

# Immigration law not created equally according to study

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Immigrant women who go through the legalization process are not treated equitably, according to a new study, "Gendered Paths to Legal Status: The Case of Latin American Immigrants in Phoenix, Arizona."

Arizona State University professor Cecilia Menjivar and researcher Olivia Salcido found that immigrant women are subject to stereotypes according to gender roles. Their findings show that women are often left to depend on men to petition (the first step in the immigration process) for their legal permanent residency, mostly through family-based immigration.

"It takes a long time for someone who is being petitioned to become a permanent legal resident, with the waiting time depending on the country they come from. Then it can take years, sometimes, to obtain a work permit," said Menjivar, T. Denny Sanford School of Social and Family Dynamics professor. Salcido holds a doctoral degree in justice studies and a master's in anthropology from ASU.

Menjivar began her research 14 years ago through in-depth interviews with immigrant women and men from Mexico, Guatemala, El Salvador and Honduras. She and Salcido have interviewed 51 women about their experiences through the years.

"Because of structural barriers, such as access to educational opportunities and acquisition of skills in the countries where they were born, women have fewer opportunities than men to apply as principal

visa holders or for employment-based visas," Menjivar said. "Any pathway to legal permanent residence (and from there to citizenship) and integration should be open, affordable and accessible to all immigrant women, including those whose work is unpaid, such as mothers who care for children."

There have also been instances where women fall victim to stereotypical gender-based roles, according to the study. This was the case with Elena, a Mexican woman with a college degree and years of work experience who was successful as a banker in her country of origin, but was asked by immigration personnel if she might overstay her visa since she had a boyfriend in the United States.

"Sometimes the immigration officers don't believe that the women applicants are professionals and think automatically that these women will overstay the visas. It becomes very complicated for women," Menjivar said. "This is how we get these gender disparities. Stereotypes go into implementing immigration law and then employers make decisions on who they want to hire, who is worthy and who is not, and whom they would like to sponsor. This is how men end up being petitioned by employers more often than women."

"In countries such as Mexico, men tend to have higher levels of education than women, so employers are more likely to seek immigrant men with higher skill sets," she said. "There are also more visas allocated for highly skilled workers than for low or 'unskilled' work."

It turns out that Elena was derailed from her career path when she couldn't get a visa to migrate to the U.S. She then married her long-time U.S. citizen boyfriend, but could not get a work permit soon enough to start earning an income through employment once she was in the U.S.

"She was not okay with that, because she saw herself as a professional,

as someone with the potential to earn a decent living," Menjivar said.

Of all the forms of legal entry, employment-based visas are the most skewed along gender lines, according to the study. For example, in fiscal year 2004 women received nearly half of the employment-based visas, but only 26.8 percent were principal visa holders. Approximately 73 percent were dependents of a principal visa holder, usually a husband or a father. There are only 5,000 visas available annually for "low-skilled" jobs, meaning that much of the work done by [immigrant women](#), though critical for the U.S. economy, simply cannot compete.

Political asylum claims can also be influenced by gender; for example, if a woman fears for her life based on political activities that have been defined by her gender (providing shelter for guerrillas, cooking and hiding ammunition), it may be more difficult to prove that it is reasonable to fear persecution for engaging in these activities than a male who has fought in a guerrilla army, according to the study.

"Supporting the opposition amounts to danger," Menjivar said. It also may be more difficult for women to talk about their experiences in situations such as civil wars if they have experienced rape or other crimes. So even if the women have participated in the conflict and suffered directly, their cases are sometimes more difficult to prove in asylum cases, she added.

Even legislation that is designed to protect women, such as the Violence Against Women Act, may not be effective if women have a difficult time proving that they lived with an abuser, for instance. They may not have a paper trail if everything was in their abuser's name, Menjivar said.

"Although immigration law is supposedly gender neutral, on the ground it isn't because the people implementing the laws are affected by gender

inequalities in society at large. So when they make decisions about cases, gender biases will seep through," she said. "With a final vote on the immigration-reform bill expected this week, lawmakers can make a critical difference in immigrant communities (and society at large) and craft legislation that will not have unintended consequences, like increasing inequality for women."

Provided by Arizona State University

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