. In many ways, I learned about the intricacies of immigration law alongside migrants, as I was assigned to gather information about their lives and prepare drafts of legal documents for their regularization. Moreover, my status as a non-lawyer was made clear to clients. Lawyers always introduced me to clients as a “volunteer” or “student,” never a “law clerk,” “paralegal,” or “lawyer.” Sometimes this prompted questions from clients about my background. Usually they wondered if I was a law student, and I explained that no, I was a university student who volunteered at Equal Justice a few hours each week. If they asked additional questions, I explained that I was a sociologist who studied various social groups, including immigrants. Many clients who learned of my interest in immigration responded by commenting on U.S. immigration law and the difficulties undocumented immigrants faced in American society, articulating why and how they thought the law should

change. Sometimes their explanations included descriptions of their own circumstances. These conversations proved relevant to chapter 6.

Most of the immigrants with whom I worked at Equal Justice were female adults from Latin America who had experienced domestic and/or sexual violence. I imagine that doing this research would have been very difficult (if not impossible) had I been a man, because of the significant trauma many immigrant clients had undergone by men. Indeed, many clients disclosed to me during our work together that they were simply scared of men in general.

As a Caucasian woman who learned Spanish as a second language, it is certainly possible that I missed cultural or linguistic subtleties that only a fluent Spanish speaker or Latin American researcher would pick up on. However, at many times during fieldwork, I felt that my imperfect Spanish and outsider racial and ethnic standing were beneficial to data collection. Immigrant clients often asked me where I was from and why I spoke Spanish during our meetings. This often led to conversation about clients' own migratory histories and experiences as immigrants in the United States. These conversations were helpful for chapter 6.

My imperfect spoken Spanish frequently forced me to ask immigrants clients to slow down their speech and repeat themselves. While this was embarrassing on one level (thankfully my Spanish improved over the course of research), I noticed that some immigrants responded receptively to my errors. They were gracious about it, smiling with encouragement as I mispronounced or grasped to recall words. Clients sometimes even helped me remember words, facilitating an atmosphere of camaraderie that I felt helped mitigate my "outsider" status along other dimensions. Instead of me helping them (through my volunteer work on their legalization cases), immigrants became the authorities in these situations, the experts to whom I turned to get through a rough patch. When I thanked them for their assistance, many explained that they too

struggled to remember words in English, and understood how hard it could be to communicate in a second language.

In general, it was easier for me to relate to attorneys during research, primarily because of our shared socio-economic status and language. The longer I worked at Equal Justice, the more I could understand lawyers' periodic frustration when they struggled to glean legally-relevant information from unresponsive clients or those who had trouble staying on topic during meetings. Even only volunteering one or two days a week, I understood the emotional "burnout" and "vicarious trauma" attorneys sometimes complained about as a hazard of their jobs, day in and day out listening to clients' disturbing accounts of violence.

I think my shifting position helped me understand everyone better and to take field notes from as many "perspectives" as possible. Nevertheless, being a trained law clerk undoubtedly affected my perceptions of what was "important" or "relevant" during fieldwork. I aimed for research to proceed in as inductive of a process as possible, but to some extent all observations come from somewhere, taking the shape observers give them. Having read relevant social science and legal scholarship before commencing fieldwork, I had ideas about what I might end up writing about; and at the outset of fieldwork, lawyers taught me about immigration law and how to construct compelling legal petitions. Both of these educational "experiences" surely led me to focus on certain aspects of interactions I observed more than others. In an effort to mitigate any biases in perspective, I noted as many details as possible about what I was observing even if its relevance was not immediately apparent, including topics raised by both immigrants and attorneys (see Felstiner, et al., 1980-1981). I also paid attention to research subjects' body language, facial expressions, and emotional states, knowing that although these were my interpretations, perhaps they would enrich field notes that attended primarily to

subjects' words and actions. When I had the consent of everyone in the room, I tape-recorded interactions so I could listen to them after exiting the field. This sometimes helped me recall interesting episodes that my field notes inadvertently missed. To try to maintain analytical distance from both lawyers' and clients' interpretations of the legalization process, I tried to arrange a volunteer schedule with Equal Justice such that I worked one full 6-8 hour day per week supplemented by an extra meeting or two, or two days per week in 4-5 hour periods. That way, I had several days between visits to write field notes and reflect about what I had observed with a sharper sociological lens.

In the end, I think it was important for me to work closely with lawyers during the first year of research in order to develop a deep understanding of the legal challenges they were dealing with. While some complexities of immigration law were apparent early on in research, it took many months of close observations to comprehend other intricacies and the multiple, intersecting levels of uncertainty that mattered in lawyers' work with immigrant clients. After this period of heavy involvement with the lawyers, I started making more efforts to gather immigrants' perspectives of the legalization process through interviews.

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