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More than victims: Resiliency of undocumented Latinas near Chicago, United States, and the strategic use of psychological suffering in obtaining legal status

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Abstract

Caught between abusive partners and restrictive immigration law, many undocumented Latina women are vulnerable to domestic violence in the United States. This article analyzes the U-Visa application process experienced by undocumented immigrant victims of domestic violence and their legal advisors in a suburb of Chicago, United States. Drawing on theoretical concepts of structural violence and biological citizenship, the article highlights the strategic use of psychological suffering related to domestic violence by applicants for such visas. It also investigates the complex intersection between immigration law and a humanitarian clause that creates a path towards legal status and eventual citizenship.

Keywords: domestic violence; mental health; U-Visa; Latina; children.

Caught Between Policy and Abuse

Isabela², an undocumented immigrant woman born in Mexico explained the domestic abuse she experienced at the hands of her former partner: “He pushed me very hard against my vanity and he hit me many times in my head and he slapped me, pulled my hair, and he put his hands around my neck and tried to [choke] me”. Ximena, another undocumented immigrant woman wrote: “I always depended on him economically so [I] felt that I could not do anything”. Valentina, also undocumented, wrote about her abuse in this way: “I thought it was best to be silent for my children”.

These women, like many other undocumented women living in the United States, are stuck between abusive partners and restrictive immigration policy. Many undocumented immigrants have been forced to migrate from their country of birth because of social inequalities that directly influence women’s lives through gender-based marginalization and limited economic opportunities. In fact, the very decision to migrate reflects a marginalized position within their culture and local economy, especially by women in many parts of Mexico where most of the subjects in this study originated (Castaneda, 2010). Some women who were forced to flee their country of birth in order to survive find themselves facing domestic violence in the United States. This study highlights the U-Visa application process experienced by undocumented immigrant crime victims and their legal advisors in a suburb of Chicago, Illinois. By focusing on the strategic use of psychological suffering in applications related to domestic violence, the complex intersection can be investigated between

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² All names of women in this article are pseudonyms.

immigration law and a humanitarian clause that creates a path towards legal status and eventual citizenship.

Introduction

Undocumented immigrants arrive in the United States lawfully and unlawfully from almost every country on earth and are motivated by economic, political, and social hardships in their country of birth. Solving the problem of undocumented immigration is not easy and has become a highly politicized issue. The United States Citizenship and Immigration Services (USCIS) can seem very complex regarding some specific issues related to humanitarian reasons for migration. U-Visas allow victims of qualifying crimes access to legal permanent residency immigration status (Green Card) and a path to citizenship. Without the aid of U-Visas, it would be unlikely that these undocumented immigrants would have any path towards documented immigration status.

Victims of violent crimes can apply for temporary immigration status that can eventually provide a path to permanent residency or citizenship through the U-Visa. They must meet a pre-determined set of criteria and have been or are likely to be helpful in the investigation and prosecution of the criminal activity they experienced. U-Visas are potential “pathways to becoming authorized by the state and, even...to a form of biological citizenship” (Parson & Heckert, 2014, 307). Biological citizenship allows someone to stake claims from their suffering and can objectify it for legal, economic, and political benefits (Petryna, 2004, 265). Victims of domestic violence are able to gain access to official authorization by the state through being granted immigration status.

Undocumented immigrants can experience particular vulnerability to abuse and violence because of the fear surrounding their lack of lawful presence or immigration status. In general, a quarter of all women in the United States experience domestic violence, which includes “physical assault, sexual violence, emotional abuse, and stalking behavior perpetrated by a spouse, boyfriend/girlfriend, or live-in partner” (Wies, 2011, 4). Women both in the United States and around the globe are already at great risk for suffering intimate partner violence, especially women who are immigrants because they can face gender-based discrimination in addition to other structural inequalities in their country of birth (Parson & Heckert, 2014, 306). Women who experience domestic violence report greater psychological problems and poorer social adjustment than women who have not had exposure to domestic violence (Rossman, 2001).

Immigration laws put undocumented women at a disadvantage and can leave many feeling a lack of agency or power over their lives. Sometimes their abusers can use the fear of deportation to exploit them. Research has shown that “abusive partners [use] biopolitical threats as a form of interpersonal control” (Parson & Heckert, 2014: 309). Often abusive partners will make threats to report them to immigration and have them deported. Studies have also shown that Latina women who have been victims of domestic violence have “significantly greater trauma-related symptoms, depression,” and “lower social and personal self-esteem” (Edelson, Hokoda & Ramos-Lira, 2007, 1). Many victims seek legal counsel from pro-bono law offices or Immigration Legal Services (ILS) at non-profit agencies that provides low cost legal services.

The participants in my study are a selected group with legal proof in the form of police documentation of abuse from domestic violence. All of the participants successfully obtained U-Visas with the help of the legal advisors at a non-profit outside of Chicago, Illinois. They all suffered substantial physical abuse in the form of at least one or more of the following: abduction, abusive sexual contact, domestic violence, extortion, kidnapping, obstruction of justice, rape, and sexual assault. In addition to the Certification of Helpfulness (I-918 form signed by a law enforcement agency) and police reports documenting the extent of the physical abuse, many of the participants



in this study also described suffering mental abuse as a result of having been a victim of these criminal activities.

Research Design

Qualitative research methods were used in this study in order to explore the perspectives of the participants and understand meanings within their statements. I reviewed over 100 U-Visa applications and analyzed 17 written personal statements of adult female survivors of domestic violence. The personal statements ranged in length from as short as one page to as long as 20 pages.

I conducted five semi-structured interviews with stakeholders in the community; four interviews were conducted with Board of Immigration Appeals (BIA) representatives and one interview was conducted with a police sergeant who was responsible for signing off on paperwork for U-Visas in his district. All were very eager to share their reflections on their work with survivors of domestic violence.

I analyzed the data using the MAXQDA12 software program, employing an open coding technique, part of the Grounded Theory method, originally described by Anselm Strauss and Juliet Corbin. The method “is a general methodology for developing theory that is grounded in data systematically gathered and analyzed” (Strauss & Corbin, 1994, 273). This method promotes the idea that themes can emerge from within the text being studied. It goes beyond describing the text by interpreting and analyzing the deeper meanings within them.

Concepts of “Deservingness” and “Illegality” in Immigration

The construct of deservingness refers to, “migrants’ shifting and historically produced experiences of sociopolitical exclusion from their countries of residence, often leading them to be portrayed as unwanted, undesirable, and unworthy of services” (Castañeda, 2012, 830). This stems from an attitude that citizens have in which they “feel an entitlement to medical care... [but] are unwilling to grant this to immigrants” (Chavez, 2003, 197). It is also built on the idea that immigrants who have legal status in a country are more deserving to have their basic human rights upheld compared to undocumented migrants. Horton states that categories for deservingness are, “based on neoliberal standards of individual responsibility and self-discipline” (2004, 472). The construct of deservingness legitimizes denial of human rights and imposes low moral worth of life based on one illegal act of entry into a country, regardless of motives or consideration of lack of other viable options for survival other than to migrate.

Migrant illegality is an epistemological, methodological, and political problem; DeGenova states, “‘Illegality’ (much like citizenship) is a juridical status that entails a social relation to the state; as such, migrant ‘illegality’ is a preeminently political identity” (2002, 422). In order to study undocumented people, attention must be paid to the idea of their illegal presence, and the effect of the fear of deportation. In fact, in some countries like Germany, a welfare office must report undocumented immigrants to authorities if they attempt to apply for medical coverage (Gray & van Ginneken, 2012, 5).

Theoretical Framework

The theoretical concept of *structural violence* refers to the harm that results from structurally bound inequalities that prevent a person, society, or culture from having equal access to resources. Paul Farmer describes structural violence as the “social and economic inequities that determine who will be at risk for assaults and who will be shielded from them” (Farmer, 2005, 17–18). Structural violence is a particularly useful analytical tool to help understand how systems of oppression affect



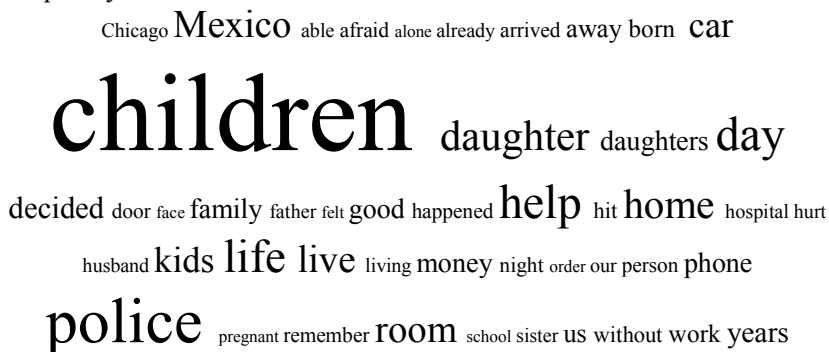
undocumented Latinas in particular. Many have experienced social and political systems of oppression in their countries of birth. Holmes explains the limited choices undocumented immigrants have in regard to migration this way: “crossing the border is not a choice to engage in a risk behavior but rather a process necessary to survive, to make life less risky” (2013, 21).

Biological citizenship is related to individuals’ agency when “sufferers stake claims for biomedical resources, social equity, and human rights” (Cataldo, 2008, 901). Petryna explains biological citizenship as “a massive demand for but selective access to a form of social welfare based on medical, scientific, and legal criteria that both acknowledge biological injury and compensate for it” (2003, 6). She describes how the negative effects following the Chernobyl nuclear reactor explosion in Soviet Ukraine in 1986 shaped political and social rights. This concept considers the moral and political entitlements due to physical suffering and implies some sort of government-sponsored support, in this case, by claiming support through immigration clauses. Biological citizenship furthers our understanding of how suffering can be objectified for its legal, economic, and political value.

Results

Six main themes emerged from the texts: domestic violence, mental health, children, police, coping mechanisms, and socio-structural categories. These themes occur in high frequencies. For the purpose of this article, I will focus on the role of children in personal statements. The majority of participants included references to children, sons, or daughters in their personal statements. Table 1 depicts a word cloud, showing the word frequencies by different font sizes to illustrate the frequency certain words were used in the personal statements; the word “children” is largest because it was used most often in the personal statements.

Table 1. Frequency Word Cloud



Many survivors explained that the lack of understanding of their rights resulted in their struggle with how to leave an abusive relationship. They assumed having no legal status also meant automatic deportation and separation from their children. Many survivors expressed how protecting their children’s safety and providing a better future for them served to motivate them to seek help in leaving abusive relationships. Many also feared threats that their spouse would harm their children if they attempted to leave the relationship.



Snapshots of Suffering and Resilience

Valentina R.

This survivor's personal statement was very long and detailed compared to some other statements I reviewed. She described an upbringing in which she had little control over her life. She was sexually abused by the men who were paid to help her illegally cross the border (typically known as *coyotes*). She was sexually abused again in the United States by her sister's husband and later by a man who followed her to a party. She described her ex-partner as aggressive and physically abusive. She explained that she endured the abuse and remained silent in order to avoid any suffering on the part of her children. She was also afraid that her children would be taken away from her because she did not have legal status. She stated:

I thought it was best to be silent for my children. He would take my children away from me and I would not be able to see them again. I was afraid of doing things that would bother him, he drank every day and he became an aggressive person I thought that hurting me instead of my children was better.

Valentina's personal statement showed her resilience and hope for a better future for her children if granted a U-Visa. She described her desires for a future without violence:

The only thing I ask for is to be happy with my children, without violence for me and my children. I want to have a job to support my children, give them a good education, a good life, to be a good citizen who follows the rules of this country without hiding.

Nicole D.

Nicole explained that she wanted to leave the abusive relationship but was encouraged by family members not to do so because it was not acceptable for women to leave their husbands for any reason. Nicole was told by her family that a woman should be next to her husband even though he was abusive. She describes her grandmother's advice:

I went to visit my grandmother in Zihuatanejo; I thought it was the perfect time for me to continue my life away from my ex-husband. However, my grandmother told me your place is next to your husband.

Nicole self-identified as a survivor. She described herself as someone who is strong and in control of her future despite the difficulties she experienced. She reveals her pathway to hope:

I am a survivor of domestic violence. Through a couple of years my children and I went through difficult times waiting for a change; until one day the aggressions became strong and death threats. I decided to take a decision [for] my children's life and my life [to apply for a U-Visa]. (...) I had to suffer all types of abuses, but at the end my life and my children's life is different [because I left my abusive partner]. I had the fortune of having two loving children [to give me hope].

These personal statements revealed that the emphasis on psychological suffering is strategic in the applications for U-Visas; the non-profit agencies that assist in applying for U-Visa and the victims of domestic violence are collaboratively strategic in their approach to applying for legal documentation. This is done in order to emphasize their suffering beyond physical abuse in order



to claim immigration rights. These findings highlight how immigrants' struggles are valued differently by the state depending on their nature. Undocumented immigrants who have experienced extreme hardships and crimes leading to physical, mental, and emotional suffering are treated as more deserving of humanitarian relief in the form of immigration status than other undocumented immigrants who have been exploited, systematically abused and mistreated in their home countries who also seek a better future in the United States. For this reason, the emphasis on psychological suffering is strategic in order to benefit from a legal system that is by and large treating immigrants unfairly but also included provisions that can be harnessed for the good of these undocumented migrants who are deemed as more deserving of relief than many other migrants.

Conclusion

The struggles that U-Visa applicants face when requesting humanitarian relief are only a small piece of a larger problem in United States immigration. All migrants, whether forced or otherwise, must in a sense prove their worth through blood, sweat, or tears (Lakhani, 2013, 230). In order to be granted a U-Visa, the women in this article had to demonstrate that they deserved legal status by using their written personal statements. By emphasizing their psychological suffering, survivors of domestic violence were able to emphasize the trauma they experienced, therefore proving their worthiness of legal status for humanitarian reasons. The suffering these women experienced, both psychological and physical, proved their victimhood but also speaks to their resilience as survivors.

There are over 11 million undocumented immigrants in the United States, and it is likely that many desire to apply for legal immigration status but currently have no pathway available to them. The theoretical concept of *structural violence* helps explain why the participants in this study experienced inequalities that led to their abuse. Political insecurity in the United States due to undocumented immigration status is inseparable from systems of oppression and inequality resulting from social and political systems of oppression in their countries of birth (Mexico and Guatemala). For example, one participant said she was raised to accept abuse because "one had to put up with one's husband; the husband was the one who ruled". Another participant pointed out the way the government in Mexico did not protect its citizens equally stating that "in Mexico you cannot count on the police". These political and social forms of oppression show how Latinas are structurally marginalized. It also shows how victims are prevented from having equal access to resources for help and have a restricted sense of agency that could have made it easier to leave their abusive partners.

This research on undocumented Latinas and their legal advisors has shed light on an important dimension of immigration law showing how migrants who have experienced certain forms of abuse are considered more deserving of humanitarian relief than many other migrants who have also endured different types of extreme hardships. Immigration law states that proof of physical or psychological suffering as a result of a crime (in this case domestic violence) must be displayed in order to qualify for the U-Visa but showing proof of documented physical violence was not enough to have one's application accepted. The legal representatives learn how to work through the legal bureaucracy of humanitarian immigration law. They know what immigration officers are looking for and they help victims frame the account of their suffering in such a way that will strengthen their application. The victims of abuse are able to take claim of the U-Visa immigration benefits as a result of their *biological citizenship*; they can make claims to political entitlements like immigration status, due to documented evidence of their physical and psychological suffering as a result of the crimes they experienced in the United States.



It is difficult to try to prove one's suffering and deservingness for immigration relief because USCIS does not have a clear definition of what is meant by "suffering". Proof of physical abuse helps to reveal suffering but mental and emotional suffering are not as easily documented; for this reason the personal statements are useful in helping the victims elaborate on the extent of their suffering. The legal definition of suffering is ambiguous. A narrow definition can be more exclusive, while a broad definition could potentially include more opportunity for victims of crimes to be able to claim the humanitarian benefits that U-Visas offer.

Despite being forced to leave their country of birth and facing substantial suffering and domestic abuse in the United States, many undocumented migrant women have shown resilience in the face of hardship. Through the U-Visa program, victims of domestic violence have been able to gain confidence and dignity through legal status. They no longer have to fear for their personal safety because of the threat of domestic violence, nor do they have to fear deportation because of legal status. All of the women in my study found hope and purpose in protecting their children and providing a better future for them because of the U-Visa. Despite their admission to struggling with their own mental health, they have been able to strategically harness their physical and psychological suffering in order to gain legal status to create safer and brighter future for themselves and their families. They are more than victims to abuse, but also survivors who have used the little resources they have to make a better future for themselves.

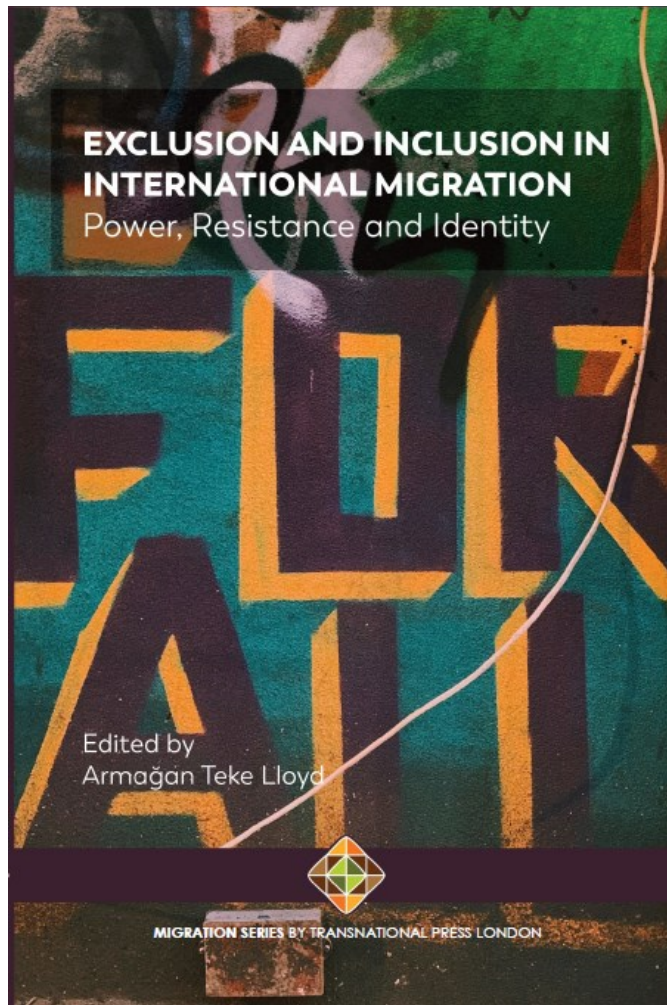
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368 *Resiliency of undocumented Latinas near Chicago*

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