The Juarez Wives Club: Gendered Citizenship and US Immigration Law

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ABSTRACT
When US citizens sponsor their undocumented spouses for lawful status, they find themselves at the center of immigration petitions. They are invasively scrutinized, treated with bureaucratic indifference, and separated from their loved ones. As this “politics of exception,” which often targets migrants, is unleashed on US citizens, they learn that their citizenship offers little protection from dehumanizing treatment. Instead, restrictive immigration criteria, designed in theory to boost the value of US citizenship, in practice dehumanize US citizens and can alienate them from feelings of national belonging. This contradiction inevitably emerges when shared lives disrupt the boundaries of citizenship status, illuminating inconsistencies in normative conceptions of citizenship itself.

On the morning that I met her, Anya was alone, as she had been every morning since Enrique left.1 She had started the coffee-pot, and as the coffee percolated, she sat at the kitchen table in her apartment in Evanston, Illinois. She opened her laptop, turned on her Internet browser, and went to the Juárez Wives Club webpage. She scanned the site quickly . . . no news. No movement in Juárez, no approvals, but no denials either. She glanced at the most recent posts, then closed the laptop. Anya drank her coffee in silence, as she had every morning since Enrique left.

Later that day, Anya explained to me that Enrique had been living in the United States as an undocumented immigrant when they met.2 Anya is a US citizen, and after they married in 2010, they initiated the process of changing Enrique’s immigration status. As part of that process, Enrique had to leave the United States to attend an interview at the US consulate in Ciudad Juárez, Mexico, the country of his birth. Five months later, he was still in Mexico, prevented from returning by an automatic 10-year bar on his reentry. Anya was desperately trying to get him back, working with an attorney to get Enrique’s bar waived while she worked two jobs to pay their mounting legal bills and keep their household afloat by herself. Her financial woes were compounded by the anguish of Enrique’s prolonged absence and her frustration with the US immigration agencies that were keeping them apart. By the time I met Anya, she was, she said, on the brink of a nervous breakdown. Her main source of comfort was an online support group, the Juárez Wives Club, which Anya had cofounded with other US citizen women who were separated from their undocumented spouses as a result of US immigration laws.

Anya and Enrique had undertaken family-based immigration processing, a priority of US immigration policy since the mid-20th century. Nearly two-thirds of all immigrant visas, or “green cards,” granted each year are allotted to family members of US citizens and lawful permanent residents, with most of the remainder designated for employment and humanitarian categories (McKay 2003). Marriage to a US citizen moves prospective immigrants into the top-priority category, making them eligible to apply for a green card.

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But for people who have entered and lived in the United States unlawfully, whom I call unlawful entrants, the road to a green card is neither smooth nor easy—even for those with spouses who are US citizens. This is because when they attempt to gain legal residency, two parts of the US immigration system collide: The first part makes them eligible for a green card but requires them to leave the United States to get it. The second part then bars most of them from returning for 10 years. The only way they can return lawfully is if their US citizen petitioner can prove he or she would suffer “extreme hardship” in the event of a 10-year separation. In essence, the “legal nonexistence” (Coutin 2000b) of unlawful entrants reroutes them into a program, consular processing, which is designed for family members of US citizens awaiting their visas abroad, in their countries of origin. As a result, an immigration system that purports to prioritize family unity tears mixed-status families apart.

This program is one of several immigration processes, such as those governing asylum, refugee status, and suspension of deportation, in the United States (Coutin 2000a, 2000b, 2003), France (Fassin 2001, 2005; Ticktin 2006), and Germany (Castañeda 2010), which require applicants to demonstrate exceptional hardship and prototypical citizenship to satisfy legal criteria for residency. These criteria often compel applicants to distort their realities and compromise their integrity, dignity, and health in exchange for papers. Through these processes, “humanitarian” exceptions for admission are made consistent with narratives of national benevolence that rest on the discretion of agents with absolute authority to grant or deny status (Ticktin 2005, 2006).

Family-based processing diverges from refugee and asylum processing in that lawful admission is predicated, not on a migrant’s claim to persecution, but on a citizen’s claim to family reunification. When US citizens with undocumented spouses undertake family-based processing, however, many find that their claims to family are not enough and that they must demonstrate “extreme hardship” to get their spouses back. Thus, much as refugee and asylum applicants must show extreme suffering to lay claim to a “humanitarian exception” (Fassin 2001, 2005; Ticktin 2005), in this process, it is US citizens who must demonstrate exceptional suffering. Their citizenship renders their suffering relevant to the state, while its extreme nature justifies the legal exception made for their spouses. This transfer maintains the legal invisibility of the undocumented spouse while making the US citizen spouse hypervisible, at once sharpening the political distinction between couples and requiring them to show that they can survive only together.

When mixed-status couples undertake this process, the visibility of US citizens illuminates citizenship status—not from the perspective of its “hard outside” (Bosniak 2006), where the boundaries between inclusion and exclusion are maintained, but from its “soft inside,” where those who hold formal citizenship are expected to revel in its privileges. Citizens’ experiences of citizenship are doubly revealing: they show how citizens can leverage their status strategically as a form of capital (Ong 1999), and they expose the limits of its value, as citizens find that their status does not confer the rights or privileges that they assumed it would. This process also reveals how citizens learn to capitalize on the gendered, racial, class, and heteronormative expectations of immigration bureaucracies, bringing these nuances of citizenship into sharper focus (Nakano Glenn 2004). Finally, attention to US citizens’ changing understandings of their “status, rights, political engagement, and identity” (Bosniak 2006, 20) allows us to perceive how, much as noncitizens can engage substantively in citizenship practices (Flores 1997; Holston 2008; Pallares 2014; Rosaldo 1997), citizens like Anya can become alienated from substantive citizenship through their experiences with immigration bureaucracies. In Anya’s case, disillusionment with state agencies led her to help create the Juárez Wives Club, through which US citizen women established nonstate channels for disseminating information and providing help for people navigating the US immigration system.

The fault lines within citizenship status materialize as mixed-status couples share in each other’s lives and forge meaningful connections across sociopolitical categories. These connections challenge policies that seek to neatly divide people into those who belong and those who do not, and they expose the incongruity that results when discrete categories are superimposed onto complex and intertwined lives. This incongruity comes into especially sharp focus when couples undertake immigration processing, and US citizens find themselves at the center of immigration petitions. There, they learn that their citizenship offers little protection from stigmatization, bureaucratic indifference, financial ruin, and vulnerability to prolonged family separation. In this process, immigration policies both uphold the value of US citizenship in theory and degrade US citizens in practice. This contradiction emerges inevitably as shared lives break through dichotomous statuses, illuminating inconsistencies in conceptions of modern citizenship itself.

Studying even

My conversations with Anya were part of an ethnographic study that I conducted in the Chicago area from 2011 to 2014. The study sought to understand the process and outcomes of legal-status adjustment from the perspectives of people who undertake it. I interviewed 60 people who pursued, to varying degrees, US immigration processing in an attempt to change their or their spouse’s immigration status, including 17 mixed-status couples who undertook consular processing. I interviewed select participants at least three times, once a year over the first three years of the
project (2011–13), with additional follow-up interviews in 2014 and 2015. I also interviewed three immigration attorneys and three legal representatives accredited by the Bureau of Immigration Affairs, as well as staff members at five immigration legal clinics in Chicago.

I supplemented the interviews with participant observation conducted in a Chicago-area legal clinic during the summers of 2011, 2012, and 2013. There, I worked on case follow-up with agents of US Citizenship and Immigration Services (USCIS), made copies, updated case files, and sat in on consultations. I also conducted participant observation in the Juárez Wives Club, which was founded by two dozen US citizen women whose undocumented husbands were undertaking processing through the US consulate in Ciudad Juárez—the only place in Mexico that processed these cases during my fieldwork period. By 2014, the online group had grown to include some 600 members. Most are US citizen women petitioning for an undocumented husband, though several undocumented women with US citizen husbands also use the site, as do a smaller number of US citizen men with undocumented wives. Both participant-observation experiences were critical in helping me develop an understanding of the complexities of US immigration law and the challenges that families face as they navigate the US immigration system. As a matter of privacy, I do not relate any portion of the stories shared by legal clinic clients or on the Juárez Wives Club site.

When I started the project, I did not anticipate interviewing native-born US citizens. But I soon discovered that immigration processing is a family affair—it implicates all members of a family, citizen and noncitizen alike. I also found that when I sought to recruit participants who were undertaking processing, it was often the US citizen family member who was available and willing to talk with me, while the undocumented family member waited outside the United States for a decision on the case. And most of the US citizens who agreed to talk with me were women. Thus it was US citizen women who invited me over for coffee or to join them when they took their children on an afternoon trip to the park or the zoo. It was US citizen women who talked with me by phone and over Skype about relationships, immigration politics, and the frustration of negotiating US bureaucracies.

There were few gendered, ethnoracial, or class boundaries between me and these women: they are largely US born and middle class; most of them identify as “white,” “Latina,” or “Mexican American”; several of them have advanced degrees. Like most of them, I am in a binational marriage and can relate to the frustrations of navigating US immigration bureaucracies. Our sociocultural proximity probably helped me establish rapport with the women, and it provided my first foray into “studying up”—or, at least, studying even. While “studying up” usually refers to conducting ethnographic research with powerful members of anthropologists’ own societies (Nader 1972), here, I prefer the term “studying even” to emphasize both the sociocultural similarities between me and my study participants and the degree to which they are neither disempowered nor particularly socially powerful.

These characteristics of the US citizen women whom I interviewed—their gender, middle-class status, belonging in a nuclear family unit, social capital, and deep ties within the United States—are not incidental to how they experienced the US immigration system. As I show below, US citizens strategically draw on these qualities to successfully petition for their undocumented spouses. This is ironic, since it is precisely family unity, financial stability, and belonging in the United States that immigration processing most threatens to destroy. Indeed, for many mixed-status couples, immigration processing involves indefinite family separation that is mandated by an obscure catch-22 in US immigration law, which I explain next.

The legal nonexistence of undocumented entrants

The summer after Enrique left for his immigration interview at the US consulate in Ciudad Juárez, I went to Chicago’s USCIS offices with Gio and Rosie. Gio came to the United States with his parents on a tourist visa when he was nine years old, and he lived in the United States unlawfully for 12 years before marrying Rosie, his high school sweetheart. Four months into their marriage, Gio and Rosie filed the paperwork to adjust Gio’s status. Six months later, we sat in the cavernous, beige waiting room of the USCIS in downtown Chicago. Gio and Rosie held hands and spoke in whispers while Gio, dressed in his best jeans, tapped his foot nervously on the carpet. Less than 30 minutes later, we were headed to lunch; Gio had been approved. In all, the process cost Gio and Rosie about $3,000 (“Worth every penny,” Gio said) and took about six months to complete. Gio never left Chicago; he and Rosie were never separated. In contrast, Enrique and Anya spent six months apart while they undertook immigration processing; the process cost them more than $10,000 and left them deeply scarred. In 2011, Enrique was one of more than 23,000 undocumented people who left their US families indefinitely in an attempt to change their immigration status through consular processing.

Gio and Enrique’s divergent paths to lawful status were laid in 1996, when the US Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA). IIRIRA is best known for expanding and facilitating deportations, but it also had an obscure yet important effect on immigration processing: IIRIRA defined people who overstay their visas, like Gio, as having been legally admitted to the United States, but not undocumented border-crossers like Enrique (ILRC 2012). Thus, when undocumented visa-overstayers become eligible to
adjust their status after marrying a US citizen, they can often do so from inside the United States, as Gio did. In contrast, undocumented border-crossers, or unlawful entrants, must leave the United States and apply to be admitted at a US consulate in their country of origin—as though they were never present.

When unlawful entrants leave and apply for admission, they must prove that they do not meet any “grounds of inadmissibility” to the United States. But one ground of inadmissibility is a history of unlawful presence (ILRC 2012). Any applicant who has lived in the United States unlawfully for more than six months but less than one year is barred from returning for three years. Any applicant who has lived in the United States unlawfully for a year or more is barred from returning for 10 years. IIRAIRA established these bars on reentry, and they are automatic and non-discretionary, applied without regard for a person’s family ties, economic need, length of US residence, health, or any other consideration. In select cases, the applicant’s US citizen or lawfully resident spouse or parent can petition to have the bar waived on the grounds that he or she would suffer “extreme hardship” in the event of a 10-year separation. This is called a hardship waiver petition.

Until 2013, the hardship waiver petition was adjudicated while the undocumented applicant waited outside the United States, and mixed-status families separated for consular processing without a clear idea of when, or if, they would see each other again. Among my 17 study participants who undertook consular processing, the quickest waiver approval came after a three-month separation; the longest wait for an approval was six years. Seven study participants were denied the hardship waiver in the end and remain separated from their US families indefinitely. In March 2013, select families became eligible to apply for the waiver before leaving the United States, dramatically reducing separation times for successful applicants; however, undocumented applicants must still leave the United States and are permitted reentry only in cases where the US citizen or lawfully resident spouse or parent can demonstrate extreme hardship.

That unlawful entrants are disproportionately punished in immigration processing is no accident; it is tied to policies that have especially criminalized undocumented Latinos. Because federal prosecutions for immigration violations are concentrated on the US-Mexico border (Light, Lopez, and Gonzalez-Barrera 2014) and discriminatory policing practices in the US interior target Latinos (Kohli, Markowitz, and Chavez 2011), Latin American immigrants are widely conflated with “criminal aliens” and overrepresented among US deportees (Dowling and Inda 2012; Golash-Boza and Hondagneu-Sotelo 2013). Their criminalization manifests not only in enforcement measures but also in higher hurdles to lawful status, since Latin Americans are more likely to be unlawful entrants than undocumented people from elsewhere in the world and are more likely to have immigration-related criminal convictions on their record (Coutin 2000b; Gomberg-Muñoz 2015; Pew Hispanic Center 2006).

Institutional racism that stacks the odds of legalization against working-class Latinos also penalizes their US citizen family members, despite their citizenship and, in some cases, their “whiteness” and middle-class status, as well (Dingeman-Cerda and Coutin 2012; Dreby 2012; Schmalzbauer 2014). As racialized and pernicious consequences of punitive immigration policies bleed over the boundaries of status, they implicate both citizens and noncitizens in meaningful if unequal ways. As I show next, this diffusion complicates dichotomous conceptualizations of immigration and citizenship categories.

The law and the gap

Analytically, quasi-permanent political exclusion of Latino/a migrant workers can be understood as part of modern nation-building practices that cultivate national identity and belonging through binaries such as citizenship-alienage and legality-illegality (Bosniak 2006; De Genova 2005). The power to enact such binaries is one hallmark of sovereignty in the contemporary period (Agamben 1998) and helps to explain how excluding the undocumented, and the violence and exploitation it entails, is legitimized by statist claims to national sovereignty and vice versa. Forms of sociopolitical exclusion are inscribed on the lives of undocumented people, as they are “abjected” by the state and even reduced to a condition of “bare life,” with profound consequences for their physical, emotional, and socioeconomic well-being (De Genova 2010; Gonzales and Chavez 2012; Sigona 2012; Willen 2007).

Building on theories of how the distinction between legality and illegality is produced, recent scholarship has shifted the focus to how it is breached. This work challenges the notion that there is a clean and unambiguous division between legal inclusion and exclusion and, instead, has attended to the “gap” (Reeves 2013, 509), “gray area” (Menjívar 2006, 1000), or “fuzzy spaces” (Menjívar and Kanstroom 2014, 11) that lie within and between them. This gap is most evident in temporary, flexible, and ambiguous legal statuses (Menjívar 2006; Ong 1999), practices that uphold differentiations within a status (Fassin 2001; Gomberg-Muñoz 2015; Heyman 2001; Holston 2008), and political actions through which undocumented people demand and win recognition and rights (Coutin 2000b; Gonzales 2008; Redclift 2013; Unzueta Carrasco and Seif 2014; Zolniski 2003). This nuance allows us to perceive the interactive and contested nature of immigration politics (Redclift 2013), as well as the lived experiences of marginalized people whose lives are not so much “bare” as interconnected, meaningful, and complex.
Mixed-status families in the United States create one such sociolegal gap; indeed, the very existence of a “mixed-status family” suggests simultaneous inclusion and exclusion (Coutin 2007; see also Stoler 1992). In mixed-status households, dimensions of citizenship and illegality comingle, as US citizens experience heightened anxiety and depression, find themselves vulnerable to family separation, encounter obstacles to upward mobility and use of public services, and are hindered from making long-term plans (Abrego and Menjívar 2012). Still, many US citizens are heavily invested in a spouse’s immigration case because they share their relationships, and create or worsen inequalities and gendered exploitation within mixed-status households (Chavez 2008; Dreiby 2015; Parson and Heckert 2014; Schmalzbauer 2014). Conversely, undocumented people in mixed-status families may be socially well integrated, experience some degree of legal legitimacy, and have indirect access to social services. Still, if the shared fate of family members blurs the boundaries of status, it does not erase them: status distinctions can cause tension among family members, disrupt their relationships, and create or worsen inequalities and gendered exploitation within mixed-status households (Chavez 2008; Dreiby 2015; Parson and Heckert 2014; Schmalzbauer 2014; Zavella 2011).

Family-based immigration processing can exacerbate intrafamily inequalities, since US citizens and lawful residents wield near-total control over immigration petitions (Salcido and Adelman 2004; Salcido and Menjívar 2012). Still, many US citizens are heavily invested in a spouse’s immigration case because they share in both the vulnerability to family separation via deportation and legalization’s potential payoff of enhanced long-term security and upward mobility. “Yes, it was my husband, but it was my career and my future here,” one US citizen, Cynthia, told me. “So it almost felt like it was my case, and it was my immigration status.” Mixed-status couples are bound together by multiple strands that break through the apparent impermeability of legal categories in meaningful but incomplete ways. These bonds help expose the contradictions that result when legal exclusion and lived inclusion collide, and that are revealed in moments when the law confronts its gap.

**Extreme hardship**

“Here is my file,” Stephanie said as she sat down on the couch and placed the heavy plastic expandable folder in her lap. The folder contained hundreds of papers, carefully sectioned into two dozen plastic slots and organized according to different stages of the consular process. The first few slots held Stephanie and Javier's contract with the attorney and sample letters the attorney had provided them, along with receipts for the fees they had paid so far. Next was their approved family petition, the valuable document that recognizes their marriage as valid and makes Javier, as Stephanie’s husband, eligible to apply for a green card. The following section was devoted to information for Javier’s trip to Juárez; this part of the folder was relatively thin, since they had not reached that stage just yet. Finally, the remainder of the folder was designated for evidence of Stephanie’s claims to “extreme hardship.” This section was also incomplete but would eventually include Stephanie’s hardship letter, letters from two dozen family members and friends with copies of their US birth certificates or passports attached, her father’s and grandmother’s medical records, doctors’ affidavits, a psychologist’s evaluation, and a letter of apology from Javier. This file, their “hardship waiver packet,” represented a labor of love for Stephanie—and an overwhelming responsibility (see Figure 1).

Stephanie’s hardship waiver petition had to convince a USCIS adjudicator that a 10-year separation from Javier or relocation to Mexico would cause her “extreme hardship.” What counts as “extreme” hardship can vary widely and unpredictably, but it must be more severe than hardship an adjudicator might “reasonably anticipate” from a 10-year separation. That is, the pain and loss of a 10-year family separation is considered normal hardship, not extreme, and US citizens like Stephanie must show that their hardship is extraordinary in some legally recognized way. Only the US citizen’s hardship counts for the purposes of a waiver decision: the hardship of the undocumented spouse does not count, nor does that of children, regardless of their status. And providing overwhelming evidence of hardship is key, since an adjudicator who is not immediately convinced will postpone the decision and request more evidence, prolonging the resolution for several months. Thus, completed waiver packets are often the size of city phone books—one couple’s packet was 736 pages long—and the product of a massive investment of time and effort.

The centerpiece of the waiver packet is the US citizen’s hardship letter. Hardship letters follow an established model and are organized around themes of great love, extreme dependence, and a deep, unwavering desire to live in the United States. As they write their letters, US citizens must “exaggerate every little weakness,” Anya said, and portray themselves as completely dependent on their undocumented spouses. In her letter, Cynthia, who is a second-generation Mexican American and medical school student, took pains to conceal her independence and self-sufficiency—points of pride for her—to emphasize her reliance on her husband, Héctor. “You’re making yourself very vulnerable,” she explained. “And you also, I want to say, diminish yourself as someone who cannot survive without a husband.” And as US citizen women foreground themes of love, dependence, and family unity in their letters, they tap into deeply gendered expectations of women’s roles as wives and mothers in the family (Salcido and Menjívar 2012).

After establishing the spousal relationship, hardship letters move on to explain the US citizen’s hardship claims.
And because adjudicators expect emotional hardship to result when family members are forced to live apart, they must ground claims to extreme hardship in something else. As with asylum processing described elsewhere (Fassin 2005; Ticktin 2006), medical suffering is considered the strongest ground for a hardship claim; however, in family-based processing, it is the US citizen who must be sick. Anya’s primary hardship claim, for example, was a chronic cardiovascular condition that requires treatment paid for by Enrique's insurance that he gets through work. All claims to medical hardship must be supported by ample “hard evidence,” in the form of doctors’ affidavits, medical records, and even copies of prescriptions.

The worse the US citizen’s suffering, the stronger the hardship claim. The pressure to demonstrate medical hardship can even compel healthy US citizens like Stephanie to reframe medical conditions experienced by other family members as their own hardship, exploiting the suffering of loved ones to bolster their case. During Stephanie and Javier's initial consultation with an attorney, for example, Stephanie was told that she would need to compile evidence of her family members’ medical problems in order to claim that she needed Javier's help to care for them. She explained,

When we met our attorney and she asked [me] questions about my family, I was so hesitant to answer her questions, because me and my family don’t have the best relationship. [The attorney] said, “I need 20 pictures of Javier with your family.” And I was like, how am I going to do that? We’re not that type of family. I left the [attorney’s] office, and I had a million things going through my head. She asked about my dad and my grandma. They both have diabetes. My dad has a problem with his pancreas. So she asked me about their health and [told me to get] all their medical records and their letters.

But compiling this “evidence” created a dilemma for Stephanie, who worried about straining her relationships with her father and grandmother. She continued,

So I copied the sample [letter] from the attorney, and [my dad and grandma] were fine with that, but when they started to write their letters, they had questions like “Why do they need to know that I was born in the United States? Obviously I was born in the United States. Why do they need to know where I live?” They were offended by it. “This is supposed to be about Javier. Why do they need all this information about me?” [I] had to ask [my grandma] for her medical records. “Why do they need my medical records? How many medical records do they need? Why don’t your lawyers get the medical records? Why do I have to go do it?” My dad has no idea where his birth certificate is. “Why do they need my birth certificate? Here is a copy of my driver’s license.” It’s like pulling teeth. [And] they don’t understand why I need these things and why I’m acting like I am.

Stephanie’s initial consternation about asking her family members for help was well founded, given that
compiling evidence for the waiver packet subjected them to the kind of invasive scrutiny usually directed at migrants. In the process, her father and grandmother came to resent the invasion of their privacy, and were offended that they needed to prove their citizenship status, all of which further strained Stephanie’s relationships with them.

Waiver adjudicators also consider severe financial decline as evidence of extreme hardship. Financial hardship must go beyond simple loss of income, which is expected and therefore considered regular hardship, and involve a profound degradation in the lifestyle of the US citizen petitioner, such as the loss of a house or career. Demonstrating the potential for financial decline is easiest if the undocumented spouse has a high income that the US citizen relies on. US citizen women with middle-class incomes may be unable to prove financial hardship unless they can convince an adjudicator, as Cynthia did, that they would lose their professional career if their spouse were barred for 10 years.

Working-poor couples may have the hardest time demonstrating financial hardship. Jane and her husband, Isaiah, for example, worked together in a fast-food restaurant when they undertook consular processing. Their waiver adjudicator determined that Jane’s claim to financial hardship was not extreme because the loss of Isaiah’s modest income was not enough to substantially degrade Jane’s living conditions. Moreover, the adjudicator decided that Jane, who had never lived outside her Illinois hometown, did not earn enough to make moving to Mexico a hardship for her. Jane was also healthy and did not have a strong claim to medical hardship, and a decision on their waiver was postponed until Jane could provide more evidence of her hardship.

Not only must US citizens show that they cannot survive without their spouse, but they must also degrade their spouse’s place of origin to show that they cannot live there. Anya’s attorney, for example, advised her to emphasize her fear of being targeted for violence in Mexico because of her “Anglo” appearance, juxtaposing Anya’s whiteness with stereotypes of dangerous Latin American men to strengthen their petition. To bolster Jane’s hardship claim, her attorney asked for photographic proof of how difficult life is in Mexico. Jane bought a camera and sent it to Isaiah with instructions to take pictures showing poverty in his hometown. He sent back photos of flowers and parks, and their hardship waiver was denied.

As Stephanie and Jane’s stories illustrate, the focus on US citizens places the brunt of responsibility for a waiver petition on them, which can create additional stress on relationships. For example, when Isaiah was unwilling to advance their case by demeaning his hometown, Jane said she would get so angry, every time he messed up, because I felt like it was all on me: I’m running back and forth from the lawyer. I’m going to people, having them write letters, proofreading the letters, helping them figure this stuff out. I’m saving the money. I’m working. I’m doing all this.

Frustrated, Jane said she pleaded with Isaiah, “You can’t even take a picture of, like, something that looks bad—you’re giving me a pretty little manicured gazebo and a garden?” With the prolonged stress of the case ratcheting up the tension between them, the denial of Isaiah’s waiver came as almost a relief, Jane said. After the decision, she packed up their household and moved to Mexico so that they could live there together.

In all, the criterion of extreme hardship shifts the focus of an immigration application from the undocumented applicant to the US citizen petitioner—a shift meant to uphold the value of US citizenship. But as these stories illustrate, legal standards for extreme hardship can grossly distort US citizens’ actual experiences of hardship in several ways. They deny family separation as a source of extreme hardship; reify complex and multifaceted human needs as identifiable “problems” with verifiable “solutions”; isolate the hardships of US citizen petitioners from those of their family members, including their own children; and compel them to degrade and even jeopardize the very relationships they are attempting to protect. Further, the process requires couples to amass evidence of hardship from family members and friends, pay thousands of dollars in legal fees, and prepare for indefinite separation, all of which can create hardship where it did not exist before. Finally, this process requires US citizens to submit to invasive scrutiny and surrender control of their lives to anonymous state agents. As I show below, US citizens experience these demands as affronts to their citizenship status, not celebrations of it.

Alienating citizens

In 2006, Beth surprised her fiancé, Jorge, with tickets to see his favorite college football team, the Syracuse Orange, play at home in upstate New York. On the way there, immigration agents pulled Jorge off the Greyhound bus that he and Beth were riding and, three weeks later, deported him to Mexico. It would take Beth more than six years to get him back.

With Jorge in Mexico, Beth filed an application for his “fiancé visa” based on their upcoming marriage, which was approved. Then they scheduled Jorge’s consular interview in Ciudad Juárez and began compiling evidence for their hardship waiver packet. After Jorge submitted the waiver packet at the consulate, Beth moved to Mexico to be with him while they waited for the decision, and she became pregnant with their first child. More than a year after the waiver petition was submitted, they received a denial that was written for another family’s application. Their attorney challenged the decision, and two months later, their waiver
petition was denied again, this time on the grounds that Beth's hardship was not extreme enough to outweigh Jorge's "disrespect" for US immigration laws. They appealed, and six months later the denial was upheld.

Even though Jorge had a full-time job in hospitality and Beth taught English classes in Mexico City, they were unable to earn enough money to pay the legal fees they would need to initiate another application. Beth made the wrenching decision to move back to the United States, leaving their daughter in Mexico with Jorge so that she could work two jobs and save enough money to restart their case.

Beth filed another family-based visa application, which was approved, and submitted a second hardship waiver packet. Nearly two years later, Beth received word that their second waiver petition had been denied on the grounds that her hardship was not "extreme" and the relationship between Jorge and their daughter was "not clear"—which Beth interpreted as suspicion that Jorge is not the child's father, though no explanation was provided.

After the second denial, Beth and Jorge began to discuss the possibility that they would spend their lives apart, but they decided to try consular processing one last time—a "hail Mary pass," Beth called it. More than six years after Jorge's deportation, Beth called the National Visa Center on Mother's Day 2013. The operator told her that Jorge's green card had been issued; they were approved. Beth hung up and wept with relief, then called the operator again to make sure that she had heard correctly.

With the family now together in the United States, Beth is working to repair her relationship with her husband and child. But "there is a scar," she explained,

this sense of trauma about being separated, about knowing how quickly you can lose the people in your life. And even though it wasn't a permanent loss, it was a really awful thing to suddenly have someone just like ripped out of your life in just a day, you know? And so that, you carry it with you forever.

For Beth and Jorge, the trauma of deportation was compounded and prolonged by the lengthy process of his lawful return, during which they held little control over their family's future.

Indeed, when US citizens like Beth submit to the authority of the US immigration system, they offer up the most intimate details of their personal relationships and problems to bureaucratic scrutiny. In return, they find themselves shut out from the decision-making process, treated with cold indifference, and robbed of the ability to protect their family's well-being and make decisions about their future. In this process, US citizens also confront the reality that their citizenship does not confer a right to be with their spouses under US immigration law—a realization that can leave them profoundly unsettled and deeply disillusioned.

The decision to grant or deny a hardship waiver rests with an adjudicator who has both complete discretion and absolute anonymity, conditions that are key to upholding their authority (Ticktin 2005). US citizens never meet their waiver adjudicator or even know his or her name. "You have no idea who is making these decisions. You can't face the person. [You] can't even read who signs the letter," Beth explained. "[Adjudicators] have this power to destroy someone's life and not even tell you who they are." And because adjudicators have complete discretion, their decisions are unpredictable: the criterion of "extreme hardship" is not fixed or standardized, and claims to extreme hardship turn into "regular" hardship when they become too common (cf. Ticktin 2006). The only way for attorneys to know which hardship claims are compelling at any given time is to send clients for processing and assess who gets approved and who does not.

In addition, the anonymous adjudicators often treat the hardship claims of US citizens with apathy and, sometimes, overt suspicion. The need to support hardship claims with "hard evidence" supplied by third-party "authorities," such as doctors, is one institutional manifestation of this suspicion. Another is the doubt raised by the adjudicator over Jorge's paternity of his and Beth's daughter—this time not impersonal, but deeply intrusive and humiliating.

Families also suspect that their cases are treated capriciously and with indifference. Beth and Jorge's first denial, for example, was written for another family. Cynthia's husband, Héctor, was told to drop off his waiver packet at the US consulate in Juárez, only to be turned away with instructions to send it through the mail when he got there. And in 2011, "the wheels came off in Juárez," as Beth put it, when adjudicators at the consulate returned to the United States because their own visas allowing them to live in Mexico were expiring. Their departure created a backlog of waivers in need of processing and lengthened wait times from a few weeks to several months without any warning or explanation to families in the process. This unanticipated delay led to prolonged processing times for Anya and Enrique, Beth and Jorge, and thousands of other couples, all of them unexpectedly separated for months and unable to find out why.

Families interpret the vagaries of consular processing as examples of extreme governmental inefficiency. And indeed, it is likely that US immigration agents are overworked, underresourced, and themselves governed by onerous, arbitrary, and opaque policies. In 2011, the year that the "wheels came off," some 17,500 hardship waivers were processed at the Juárez consulate, with a staff of only three adjudicators and one field supervisor. Still, if bureaucratic indifference "is the rejection of common humanity" (Herzfeld 1993, 1) and lag time a tool of migrant governance (Andersson 2014), then inefficiency, opacity, and delay in waiver processing can be interpreted as a communication to US citizens that they are subordinate to the whims of
state regulation and do not deserve to be treated with care and respect (Comfort 2008). According to this interpretation, inefficiency and indifference are not failures of the system so much as routine dehumanization that extends from undocumented people onto their US citizen family members.

For US citizens like Beth, who have led what she described as “a pretty sheltered life,” bureaucratic dehumanization can come as a shock. Like many US citizens, Beth undertook consular processing because she was confident that the program would help her keep her family together—a leap of faith encouraged by the immigration system’s stated commitment to family unification for US citizens. “I was very naive about it,” Beth explained. “You know, you think that if you’re a US citizen, if you marry someone, that’s it all takes. I just had no idea.” Her experiences with the US immigration system have “definitely changed me a lot,” she said, adding,

I think, in some ways, it’s made me a stronger person, but also, in some ways, I feel that it’s made me a much weaker person because [it’s] hard not to feel very hopeless about things sometimes, [as though] you don’t matter. Like I don’t have the same—because of decisions I made about who to spend my life with, I don’t deserve the same stuff that everyone does, you know. And that’s hard.

This dehumanization can engender feelings of outrage and deep alienation from government agencies. As one US citizen, Danielle, explained, “I have had a ton of times that I’ve felt betrayal from the US, [and] I have thought to myself, ‘I’m an American citizen, and my government is keeping me away from the man I love and the father of my child. Why?’” Jane stayed with her parents as she and Isaiah awaited their waiver decision, and they tried to distract Jane by taking her to performances near their Missouri vacation home. “But the shows,” Jane said, “start off with something like ‘God Bless America,’ [and she told her parents,] ‘I think I’ll puke if I have to sit through that.’” Another US citizen, Pamela, became so angered by her experiences with the immigration system that she no longer votes, shunning what is perhaps the most emblematic practice of democratic citizenship. Ironically, the tactics that govern national inclusion can politically alienate citizens when they subject them to the kind of scrutiny and indifference usually reserved for the nation’s “outsiders.”

Whiteness and middle-class status offer little insulation from this bureaucratic humiliation. One US citizen, Natalie, described her family as “upper middle class,” and she has had few encounters with state authorities. “I’ve never gotten anything more than a traffic ticket,” she explained. “So, like, this is very new to be on that side, talking to a federal agent, you know. That’s not something that I’ve had any experience with at all.” Now in her 40s, Natalie finds herself separated from her husband by a five-year unwaivable bar on his reentry, and she has learned that her citizenship, race, class privilege, and social capital do nothing to safeguard his return. “I grew up in relative luxury in the US, and I have never been hungry a day in my life,” she said. “These past three years [without my husband] have been the hardest period of my life. I’m a US citizen [but] my government has been incredibly difficult in every way, shape, or form with this entire experience.” As US citizens like Natalie and Beth found themselves subjected to the kind of “legal violence” (Menjívar and Abrego 2012) routinely experienced by migrants, the poor, and racial minorities in the United States, they lost confidence in finding relief from government authorities and instead began mobilizing on their own behalf.

The Juárez Wives Club

Left in the dark, separated from their spouses, and unable to access official channels of information, US citizen women turned to each other. In 2011, Anya, Jane, Beth, and more than a dozen others began communicating in an online immigration forum. There, they discovered that none of the families undertaking waiver adjudication through the Juárez consulate had received a decision in months, and operators at agency call centers could not, or would not, explain the delay. Two dozen women branched off to form the Juárez Wives Club specifically for families undertaking consular processing and waiver adjudication through the Juárez consulate. Within two weeks, the group’s membership had grown to more than 500.

The Juárez Wives Club served a dual purpose. First, it provided a space for families undertaking immigration processing to commiserate and validate each other’s experiences. This is especially significant since processing can leave US citizens feeling isolated from family members and friends who cannot understand or sympathize with their experiences. The Juárez Wives Club also transformed members from couples stumbling through bureaucratic hoops largely in isolation to participants in a collective seeking to empower themselves and each other through information sharing. The Wives began keeping track of everything related to their cases: notices from immigration agencies, advice from attorneys, sample hardship letters, reasons for denials, names of senators and representatives who would help with cases, and even lists of legislators who did not support comprehensive immigration reform. The Wives created a moral economy of exchange (Bourgois and Schonberg 2009; Horton 2015) in which they circulated information and documents to help families penetrate the bureaucracy of immigration procedures. Through these practices of exchange, several
foundating members became lay experts in immigration law; one woman even went on to become an immigration attorney after working on her husband’s waiver petition. Together, the Wives built a body of collective knowledge that challenged the authorities’ sequestration of information and even surpassed the information of their own attorneys.

By participating in the Juárez Wives Club, US citizen women learned to leverage their citizenship status, as well as their roles as wives and mothers, in order to garner political support for their cases. Many US citizens like Anya and Natalie appealed to sympathetic senators or representatives to intervene on their behalf, usually with limited success. Others have taken to the media and blogosphere, where US citizens who are separated from their undocumented spouses or “exiled” abroad, like Jane, have received regional and national coverage in newspaper and radio stories. Still others began mobilizing with larger immigrant rights groups, moving from online political activities to sustained off-line organizing (Bonilla and Rosa 2015).

As they enter national debates on immigration reform, US citizens tap into potent symbolism surrounding the “immigrant family,” which is central to mainstream immigrant rights campaigns (see Figure 2). Immigrant family discourse often invokes heteronormative and middle-class “family values” to contest deportation and family separation, frequently silencing undocumented people while casting US citizen family members, often children, as family spokespeople (Pallares 2014). These mobilizations uphold an ideal “citizen family,” undergirded by long-standing gendered, class, racial, sexual, and biodeterministic norms (Pallares 2014; Salcido and Menjívar 2012; Stack 1974; Weston 1997; Yanagisako and Collier 1987).

In mobilizations for mixed-status couples, the “immigrant family” is discursively recast as the “American family,” using spouses’ citizenship status as political capital. In these campaigns, US citizen women strategically deploy their national identities as “Americans” and “US citizens,” and their gendered roles as “wives” and “mothers,” to boost support for their cases. In 2013, I helped gather stories for an unsuccessful campaign to remove reentry bars for select families. One Juárez Wife, Heather, opened her story by writing, “As a US Citizen I vote, as a hardworking American I pay taxes, as a wife I love unconditionally, and as a mother I nurture my child.” In this statement, Heather not only invoked her formal citizenship status but also made claims to “economic citizenship” as a hard worker and taxpayer, as well as value-laden claims to family as a loving wife and nurturing mother. US citizens also tap into gendered tropes to stake claims in national debates and challenge the authority of lawmakers who belittle their suffering. “They don’t live it,” Natalie stated. “It’s like asking men what’s best for women’s health care, or asking white people what’s best for African Americans. They don’t live it. We live it. Only we can speak to this issue with authority because we’re the ones who live it.” As she contributes to a national organization that advocates on behalf of mixed-status families, Natalie invokes her lived experience in a legal “gap” to legitimate her authority on the destructive effects of US immigration processing, drawing on gendered expectations of women as
family caretakers to stake territory in the fraught political landscape of immigration reform.

The symbolic potency of gendered citizenship in immigration reform campaigns starkly contrasts with US citizen women’s feelings of devaluation by immigration agencies, and they struggle to reconcile the political promise of their citizenship with their current realities. Natalie, for instance, rejected the idea that she should have to write “syrupy sweet” tales of love and dependence. “For me,” she said, “what’s most important about this is that I’m a US citizen, and I should have rights and due process with my spouse.” Another US citizen, Wendy, declared, “Officially, this is my application, not my husband’s [and] I feel like—well, it’s not a feeling. It’s very practical. These are *my* rights being trampled on.” In these statements, Natalie and Wendy emphasize the contradiction inherent in policies that claim to value family unity for US citizens yet separate US citizens like them from their spouses. Still, while politically expedient, asserting that US citizens deserve their families because they are *US citizens* has important political implications.

When US citizens strategically essentialize (Spivak 1996) themselves as citizen wives and mothers, they uphold distinctions between statuses, valorize heteronormative gender roles, and reinforce the idea that citizenship is a legitimate basis on which to distribute rights. In this way, wittingly or not, US citizens like Heather, Wendy, and Natalie legitimize the very policies that have excluded their undocumented spouses in the first place. Others, such as Beth, reject the idea that family unity should be a privilege of citizenship. “One of the things that drives me absolutely nuts is when people are like, ‘You deserve to be approved.’” Beth said, “It’s like, well, everyone deserves to be approved. Everyone deserves to be with their family.”

As a result of prolonged campaigns by mixed-status families, including many Juárez Wives, significant changes were made to the hardship waiver program after most of my fieldwork was completed. In 2013, the “provisional waiver” program was instituted, which allows select families to file the hardship waiver petition first from within the United States and wait together there while the petition is adjudicated, dramatically reducing family separation times. Then, in 2014, USCIS was directed to standardize and expand the criteria for “extreme hardship,” which should reduce the unpredictability of waiver decisions.

These changes demonstrate that sustained organizing by immigrant rights advocates can contest exclusionary practices of the US immigration system. Yet these programs largely reproduce an immigration system that valorizes some immigrants and families at the expense of others. The provisional waiver program, for instance, has cast a wider net for denial based on arrests that would not ordinarily meet a ground of inadmissibility, such as repeat traffic violations (Schreiber and Wheeler 2013), criminalizing more undocumented people. More broadly, as contemporary immigration programs draw ever harder distinctions between “criminal aliens” and “deserving” immigrants, the Juárez Wives find themselves in the midst of immigration politics, and an immigrant rights movement, fraught with tensions and disagreements. These disagreements have catalyzed some groups to forge a more critical movement that contests the racial, gendered, class-based, and heteropatriarchal assumptions that undergird distinctions between “worthy” and “unworthy” immigrants in the first place (Das Gupta 2006; Unzueta Carrasco and Seif 2014; see also Stephen 1995).

**Unmasking the illusion of citizenship**

US citizens with undocumented spouses reside in a legal “gap” as members of families that are physically together yet legally incomplete. The implications of this gap come into especially sharp focus as families undertake immigration processing in an attempt to be together lawfully. This process banishes undocumented applicants from their US homes and families, leaving US citizen spouses behind to keep their households together as they put together a case for “extreme hardship” for their spouses’ return. Yet the very US citizens who are meant to benefit from this process find their hardships compounded, not eased, by immigration processing. Onerous hardship criteria reify their needs, reducing the intricacy of their lived connections to “verifiable” medical and financial problems and mandating indefinite family separation. Placing US citizens at the center of immigration petitions has an additional effect: it is so onerous and humiliating that it can actually alienate US citizens from feelings of national belonging and encourage them to create alternative forms of community.

It is tempting to explain the degradation of US citizen women in this process as a mere extension of the “legal violence” (Menjívar and Abrego 2012) that targets their undocumented husbands. This kind of gendered “contamination” is steeped in US history: in the past, women who transgressed racial orders by marrying racialized “foreigners” became vulnerable to losing their citizenship altogether (Cott 1998). Today, when US citizen women submit to the purview of the US immigration system, they become subject to the kind of bureaucratic disdain and loss of autonomy that is often reserved for immigrants—practices that are used to harden the line between national inclusion and exclusion (Fassin 2005; Ticktin 2006). And though they retain their formal citizenship status, they also learn that its value is diminished.

But if US citizens in mixed-status families find that citizenship offers them little protection from forced family separation and bureaucratic indifference, they are not alone. Instead, they join millions of others, both citizens and noncitizens, whose autonomy and agency are
circumscribed as components of their lives come under the control of state agents. Families with members in the criminal justice system, parents with children in protective custody, people who use public assistance, and the poor, among others, are daily subjected to state interference in the most intimate realms of their lives (Burton 2015; Cacho 2012; Comfort 2008; Dickinson 2016; Fassin 2013; Wacquant 2009). As in immigration processing, these intrusions disproportionately destroy the lives of racial minorities, women, and the working poor. This analysis suggests that, rather than merely extending legal violence from one family member to another, immigration processing exposes the racial, gendered, class, and sexual fault lines that penetrate citizenship to begin with.

This broader picture shows that the true effect of immigration processing is not that it weakens women’s citizenship but that it reveals weaknesses that were already there: the “rights” that US citizens felt entitled to were never really theirs; the privileges of their citizenship were, to a degree, illusory. This analysis suggests that following citizenship to the heart of its “soft inside” (Bosniak 2006) unveils its fundamental fiction: that principles of democratic citizenship are somehow compatible with the inequality inherent in capitalist nation-states, and that citizenship can protect status holders from the destructive effects of state intrusion.

Notes

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1. All names used here, including the Juárez Wives Club, are pseudonyms. I have also changed potentially identifying details of people and legal cases.

2. Consistent with popular and academic usage, I use “undocumented” to refer to people who do not have a temporary visa, legal permanent residency, or citizenship in the nation-state where they live. The term is somewhat of a misnomer, since undocumented people can and do possess identity documents, both valid and invalid. I also use the term “immigrant” rather than “migrant,” because “migrant” conveys a sense of mobility that my study participants do not have. Undocumented people cannot, however, technically be “immigrants,” since only people who have been lawfully admitted for residency in the United States are legally considered immigrants.


4. From 1996 to 2001, Congress periodically “opened” the law so that eligible unlawful entrants could apply to adjust their status without leaving the United States. Since the attacks on the World Trade Center and Pentagon on September 11, 2001, the opportunity to adjust inside the United States has remained “closed,” blocking the path to legal status for millions of unlawful entrants who would have been previously eligible.

5. Indeed, undocumented applicants who are diagnosed with certain communicable diseases can be denied admission.


References


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