

NOT SO OBSCURE A CHALLENGE:
BATTERED FEMALE MIGRANTS AND PUBLIC POLICIES IN THE UNITED
STATES AND GREECE

by

Gabriela Wasileski

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fulfillment of the requirements for the degree of Doctor of Philosophy in Criminology

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Gabriela Wasileski

Approved: _____
Ronet Bachman, Ph.D.
Chair of the Department of Sociology and Criminal Justice

Approved: _____
George H. Watson, Ph.D.
Dean of the College of Arts and Sciences

Approved: _____
Charles G. Riordan, Ph.D.
Vice Provost for Graduate and Professional Education

I certify that I have read this dissertation and that in my opinion it meets the academic and professional standard required by the University as a dissertation for the degree of Doctor of Philosophy.

Signed: _____
Susan L. Miller, Ph.D.
Professor in charge of dissertation

I certify that I have read this dissertation and that in my opinion it meets the academic and professional standard required by the University as a dissertation for the degree of Doctor of Philosophy.

Signed: _____
Eric Rise, Ph.D.
Member of dissertation committee

I certify that I have read this dissertation and that in my opinion it meets the academic and professional standard required by the University as a dissertation for the degree of Doctor of Philosophy.

Signed: _____
Ronet Bachman, Ph.D.
Member of dissertation committee

I certify that I have read this dissertation and that in my opinion it meets the academic and professional standard required by the University as a dissertation for the degree of Doctor of Philosophy.

Signed: _____
Mark J. Miller, Ph.D.
Member of dissertation committee

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ABSTRACT

Immigration is becoming an increasingly important policy concern both in the U.S. and Greece, and also in many other nations. Importantly, there is an ever-growing number of women who migrate, many of whom are undocumented. Violence against immigrant women is nearly impossible to estimate. However, immigrant women who are abused face multiple barriers to seeking legal protection from the abuse as a result of their migration status. In many cases, immigrant women are unaware of the protection afforded to noncitizens, or the legal protection is limited so they may fear deportation from being exposed as noncitizens or fear the loss of custody of their children. Those immigrants who entered the country through a family reunion program are awarded derivative immigration status, so they can join their spouses in the United States. Consequently, a battered immigrant's ability to obtain or maintain lawful immigration status may depend on her relationship to her United States citizen or lawful permanent resident spouse and his willingness to file an immigrant relative petition on her behalf.

Despite the increase in female migration, there is a paucity of research on gender issues within regularization and family programs. This study sheds light on how the migration status of battered immigrant women affects their options for seeking a remedy from interpersonal violence. Moreover, this research highlights how migration policies

in Greece and the United States interfere with social and legal protection of undocumented immigrant battered women.

Chapter 1

INTRODUCTION

“We cannot legalize them all” (Athens News, 10/2/2006: Interview with Interior Ministry General Secretary Athanassios Vezyrgiannis)¹

“They think of those people as criminals and not as refugees” (Christos Karapiperis from the Patras branch of the Hellenic Red Cross in response to the governmental effort to lock up undocumented immigrants and build a new detention center in the Patras area) (Susan Sachs, *The Globe and Mail*, May 5, 2009).

“According to the Social Security Administration, not only the typical illegal immigrants (that possibly can get legalized), but any low-skilled immigrant, will have a devastating impact on the solvency of Social Security-which millions of Americans depend upon for retirement” (Lamar Smith, *The Washington Times*, August 22, 2008).

“Texans, for example, experienced the immediate impact of illegal immigration in our crowded schools, overburdened hospitals and strained police departments. We understand what many elected officials still don’t; rewarding lawbreakers with amnesty only encourages a new flood of illegal immigrants.” (Lamar Smith, *The Washington Times*, December 14, 2008).

These examples illustrate attitudes towards undocumented immigrants² not only in the United State and Greece, but across the globe (Castles & Miller, 2009).

¹ In ICMPD (2008). Regime: Regularisations in Europe, Study on practices in the area of regularization of illegally staying third-country nationals in the Member States of the EU. Vienna, Austria.

Undocumented immigrants are blamed for increasing crime rates, rising costs of medical care, growing unemployment and decreasing wages. Migration has always been a part of social life and the political economy. For centuries, people have moved from place to place to avoid persecution or to improve their life circumstances. Today, an unprecedented number of people live in the United States and European countries without valid documentation, but with a desire to stay and perhaps never return to their homeland. Estimating the number of illegal immigrants who reside in any country is highly problematic due to ambiguous distinctions between legal and illegal immigrants, limited data availability, and a constant inflow and outflow of immigrants. Still, countries attempt to estimate these numbers (Baldwin-Edward & Kraler, 2008a:67). For example, in the United States, according to Department of Homeland Security estimates, 11.6 million immigrants resided illegally as of January 2008 (Hoefer, Rytina & Baker, 2009). In Greece, the number of undocumented immigrants varied between 260,000 and 300,000 in 2004, and around 205,446 in the year 2007 (Maroukis, 2008:47).

The constant influx of illegal immigrants has sparked immigration debates on both sides of the Atlantic Ocean, pitting supporters of legalizing undocumented

² The term “undocumented immigrants” is awkward in this context, particularly as referred to the international migrants who cross borders illegally or stay beyond their legally allotted time limits. As Bean & Lowell point out, “an immigrant is someone who has been granted legal permanent residence by a national government or formal permission to live and usually to work in a given country” (2007:70). However, for the purpose of this study, the term “undocumented immigrant” was used as it was assumed that in some period of time he/she will become an immigrant through process of regularization. In addition, the word “undocumented” includes also immigrants that entered a host country legally with a visa, but lost the ability to defend themselves by overstaying their visa.

immigrants against those who advocate stronger anti-immigration measures and policies. Politicians and lobbyists in the United States debate on several levels: the economy, human rights and the rule of law. On the right of the political spectrum, free marketers stand against cultural conservatives. On the left, civil rights and racial advocacy groups oppose job protectionists. In Europe, the European Council raised the issue of legalization of undocumented immigrants in order to increase control over irregular migration, to decrease the scale of the 'shadow economy,' to increase labor market transparency, and to improve the social conditions of illegal workers (Council of Europe, 2007). In many instances, the ongoing debates on immigration, minorities, human rights, and stocks of illegal immigrants and their impact on economic, social and political life led to the implementation of regularization programs in many countries within the Organization for Economic Cooperation and Development (OECD). ³

Regularization programs, which are sometimes called legalization or amnesty programs, are one of the tools used to reduce the number of illegal immigrants. There is no general consensus among countries about the definition of a regularization program, its scope, or consequences. States differ on their definitions of what constitutes regularization, who can apply, and the way or terms used for regularization policies (Blaschke, 2008). Baldwin-Edwards and Kraler, for the purpose of their comparative

³ The Member countries of the Organization consist of Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Japan, Korea, Luxembourg, Mexico, Netherland, New Zealand, Norway, Poland, Portugal, Slovakia, Spain, Sweden, Switzerland, Turkey, the United Kingdom, and the United States.

study of regularization programs in 27 EU member states, define regularization as “...any state procedure by which third country nationals who are illegally residing, or who are otherwise in breach of national immigration rules, in their current country of residence are granted a legal status” (2008:7).

The variety of regularization policies, the diversity of their definition and implementation, and the lack of reliable data on unauthorized immigrants living in the host countries make it almost impossible to evaluate the success or failure of such policies, despite their importance to the development of coherent migration policy (Blaschke, 2008). In addition, Baldwin-Edwards and Kraler (2008a) argue that there is no relationship between estimated stocks of irregular immigrants and implementation of regularization programs. The authors point out that regularization programs were enacted in some countries as a response to demand for low-skilled workers (Greece, Portugal and Spain), family reunion (France), or on humanitarian grounds (Denmark, Finland, Sweden, the Netherlands, and Luxemburg). Nevertheless, regularization policies were implemented in countries of Southern Europe and the US in order to stop illegal immigration and improve the lives of those undocumented immigrants already in the host country.

The major benefits of regularization are mostly articulated in economic terms by incorporating legalized immigrants into the economy as workers, taxpayers and consumers. But it is also argued that such public policies might result in improvement of legalized immigrants' social welfare. As a result of their undocumented situation, illegal immigrants are more prone to live in insecure situations, which exacerbate their

vulnerability to human rights violations. Because of their illicit status, undocumented workers are often left without formal work contracts, earn sub-standard wages vis-à-vis legal residents, and do not benefit from any protection from labor legislation or help from welfare services except for emergency and child medical treatment (Kanellopoulos, Gregou & Petralias, 2006; Lazaridis & Poyago-Theotoky, 1999; see also Bacas, 2002). Xenophobia and racism, especially in highly homogeneous countries, exert a significant impact on immigrants and further the exploitation of unauthorized migrants in the labor market.

Female migration has always been a significant part of international migration patterns (Piper, 2006). The number of women migrants is steadily increasing; in addition, in some countries, migrant women outnumber men (Dobrowolsky & Tastsoglou, 2006). Females often migrate as dependents within family reunion procedures⁴ especially in Northern Europe (Kofman, Phizacklea, Raghuram & Sales 2000). Many countries have the largest proportion of immigrants within the family reunion category (Castles & Miller, 2009:221). Nevertheless, women also frequently migrate independently as migrant workers, refugees, or asylum seekers. Even though women sometimes migrate independently, they remain connected to their families that they left behind. Hence, reuniting families becomes a central issue in migration processes. In many instances,

⁴ Family reunification, according to EU Directive 2003/86/EC, applies to members of the nuclear family (the spouse and the minor children). It is for the Member States to decide whether or not the family reunion will be extended for relatives in the direct ascending line such as adult unmarried children, unmarried or registered partners in the vein of polygamous marriage, or minor children of a future spouse and the sponsor.

women are the main breadwinners for their families in their host country and back in their home country; their earnings allow them to provide basic necessities for their children and extended family (Escriva, 2000).

Gender issues within migration have become the subject of detailed academic scrutiny (Anthias & Lazaridis, 2000; Willis & Yeoh, 2000; see also Dobrowolsky & Tastsoglou, 2006). Researchers study gender differences in decisions to migrate, the ways in which migration affects women's lives, their social position in host countries and countries of origin, and the socioeconomic characteristics and status of immigrants. Female migrant workers appear especially vulnerable to various forms of discrimination in the labor market, and through exploitation, trafficking, and abuse. Such scholarly efforts have produced recommendations for improved migration legislation, welfare and health policies.

Even though significant numbers of legal and undocumented female immigrants have existed for decades, there are still relatively few studies or gender-based analyses of regularization and family reunion policies. Research that is available about regularization policies mostly evaluates a particular approach that states or countries follow to legalize their undocumented immigrants. While gender and ethnic differences among undocumented immigrants are mentioned, gender differences that might play a role in access to regularization policies and family reunion, and that result in different consequences for male and female immigrants due to their unequal position in the host society, are left unexamined. In order to observe the impact of gender differences within regularization programs, regularization must be studied within the broader context of

other national policies such as violence against women, welfare, and labor policies. In other words, one must look outside of migration policies *per se* to examine broader national policies such as those pertaining to gender issues affecting welfare and labor in order to best understand how such policies affect female migrants. According to Reitz (2002), integration of immigrants in host countries is affected by pre-existing ethnic and racial relations, labor market and related institutions, government policies, and globalization processes. Similarly, Hammar (1985) argues that countries respond to inflows of immigrants with immigration regulations based on their economy, social situation, population, geography, and the historical experience with large scale immigration (1985:296).

Scholars on female migration argue that female immigrants are often stigmatized within both the migrants' community and their own community due to gender stereotypes and prejudice against migrant women that immigrate without male company (Preibisg & Santamaria, 2006; see also Tastsoglou & Hadjicostandi, 2003). In many instances, female migrants face barriers in gaining access to high skilled occupations, limiting them from using their education and skills (Salaff & Greve, 2006). The structure of the labor market forces many female immigrants into the most traditional forms of sex-segregated employment such as domestic services and prostitution.

In addition, immigration policy, such as a regularization program, can disadvantage women by granting them a status as 'dependent.' This occurs either by giving women permission to accompany their spouses, but not providing legal

opportunities to work, or granting females legal status contingent on the status of their spouses.

In some exceptional instances and only in some countries, if a woman is identified as a domestic violence victim, this dependent status can be changed. However, gathering convincing evidence of severe violence by abusive spouses is difficult due to insufficient legal protection of battered women, a deficit of shelters, and fear of deportation because of the migrant status. The illegal status of immigrants affects their willingness to use social, medical, and other public services - obstacles exacerbated for battered women; access to these services is also often not allowed under the law as a result of their illegal status.

Domestic violence does not recognize any distinction based on class, race, sexual orientation, ethnicity or religion; any woman might be a victim. Even though men can be victims of domestic violence and women can be victimized by female partners, the most often documented cases of domestic violence are perpetrated by males against females (Orloff & Kaguyutan, 2001). The consequences for battered immigrant women can be particularly overwhelming because of their legal status dependent on their spouse, language barriers, and limited economic and social ties. For instance, a study of the New York City Department of Health's Bureau of Injury Epidemiology found that 51 percent of intimate homicide victims in New York City between 1995 and 2002 were foreign born females (New York City Department of Health and Mental Hygiene, 2004). Dutton, Orloff & Hass (2000), in their study of undocumented and recently documented Latina

women in the Washington, D.C. area, found that 48 percent of Latinas reported that they had suffered increases in domestic violence since immigrating to the United States.

Although immigration policies are written in a gender neutral context, using words such as “worker” and “sponsor,” the effects of the regularization programs are clearly gendered. It has only been in the past few years that scholars have begun to identify the ways in which the gender of the “immigrant worker” is meaningful, with significant consequences for women.

In order to best explore the impact and consequences of immigration policy on battered females who seek assistance and/or asylum, for the present research a triangulated methodology is utilized, combining both analysis of regularization legislation and also interviews with personnel involved in providing services for battered immigrant women. Respondents answered questions about how migration policy, and regularization and family reunion programs of Greece and the United States, affect and shape the response to and protection of battered undocumented immigrant women.

Two major research questions guiding this study are:

1. What role does gender play in obtaining legal status via regularization and family reunion policies?
2. How does the legal status of immigrant women affect their options for seeking relief from family violence situations?

Migration to the host country is based on and bound by law. Law articulates who can migrate and under what conditions, it grants and limits the powers of migration offices, and establishes liability for immigrants. Law also defines what branch of

governmental agencies will deal with immigration issues. Therefore, in order to answer the first research question, what role does gender play in obtaining legal status via regularization and family reunion policies, the study starts with an analysis and assessment of the migration legislative framework. More specifically, the analysis explores the way in which the regularization legislation in Greece and the United States was interpreted by those officials that implemented the text of law into the practice.

To read the text of the law is important in order to identify places where the laws specifically address gender and where gender issues are relevant but perhaps have not been addressed. As already mentioned, migration legislation should not be understood only in terms of what exactly was enacted by Congress but also by the possibilities of what in fact happened consequent to the laws' passage. In other words, reading the legal text will permit the understanding of whether or not enacted regularization and family reunion laws in Greece and the United States provide equal opportunities for female and male immigrants to meet the legal requirements and legalize their undocumented migration status, or whether or not the law provide legal challenges for some applicants based on their gender as a result of the intended and unintended effects of a specific migration policy.

Two legal theories with opposing perspectives on how the content of the law should be viewed provide insight for the analysis of legislation. The first theory is H.L.A. Hart's positivism, which highlights substantial room for discretion at the application stages of the law since the latter cannot possibly be formulated exhaustively. Ronald Dworkin's legal interpretation is the second perspective relied upon during the textual

analysis stage. It maintains that vagueness of certain pieces of legislation can be alleviated by a variety of other legal sources (e.g. administrative acts, court decisions). Thus, an analysis of legislative acts that regulate issues of immigration status has to factor in whether any other “supportive” regulations on the subject exist.

Responses to in-depth interviews with personnel involved with providing services for battered women, immigration lawyers, and governmental officials assist in answering the second research question, how does the legal status of immigrant women affect their options for seeking relief from family violence situation. Answering this question entails an exploration of the existing programs and legal remedies available for assisting battered undocumented immigrant women and/or immigrant women who are legally dependent on their spouses. Interview data will also shed light on the obstacles faced by undocumented immigrant women who are victims of intimate violence.

Research comparing the United States with European countries is not entirely without precedent. However, very few studies have been conducted comparing the United States and Greece as states that have implemented regularization policies in order to deal with undocumented immigrants. In addition, the connection between immigration law and general gender policies and regulations in Greece and the United States can provide us with information to determine whether states are aware of the contexts, resources, and vulnerabilities of battered immigrant women. Immigrant women are placed in a vulnerable position because of their legal status and are subject to abuse from their spouses in both countries; however, divergent outcomes between Greece and the United States emerge in terms of how their respective framework of migration policies

addresses the specific problems faced by battered immigrant victims and provides a legal remedy for their victimization.

1.1 Comparing the United States with Greece

It is important to understand that for many theorists and social scientists, the countries of the European Union, the United States and Canada comprise a kind of polity (Shaw, 2000). In addition, security analysts sometimes argue that countries of the OECD constitute an “integrated core” and the rest of the world is understood as the non-integrated gap - a much less developed and disconnected zone that poses a central security threat to the Integrated Core (Barnett 2004). Greece and the United States set up an interesting, but not entirely unprecedented, comparison because both countries are part of the OECD, both remain sovereign countries, and both countries have become havens for immigration, although in Greece this has only been the case since the 1990s. There is considerable dissimilarity between them and such differences can help us illustrate and evaluate migration policies, specifically regularization programs.

1.1.1 Similarities

The United States is the classic land of immigration. In contrast, very little had been written on Southern European immigration prior to 1990s mostly because countries such as Greece, Italy, and Spain had long been nations of labor emigration. Since the late 1980's and early 1990's, however, there has been a significant reversal in migration

direction. Greece, along with other Southern Europe countries, became a host land to a massive inflow of predominantly illegal immigrants in a relatively short period of time. In many instances, Greece became a 'trap' for immigrants who had tried to migrate to Northern EU countries and saw their stay in Greece as temporary. In other words, Greece is not necessarily the final destination for immigrants, but a transit country for further journey to Italy and other Western European countries (Maroukis, 2008). Many asylum seekers have been sent back to Greece from Germany and other European countries pursuant to the European Dublin II regulation under which the state through which the asylum seekers entered European territory is responsible for processing the asylum claim (Pro Asyl & Group of Lawyers for the Rights of Refugees and Migrants, 2007).

Nevertheless, both the United States and Greece experience the clandestine entry of migrants regardless of efforts to strengthen surveillance of their coastlines and borders. The substantial shadow economies that are present in both countries also serve to attract immigrants. Even though Greece and the US have imposed fines and criminal sanctions against employers who hire illegal workers, there is only a weak enforcement of such sanctions and both nations have largely tolerated informal economies, either because of neglect or political convenience.

Both countries have attempted to counter tendencies for clandestine work by implementing regularization policies. The last major large-scale regularization in the United States was implemented in 1987 after the Immigration Reform and Control Act of 1986 (IRCA). This legislation established several different programs through which undocumented immigrants were granted lawful temporary residence status in the United

States. Immigrants who obtained permits were able to remain in the country until they met conditions for a permanent residence permit (i.e., a Green Card). Out of 3,040,475 applicants for temporary residence under the IRCA regularization, 88% were granted permanent residence status. Since 1986, no further efforts for major legalization of the illegal immigrant population have been enacted.

In contrast, Greece did not have much of a migration policy for managing and controlling immigrants until the early 1990s (Triandafyllidou, 2008). Since then, Greek migration policy underwent major reconstruction and now appears “fundamentally exclusionary, with no evaluation of labor market needs and no realistic possibility of legal immigration from Balkan countries” (Baldwin-Edwards, 2004a:56). Since 1997, Greece has implemented several legalization programs, and despite bureaucratic hurdles, 219,024 immigrants obtained temporary residence status in the 1997-1998 regularization; 341,278 received a 6-month residence permit through the 2001 regularization program, and approximately 185,800 were issued permits (Baldwin-Edwards & Kraler, 2008a). However, these numbers are misleading because permits were normally limited for a certain period of time, with the possibility of renewal. Consequently, many legalized immigrants relapsed into illegality and cycled in and out of regularization programs.

Table 1-1. Similarities between the United States and Greece

United States	Greece
Members of OECD Countries	
Sovereignty	
Many undocumented immigrants	
Shadow economies	
Regularization policies	

1.1.2 Differences

Greece, in contrast to the U.S., was considered until quite recently a relatively homogeneous nation with a strong emphasis on one religion and a Greek national background. Baldwin-Edwards & Apostolatos (2008) argue that the state of immigration policies in Greece and its official responses toward immigration and immigrants need to be seen in historical context. They argue that Greece was always a country of immigrants and emigrants; however, this inflow and outflow of people must be “linked to ethnicity and religion” (2008:5). In summary, the current strong emphasis on the Greek orthodox religion and the ethno-national identity of Greek language speakers needs to be seen in a historical context when, since 1923 under the Lausanne Treaty, certain ethnic communities, mostly Muslims, were forced to leave Greece because of their different religious affiliation that was seen as a threat to a newly created Greek state (Baldwin-Edwards & Apostolatos, 2008). Similarly, McCarthy (1995:152) argues that the policy of the newly created Greek state was to generate a Christian land where there previously had been an ethnically and religiously mixed population. Thus, whole communities had been forced into exile or to accept a new Greek orthodox religious identification that led to also accepting a new ethnic and national identity (McCarthy, 1995:256). Even today, Greek officials do not gather statistics about the religious affiliation of their population, language spoken or ethnic group identification; nor are these questions included in their census (Baldwin-Edwards, 2008).

The growth of undocumented immigrants occurs hand-in-hand with issues of racism, xenophobia and social exclusion. Anthias & Lazaridis (1999) argue that Southern Europe experiences a form of racism based on ethnocentrism and dislike of foreigners. Using comparative European poll data, Greeks are characterized as the most xenophobic and racially intolerant nation among the EU-15 (Baldwin-Edwards & Apostolatos, 2009). Even though migration is mostly understood and defined in economic terms, Linos (2001) argues that, for the Greek public as a whole, the perception of foreigners as a threat to culture or religion is far more significant in predicting attitudes toward immigrants than any belief about the economic effects of immigration. Lazaridis & Poyago-Theotoky (1999) claim that Greece is the only country in Southern Europe that did not implement a legalization program until 1997, no doubt as a result of xenophobia in society and institutions.

Available evaluations of regularization programs reveal that the issues of undocumented immigrants are complex, and that regularization policy is most likely to fail if it is not accompanied by other policies such as preparing integration programs for those who are regularized (Cavounidis, 2006a). In addition, even though regularization policies reduce the number of illegal immigrants to some extent, they do not solve the problem of illegality (Kanellopoulos, Gregou & Petralias; 2006) or radically improve the social position of legalized immigrants, and their access to the formal labor market and the welfare system (Kossoundji & Cobb-Clark, 2002). In order to address specific gender issues within regularization policies, one must consider the existence and condition of other general legislation and policies in a particular host country that shape the

environment of migration policy. It is likely that, if a country does not have well-articulated policies that address gender inequality or violence against women, similar issues raised by female immigrants will be trivialized or ignored.

In contrast to Greece, the United States has well developed policies that address protection for victims of domestic violence and equality in the workplace – policies that are unrelated to immigration issues. The feminist movement in the US responded to issues such as violence against women that led to the development of shelters for battered women and to a range of legislative reforms and legal protections for victims of domestic violence. A variety of Non-Governmental Organizations (NGOs), politicians, and women’s organizations pressed for protection, and explicitly recognized that victims who were residing illegally could be doubly vulnerable. In 1994, Congress authorized and funded the Violent Crime Control and Law Enforcement Act (VAWA). The Act included provisions that granted both undocumented battered immigrants married to U.S. citizens or also lawful permanent residents the right to apply for legal residency on their own, rather than depending on their husbands to petition for them. In 2000, Congress extended access to special visas to undocumented battered immigrant women, regardless of their relationship to their offender. The amendment of the Violence Against Women Act in 2005 extended the protection of battered women by including stalking in the legislation. In addition, VAWA 2005 amended § 384 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 USC § 1367). This section prevents the Department of Homeland Security, the Attorney General, and the Department of State from making a deportation based “solely” on information provided by batterers and their

family members. Disclosure of information about applicants for VAWA self-petition to victim's service providers such as shelters is permitted only with the prior written consent of the immigrant.

Pressure from women's groups also facilitated some legal reforms regarding the elimination of discrimination against women and the promotion of gender equality in Greece. However, Greek culture dictates that domestic issues and relationships in a Greek family should never become public (Stathopoulou, 2004:136). Therefore, emphasizing the family and household as private issues might decrease action taken by law enforcement and increase victims' reluctance to report the violence in the family. Illegal immigrants are perhaps the most vulnerable group because they fear not only the private violence, but they also fear deportation, making them understandably reluctant to call police. The anti-immigrant sentiment further encourages immigrant victims to remain silent.

Table 1-2. Differences between the United States and Greece.

United States	Greece
Immigration Magnet	Immigration Trap
Long history of immigration	Recent history of immigration
Heterogeneous Society (race, religion)	Homogeneous Society (race, religion)
Domestic Violence Policies since 1980s	Significant Changes in Domestic Violence Policies since 2006

1.2 Organization of the Present Research

Prior research has examined regularization programs across different countries including a significant number of academic studies conducted to explore issues related to female migration patterns. However, regularization programs and female migration have been observed as a separate phenomenon and there is a paucity of research on gender concerns within regularization programs. The present research fills the gap regarding the gender category within regularization policies in the United States and Greece.

Constructing and implementing policies about regularization programs need to take gender issues into account. This research offers the first step in assessing the needs of battered immigrant women in this endeavor. Historically the U.S. legal system, based on English common law principles, recognized only male household rights and females were politically unequal to men with regard their right to vote or own property (Motomura, 2006). Ultimately, United States immigration laws reflected these ideas. For example, early United States immigration law did not allow female citizens to request visas for their non-citizen husbands (Balram, 2005). At the present time, the global dimension of migration is sometimes even called the ‘age of migration’ (Castles & Miller, 2009). Some scholars, such as Castles and Miller (2009), argue that gender plays a role in immigration rules and immigrant females are still disadvantaged and vulnerable to discrimination and violence compared to male immigrants.

On the surface, it seems that “intent” of the regularization and family reunion policies is to stop and control illegal migration and integration of undocumented

immigrant already living in the country into the host society and formal economy.

Textual analyses of migration policies in the United States and in Greece are utilized in this study to see whether the intention of these migration policies have been formulated into requirements for legalization equally for female and male immigrants. Although there have been efforts to regularize much of the undocumented immigrants, using knowledge from the literature on female migration and statutes that deal with violence against women provides a foundation for assuming that law makers create formulated requirements for regularization and family reunion in gender neutral language, which unintentionally places female immigrants into vulnerable positions. Therefore, the following Chapters Two and Three offer an overview of legal provisions that aided in the enactment regularization policies in the United States and Greece, a literature review on migration and women, and research findings on violence against women within immigrant families in the United States and Greece.

Chapter Four addresses the analysis of regularization and family reunion policies, and the qualitative methods used for this research in Greece. The qualitative methods consist of semi-structured interviews with three key groups in both countries: (1) immigration lawyers, (2) shelter providers and members of other non-governmental organizations, and (3) governmental officials involved in work for immigrants and battered women. Findings from the analysis of regularization policies in Greece are reported and discussed in Chapter Five. Chapter Five explains how legal formulation of requirements for regularization of immigration status in Greece puts female undocumented immigrants into vulnerable positions. Interviews conducted in Greece

with key players are utilized to contextualize how this vulnerable position of female immigrants plays a key role in the process of seeking relief from violent situations in the case of domestic violence. Findings from these interviews in Greece are discussed in Chapter Six. The Chapter Seven discusses how the gender category has been formulated in migration policies in the United States. This is accomplished by again examining regularization and family reunion policies. Interviews conducted in the United States with social service providers for victims of violence and migration lawyers reveal what kind of legal and other remedies are available for undocumented immigrants who find themselves in abusive situations. Findings from the interviews conducted in the United States are reported in Chapter Eight. Finally, Chapter Nine summarized the comparative analysis from Greece and the United States, provides a summation about how the gender category plays a role in migration policies, and explores how this role is mirrored in situations of violence against women. In addition, policy implications and directions for future research are offered.

Chapter 2

SOCIAL SCIENTIFIC KNOWLEDGE ABOUT REGULARIZATION POLICIES

International migration comprises a central dynamic in globalization and, in turn, globalization helps to understand migration (Castles & Miller, 2009). International migration appears to be increasing and affecting all areas of the world in important ways (Miller, 2009). On the one hand, it had been argued that migration causes less developed countries to lose their labor supply to foreign labor markets and to suffer a “brain drain” of skilled workers; on the other hand, the remittances that immigrants send back to their country of origin provide important benefits for economic and social growth, and decreases in household poverty (Castles & Miller, 2009). Researchers, however, have also argued that economic growth of less developed countries cannot rely only on immigrants’ remittances sent home, but that growth must be based on political and economic reforms, improvement in governance, and more efficient institutions (Castles & Miller, 2009:77).

Migration is not only an exchange of capital and labor, but it is also a phenomenon that includes a variety of human movements associated with a diversity of motivations. Governments enact migration policies to control the ebb and flow of migration; these policies represent powerful instruments through which governments contend with their country’s economy, social welfare, and national security (Messina,

2007). Nevertheless, migration policies throughout history have not been applied equally. In practice, some migrants are viewed as advantageous and thus pursued by a host country, while others are viewed as a burden on citizens and tax payers. The economic migration of highly-skilled workers, for instance, is encouraged and viewed as highly desirable for a host country. Many governments favoring skilled labor migration follow procedures that allow recruitment and residency of high-skilled migrants (OECD, 2009). Thus, the labor market for immigrants is politically controlled and certain jobs and services are not legally available for all (Düvell, 2006:5). Low-skilled workers, asylum seekers and family members of certain migrants are often excluded (Castles & Miller, 2009). Indeed, every category of migrants, whether low-skilled migrant workers, family migrants, or refugees, follows different forms and patterns of movement, depending on the receptivity of host countries. As a result of their legal status, many undocumented immigrants are employed in informal low-skilled and low-paid jobs that drive them further into marginality, making them vulnerable to many forms of exploitation. According to an influential OECD report (2009), recognizing the labor demands for lower skilled jobs in destination countries can decrease the basis for irregular migration. In other words, replacing low-skilled jobs from an informal into a formal economy increases the social mobility of low-skilled workers, driving undocumented immigrants from illegality and marginality, and provides them access to the social welfare benefits and services.

International reports predict that the recent economic crisis will decrease opportunities for immigrant workers to find jobs in OECD countries (OECD report 2009,

see also Castles & Miller, 2009). Immigrant workers experience a disproportionately adverse impact from economic crises, not only because their unemployment rate in many instances is much higher than the unemployment rate for native-born populations, but also because countries respond to economic crises with tighter migration policies (OECD report 2009). For example, the Czech Republic and Spain have instituted policies to encourage unemployed immigrants to return to their country of origin by offering them money, and the United States has not filled the set quotas for guest workers (OECD, 2009). In addition, it seems that the public perception of immigrants is linked to economic conditions in a country (Martin, 2009). When the unemployment rate is low, the public is less concerned about immigrants and their impact on the welfare system and taxation (Martin, 2009).

Not only do migration policies reflect the economic, political and social situation in a country, but they also mirror a country's racial and gender stereotypes. Throughout history, immigrants with certain racial and ethnic backgrounds were halted from entering the United States as a result of exclusionary migration policies (Papademetriou & Miller, 1983:8). Regularization policies have been used as an instrument for eliminating illegal immigration. However, at the same time, regularization policies have provided a remedy for certain groups of immigrants residing in a host country illegally. One of the understudied variables that affect regularization policies is the sex of an immigrant. The following chapter provides an overview of migration and regularization policies in the United States and Greece in general. The chapter also highlights gender issues within

regularization policies that were implemented in the United States in 1986 and several times since 1997 in Greece.

2.1 Illegal Immigrants and Unanswered Questions of Scope

Estimates of international migration vary and usually are based on internal statistics. These estimates are often difficult to compare across nations as a result of a lack of official governmental figures, the variety of foreign immigrants' group definitions, and the use of different analytical approaches for analyzing and collecting data. In the United States, federal statistics on international migration are produced primarily by the U.S. Census Bureau, the Immigration and Naturalization Service (INS), and the U.S. Department of State. The official migration statistics in Greece are produced by different governmental branches and their production has been severely criticized as highly unreliable, flawed, and politically constructed (Baldwin-Edwards & Apostolatos, 2009).

Credible estimates of undocumented immigration are almost impossible to make (Baldwin-Edwards & Apostolatos, 2009) and available statistics are sketchy and controversial. Many estimates are disseminated without a mention of the source or information about how the survey was conducted (Düvell, 2006:35). With the exception of the United States, which generates regular credible estimates on undocumented immigrants, only a few European countries such as France have produced limited measures of illegal flows. Thus, quantitative datasets on undocumented immigrants in

Europe are rare (Düvell, 2006). In addition, accounting for the number of undocumented immigrants relies on police records or immigration offices, so their accuracy depends on the quality of police record-keeping and on behavior by illegal immigrants (Levinson, 2005).

The number of undocumented immigrants in the United States is estimated from the total foreign-born population living in the United States after subtracting the legally-residing foreign-born population (such as legal permanent residents, asylum seekers, refugees and non-immigrants visa holders) (Hoefer, Rytina and Baker; 2009). Even though the U.S. datasets on unauthorized residents are considered to be relatively accurate, Düvell (2006:36) argues that they are unlikely to be comparable and applicable for the unauthorized population in Europe mostly because many undocumented immigrants in the United States are Mexicans who entered the U.S. without inspection. Düvell's information about the unauthorized population in the United States is misleading. Even though the Mexican immigration population comprises the majority of undocumented immigrants in the United States, about 61%, there is also a significant number of undocumented immigrants from Canada, the Caribbean, Central America, Asia and South America (Hoefner et. al, 2009). About half of the undocumented immigrants entered the United States legally, but overstayed or otherwise violated the terms of a valid visa (Pew Hispanic Center, 2006a). In addition, a comparison of illegal immigration populations across the Atlantic is not an entirely new phenomenon. Regardless of how immigrants entered a host country, undocumented immigrants on both sides of the Atlantic deal with issues of marginality, lack of social mobility and

exploitation. Comparative analyses are important to conduct to gain knowledge about integration of immigration population in the Europe and the United States (Foner & Alba, 2008, see also Freeman, 2004). Many comparative studies have explored the success or failure of migration strategies employed in order to control illegal migration. Notably these studies have focused on migration policies such as the regularization of undocumented immigrants or civil and criminal penalties for employing illegal workers (Papadopoulou, 2005; see also Miller, 2002a).

2.2 Regularization Policies as a Solution, but for Whom?

Illegal migration, and the economic and social issues related to this phenomenon, has been a major theme in political debate for decades. Throughout history, many countries adopted regularization policies, however; illegal immigration has persisted and flourished. Miller (2002b) argues that the French government's tendency to legalize undocumented immigrants did not lead to a decrease in their numbers, and it raised a question concerning whether or not a government can control the entry and settlement of irregular immigrants. Similar situations of increases in the number of undocumented immigrants face the United States and Greece. According to Hoefner et al. (2009), the unauthorized population in the United States that increased from 2000 until 2007 was primarily from Mexico, El Salvador, Guatemala, the Philippines, and Honduras. In Greece, regularization policies did not substantially decrease the number of undocumented immigrants as a result of the way in which the policies were carried out,

such as the disorganization among governmental branches that were involved in the process, strict and sometimes unreasonable requirements for regularization, and lack of information in other languages than Greek. In addition, refugees and asylum seekers' policies in Greece create a significant pool of undocumented immigrants (Maroukis, 2008). Asylum seekers in many instances enter Greece illegally and they either have not applied for refugee status because they use Greece as a transit country or their application for asylum has been rejected.

Levinson (2005) argues that regularization programs have usually been used by countries as a last resort when internal and external migration controls fail. In many instances, regularization policies were considered a useful tool to use to reconcile immigrants' contributions to the formal economy and improve their situation and human rights. However, the extent to which legalization affected immigrant integration into the host country or improved their social mobility is in many instances inconclusive (Miller, 2002b). The bulk of the evidence suggests that in the United States and France, legalization improved the lives of legalized immigrants and their families (IMR). Liapi (2007) argues that ambiguous enforcement of migration policies in Greece have reduced a migrant's basic social rights such as access to the unemployment benefits and mobility in the formal labor market.

No standard definition of the regularization programs captures the variety of the regularization programs implemented in the countries of the EU and in the United States. Nevertheless, regularization policies are used in many countries across the globe as a governmental strategy to regulate immigration flows and to decrease the number of

undocumented immigrants already residing in the host country (Castles and Miller, 2009).

Regularization policies proliferate and their existence and use demonstrate states' pursuit of very uneven practices. Some states eschew regularization whereas other countries show a recurrent propensity to use them. Greece and the United States are two cases that typify a much broader phenomenon in which very controversial regularization policies exert significant effects on immigrants. These policies essentially reflect the key values of respective democracies. For a variety of reasons, none of the implemented regularization policies in the United States or Europe covered the entire undocumented population or legalized every applicant who sought regularization. In many instances, legalized immigrants have faced problems of segmentation in formal labor market and stigmatization due to their race, ethnicity, language barriers and culture (Calavita, 1998). Fix, McHugh, Terrazas & Laglagaron (2008) argues that in the United States, the absence of integration policies for immigrants fosters their marginalization in society and the labor market.

2.3 History of Migration Policies in the United States

Although the United States is indisputably a country of immigrants, Americans have always been ambivalent about migration and immigrants. Tichenor (2002) argues that American policy has been rather sympathetic to immigrants and migration. But, at the same time, U.S. migration policies have established a crucial limitation on the number

and characteristics of new immigrants. In other words, the immigration policies in the U.S. raised more questions and concerns than consensus on who should be admitted and in what way lawful permanent residents become citizens. Motomura (2006) argues that the history of welcoming immigration law into the United States by viewing lawful immigrants as future citizens that eventually would become part of one nation, changed during and after World War I due to the rise of American nationalism attendant to the U.S. entry into the war (see also Daniels, 2005). Since then, immigration law has treated noncitizen immigrants differently from citizens. According to Motomura's (2006) perspective, recent immigration law provides only limited social and political benefits and legal protections. It no longer takes into consideration the ties that immigrants have created such as paying taxes or having children born in the United States. Unless a lawful immigrant becomes naturalized, her or his immigration rights and protections can be revoked at any time by the changing conditions of immigration law. To approach lawful immigrants differently than those who are citizens has created an environment in which new immigrants become reluctant to assimilate into the host society and American society loses the opportunity for inclusion of immigrants (Motomura, 2006). However, the U.S. government often does take into consideration family ties as witnessed by the policy enacted after the regularization policy of 1987-1988 not to deport illegal status immediate family members of legalized aliens and by the importance attached to family reunification in granting visas.

The Passenger Cases ruling in 1849 by the U.S. Supreme Court was very significant to the development of U.S. immigration policy. The Supreme Court struck

down efforts by states and local governments to prevent the arrival and settlement of Irish migrants on the grounds that the U.S. Constitution gave plenary power to the federal government in immigration related matters. Since then, Congress and the President have had total authority to fashion immigration law and policy. As recently as 1982, a bid by a Texas district to ban schooling of illegal resident immigrant children was struck down as infringing upon the federal government's plenary power, among other reasons.

Even though some states regulated immigration before and after the Civil War by banning criminals, the poor, or those with diseases (Motomura, 2006), for the most part, from the time of the founding of the republic through most of the nineteenth century, immigration to the United States was not widely regulated. American shores were open to almost anybody. Most scholarship recognizes the beginning of the federal immigration statutes in the late 19th century with the enactment of the Chinese Exclusion Act of 1882. The act created a restrictive process to exclude Chinese manual workers and miners from entering the United States for ten years; the act was renewed for an equal term in 1892 and again in 1902, or required those who already resided in the United States to carry identification certificates or face deportation (Archdeacon, 1983). Chinese immigrants presented racial, cultural, and presumed moral characteristics unacceptable to the predominantly white Anglo-American population. Thus they could only obtain peripheral and dangerous jobs that did not attract white workers (Archdeacon, 1983). Not coincidentally, as Daniels (2005) explains, the first regularization policy enacted in the United States was necessitated by extensive Chinese illegal entry, after the Chinese Exclusion Act entered into force. In addition, the Immigration Act of 1891 extended

federal control also over new immigrants from outside the Western hemisphere. The act required the commanders of vessels to report the names of aliens, their literacy and finances, and imposed a head tax on passengers from non-western European countries (Archdeacon, 1983: 145).

The Quota Act of 1921 limited the entry of immigrants to three percent of the population of those already residing in the United States. Therefore, legislation deliberately restricted the number of immigrants from Eastern and Southern Europe (Lee, 2006). Further restrictions on the number of entries of immigrants with certain origins, mostly Asians, and people from Southern and Eastern European countries, was imposed by the National Origins Act of 1924. Although the national origins quota system and the literacy tests were clearly racially prejudiced, another reason for the restrictions that affected Southern and Eastern European immigrants was the perception that such immigrants posed a political threat to the political system (Tichenor, 2002, see also Lucassen, 2005).

Labor shortages and immigration restrictions on Southern and Eastern European workers attracted immigrants from Canada and Mexico (Lee, 2006). Since before World War I, a significant number of Mexican workers entered the United States and, since 1917, Mexico provided a major supply of foreign workers (Kiser & Kiser, 1979). As a result of the increased number of immigrants from Mexico, the U.S. Border Patrol was created in 1925 and significantly reinforced during the Great Depression when then-President Hoover implemented a policy of “Mexican Repatriation.” This policy resulted in large-scale deportation of Mexican nationals and also children of Mexican parents

even though they had been born in the United States (Archdeacon, 1983; see also Lee, 2006). Nevertheless, except for large scale deportations in the 1930s and again in 1954, Mexican migration was hardly controlled (Kiser & Kiser, 1979; see also Bean & Lowell, 2007). In addition to the revolution in Mexico, the development of industrial and commercial farms in the Southwest fueled an influx of Mexican laborers to the United States, in most cases illegally (Kiser & Kiser, 1979). Consequently, the first so-called 'bracero' program was launched in 1917 and remained in effect until 1921 as a result of political pressure from Southwestern farmers for needing substitute labor in wartime. This also increased the number of illegal Mexican workers who worked in the United States as many Mexican workers arrived outside of the legal framework established in 1917 (Kiser & Kiser, 1979). The end of first 'bracero' program did not stop legal and illegal entry of Mexican workers to the United States (Miller, 2009). During World War II, Southwestern farmers once again put pressure on the US government claiming labor shortages due to wartime. In 1942, the second Mexican 'bracero' program was established and, with some modification, it lasted until 1964 (Kiser & Kiser, 1979). During the first 'bracero' program, approximately 500,000 Mexican workers came to the United States, but only half of them were legally admitted; about five million seasonal Mexicans workers were admitted to the United States during the second 'bracero' program (Miller, 2009). Meanwhile, the national origins quota and other bureaucratic barriers such as literacy tests and taxation prevented Asian and Southern and Eastern European immigrants from entry into the United States had almost no impact on Mexican immigrants due to the belief that Mexicans filled labor positions that were unsuited for

white workers and posed no threat to American society because they could be deported at any time, as demonstrated during the Great Depression's massive repatriation (Tichenor, 2002).

World War II and the Cold War further shaped immigration law in the United States. During the Cold War, the 1952 Immigration and Nationality Act (INA), also known as the McCarran-Walter Act, was passed. Even though the quota system remained, the Act abolished the "Asia-Pacific Triangle"⁵ and it established annual quotas for immigrants from Asian countries including China and Japan (Zolberg, 2006). As a result of Cold War era, the McCarran-Walter Act of 1952 also detailed the relationship between immigration and national security and defined the exclusion and deportation of aliens who were anarchists, members of a communist party, and aliens who were affiliated with communist political associations (Section 241, (a), (6) of the Immigration and Nationality Act of 1952). Many of these provisions were restored by the USA PATRIOT Act of 2001. According to Tichenor (2002), the major part of the McCarran-Walter Act of 1952 responded to the pervasive American concern about spreading communist ideology at home.

The INA of 1952 is very important for many reasons. It remains the basis of the present immigration code as amended. It passed, over the veto of President Truman. As noted by Daniels (2005), like other major pieces of US immigration legislation, this law

⁵ The so-called Asia Pacific Triangle included countries Japan, China, the Philippines, Laos, Siam (Thailand), Cambodia, Singapore (then a British colony), Korea, Vietnam, Indonesia, Burma (Myanmar), India, Ceylon (Sri Lanka), and Malaysia.

contained both restrictive and also liberalizing dimensions. On the restrictive side, it only slightly modified the National Origins system for allocation of visas. On the liberal side, it also began to remove barriers to acquisition of U.S. citizenship by Asians.

Both the House and Senate bills, which became the INA, sought to punish illegal harboring of aliens - a kind of employer sanctions measure. However, the conference committee was headed by then-Senator L.B. Johnson of Texas who rewrote the bills in such a way that subsequent court rulings would hold that employers could not be punished for unlawful employment of unauthorized aliens. This became what is known as the Texas Proviso to the INA and meant that the U.S. would not institute employer sanctions until 1986 when first major scale regularization program was implemented. Other provisions of McCarran-Walter Act of 1952, such as family reunion policies and the creation of preferred groups for skilled laborers, remain a critical part of U.S. immigration law until present day (Lee, 2006).

The Immigration and Nationality Act of 1965 abolished the discriminatory quotas system entirely (Water & Ueda, 2007). As the Section 202 of the Immigration and Nationality Act (66 Stat. 175; 8 U.S.C. 1152) reads:

(a) No person shall receive any preference or priority or be discriminated against in the issuance of an immigrant visa because of his race, sex, nationality, place of birth, or place of residence.....

In addition, the shift from a national origin to a family reunion policy unexpectedly changed the composition of legal immigrants to the United States from

northwestern Europeans to immigrants mostly from Latin America and Asia (Martin, 2009, see also Zolberg, 2006). In the period from 1971 to 1980, immigration from Europe and Canada shrank and Mexico became the major source country of immigrants to the United States followed by the Philippines, Korea, Cuba and India (Zolberg, 2006:339).

Changes in immigration policies since 1965 have been mostly based on family reunion, yet still entail restrictions on the number of visas for relatives of permanent residents and extended relatives of U.S. citizens, resulting in long waits for immigrant visas (Martin, 2009). Martin (2009) argues that some waiting periods could be up to seven years long for Mexican relatives of U.S. permanent residents and almost 20 years for adult brothers and sisters of U.S. citizens. Therefore, many immigrants do not follow legal channels for entering the United States; instead they either overstay their temporary visas or cross the border undetected (Martin, 2009). Today, of the almost 12 million undocumented immigrants, half are Mexicans (Pew Hispanic Center, 2006a). The combination of the absence of employer sanctions for employing undocumented immigrants prior to 1986 and weak enforcement of them thereafter, as well as the economic crisis in Mexico in the early 1980s (resulting from a decrease in oil prices), led to dramatic increases in the number of illegal Mexican workers (Castles & Miller, 2009; see also Martin, 2009).

The scholarly literature about U.S. immigration history is enormous. Daniels (2005) argues that every major immigration law in the United States contains a balance of restrictive and liberalizing provisions, but what had changed more is the attitudes of Americans towards immigration and immigrants. American debates over migration and

immigrants attach almost no significance to immigrants' assimilation or integration. Motomura (2006) argues that American immigration laws treat citizens and non-citizens differently as a result of common expectations that new immigrants would not become citizens because they are too resistant to accepting the values and norms of Americans. In addition, Lucassen (2005) has articulated three reasons why Americans are skeptical about new immigrants and their assimilation into the American society. He argues that the predominantly non-white composition of new immigrants, immigrants' active ties to their country of origin and cultural heritage, and the economic structure in the United States loom as obstacles for immigrant integration. Therefore, immigrants' race and ethnicity, retained *diasporic* identity, and an economic model with limited blue-collar jobs and reduced lower-middle class could lead to immigrants' segmentation (Lucassen, 2005). Lucassen's main point, however, is that there will be intergenerational incorporation of these immigrants in the U.S., even if it is a bumpy process as in the past.

2.3.1 The 1986 Regularization Policy in the United States

The 1986 Immigration Reform and Control Act responded to growing concerns and perceived increases in the number of illegal immigrants. It created regularization for 2.7 million undocumented immigrants, greater border enforcement to prevent future undetected entry, and employer sanctions to prevent employment of irregular immigrants (along with an enforcement decree) (Martin, 2009). The key regularization policy created a process that permitted the status adjustment of undocumented immigrants who could

demonstrate continuous residence in the United States prior to January 1, 1982, and who had not been convicted of any felony or three or more misdemeanors (North, 2005). A second major provision for regularization, the Special Agricultural Worker (SAW) program, allowed for the adjustment of certain undocumented farm workers who had done farm work for at least 90 days prior to May 1, 1986 (North, 2005). Overall, an estimated 90.6 percent of applicants for regularization were legalized (Zolberg, 2006:372). The majority of legalized immigrants originated from Mexico (70 percent under the basic program and over 81 percent under the SAW program) (Zolberg, 2006:372).

The gender composition (men predominated among those legalized) of the IRCA program suggests that female undocumented immigrants faced heightened difficulties in fulfilling regularization requirements (Baker, 1997). Female applicants for regularization were less likely than male applicants to have proof demonstrating continuous unlawful residence since 1982 such as rent receipts or utility bills, especially if only their spouses' name appeared on such receipts or if they were employed in the informal economy as domestic workers (Baker, 1997). However, female immigrants were represented in the network of applicants for regularization as many male immigrants reported to be married or living with spouses. When female immigrants were not eligible for regularization or when they were excluded from the program because they did not fill requirements necessary for regularization, IRCA programs created families with mixed legal-illegal statuses (Cooper & O'Neil, 2005). The legalized aliens through IRCA created an increase in the number of applications for family reunion (Cooper & O'Neil, 2005).

Legalization and admission to permanent residence have exerted a more deleterious impact on labor market outcomes and the social situation for legalized female immigrants than for male immigrants (Cobb-Clark & Kossoundji, 1999). Researchers found that regularization of female immigrants did not promote job mobility from traditional migrant work to more lucrative work; as a result, women are more likely to be isolated, work alone, and have fewer social network ties than do male immigrants (Cobb-Clark & Kossoundji, 1999, see also Cobb-Clark & Kossoundji, 2000). Power & Seltzer, using data from the 1989 Legalized Population Survey, found that undocumented immigrants had experienced increases in their wages and their occupational status between their first job in the United States and their job at the time of filing the application for regularization. However, this phenomenon varied by gender of undocumented immigrants. Female undocumented immigrants mostly working in the domestic services lack the opportunity for increase in their income or upward mobility (1998:47).

Studies evaluating the IRCA impact on immigrants' social and economic situation reveal that legal status matters for legalized immigrants' occupational mobility and provides some substantial benefits (Zolberg, 2006; see also Powers, Seltzer & Shi 1998). However, regularization for immigrants mostly from Mexico does not necessarily lead to significantly higher incomes and improvement of social situations since the immigrants tend to have lower education, insufficient English language skills, and cluster in traditional low-income; low-status migrant occupations (Kossoundji & Cobb-Clark, 2002, see also Kossoundji & Cobb-Clark, 1996).

The 1996 immigration laws made removal of immigrants *mandatory* for nearly all cases of unauthorized presence, with no administrative discretion or judicial review. America's long history of practicing both deportation and legalization pretty much came to an end. The United States now only deports people as a result of a series of laws enacted since the mid-1990s through which the categories of noncitizens eligible for deportation has increased (Hagan, Eschbach & Rodriguez; 2008). In other words, in the past, the priority was the deportation of criminal aliens. But the 1996 law greatly expanded the definition of deportable offenses while, at the same time, greatly reducing the discretion of INS agents to waive deportation on humanitarian grounds. Regularization, depending on one's view point, certainly was no stranger to the history of U.S. immigration policy. But by the twenty first century, some would view such policy as extraordinary.

The Immigration Act of 1990 revealed the US government's orientation toward legal entry of immigrants (Tichenor, 2002). Specifically, the 1990 Immigration Act enlarged admissions of family members and employment-based admissions. The number of visas based on family-based immigration was increased to 480,000 from 216,000 and, for the first time, included spouses, minor children and parents of citizens under that ceiling. The legislation is considered to be a follow-up to the IRCA regularization policy. The Immigration Act of 1990 significantly increased visas available to family members of Permanent Resident Aliens (PRAs). Roughly simultaneously, the federal government *de facto* tolerated illegally resident family members of aliens who legalized in 1987-1988.

The debates around migration and legal and illegal immigrants brought not only the above mentioned changes, but also introduced certain restrictions for legal aliens. The Illegal Immigration Reform and Immigration Responsibility Act (IIRIRA) of 1996 increased the federal government's ability to protect national borders, constricted asylum procedures, limited immigrant access to public benefits, and increased the alien population slated for deportation. In addition, as a response to pressure for welfare reform, the Personal Responsibility and Work Opportunity Act of 1996 barred noncitizens from federal benefits programs (Tichenor, 2002).

Family reunion practices remain a cornerstone for U.S. immigration policy as a procedure in which U.S. citizens or legal permanent residents initiate the sponsorship of their qualifying family members by filing an immigrant visa petition on their behalf with the appropriate Service Center of the U.S. Citizenship and Immigration Service (USCIS). The number of persons obtaining legal permanent residence based on family relationship represented 65 percent of the total legal permanent resident flow in 2008 (Monger & Rytina, 2009). According to Monger & Rytina (2009), new legal permanent residents are more likely to be female. Females accounted for 54 percent of new legal permanent residents in 2008 compared to 55 percent in 2007 and 56 percent in 2006 (Jefferys, 2007; Jefferys & Monger, 2008).

Table 2-1 below shows how many family members enter the United States yearly. However, it needs to be pointed out that those who enter the United States through family reunion programs, who are more likely to be females, are legally dependent on their "sponsors". In other words, those immigrants who entered country within a family

reunion program are awarded derivative immigration status, so they can join their spouses in the United States; however, to obtain or maintain legal permanent resident status may depend on their United States citizen or lawful permanent resident spouse's willingness to file an immigrant application for adjustment of status to lawful permanent residence. Legal dependency can create many problems for the dependents, such as if there exists violence within their intimate relationships or families. These issues are discussed in detail in Chapter Three.

Table 2-1. Nonimmigrant Admissions by Class of Admission: Fiscal Years 2004-2008 (Expected Long-term Residents)

Class of Admission	2004	2005	2006	2007	2008
Total All Nonimmigrant Admissions: Fiscal years 2004 to 2008	180,200,000	175,300,000	175,100,000	171,300,000	175,400,000
Legal Immigration Family Equity (LIFE) Act	103,839	84,754	76,726	76,101	59,035
Fiancé(e)s of U.S. citizens (K1)	28,546	32,900	30,021	32,991	29,916
Children of K1 (K2)	4,515	5,127	4,926	5,516	4,947
Spouses of U.S. citizens, immigrant visa pending (K3)	17,864	16,249	14,739	15,065	12,849
Children of U.S. citizens, immigrant visa pending (K4)	4,253	4,098	3,692	3,430	2,845
Spouses of Permanent Residents, immigrant visa pending (V1)	17,866	10,157	9,321	6,960	3,609
Children of Permanent residents, immigrant visa pending (V2)	15,239	7,159	6,070	5,435	2,270
Dependents of V1 or V2, immigrant visa pending (V3)	15,556	9,064	7,957	6,704	2,599

Source: U.S. Department of Homeland Security, 2009.

2.4 Regularization Policies in the European Context

The major large-scale regularization policy in the United States that was implemented in 1986 created controversial and, in some instances, unprecedented divisions in the history of United States migration policy. However, many countries in Europe had repeatedly implemented regularization policies since World War II (Education and Public Welfare Division Congressional Research Service Library of Congress, 1985). Many of these programs varied in their definition, scope, degrees of success, and target.

Within the scholarly literature about regularization programs, no other country is mentioned as much as France. Perhaps a reason for it is that the regularization programs in France have been controversial, and publicly and politically discussed for decades. The French government implemented regularization policies over time in order to control movement of foreign-born populations, but mostly to provide legal status for many undocumented workers that resided in France. Miller argues that French regularization policy from 1981 to 1983 provided a partial inspiration for the creation of IRCA policy in the United States (2002b:13). Until 1968, the regularization policies in France were widely accepted as a way of legalizing immigrant workers particularly from Algeria, Morocco and Tunisia (Education and Public Welfare Division Congressional research Service Library of Congress, 1985). About two-third of immigrants enumerated by the French government between 1945 and 1975 often arrived illegally, and subsequently had their status legalized. However, as the government's inability to control illegal migration

increased and social unrest of illegal immigrants became widespread throughout the country, the French government responded to these issues with tighter immigration policies that ended routine regularization of unskilled workers. By February 23, 1972, access to regularization had been banned to everyone but skilled aliens (Miller, 2002b). The Fortanet-Marcellin decree declared that henceforth regularization would no longer be routine. In 1974, the French government ended recruitment of non-seasonal foreign workers. Hence, by the mid-1970s, the French government had reoriented the focus of its migration policies mostly towards improved enforcement of employer sanctions and immigrants' integration (Miller, 2002b).

Since the early 1990s, discussions of regularization programs in Southern Europe appeared in the research and academic literature. Countries such as Spain, Italy, and Greece suddenly changed from being mostly lands of emigration to countries of immigrants, and in many instances, homes to large populations of illegal immigrants. In addition, in a relatively short period of time, regularization policies in Southern European countries were implemented repeatedly. For example, the Italian government from 1982 until 2002 implemented six regularization programs that involved approximately 1.5 million undocumented immigrants (Ruspini, 2008). In addition, the statistics from regularization policies showed that female immigrants were very likely to be legalized through family reunion processes. Spain, as another Southern European country that became a major destination for migrants since the early 1980s, implemented several regularization policies through which the Spanish government tried to legalize undocumented workers who found their way to live and illegally work in Spain as a

result of a gap between weak migration policies and high demand for low-skill workers in the informal economy (Arango and Finotelli, 2008). According to Plewa (2009), Spain created a hybrid migration policy by combining a temporary foreign workers program with a legalization of six of Spain contingents (annual quotas for temporary foreign workers). In these instances, Spain legalized foreign workers already residing in the country instead of recruiting new workers. However, extensive evaluation of regularization policies showed that the regularizations in Italy and in Spain have not been able to reduce either the number of undocumented immigrants already illegally residing in the countries or the number of newcomers.

Some countries such as Germany and Switzerland have eschewed regularization of undocumented immigrants. These countries have only recently authorized small-scale regularization opportunities for aliens who were refused refugee status, but tolerated for non-refoulement reasons.⁶ However, whether countries enacted 'welcoming' migration policies, implemented regularization programs, or denied being a land of immigration; the outcomes for immigrants' integration prove inadequate, and translate into their economic, social and political marginalization (Papademetriou, 2005).

For the last two decades, a significant literature emerged on regularization policies and migration in Greece; as a result, since the early 1990s Greece became a host

⁶ The principle of non-refoulement has been defined in a number of international instruments related to refugees, The 1951 United Nations Convention relating to the status of refugees, in Article 33(1), states that: "No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion."

and transit country for a vast number of irregular immigrants, refugees, and asylum seekers. In addition, the substantial inflows of undocumented immigrants, mostly from Albania after the collapse of its communist government, caught the Greek administration totally unprepared to deal with the migration phenomenon legally, politically and socially. In its first migration legislation in 1991, the Greek government responded by instituting several provisions for the expulsion and deportation of immigrants without a trial or a waiting period (Baldwin-Edwards & Fakiolas 1998).

2.4.1 The Initial Greek Legalization of Undocumented Immigrants

Governmental ignorance of the extent of migration into the country and xenophobic attitudes toward immigrants across the country led to the fact that, until 1997, no migration policy had been implemented besides the deportation of illegal immigrants (Baldwin-Edwards, 2008). However, as massive deportations did not stop the flow of irregular migration into Greece, the Greek government enacted its first regularization policy. It was carried out through Presidential Decree 358/1997 that devised the conditions for so-called ‘white cards’ issued for 6 months and Presidential Decree 359/1997 that further processed applicants to change their ‘white cards’ for ‘green cards’ that had been granted from 1-3 years and could be extended for two years one or more times.

Documents required for a ‘white card’ were a declaration of personal status, passport or other sort of ID card, and an employment contract. As expected, the majority

of regularized immigrants were comprised of Albanians, 65 percent, (Baldwin-Edwards, 2008). Not everybody who had been granted a 'white card' was either eligible or applied for a 'green card'. In order to obtain a 'green card', immigrants were obliged to submit to the Greek Labour Force Employment Organisation (OAED) various papers from different authorities ranging from travel documents such as passports, to social insurance contributions (EKA), employment contracts, certificate of criminal records (Ministry of Justice), and certificate of non-inclusion in the list of undesirable aliens (Ministry of Public Order).

As Baldwin-Edwards (2008) mentioned in his evaluation of Greek regularization policies, the first Greek regularization program could be defined as a policy failure due to the fact that only (57%) of applicants for a 'white card' actually applied for a 'green card'. As the 'green card' was issued temporarily, applicants had to apply for its renewal. Of the total of 219,024 applicants that had been granted a 'green card' in 1998, only 84,621 applied for its renewal in 2001 and only 45,700 of them were approved (Maroukis, 2008).

Therefore, it is not much of a surprise that the first regularization program in Greece was substantially criticized for bureaucratic delays, lack of communication between governmental branches and other institutions that had been involved in the implementation of regularization, and the excessive burdens put on applicants. The application forms had been instituted only in the Greek language and applicants had to submit unnecessary certifications in order to fulfill requirements to regularize their immigration status (Baldwin-Edwards, 2008).

2.4.2 Greece's Second Attempt to Regularize Undocumented Immigrants in the Country

The second regularization program in Greece instituted by Immigration Law 2910/2001 was widely criticized mostly by human rights groups and a variety of scholars because it did not address the widespread trafficking in humans and forced prostitution of women and minors which had escalated during the 1990s (Baldwin-Edwards, 2008). Nevertheless, the program improved some of its requirements for the applicants. First, immigrants were no longer tied to one specific employer and they were allowed to change their employer. This legal condition perhaps weakens the arbitrary power of employers over immigrant workers who applied for legalization. Second, the Greek government recognized the shortcomings of previous regularization policies and the fact that many immigrants relapsed into illegality either because they never applied for renewal of their 'green card' or because their application had been denied. Thus, holders of expired White Cards, Green Cards or those who had not submitted applications for renewal, or had a Green Card renewal application denied and could prove that they had resided in Greece, became eligible for regularization as the Immigration Law 2910/2001 article 66 reads:

- (1) Stay permits may be granted to aliens who reside illegally in Greece on the entry into force of this law provided that:
 - (a) They hold a stay card of limited duration (green card) that has expired without having submitted an application for renewal or the application for renewal has been dismissed, or they hold a temporary stay card (white card) or stay card that has expired without having submitted an application for renewal and provenly reside in the country after their expiration.....

Third, the legislation provided provisions and conditions for family reunion. According to Maroukis (2008), family reunion provided the second major legal channel through which immigrants entered Greece. According to data from the Ministry of Interior, the number of residence permits for spouses of legal residents from third country nationals increased from 74,078 in 2004 to 124,673 in 2008. From the total number of spouses of legal residents who were third country nationals, Albanians constituted the majority (see Table 2-2), followed by Ukrainians, Georgians, Pakistanis, Russians and Egyptians.

Table 2-2. Number of Valid Permits Granted to Third Country Nationals through Family Reunion

	2004	2005	2006	2007	2008
Total number of legal TCNs per year for family reunion	74.078	88.627	105.877	112.344	124.673
Number of Albanians per year for family reunion	45.758	52.490	61.383	62.383	69.266
Percents	61.7%	59.2%	57.9%	55.5%	55.5%

Source: Ministry of Interior, Athens, Greece, 2009.

However, it is necessary to point out that a spouse who had been granted a residence permit through the family reunion clause obtained his/her legal status dependent on his/her spouse ‘sponsor’. In order to apply for an independent legal status, he/she must reside in Greece for five years. Taking into consideration that many immigrants relapsed into illegality due to an insufficient execution of regularization, bureaucratic obstacles and confusion, we can speculate that many immigrants that had

been granted residence permits based on family reunion lost their legal status together with their spouses.

The 2001 regularization program required applicants to possess a formal employment contract. However, since undocumented immigrants had been heavily involved in the Greek informal economy, without any labor protection, this presented significant problems for many when seeking to regularize their legal migration status (Baldwin-Edwards, 2008). The formal employment contract requirement posed a significant problem for female immigrants in particular as they had been largely employed in domestic services, such as live-in housekeeping or cleaning, and many of them had several different employers (Baldwin-Edwards, 2004b).

2.4.3 Law 3386/2005-Third Regularization Policy in Greece to Settle the Problem of Undocumented Immigrants

The major improvement of the third regularization program in Greece was the abolishment of a dual system of residence and work permits. In reality, it meant that applicants, after being granted a residence permit, automatically obtained a work permit during the same process. Duration of stay in Greece was granted for one year and needed to be renewed every two years until five years were completed. Then, conforming to OECD norms, the immigrant could apply for a long-term residence permit. One of the requirements for the long-term residence status was “an accommodation that meets the required specification for hygiene” (Law 3386/2005, Section 13 Article 67). This

condition created a significant obstacle for many immigrant families as a result of a lack of access to better and routinely more expensive available accommodations (information obtained through personal conversation with a member of ANTIGONE-non-governmental organization; see also Baldwin-Edwards, 2004b).

In addition, the Greek government recognized undocumented immigrants' involvement in the informal economy by permitting them to individually purchase security stamps as a requirement for regularization without employer involvement. This procedure was criticized as expensive and also as discriminatory by shifting the obligation for purchasing social security from employer to employee (Baldwin-Edwards, 2008).

The venue of implementation of the third regularization policy in Greece was similar to the previous ones, demonstrating a lack of cooperation in the process between governmental branches and other organizations such as hospitals. Few undocumented immigrants with expired permits applied because the social insurance organizations had not been appropriately informed and refused to allow undocumented immigrants to purchase insurance stamps on their own (Baldwin-Edwards, 2008: 314).

2.4.4 The Special Regulation of Migration Policy Issues, Law 3536/2007

In October 2008, the Greek government decided to reopen its regularization policy. This decision occurred due to extensive criticism and pressure to address the issue of undocumented immigrants who were included in the previous regularization programs,

but had for some reason relapsed into illegality. The exact number of subsequently regularized immigrants is unknown as officials never revealed the numbers (Baldwin-Edwards, 2008). Nevertheless, the program included provisions for undocumented immigrants who lived in Greece for over a decade and, for the first time, had the opportunity to apply for long-term resident permits because their undocumented period in Greece had been recalculated as legal (Maroukis, 2008).

In summary, the regularization policies implemented since 1997 by the Greek government with the goal of reducing the number of undocumented immigrants have not been very successful. Many legalized immigrants moved in and out of legal migration status. In contrast to regularization in the United States, the Greek government granted a residence permit for short periods of time with the opportunity for renewals. But these renewals were hard to obtain due to restrictive requirements and a lack of information and cooperation between the branches of government involved in the process. The entire regularization process introduced a significant financial burden for undocumented immigrants in terms of obtaining the specific number of social insurance stamps as one of the requirements along with high application fees (Baldwin-Edwards, 2008). When employers refused to pay the social insurance for undocumented immigrants, the Greek government shifted the obligation from employers to employees.

In order to understand the situation of undocumented immigrants in Greece, one must look at who comprises the illegal immigrant population that resides in Greece. In the early 1990s, the majority of undocumented immigrants consisted of Albanians who entered Greece by foot crossing the Greek-Albanian land border. More recently, the

Greek-Turkish border attracts human smugglers (Maroukis, 2008). However, many of the irregular immigrants just overstayed their tourist visas, given that they are easy to obtain due to widespread tourism in Greece. The composition of undocumented immigrants evolved over the first decade of the 20th century due to a massive flow of migrants from Asian, Middle Eastern and African countries (Maroukis, 2008). Even though these migrants are usually refugees or asylum seekers, they used Greece as a transit country with a desire to move further into Western Europe and either did not apply for refugee status in Greece or had their application rejected by the Greek government.

2.5 Conclusion

This chapter provided an overview of the development and implementation of migration policies in the United States and Greece. Both countries addressed the issues of legal and undocumented immigrants through their migration policies. As I will show in following chapters, policy-makers have failed to take into account the specific issues of undocumented female immigrants who are battered women. Legal immigration to the United States is in most cases based on family reunion procedures. However, this specific legislation that places a woman under a legal status that is dependent on her spouse (either U.S. citizen or U.S. legal permanent resident) has created a situation in which immigrant battered women have very limited opportunities for relief. Immigrants that entered the host country through family reunion and, in the case of Greece, have also been legalized with dependent legal status, have little or no power to influence their

migration status. They have little or no access to institutional and economic resources, and they have little or no access to information about the legal system in the host country. In addition, an unlawful immigrant status puts female immigrants into vulnerable legal, social and personal situations.

To understand the special needs and issues of battered immigrants, one must examine how migration policies might interfere in their lives of immigrant women who are subjected to violence in their homes. The following chapter reveals that the governments in both countries have made some effort to provide assistance to battered immigrant women. However, the most significant obstacle to appropriately addressing issues of battered immigrant women lies between the humanitarian aim of the government to protect victims of violence and the political and societal pressure to control illegal immigration (Gill & Sharma, 2007). In other words, achieving documented migrant status or dependent legal status precluded abused immigrant women from independence and security because their immigration status stands above everything else.

Chapter 3

GENDER AND INTERNATIONAL MIGRATION

Since the special issue on women in migration that appeared in *International Migration Review* in 1984, there has been a growing body of scholarly literature in the United States and Europe that places gender at the center of inquiry about migration, emphasizing the importance of gender for the causes and consequences of international migration and how migration, its processes and outcomes, differ for males and females. In many instances, migration policies and programs affect men and women differently as a result of segregated labor markets, socioeconomic power structures, and socio-cultural gender roles in sending and host countries (Piper, 2006).

Studies on gender and migration consider a variety of gender issues within the migration arena. First, gender as a socially constructed concept that organizes social life affects the experiences of migrant women and migrant men in different ways (Mahler & Pessar, 2006). Second, migration is affected not only by the position of women in host countries and countries of origin, but also by labor market segmentation and social networking in the sending and destination countries. Third, immigration policies, crafted as gender neutral laws, have different impacts on male and female immigrants (Piper, 2006).

These three areas present significant implications for immigrant women who are faced with domestic violence situations. Immigrant women are particularly vulnerable when trapped in violent relationships, afraid to reach for help due to language and cultural barriers, fear of deportation and other legal consequences, and have a poor understanding of the law in the host countries (Orloff, Dutton, Hass & Ammar, 2003; see also Raj & Silverman, 2002; Orloff & Sullivan, 2004). In many instances, immigrant women are financially dependent on their spouses either because they lack work permits as a result of their immigrant status, or they are employed in the low skill, low paid informal economy. In turn, shelters and other public service providers are often mandated to report undocumented residents or they could risk losing government funds or face financial sanctions (Loke, 1996).

In summary, gender issues within migration have become the subject of detailed academic scrutiny. Such efforts have produced recommendations for improved migration legislation, welfare and health policies. Nevertheless, very few studies have been conducted to address the specific issues of battered immigrants and the obstacles they face as a result of their illegal status or legal status depending on their spouses. Thus, this chapter outlines the major tenets of the complex position that immigrant women face in host countries within professional, social and familial spheres. It discusses how migration policies, gender neutral on their face, contribute to the difficult position of women immigrants and influence the situation when immigrant women face domestic violence. Finally, by using data from the semi-structured interviews conducted in Greece and the United States, it explores the scope of this problem in both countries and elucidates the

extent to which shelters and immigration lawyers can offer resources and help for immigrant women who face interpersonal abuse.

3.1 Factors Contributing to the Marginalization of Immigrant Women

Migrant women's vulnerability can be viewed through the lens of gender and constructed gender roles that exist in the host country and country of origin. Traditional gender roles position women under the authority of the men. A number of studies on gender roles have emerged in the migration literature. Overall, these studies focus on how societies construct and reinforce roles for male and female immigrants and how immigrant women reconcile the differences in their roles between the origin society and host country. For instance, Baluja's research (2003) found that the gender roles of Bangladeshi immigrants change significantly after migration. Immigrant families, on the one hand, stress traditional gender expectations such as female childcare providers and male as household bread winners. But, on the other hand, these female immigrants exercise more freedom of movement without males than do their counterparts in Bangladesh. Thus, in the receiving country, immigrant women can potentially alleviate some of the burdens associated with their own culture's traditional gender roles. Itzigsohn & Giorguli-Saucedo (2005), in their study of three Latino immigrant communities, Dominicans, Salvadorans and Columbians, in New York City, Washington D.C and Los Angeles, show that even though male and female immigrants face similar problems with their integration, females are more likely to gain in gender social status

because they have greater access to institutional and material resources than their male counterparts. In other words, women immigrants have easier access to economic and social resources in the United States than in their home country. In contrast, Parreñas' research (2008), that examines how gender, race and class shape settlement and integration of Filipina domestic workers, challenges the argument that female migrants gain social status and are more easily incorporated into the receiving country than male immigrants. Parreñas (2008) argues that not only gender but also race and class create social boundaries in workplaces and in the public spaces for Filipina domestic workers. Thus, Filipina female migrants experience professional and social decline, as well as racial marginalization. Hence, migration for women does not necessarily lead to an increase of status, independence, or assets. Similarly, other scholars argue that even though women often migrate independently, they remain connected to their families that they left behind. In many instances, women are "long-distance" breadwinners for their families and their earnings allow them to provide basic necessities for their children. However, these women are stigmatized within both the migrant community and also in their own community at home because of stereotypes and immigrants' unwelcome label (Preibisg & Santamaria, 2006; Tastsglou & Hadjicostandi, 2003).

Gender roles and cultural beliefs play a significant role for immigrant women who seek relief from violent situations. Some cultures are based on traditional patriarchal attitudes that prevent females from challenging their status and situation, even if they are battered. Findings from studies of Asian, Hispanic, and Muslim communities in the United States indicate that women are subordinate to their husbands and violence against

women is widely accepted (Balram, 2005). Thus, gender roles serve as a justification for violence against women in some cultures and keep battered women isolated and vulnerable (Raj & Silverman, 2002). Lazaridis, in her study comparing Filipino and Albanian domestic workers in Greece, found that even though both groups experienced sexism from a highly patriarchal Greek society, when race is taken into account, women from different ethnic backgrounds experience different forms of exclusion and discrimination (2000:72). For instance, Filipina female workers are preferred over Albanians females since Albanians are associated with criminal behavior.

In addition, the lack of knowledge about the legal system and criminal justice procedures in host countries foster battered women's reluctance to seek public assistance. The only familiarity of the criminal justice system for many immigrant women is what they know from their native country. Many battered women may not know that domestic violence is viewed as a criminal offense in their host country that can be prosecuted, if police and other law enforcement agencies in their own country fail to arrest and prosecute the batterers (Davis, 2004).

The roles of community and social networking have often been associated with successful migration. However, some scholars such as Mendelson argue that social network theory does not fully apply to undocumented immigrants mostly because not all immigrants migrate with their families or live in close ethnically related communities (2004: 169). Many immigrant women who married citizens or permanent residents are embedded in communities that are connected only to their spouses (Raj & Silverman,

2002). Isolation as a result of immigration status reduces women's abilities to build systems of social support and increases their vulnerability to intimate violence.

Many women's isolation is exacerbated in the host countries because their work takes place on the periphery of society. For example, Basok's (2002) research on Mexican workers in Canada describes the migrant population as workers without a social life as a result of the isolation of the working and housing arrangements. Furthermore, Basok's research records cases of racism and social exclusion among Mexican seasonal workers in Canada's farms.

Like many women, immigrant women are at high risk for domestic violence, but due to their immigration status, they may face a more difficult time escaping abuse. Immigrant women often feel trapped in abusive relationships because of immigration laws, language barriers, social isolation, and lack of financial resources.

3.1.1 Labor Structure as a Factor Affecting Immigrant Women's Lives

The structure of the labor market forces many female immigrants into the most traditional forms of (legitimate and illegitimate) employment such as domestic service and prostitution. For instance, Preibisch and Santamaria (2006) found that Canadian work by foreign workers is highly gendered, with women's labor less financially rewarding and more risky. In other words, females are considered to be suitably fit for lighter and finer work but at the same time they are subject to sexual harassment. Houstoun, Kramer & Barrett (1984), in their analysis of immigration to the United States since 1930, argue

that both male and female immigrants tend to be engaged in all kinds of professions from low skilled to high skilled, but immigrant females are more likely than male immigrants not to have labor market experiences or to be employed in stereotypical female-dominated occupations. Kossoundji & Ranney (1984) argue that the segmentation of the labor market and the legal status of female immigrants limit women's occupational choices and consequently their wages. Their research revealed that 36 percent of legal female workers in the U.S. were employed in white-collar jobs compared to 11.6 percent of legal female immigrants and none of the illegal female immigrants. However, 90 percent of illegal female immigrants were employed in domestic service compared to 9 percent of female workers and 25 percent of legal female immigrants (1984:1135). According to the Pew Hispanic Center report (2006b), undocumented immigrants that illegally resided in the United States since 2000 have been either employed in the service sector such as food preparation, building and ground cleaning and maintenance occupations, or constructions and farming. In addition, female undocumented immigrants have a higher unemployment rate and lower earnings compared to male undocumented immigrants (Pew Hispanic Center, 2006b).

Female immigrants earn lower wages than their male counterparts regardless of whether they are legal or undocumented. And, unlike male illegal immigrants, female illegal immigrants' work is almost exclusively limited to household services (Kossoundji & Ranney, 1984:1141) and/or in the sex industry (Psimmenos, 2000). Consequently, being employed in low-status jobs such as in domestic work leads to exclusion from welfare privileges and benefits (Psimmenos, 2007).

Calavita (2006) argues that female migrants mostly enter domestic work in destination countries, especially in Southern European states, as a result of governmental quota policies that actively funnel them into 'women's work', such as domestic services. Cavounidis (2006b) found that female migrants in Greece replaced 'family workers' who were overwhelmingly women as a result of the absence of a state welfare policy. Similarly, Parreñas (2008) claims that neoliberal economic globalization depends on female productive employment and their active involvement in the labor market. But, at the same time, it relies on oppressive state welfare policies that ignore the economic dependence of families on female secondary wages. It is presumed that state policies foster the illegality of domestic workers as a result of existing social policies shortcomings in which family, usually females, and broader informal networks have substituted for, in many respects, public services.

Other immigration scholars argue that women are most often concentrated in domestic work ('female jobs') and in the lowest paid sector of employment because immigrants are presumed to be deficient in terms of education, professional status or work experience (Tastsoglou & Dobrowolsky, 2006). A number of studies focus on gender differences in job achievement in destination countries and identify structural barriers in occupations for immigrants which limit them from using their education and skills (Salaff & Greve, 2006). Female migrants, regardless of their level of education in their country of origin, often accept jobs or positions below their skills, knowledge or education levels. For example, Campani (2000) argues that migrant women in Southern European states who entered the country for family reunion typically began to work

within a strongly gendered labor market, which further narrows their opportunities.

Similarly, Cavounidis (2006a: 653) argues that because European labor markets remain closed to migrant women from non-EU countries, it results in the deskilling and disqualification of many female laborers.

In summary, immigrant women are frequently employed in domestic work that is not attractive for the native population because of its associated low salaries and long working hours. Since immigrant women often lack necessary work permits as a result of their immigrant status, employment in the informal, or underground, economy is their only recourse. In many cases, domestic service, farm work, and street vending are part of the informal economy in host countries; a consequence of working in the underground economy is that immigrant women are simultaneously not legally protected from employers' exploitation and also are banned from receiving welfare benefits. In addition, the long working hours and work conditions of immigrant women contribute to their social isolation, not only from native populations but also from other members of their own cultural community, leaving them with nowhere to go to or look for protection. These factors exert an influence on battered women's decisions to leave their batterers because of the lack of financial resources, welfare benefits, or social network support.

3.1.2 Migration Policies and Issues of Battered Women

Denis (2006), in her study of Commonwealth Caribbean immigrant women in Canada, argues that while family reunion policies and other governmental immigration

regulations are gender and ethnic-neutral in language, they remain ethno-centric, based on gendered notions of a male breadwinner and head of household with female and child dependents. Similarly, Mateos (2005) argues that the government in Spain, through the Immigration Act from 2000, used these stereotypes to decide what type of family could enter Spain and under what conditions could dependent members of families hold residence or work permits. In addition, family reunion policies usually do not include members of an extended family, which is a core belief of many cultures, such as in the African family concept (Mateos, 2005). In some European countries, domestic workers have been viewed as pushed into illegality either because immigration policies do not guarantee them temporary work permits (France), or residency status is limited to caregivers of elders but not for housecleaners or child caregivers (Germany), or because legal status is restricted to ‘guest workers’ (Parreñas, 2008).

For many women immigrants, the gender neutral language of migration policies increases the burden to benefit from migration especially when they live in an abusive relationship. The theme of violence against women has been present in the research literature for decades. Globally, violence committed against women by their current or former intimate partners is recognized as a problem that knows no borders. For the past several decades, the movement to end violence against women in the United States, Canada, and Western European countries has achieved some success in challenging cultural and societal norms that tolerate violence between intimate partners, in creating and reforming legislation, establishing legal institutions to protect victims, and in enforcing sanctions for offenders. Through states and non-profit organizations, services

related to housing, safety, health, and economic benefits are delivered to battered women. Some efforts to calculate the extent of domestic violence has been done in less developed countries such as Russia, Turkey, and Pakistan (Chatzifotiou, Dodash, & Tsougas, 2001).

There are still some countries, however, where the issue of battered women remains relatively invisible and, as such, it is usually ignored and underreported. For example, very limited systematic research has been done in Greece (Chatzifotiou, Dobash; 2001), but also in the countries of Eastern Europe such as Slovakia and the Czech Republic (Wasileski & Miller, 2009). In addition, Lambropoulou (2005) argues that women and women's issues were never seriously considered in the political agenda in Greece; there is no official statistical data on the incidence and prevalence of violence between intimate partners, and very limited number of social services for battered victims have been established (see also Chatzifotiou, Dodash & Tsougas, 2001). Nevertheless, an academic effort to map the problem of battered women in Greece revealed that Greek women are victims of violence in rates and patterns similar to other Western European countries (Chatzifotiou, Dodash & Tsougas, 2001).

Female migration has significantly contributed to the economic growth in host countries (Cavounidis 2006a). What is less known, however, is how undocumented immigrant women or women who are legally dependent on their spouses experience violent intimate relationships and what legal barriers they face if they want to leave their abusive partners. The existing literature on undocumented female immigrants that are victims of intimate violence reveals they experience major constraints in freeing themselves from violent relationships. Not only do cultural and language barriers play a

role, but also their immigration status forces undocumented immigrants to either stay in abusive relationship or fear the possibility of deportation (Mendelson, 2004; see also Orloff and Dave, 1997). In other words, female immigrants who either entered host countries illegally or legally through the family reunion policies face additional difficulties because of unclear legal standards and the fact that their domestic violence claims depart from their illegal or legally dependent immigrant condition. In addition, if the batterer is an immigrant as well, he can face deportation for committing violent crimes, resulting in battered women's reluctance to report violence for fear of causing their husbands' imprisonment in the country of origin (Raj & Silverman, 2002).

Scholars argue that undocumented or legally dependent female immigrants experience intimate violence in different ways from that of U.S citizens (Salcido & Adelman, 2004) and at much higher rates than in the general populations (Owen, 2006). Similar to other battered women, female immigrants fear their batterers, but their anxiety is exacerbated by their legal and political vulnerability (Mendelson, 2004). Laws restrict undocumented immigrants and those immigrants legally dependent on an abusive spouse from access to social and health services, leading to their further alienation and marginalization. For example, some shelters that provide help for victims of domestic violence cannot accept undocumented immigrants because of threats of losing government funding (Balram, 2005, see also Loke, 1996). Very often undocumented immigrants are excluded from public health services unless they face life threatening emergencies. Shelter providers that will take undocumented immigrants into their facilities cannot offer long-term financial support for these women even if they are

eligible for short term shelter benefits (*The New York Times*, October 19, 2008). Many shelters are not only under severe budgetary strains, but they also lack a sufficient number of staff, bilingual staff, or staff trained in immigration legal issues (Roberts, 2007).

The immigration status of battered women is associated not only with isolation from family support and restricted access to public social services, but also by women's financial dependency on spouses mostly because their immigration status does not allow them to work legally. Some studies suggest that this isolation is exacerbated for women who have married military members and for so called "mail-order brides" who were married through match making organizations and advertisements (Raj & Silverman, 2002; see also Narayan, 1995). Even though some remedies for immigrant battered women have been achieved (discussed in next section), these legal provisions assume that immigrant women have the knowledge and resources to improve their situation and that battered women will trust police, other law enforcement agencies and social service providers such as shelters (Narayan, 1995).

3.2 The Violence Against Women Act in the United States

The Violence Against Women Act of 1994 was enacted in the United States as a remedy for battered women, some of whom are faced with immigration legal status challenges. Congress addressed the special needs of battered immigrant women in VAWA by recognizing that, in some cases, United States immigration law puts battered

immigrant women into a stalemate situation (Balram, 2005). After the establishment of the Immigration and Nationality Act of 1952⁷, anyone who married a U.S citizen or a U.S. permanent resident could apply for permanent residency. However, the enactment of the Immigration Marriage Fraud Amendment in 1986 (IMFA)⁸ created a two-year conditional period for immigrant spouses who entered the U.S legally through family reunion procedures or in order to get married. Furthermore, the IMFA requires citizens or permanent residents, “the sponsor”, to petition for the immigrant spouse’s conditional residency without putting a deadline requirement to achieve this feat. Consequently, if the “sponsor” never filed for his immigrant spouse’s conditional permit, her legal status is in question and the law ultimately places control of an immigrant spouse into the hands of her husband. As the policy exists today, two years after the conditional residency is granted, in order to apply to change her conditional legal status for an independent legal permanent residence, the immigrant woman once again needs her spouse, the “sponsor”, to file a join petition and undergo an interview.

Through the passage of VAWA I, Congress provided several strategies to decrease the burden of immigration law for battered immigrants. The provision enabled a victim of domestic violence to “self-petition” in order to obtain legal permanent residence without the awareness or assistance of the abusive spouse and to suspend possible

⁷ Immigration and Nationality Act of 1952, Pub. L. No. 82-414, 66 Stat. 166 (1952)

⁸ The Immigration Marriage Fraud Amendment of 1986, Pub. L. No. 99-639, 100 Stat 3537 (1986)

deportation if she was a victim of violence within the United States. Some analysts argue that even though VAWA I provided significant relief for battered immigrants, it also has flaws related to its high evidentiary burden to prove the abuser's legal status, requirements to prove a good faith marriage, and a "good moral character" clause (Balram, 2005). However, VAWA I does not protect unmarried battered illegal immigrants, immigrants who entered the United States unlawfully or married undocumented immigrants from deportation; the VAWA statute (Sec. 40703) reads:

(3) is deportable under any law of the United States except...has been battered or subjected of extreme cruelty in the United States by a spouse or parent who is a United States citizen or lawful permanent resident...

Congress amended VAWA in 2000 in response to numerous issues. Newly amended VAWA provisions include the protection of women that were battered abroad, such as wives of United States government employees or members of the United States uniformed services. These women were previously excluded, so as a result, they could not prove that they were battered within the United States. The new protections also included women who married bigamists in "good faith" or married men who were lawful permanent residents, but "lost or renounced citizenship status ...related to incidents of domestic violence..."⁹ More importantly, individuals applying for protections under the VAWA provisions no longer need to prove that they will suffer "extreme hardship" if

⁹ Battered Immigrant Women Protection Act of 2000, Sec. 1503, II (aa) (CC) (bbb)

forced to leave the U.S. Previously, this proof of "extreme hardship" worked to exclude many battered spouses from remaining in the U.S especially because this procedure required attorneys which many of them could not afford (Balram, 2005). The legislation includes new waivers to inadmissibility in certain circumstances, including re-entry into the country illegally after a one-year period of unlawful presence or after removal from the U.S. This provision was necessary for women who left their home country for reasons connected with the abuse they suffered. The legislation also helps those individuals who are convicted of domestic violence if the victim can show that s/he was not the primary perpetrator of the violence. Also included are waivers on health-related grounds and greater protection for fraud or misrepresentation.

In addition, VAWA of 2000 creates two new nonimmigrant visa categories giving legal status to certain victims which offer the potential for coverage of unmarried immigrants or undocumented immigrants. The relevant part of the VAWA statute (Sec. 1513 (a) (2) (B)) reads:

Creating a new nonimmigrant visa classification will facilitate the reporting of crimes to law enforcement officials by trafficked, exploited, victimized, and abused aliens who are not in lawful immigration status. It also gives law enforcement officials a means to regularize the status of cooperating individuals during investigations or prosecutions. Providing temporary legal status to aliens who have been severely victimized by criminal activity also comports with the humanitarian interests of the United States.

New categories of visas were created. The "T" visa provides legal status for up to 5,000 victims of "a severe form of trafficking in persons" each year under certain

conditions such as a willingness to assist in the investigation and prosecution of traffickers and has filed an application for a ‘T’ visa. The new "U" visa provides legal status for up to 10,000 victims of domestic violence, rape, trafficking, involuntary servitude, sexual assault, torture, and other offenses. Both of the new visas provide temporary (nonimmigrant) status, work authorization to the victims and certain members of their families, and opportunities to obtain permanent residency status (green cards) after three years under certain conditions. However, the procedure used to obtain U-Visa requires battered illegal immigrants first to contact law enforcement and then cooperate with legal agencies to prosecute their abusers. Taking into consideration cultural differences, language barriers and distrust of the legal system and law related agencies, these types of remedies might offer only limited solutions (Davis, 2004). In other words, the creation of the U-Visa can provide possible relief and help for undocumented battered immigrants, but the primary goal remained the prosecution of the offender. In other words, if a battered woman does not cooperate with criminal justice agencies against her perpetrator, she is not eligible for U-Visa relief and her application can be denied on this ground. According to Balram (2005:408), this type of visa was not issued to anyone until at least 2005. Similar situations arise for women who decide to file for “self-petition”. Using case study documentation, Owen (2006) argues that most “self petitions” in San Francisco Bay Area were denied by the United States and Immigration Services (USCIS) and that this resulted in the failure of the local USCIS to update any of the new VAWA regulations.

Table 3-1 below provides information about number of approved and denied petitions for self petitioners under VAWA provisions. As explained above, self petitioners are victims of violence that entered the United States under family reunion policies. In addition, as recognized as a victim of violence, victims are legally able to petition for permanent residency without their sponsor/spouse approval. Until 2009, there were no granted U-visas as a result of the absence of regulations concerning how to process the petitions.

Table 3-1. Number of Approved and Denied Application of Self-petitioners and for U-Nonimmigrant Status under VAWA.

FISCAL YEAR	I-360 Self Petition VAWA		I-918 U-VISA		I-918 U VISA (Immediate Family Members)	
	APPROVALS	DENIALS	APPROVALS	DENIALS	APPROVALS	DENIALS
2005	8,452	2,245	0	0	0	0
2006	6,313	1,949	0	0	0	0
2007	5,934	2,373	0	0	0	0
2008	4,346	2,156	0	0	0	0
2009	6,374	1,671	5,825	688	2,838	158
2010 (through February 28)	unknown	unknown	5,990	unknown	5,172	unknown

Source: U.S. Department of Homeland Security 2010

The Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA III) expanded various protections for aliens seeking a legal immigration status as crime victims. It extended protection for abused parents and abused adopted children; however, this new amendment still does not precisely address the issues of unmarried and undocumented immigrant women that are economically dependent on their abusers, but at the same time lack access to state or federal social benefits (Balram, 2005). Additionally, the claims of individuals who entered the United States illegally are subject to inadmissibility and those with a prior deportation order may be subject to reinstatement or removal as the VAWA III statute (Sec 813 (b)) reads:

813 (b) DISCRETION TO CONSENT TO AN ALIEN'S REAPPLICATION FOR ADMISSION. IN GENERAL. – The Secretary of Homeland Security, the Attorney General, and the Secretary of State shall continue to have discretion to consent to an alien's reapplication for admission after a previous order of removal, deportation, or exclusion.

Even though United States legislators recognize the pervasiveness of violence against women and the problems of battered women whose immigration status is in question—regardless if they crossed the border of the United States illegally or if their legal status depends on their spouses--the protection of these women is somewhat limited as a result of legal obstacles. In order to leave their batterers, victims must overcome their cultural and language barriers, gain knowledge of the legal system in the United States, and develop trust in the legal enforcement agencies in order to facilitate cooperation. In addition, both immigrant eligibility for VAWA protection and also federal and state

welfare benefits are limited, and it is difficult to understand who is eligible and what the legal requirements are. Therefore, battered women need the assistance of legal agencies and advocates who are trained in the dynamics of violence against women, who understand and have been updated in VAWA's immigration provisions, and who are knowledgeable about immigrants' welfare rights. In many instances, the legal fees make representation inaccessible for immigrant battered women because they are either totally economically dependent on their batterers or they are the poorest of the poor.

3.3 Violence against Women Policies in Greece

Similar to migration policies in the United States, Greek immigration rules render women legally dependent on their husbands for at least some period of time. This is commonplace when women enter Greece within family reunion programs, when they are Third country nationals but married Greek or other EU citizens, or when the women have been legalized through a regularization policy as a family member of non-EU citizen spouse who has a legal resident permit. As a dependent family member, a woman finds herself in a vulnerable position, not only if faced with domestic violence, but also if the residence permit of her husband is not renewed. In the latter case, the woman loses her legal residence permit status along with her husband. Women with a dependent legal status can change their permit to "autonomous" in the case of domestic violence; however, migration legislation does not clearly specify what requirements she must meet to do that or what she needs to present as proof of violence against her. Battered

immigrant women who are dependent on their spouse in Greece remain in a difficult situation because the Greek legal system provides only limited support to battered women. The reason behind the limited support reflects the general view that marriage and household issues are private matters that should not become public ones. Women have no civil legal protections, such as restraining orders that prohibit any further physical attack from the batterer, or orders for batterers to vacate the residence regardless of who owns the residence, monetary compensations for medical and legal fees or for temporary custody of children to be awarded to the mothers. In addition, if the woman is an undocumented immigrant or an immigrant that relapses into illegality because her spouse's permit was not renewed, a common problem in Greece, her access to public benefits is reduced, existing only for emergency cases and if she faces immediate deportation. Table 3-2 shows that from year 2004 until April 2009, slightly more females with dependent status than males changed their legal status to autonomous. However, through personal contact with an employee of the Ministry of Interior in Greece, it was revealed that the Ministry does not keep track of the reasons why the legal status of women changes (July, 10th, 2009). Consequently, the number of women that changed their legal status for autonomous does not necessarily relate only to victims of domestic violence. Other reasons for changing status might include her domiciling in Greece for five years, or that she is a widower who lived with her "sponsor" in Greece for at least one year, or she divorced her spouse after at least three years of marriage, one of which had been in Greece.

Table 3-2. Number of Third Country Nationals who have Changed their Legal Status from Dependent to Autonomous

Gender	2004	2005	2006	2007	2008	2009
Female	760	914	2.575	1.957	3.764	928
Male	713	1.026	2.595	2.469	2.963	865
Grand Total	1.473	1.940	5.170	4.426	6.727	1.793
Total % of female	52%	47%	50%	44%	56%	52%

Source: Ministry of Interior, Athens, Greece, 2009.

The recognition of violence against women as a social problem arose in Greece only recently. The Greek government, through the General Secretariat for Gender Equality, publicly raised the issue of violence against women and created an action plan for years 2004-2008 in which emphases were placed on combating gender inequality in the labor market, education, women's participation in decision making, in addition to preventing and combating violence against women (General Secretariat for Gender Equality, April, 2008). In addition, several legal reforms were enacted in order to eliminate gender inequality, discrimination and violence against women. For example, Law 3064/2002 on the Suppression on Trafficking in Human Beings was enacted and in 2006, the Law on Combating Domestic Violence was enacted in order to contend with domestic violence. The law 3500/2006 on Combating Domestic Violence, for a first time set the harsher penalties for offenders, defined marital rape as a criminal offense, and ensured the protection of battered victims such as the immediate removal of the

perpetrator from the home. However, the Greek government was repeatedly criticized for either not enforcing the gender based laws or for not taking full comprehensive measures to eliminate violence against women and trafficking (Committee on the Elimination of Discrimination against Women, 2007; see also the United States Department of State report on Greece, 2009).

Greek society is based on traditional gender norms in marriage, including motherhood, fatherhood, and domestic responsibilities. Within marriage, men and women strongly adhere to gender roles, even while embracing gender equality in the public arena as a result of increases in education and women's employment. The rare academic research on the prevalence of violence against women reveals that women subjected to domestic violence often decline to pursue criminal charges as a result of social and familial pressures (Stathopoulou, 2004). A study on prevalence of domestic violence in Greece, conducted from October 2002 until April 2003, (Artinopoulou & Farsedakis, 2003) reveals that 56% of 1,200 interviewed women experienced verbal and/or psychological violence and almost 24% of women claim that they know relatives or have friends that are victims of domestic violence. However, the findings also suggest that women are more likely to report their abuse to relatives or friends and only 16.6% of battered women would call police. When incidents of domestic violence are reported, the cases are usually regarded as private matters by the police and other law enforcement officials and women are often encouraged to settle the case through mediation procedures that could lead to further victimization (Committee on the Elimination of Discrimination against Women, 2007).

Marital rape was not considered a crime under the Greek Criminal Code until Law 3500/2006 on Combating Domestic Violence was passed. Until 2006, rape was punishable only if committed outside of marriage. Sexual intercourse in Greece is considered a general obligation of marriage. Refusal to fulfill the male spouse's sexual needs may be considered a reason for divorce and carries heavy social consequences for a woman (Greek Helsinki Monitor & World Organisation against Torture Report, 2002). Consequently, deeply rooted patriarchal attitudes in Greece and women's lack of confidence in law enforcement protection result in an estimated 4,500 rape cases yearly (including marital rape), with only 270 reported to the police; only 183 led to the arrest of an offender and fewer than 10 offenders were convicted of the rape crime and sent to a detention facility (World Organization against Torture, 2004).

Recognizing the seriousness of the problem of violence against women and under pressure from world organizations, the Greek government established the Center for Battered Women in 1988 that provides legal and counseling services. Since 1993, a hostel for battered women and their children (similar to a battered women's shelter in the U.S.) has also been established, in addition to a new office created to help battered women (which operates in Piraeus, the port of Athens) since 1999. However, the accommodations are limited and insufficient.

In summary, it was not until 2006 that specific legislation in Greece defined domestic violence, recognized domestic violence as a particular crime and provided for certain penalties for offenders, and recognized marital rape as a punishable criminal offence against the person and personal freedom. However, unless the law is properly

enforced or the persistence of patriarchal attitudes is challenged, battered women's issues will stay hidden from the public eye. Scholars describe the Greek state bureaucracy as corrupt, where rules and legal procedures are inconsistently applied (Karakatsanis & Swarts, 2003). In addition, the public attitude toward immigrants does not help battered immigrant women. A 2009 police operation to demolish camp housing for illegal immigrants in the western port city of Patras illustrates the general public view of illegal immigrants as being a burden on a nation that already significantly suffers from economic crises (Express, July 13th, 2009). The Patra immigrants' camp accommodated illegal immigrants who hoped for an opportunity to board a ferry headed for Italy. In addition, the conservative government has started taking harsher measures against undocumented immigrants and new legislation had been passed that makes deportation easier (Brabant, 2009). These harsh measures do not generate much sympathy for immigrant battered women.

On the other hand, the legal system in the United States opened new opportunities for immigrant women who are victims of severe domestic violence by allowing them to apply for asylum or withholding deportation orders if they are members of "a particular social group". The U.S. Department of Homeland Security defines a "particular social group" as one where the victim can provide evidence that:

....women occupy a subordinate position within a domestic relationship...and the female respondent remains in this subordinate position in the relationship even though she is physically separated from batterer.she believes that the abuse of women within such as a relationship can therefore be tolerated and social expectation in her

country of origin reinforce this view.A group defined in light of Mexican battered women might be articulated as Mexican women in domestic relationships who are unable to leave or as Mexican women who are viewed as property by virtue their position within a domestic relationship (the Department of Homeland Security on April 13, 2009).

Domestic violence is about power and control over another person and research shows that alcohol and drugs are not always a significant factor that leads to the violence. Victims of domestic violence share similar characteristics such as low self-esteem, shame, feelings of hopeless and powerlessness over the violent situation due to isolation from the families and friends. In many instances, victims of domestic violence are depressed and suicidal. They internalize blame and responsibility for the violence committed against them. In work with victims of domestic violence, is necessary to understand that they stay in violent situations because they fear the perpetrator, are often intimidated and threatened, and are often/frequently financially dependent on their spouses.

The situation of battered immigrant women is worse compared to battered citizen women because of immigration policies that have disadvantaged them with regard to access to social support and criminal justice agencies responses. In other words, the immigration status of battered women is in many instances the first and the most important issue with which officials deal. Immigrants are first viewed as aliens, possibly illegal, and only second as victims of violence. In the case of undocumented immigrants, despite a public and legal acknowledgement of the abuse, she/he can still be subjected to the legal provisions such as deportation that exist to control illegal migration.

Consequently, an abused immigrant woman, besides fearing the perpetrator, also fears deportation and other legal sanctions related to her undocumented immigration status.

3.4 Conclusion

This chapter provides a basis for exploring the complexity of the gender category within the migration phenomenon and regularization policies. First, the chapter demonstrated how women became a significant part of the migration phenomenon. The academic literature, moreover, revealed that migration has introduced different experiences and consequences for male and female immigrants as a result of socially constructed gender and gender roles in the society, labor segmentation, and marginalization.

This chapter also discussed the significant strengths and shortcomings of legislation to curb violence against women in the United States and Greece, paying particular attention to how battered immigrants might be both included and excluded from legal protections. The limited research conducted, predominantly in the United States, found that battered immigrant women face extremely disadvantageous situations as compared to women citizens, specifically in regard to accessing social services as a result of cultural and language barriers as well as legal restrictions based on their legal migration status.

Chapter 4

METHODOLOGY

This chapter discusses the methodological approaches used to examine the regularization policies in the United States and Greece. Particularly, this research asks the following questions: what role does gender play in obtaining a legal status through regularization and family reunion policies in the United States and Greece? How does the legal status of immigrant women affect their options for seeking relief from intimate partner violence?

A qualitative methodological approach is the best way to untangle the substance of the migration policies and the perceptions of professionals who work with undocumented battered women. To address consistency and validity issues, this study employs a triangulated design that incorporates an analysis of migration legislation and semi-structured interviews to fully explore the connection between migration policies and violent family situations faced by undocumented female immigrants.

The following sections explain the data collection procedure: first, the analysis of regularization policies implemented in the United States and Greece, and second the site selection and interview process.

4.1 Data Collection – Methodological Approaches

The first part of the data collection involves an analysis of specific migration legislation in the United States and Greece to explore whether gender plays a role in obtaining legal status through regularization and family reunion policies in both countries. An analysis of migration policies in the United States and Greece provides a foundation that guides the second research question, namely, whether the migration status of immigrant women affects their alternatives for seeking relief from interpersonal violence. Therefore, the next step involves interviewing migration lawyers, representatives of NGOs and social services providers to determine how the legal status of immigrant women typically affect their options for seeking relief from interpersonal violence situations. These methods are discussed in the following sections.

4.1.1 Analysis of Regularization and Family Reunion Policies in the United States and Greece

Several key pieces of legislation that contain provisions about immigration policies of the United States were used for the analysis. Particularly, the Immigration Reform and Control Act of 1986 (IRCA) was selected because the IRCA was enacted as the first large scale immigration law to exclusively target undocumented immigrants residing in the United States. However at the same time, the IRCA also sought to combat undocumented migration through allocated resources to the Border Patrol and employer sanctions.

The Greek government has implemented regularization policies on a large scale several times since 1998. Therefore, the present analysis focused specifically on Law 2910/2001 “Entry and Stay of Aliens in Greek Territory” as amended by law 3013/2002, 3074/2002, 3103/2003, and 3146/2003. Finally, Law 3386/2005 “On the Entry, Residence, and Social Integration of Third-Country Nationals on Greek Territory” as amended by laws 3448/2006, 3536/2007, 3613/2007, 3731/2008, 3772/2009, and 3801/2009 was also examined in this analysis.

The regularization policies are examined in light of two competing legal theories. Law is a social phenomenon that is created based on practices, beliefs and traditions that exist in society. As mentioned in the introduction chapter, the legal theories of H.L.A. Hart’s positivism and Ronald Dworkin’s legal interpretation theory (also called naturalist theory) provide the foundation for the analysis of regularization policies in Greece and the United States. Both legal theories emphasize different positions over the relative importance of law creators’ motives for an act or the consequences of legal actions taken (Carey, 2002).

Legal positivists such as Hart argue that there are differences between what the law is and how legal cases are decided based on law (1994). Positivism highlights authority in legal text and the motives behind it (Carey, 2002:34). Hart recognized that there may be a number of different answers to a certain legal problem because the language of legislation is vague. Since the wording of legislation might be problematic and inaccurate, one must go beyond a textual analysis of law to include motives that led to law creation (1994:127). Therefore, legislation not only depends on the language and

wording used but it also depends on motives of those who created and implemented it. Even though the provisions in a bill may have been carefully chosen and well thought out prior to a bill being introduced, the words used might be vague and ambiguous.

The broad wording of legislation gives a great deal of discretionary power to the actors who interpret the laws and might impose their own values and beliefs on unclear text. In other words, in any legal system, there may be cases in which existing laws are vague or indeterminate, and entail judicial decisions in order to clarify existing laws in these cases.

On the other hand, naturalist legal theorists such as Dworkin (1977) argue that if there is no law for certain legal problems, other applicable legal rules, principles and legal standards exist that can help to solve the problem. Dworkin emphasizes outcome over legal text or legislators' motives (Carey, 2002). Therefore, if migration policies do not necessarily address the issues of undocumented battered immigrants, or if they do not provide possible legal remedies for these victims, there will be some other legal provision available to help to solve the problems and reduce the unjust consequences for undocumented battered immigrants.

The legal theories of positivism and naturalism guide the analysis of migration policies in Greece and the United States in order to identify areas of ambiguity that could possibly lead to gender inequality for regularization of immigration status. If the migration policy is articulated in gender neutral language, it could lead to different outcomes for female undocumented immigrants, Dworkin's naturalist theory helps to find whether there are some other legal remedies available to neutralize these different and

perhaps ‘unjust’ outcomes, or whether the law just created the numerous loopholes in the legal system because legislators cannot know or recognize “all the possible combinations of circumstances which the future may bring” (Hart, 1994:128). However, positivists emphasize that to oppose the intent of law as expressed in text is normally a sign of illegality (Carey, 2002:38).

As mentioned above, the analysis of migration policies in Greece and the United States is considered from two opposing legal paradigms. However, the law is administrated more often outside of the courts than inside them (Davis, 1969:215). Therefore, it is not only important to look at whether lawmakers-while articulating requirements for regularization-took into account the gender differences of undocumented immigrants, but also how administrators, as legal actors, interpreted and applied the legislation. The analysis of migration policies, while identifying relevant provisions of the law (requirements for regularization), examines how those requirements written into the text of law were administrated in practice. The analysis inspects how adjudicators have executed the text of law while their decisions might be largely unguided by rules, standards or principles (Davis, 1969). Adjudicators can act on information not included in the legal statutes; therefore, they typically exercise discretion while considering what conduct might be allowed in legal proceedings or what verdict might be right. Granting discretion to those who administrated the legal text permits them to make decisions that reflect the undisclosed variables (such as gender and racial bias), because adjudicators are assumed to be able to observe these variables.

4.1.2 Qualitative Approach of the Research

The present study also explores the existing resources, remedies and consequences for immigrant and undocumented battered women when there are few legal statutes or other protections available to address their precarious status. By using in-depth qualitative interviews with key legal and social service providers for this population, this research focuses on the ways that the legal system can be mobilized for helping immigrant battered women. It also discerns how government, NGO organizations, and immigration lawyers involved in work with battered women and immigrants provide assistance and safety.

The study uses a comparative approach, contrasting the situation in Greece and the United States because both countries have implemented regularization policies in the past and both have a large number of undocumented immigrants living in the country. In addition, the United States has experienced decades of feminist efforts to address the issues and rights of battered women. On the other hand, Greece only recently addressed issues of battered women in their legislation and has a far more fledgling feminist movement concerned with violence against women.

4.2 Research Sites: Athens, New York City, and the State of Delaware

Athens, Greece was selected as a research site for a number of reasons. The first rationale is the density of immigrants living in Athens. According to the Greek Census of 2001, the majority of the population is concentrated in a few major urban areas, Attica

and Central Macedonia (Thessaloniki). Athens is part of the Attika periphery. Almost half of the immigrant population lives in the metropolis of Athens (Attika). The immigrant/population ratio for Attika is around 11% as compared to 7.3% for the entire country (Baldwin-Edwards, 2005). In particular, 17% of the local population in the Municipality of Athens consists of immigrants (Baldwin-Edwards, 2004b). The Municipality of Athens hosts a majority of Albanians, Georgian, Filipinos, Poles, Ukrainians, Indians, Pakistani, and Egyptians immigrants (Rovolis & Tragaki, 2006, see also Baldwin-Edwards, 2005). Second, the main governmental branches are concentrated in Athens. It is also a thriving center of commerce: approximately half of the national GDP is produced in the Attica periphery (Monastiriotis, 2009). So, the majority of job opportunities are located in the metropolis of Athens. The existing residential patterns of immigrants, the work and housing availability in Athens, and the concentration of government agencies create an environment conducive to clustering immigrants in this region, facilitating a growth of a concentration of immigration lawyers and NGOs who operate in Athens.

Similar to Athens, New York City is a traditional gateway for immigrants with its long history of welcoming diverse populations. As a main port of entry to the United States, New York City has been greatly affected by migration for over a century. According to the last census in 2000, more than a third of New York City's population (36 percent) was foreign-born—2.9 million people. Consistent with migration patterns in other parts of the United States, the most recent immigrants did not originate from Europe, but travel from Latin America, the Caribbean, and Asia.

In addition to New York City in the U.S. component of the sample, the mid-Atlantic state of Delaware provides a contrast in that it is a state that was not heavily affected by migration prior to 1990. Immigration to Delaware was trivial in both the number of immigrants and their background diversity largely because many parts of Delaware are predominantly agricultural, rural areas (Miller, Martin, & Kee, 1997). Since 1990, reflecting a national spatial diffusion of immigrants to rural areas, the more general patterns of migration to major urban cities in the United States with well-established industrial and commercial foundations changed. Since 1990, a significant number of immigrants, predominantly from rural areas of Mexico and Latin America, migrated to the state of Delaware to fill agricultural and farm-related jobs. Between the years 2000 and 2006, the foreign born population in Delaware increased by over 25 percent. During that period, Delaware gained over 11,000 immigrants, bringing the total number of foreign-born residents in the state to over 66,793 (U.S. Census Bureau, 2008). The estimate of the total population in Delaware in 2008 was 873,092 (U.S. Census Bureau, 2008).

4.3 Data Collection - Sampling

In order to best explore the complicated issues related to gender, regularization policies and immigrant battered women, in-depth interviews with open-ended questions allow the most flexibility in capturing respondents' perceptions and experiences. Two types of sampling techniques were used to select the interview respondents: (1) a

purposive sampling technique; and, (2) a snowball sampling technique. A purposive sampling technique utilizes a researcher's knowledge and information about groups involved in work with immigrants and with specific issues related to violence against women to recommend further respondents (Patton, 2002). A snowball sampling technique involves interviewing people who have professional characteristics relevant to the research, and then asking the initial respondents for contact information of potential additional respondents who are also involved with relevant work on the issues.

4.3.1 Sampling in Greece

Purposive sampling was used in Athens, Greece by identifying a list of shelters that provide help to victims of violence and a list of NGOs that focus on women and immigration issues. Both the list of shelters and NGOs list were retrieved from organizational material about women immigrants from DIOTIMA.¹⁰ The organization identified five shelters in Athens and eight NGOs that work with women and immigrants. Initial contact with the shelters and NGOs were made via email, inviting employees to participate in the research directly and asking for their assistance in recruiting additional participants. Everybody contacted agreed to participate and meet for interviews during the field study phase in Athens. The initial contact information for immigration lawyers

¹⁰ DIOTIMA is a civil nonprofit organization that focuses on gender equality issues and participates actively in social and political actions both in Greece and abroad. Contact with DIOTIMA members was established personally in December 2008 through April 2009.

in Athens was obtained from published reports about refugees' situation in Greece. The organization named "Group of Lawyers for the Rights of Refugees and Migrants" in Athens, and four lawyers co-authored this report. They were contacted through the organization. All four lawyers responded by e-mail and agreed to meet and participate in the study. Relevant governmental offices, such as the General Secretariat for Gender Equality, the Ministry of Interior, and the Ministry of Justice, were identified using the country's electronically published homepage and official letters that explained the present study and invitations for participation were mailed to key contact persons. Governmental officials in Greece were included because shelters for battered women in Greece usually fall under the auspices of the state government or, even if they are operated by NGOs, they still receive some financial support from the state. In addition, branches of the state government create, implement and enforce immigration policy and handle the issues by immigrants in Greece.

Table 4-1. Respondents by Group and Gender in Athens, Greece (N=30).

	Group Membership				
Gender	Shelter Provider	Lawyer	NGO member	Governmental Official	Total
Male	0	1	1	1	3
Female	5	5	14	3	27
Total	5	6	15	4	30

4.3.2 Sampling in the United States

In the United States, every state has created a Coalition Against Domestic Violence, and all state coalitions are members of a National Network of Domestic Violation Coalitions. Typically, the coalitions serve as clearinghouses of information and coalition contacts were able to provide contact information for shelters and for lawyers involved in immigration issues and battered women. For instance, most state coalitions are integrally involved with community legal aid organizations that assist immigrant and undocumented battered women and some states have shelters devoted exclusively to special populations that provides services to non-English speaking battered women. Immigration lawyers and social services providers who were interviewed were identified in New York City and Delaware through the help of the Executive Directors of the respective state coalitions.

Table 4-2. Respondents by Group and Gender in Delaware (N=12)

	Group Membership			
Gender	Shelter Provider & Social Worker	Lawyer	NGO member	Total
Male	0	0	0	0
Female	5	3	4	12
Total	5	3	4	12

Table 4-3. Respondents by Group and Gender in New York City (N=10)

	Group Membership			
Gender	Shelter Provider & Social Worker	Lawyer	NGO member	Total
Male	0	0	0	0
Female	4	3	3	10
Total	4	3	3	10

4.4 Data collection - Interviews

Separate interview guides were created specifically for each of the groups: (1) immigration lawyers and governmental officials; and, (2) shelter providers. The separate interview guides are provided in Appendix A and B. All of the interviews in Greece and

Delaware were conducted face-to-face and all respondents were able to read and sign the Informed Consent form before the actual interview began (see Appendix C). All but two respondents in New York City were interviewed over the phone. However, both respondents were able to read and sign the Informed Consent form before the actual interview was scheduled. All participants were promised strict confidentiality, and all participant names used are pseudonyms. To ensure further confidentiality, the researcher personally transcribed all of the recorded interviews and written notes.

4.4.1 Interviews in Greece

All of the respondents in Greece agreed to be audio taped. In addition, handwritten notes were taken during all of the interviews. The length of the interviews ranged from approximately 1 hour to 1 hour and 40 minutes, with an average length of 1 hour and 15 minutes. Interviews were conducted until the point of saturation or until no new information emerged from the respondents and no other questions were needed. A total of 30 interviews were completed. Six interviews were conducted with lawyers, five with shelter providers, and 19 interviews were completed with various NGOs members and governmental officials. All but one of the respondents were white and native Greeks. One female respondent was black, but had resided in Greece for over twenty years.

4.4.2 Interviews in Delaware and New York City

All of the respondents in Delaware agreed to be audio taped. All but three of the respondents in New York City agreed to be audio taped. The length of the interviews in Delaware and New York City ranged from approximately 40 minutes to one hour, with an average length of 40 minutes. In the state of Delaware, a total of 12 interviews were completed. Three interviews were conducted with lawyers, five with social workers and shelter providers, and four with NGO members. Ten respondents were white, one was Hispanic and one was black. All of them were born in the United States.

Except for the three men interviewed in Greece, all of other participants were women. Women in the United States and Greece play a vital role in the social work profession as founders, practitioners, policy analysts, and educators. Social work is characterized by low pay which can contribute to the challenge of recruiting men as social workers. The three male participants in Greece were not social workers directly working with the clients, but they were either lawyers or directors of NGOs that were involved in fund raising and organizational issues (see Table 4-1.).

In New York City, a total of 10 interviews were completed (see Table 4-3.). Three interviews were conducted with immigration lawyers and seven with shelter providers and social workers. One lawyer works for the Mayor's Office, two others were members of the NGO, HIV Law Project and Center for Battered Women's Legal Services, Sanctuary for Families. The social workers and shelter providers were members of variety of NGOs such as African Services Committee, Alianza Dominicana, Inc., Arab-

American Family Support Center, and Cabrini Immigrant Services. Eight respondents were white and two were African American. All were residents.

4.5 Analytical Strategy for Collected Data through Interviews

Because of the scarcity of literature available on gender issues within regularization policies, a flexible format for collecting data and data analysis is essential. A grounded theory approach allows for simultaneous data collection and analyzing. Grounded theory is more about “building theory rather than testing theory” (Patton, 2002:489). Therefore, it facilitates moving from more specific information to more general.

...Grounded theory begins with *basic description*, moves to *conceptual ordering* (organizing data into discrete categories according to their properties and dimensions and then using description to elucidate those categories) and then *theorizing* (conceiving or intuiting ideas-concepts-then also formulating them into a logical, systematic and explanatory scheme)... (Patton, 2002:490).

A feature of grounded theory analysis uses open coding (Patton, 2002). This technique refers to identifying parts of the transcripts from interviews that lead to an understanding of categories and their meanings. Open coding was accomplished in that each transcript was read several times and analyzed into developing theoretical categories. Analysis of each transcript during the coding process ensured that certain data were systematically and methodically examined. In addition, in order to develop distinct

analytical categories, grounded theory allows using both inductive and deductive methods (Patton, 2002). Previous studies on battered immigrant women and regularization policies provided a source of possible categories for the data analysis. However, using a grounded theory approach facilitated the emergence of additional themes and new categories.

At the beginning of the coding process, every question in the interview was identified with open-coding methods. Particular attention was given to broad categories such as government, shelters and social services run by state agencies, and shelters and other social services run by NGO. Specific codes were then assigned to the responses. Therefore, more specific themes emerged within broad thematic categories. For example, from Delaware and New York City study sites, three themes emerged: 'legal protection,' 'shelters and lack of access to the federal and state benefits,' and 'anti-immigrant attitudes and recent economic crisis.' Within these three themes, three sub-themes came forward: 'certification,' 'work authorization,' and 'employer sanctions.'

In the case of Greece, three themes of 'undocumented battered immigrants' hidden issues,' 'police attitudes toward undocumented immigrants: criminals or victims?,' and 'legal remedy or trap?' emerged when discussing how the government responds to the global problem of interpersonal violence. To further explain why interpersonal violence is not treated as a significant social problem, specific sub-themes emerged such as: 'family sanctity over individuals,' 'distrust of police and policy brutality,' and 'respondents' belief in patriarchal attitudes of police officers' through the process of identifying what respondents believe could happen to a battered immigrant

woman if she violates immigration law or why undocumented immigrant battered woman would not ask for help from the criminal justice agencies such as police. In addition, two themes of ‘public founded shelters and their limited accessibility’ and ‘social services provided by a variety of NGOs’ emerged in discussion about availability of social services for victims of domestic violence. Within these two broad themes, five sub-themes such as ‘lack of free professional legal aid,’ ‘complications with children,’ ‘insufficient resources,’ ‘scarce resources,’ and ‘resources for trafficked victims used for battered women’ were discussed across a majority of the respondents.

From the data collected in the U.S., four major themes emerged and were discussed by the majority of respondents: ‘ambiguous laws,’ ‘work authorization,’ ‘limits to assistance,’ and ‘anti-immigrant attitudes in connection to the recent economic crisis.’ In addition, one sub-theme, ‘problems with certification,’ appeared to be important and this sub-theme specifically emerged from interviews with immigration lawyers as one of the key legal problems that immigrant lawyers face while they attempt to assist undocumented immigrant battered women.

4.6 Study Limitations - Validity and Reliability

All research has limitations. The researcher was aware of these limitations throughout the research process, and attempted to rectify them whenever possible. One of the limitations with this study is the lack of ability to generalize findings. As this study relied on a purposive sample in Athens, the findings cannot be generalized to all of

Athens, much less the whole of Greece, especially rural areas or areas with small immigration populations. Similarly, limiting research sites to the state of Delaware and New York City does not allow generalization of the findings to all fifty states, especially to states comprised of different immigrant populations. However, even though the findings cannot be generalized, they can provide a baseline of information in addition to informing public policy.

As the sample of respondents was not created by random methods, there may also be an issue of selection bias. The sample could represent only individuals who are dedicated to addressing the problem of undocumented immigrants and immigrant battered women. Another major limitation is the validity and reliability of information obtained from the interview data. Respondents are subject to recall error when recounting details or past experiences, which could result in both minimization and exaggeration.

Another limitation could be the potentially small sample size or the fact that qualitative research could be subject to criticism for the subjectivity or personal influence that the researcher brought into data collection, analysis and interpretations (Patton, 2002). However as Patton asserts,

“...The validity, meaningfulness, and insights generated from qualitative inquiry have more to do with the information richness of the cases selected and the observational/analytical capabilities of the researcher than with sample size...” (2002:245).

Conducting research in Greece with its different culture and language could produce methodological challenges and limitations for a researcher that uses English as a

second language. For this study, all Greek speaking participants had English language proficiency, but there exists the possibilities of misunderstanding, inaccuracies and misleading information. In order to limit these possibilities of misunderstanding, the researcher ensured that participants were able to understand the questions and ultimately the purpose of the study. In addition, by living in the United States, but having ties in Europe, the researcher gained and ensured the trust of the participants. Potential disadvantages of being non-Greek were overcome by understanding the Greek culture and Greek ties to Europe, and being able to converse with respondents on such topics. Despite the study limitations, the research findings will be useful for future public policy development in the areas of immigration and undocumented battered immigrants. The research not only adds to the literature on female migration, but perhaps more importantly, it also adds to the paucity of research focusing specifically on undocumented battered immigrants within broader migration policy such as regularization and family reunion legislations. The findings of this study are discussed in the following chapters.

Chapter 5

REGULARIZATION POLICIES IN GREECE

This chapter explores the role of gender in the process of obtaining legal status within migration policies in Greece, particularly through several regularization programs that were enacted since 1998. As mentioned in the introduction of this study, countries that had implemented the regularization programs in their past have varied in their legal framework in articulating what constitutes the regularization. The lack of a common definition of regularization policies across the globe presents a problem for the evaluation and delivering the consistent migration policies from the research result. Nevertheless, the various models of regularization programs that exist throughout the world share common motives: economic reasons and the attempt to gain a control over the labor market. This is very clear when one examines the common basic requirements for adjusting the migration status, which are the foundations of the regularization policies. Common eligibility requirements for adjusting migration status include: residency for a certain period of time in the host country, employment contract, social security contributions, and administrative fees. These requirements for regularization, mainly articulated in economic terms, can have unintentional consequences for undocumented female immigrants. Therefore, an important question is whether gender plays a role in the regularization process that was articulated and implemented in its economic vision. To

answer that question, this study examines the implementation of regularization requirements by looking at how administrators of the law interpreted the legal text and applied it in practice.

Adjudicators exercise discretion in their interpretation of legal text because some situations are either not articulated or lack clarity (Davis, 1969). Therefore, the potential consequence of allowing discretion is that some variables are not included in the text of law, but are observed and judged by officials that operationalized the law. Keeping in mind the arguments of positivist and naturalist legal theories about what the law is, discretion is not only limited to what is legal or authorized, but also it can be of questionable legality as well (Davis, 1969:4). As a result, an analysis should look at whether adjudicators' exercised discretion takes into account the gender differences of undocumented immigrants, specifically their different arrangements in informal labor markets that lead to gender variation in immigrants' wages and salaries and vulnerability to social exclusion (Ayres and Barber, 2006).

As mentioned in Chapter Two, one of the most striking aspects of the Greek policies toward immigrants in the years before 1990 was their total absence, except for a mass expulsion of foreigners (Baldwin-Edwards, 2004b). The sudden influx of immigrants, predominantly from Albania, was met with a deficient institutional framework, showing that the Greek government was simultaneously unprepared and reluctant to deal with the situation (Baldwin-Edwards, 2008). The large scale deportation of foreigners did not prevent the continuation of irregular immigration. Therefore, in order to respond to the social realities, the socialist Greek government decided for the

first time in late 1997 to regularize undocumented immigrants who were already residing and working in the country for several years.

There is a consensus among scholars that the regularization policies in Greece have been confusing, guided by absent or contradictory data, and indicative of incompetent government oversight (Baldwin-Edwards, 2008; see also Maroukis, 2008). As Baldwin-Edwards points out:

“The regularization was not the result of popular movement or of planned policy, but represented an emergency measure or admission of policy failure....” (2008:42).

This chapter focuses on two major requirements for regularization in Greece in order to show that Greek regularization policies were articulated using purely economic terms and, as such, they have resulted in unintentional negative consequences for female undocumented immigrants. The regularization requirements of the employer contract, social insurance contribution, and secondly the prerequisites for family reunion were chosen for the analysis because they were articulated in all three large scale regularization policies of 1998, 2001, and 2005. At the same time, these requirements provided a possible burden for female immigrants to comply with them and become eligible for adjusting their migration status.

5.1 Female Immigrant Applicants for Regularization

The gender balance of immigrants in Greece varies by nationalities. The majority of female immigrants to Greece come from Albania, Ukraine, Philippines, Moldavia, Russia, and Georgia (Balwin-Edwards, 2004b, see also Rovalis & Tragaki, 2006). Even though the bulk of non-nationals came from Albania, Albanian females migrated mostly within families either as spouses or children.

Given the initially doomed regularization policy climate due to the excessive formal requirements and the administrative shortcomings of the Greek bureaucracy, how have undocumented female immigrants succeeded in legalizing their migration status? Table 5-1 below shows the total number of applicants for the first step in the 1998 regularization program (white card – temporary residence) with the number of females based on their nationality. According to Fakiolas & Maratou-Alipranti, (2000), slightly over 25 percent of applicants for a ‘white card’ were females and 43 percent of female applicants were Albanians. In addition, female applicants from countries such as Bulgaria, Ukraine, Georgia and the Philippines highly exceed the number of male immigrants.

Table 5-1. Applicants for a White Card by Nationality and Gender

	Total Number of Applicants	Number of Female Applicants	
ALBANIA	241,561	41,025	17.0%
BULGARIA	25,168	14,108	56.1%
ROMANIA	16,954	5,137	30.3%
PAKISTAN	10,933	551	5.0%
UKRAINE	9,821	7,721	79.0%
POLAND	8,631	3,718	43.1%
GEORGIA	7,548	4,655	61.7%
INDIA	6,405	103	1.6%
EGYPT	6,231	347	5.6%
PHILIPPINES	5,383	4,361	81.0%
OTHERS	33,006	12,605	38%
TOTAL	371,641	94,331	25%

Source: Cavounidi (2003)

As mentioned in Chapter Two, the ‘white card’ was supposed to serve as a temporary residence card, issued for six months and valid while the ‘white card’ holder proceeded to apply for a ‘green card’. The estimated number of undocumented immigrants in Greece who did not apply for temporary residence (‘white card’) was 150,000 (Baldwin-Edwards, 2008). However, for the purpose of this study, it is

impossible to determine whether gender played a role in the process of regularization because official data, divided by gender, was available only for ‘white card’ applicants. Data available for ‘green card’ applicants only revealed that the first regularization process was far from successful. Although there was a target for the regularization of 500,000 undocumented aliens, only 371,641 managed to apply for a “white card” of which only 26 percent were female. The number of those who managed to get a “green card” was even lower, 212,860 (57 percent from applicants for ‘white card’) (Baldwin-Edwards, 2008). In other words, almost half of the ‘white card’ holders lapsed into illegality.

The second regularization policy implemented in Greece under the law 2910/2001(Entry and Stay of Aliens in Greek Territory: Acquisition of Greek Citizenship by Naturalization and Other Provisions) was enforced in order to legalize those undocumented immigrants residing in Greece who were not successful in the first 1998 program. However, once again it is impossible to see if there were gender differences in the number of applicants since no official data was available. The official response stated that 367,504 undocumented immigrants applied and 341,278 (93 percent) managed to legalize their migration status (Baldwin-Edwards, 2008).

The third large scale regularization policy under law 3386/2005 (The Entry, Residence and Social Integration of Third-Country Nationals on Greek Territory) was enacted in order to legalize immigrants that either lapsed into illegality after being in the process of the previous regularization policies or for those immigrants that had never participated. Like in the previous two regularization programs, the Greek government

was unable to provide data for the number of applicants for regularization that held expired permits, and therefore lapsed into illegality at some point of time.

According to the Ministry of Interior, the number of applicants for regularization that never held permits was recorded as 96,400 with the rate of approval of 99.4 percent (as stated in Baldwin-Edwards, 2008). Table 5-2 shows that at this time females consisted of 40 percent of the entire pool of first time applicants for regularization. In 1998, only 25 percent of females applied for regularization, which indicates a lack of female participation in the previous two regularization programs. Maroukis' study (2008) demonstrates that undocumented female immigrants were less likely than males to be successful in gaining residence permits through regularization programs. The author compared Census data from 2001 with valid residence permits granted until April 2008. His findings showed that only 56 percent of Albanian women resided in Greece in 2001 had managed to be regularized compared to 67 percent of Albanian men (Maroukis, 2008:54).

Table 5-2. Grants of Legal Status under Para. 11, Article 91, Law 3386/2005

	Total Number of Applicants	Total Number of Female Applicants	
ALBANIA	35,090	12,252	35%
BULGARIA	8,927	5,872	66%
ROMANIA	7,255	3,882	54%
PAKISTAN	6,556	47	0.7%
GEORGIA	5,358	3,398	63%
EGYPT	5,011	317	6.3%
UKRAINE	3,677	2,731	74%
CHINA	3,196	1,156	36%
RUSSIA	3,123	2,600	83%
PHILIPPINES	1,052	622	59%
TOTAL	95,814	38,048	40%

Source: Ministry of Interior as it appeared in Baldwin-Edwards (2008)

The fact that female immigrants were less likely than their male counterparts to participate in the first two regularization programs could reflect the gender inequality that was an unintentional consequence of the requirements' legal formulation for the adjustment of their migration status. Unlike male immigrants, female immigrants may have further problems due to their position in the informal labor market. In addition, it is important to keep in mind that gender does not operate in isolation from race, ethnicity,

and religion. Since many immigrants differ from the host population in these respects, they may face additional discrimination. However, domestic services where female immigrants are usually employed introduce a further segregated part of informal labor market. According to Nelli Kambouri (2007), Greek employers have categorized positions for household services based on immigrant women's nationality. For instance, African women are usually not used for cleaning, but for taking care of elderly because they are considered to be physically strong and capable of hard labor. Albanian women clean houses. Polish, Bulgarians, and Russians look after children because they are considered to be educated, cultured, and civilized.

5.2 Labor Migrants and Requirements for Regularization

As explained in the preceding chapters, female undocumented immigrants have endured discrimination and are vulnerable in gender-specific ways. They sit at the bottom of the socio-economic hierarchy, where they usually earn less than male immigrants as a result of the gender segregated labor market. They are usually employed in low skilled jobs, with low work status and often without a contract which creates obstacles for establishing job security or in gaining legal status (Ayres and Barber, 2006).

Since the majority of immigrants to Greece come with the desire to work, most of them were or became undocumented (overstayed their visa) and their irregular status influences their integration into the labor market. In addition, employment possibilities in Greece's highly segmented labor market are determined by nationalities and gender

(Baldwin-Edwards, 2004b; see also Cavounidis, 2003). Greece, among other Southern European countries, is traditionally centered on a family-based care model with limited childcare and elder care provided by public facilities (Bettio, Simonazzi & Villa, 2006). As a result of an aging population and a higher number of native women entering the labor market, female immigrants gradually have replaced native women in unpaid domestic care (Cavounidis, 2006b). In 2001, domestic servants in Athens comprised 6.3 percent of the female working population. However, domestic work in Greece is defined as a private labor relationship between family members that exists outside of formal labor contracts without specified working hours, and without insurance benefits against unemployment or accidents at work (Hantzaroula, 2008). Consequently, as Hantzaroula (2008:65) argues:

“The legislative provisions constitute domestic work as an inferior occupation and stand on the side of employers perpetuating the devaluation of domestic work and denying domestic workers full social rights....”

Not only does gender predict where immigrants are employed but also their national background leads to different job opportunities in an already gender skewed labor market. For example, Filipino women are preferred as maids in Greek families perhaps because of their bilingual skills and ‘Christianity’ (Fakiolas & Maratou-Alipranti, 2000). However, to be Albanian is a proxy for criminalization, degradation, and stigmatization (Hatziprokopiou, 2003). Albanian immigrant women are not only paid less than other female domestic workers, employed mostly by Greek lower income

families, but they are also involved in the most tedious and undignified work tasks (Lazaridis & Psimmenos, 2000, see also Psimmenos, 2002).

5.2.1 Employment Contract and Social Insurance Contribution as Requirements for Regularization

As already mentioned, what is defined as regularization and who is eligible varies among countries. However, the guiding philosophy behind the implementation of regularization policies is to maintain control over the labor market and over illegal migration flows by removing undocumented immigrants from the shadow economy and placing them into the official labor market. Subsequently, the regularized immigrants will be able to compete for better jobs, integrate into the host society, and eventually be naturalized. To stress the economic theme of regularization, eligibility is proof of holding and securing a job and proof of presence in the host country for a certain period of time.

The requirements that have been specified in several regularization policies in Greece were addressed in greater detail in Chapter Two. For the purpose of this study, however, the requirements of an ‘employment contract’ and a ‘social insurance contribution’ are raised because these same conditions were repeatedly used as a prerequisite for applicants from 1998 through 2005 regularizations. As a result of the absence of official data about applicants for regularization based on gender, it is speculated that these particular requirements have created an extra impediment for female immigrants.

During a five month period, undocumented immigrants applying for a ‘white card’ under the 1998 regularization policy were required to submit a declaration of personal status, passport or ID card, and employment contract. However, due to major confusion and a lack of communication between the governmental branches that had been involved in the processing of applications, the five month deadline for the submission of necessary documents was extended several times. In addition, according to Skordas (2000) as stated in Baldwin-Edwards (2008), failure to submit some of these documents did not necessarily lead to a rejection of an application for a ‘white card’. The lack of clear guidelines concerning exactly what the undocumented immigrant should submit expanded the discretionary power of administrative officers. To process an incomplete application for a ‘white card’ was not necessarily a justification for being ‘fair’ or ‘just’, it was simply a consequences of a total chaotic misinformation snafu among agencies involved in regularization. The fact that only 57 percent of white card holders were granted a ‘green card’ supports this claim because it is possible that the incomplete applications for white cards were dropped in the subsequent process of regularization.

The requirements for a ‘green card’ as a second step in the regularization program of 1998 include possessing a ‘white card’ and demonstrating a minimum income that was measured by forty social insurance stamps.¹¹ Regional committees maintained the power to grant a ‘green card.’ However, applications were rejected if the committee decided that

¹¹ The contribution of forty social insurance stamps was equal of 40 work days (the equivalent to 2 month’s work).

it was not in the interest of the national or local economy to keep the employee in the labor market (Baldwin-Edwards, 2008).

Under the 2001 regularization program, after being granted a residence permit, undocumented immigrants can apply for a work permit where they had to submit information according to Article 66(6)(a-f): residence permit, transcript of criminal record, health certificate, a declaration containing the address of the accommodation, evidence of social insurance coverage, and employment contract. Once again, it seems securing evidence of an employment contract proves to be a significant obstacle for female domestic servants who work for multiple employers, as employers refused to provide letters ‘promising work for a certain period’ (Baldwin-Edwards, 2008). Employers refused officially to promise work for women because securing domestic work is usually based on informal oral agreement with private employers.

The economic intent for enacting the regularization policy was articulated in its structure of prerequisites (e.g., minimum income and employment contract). Requiring the applicants for regularization to provide a letter from their employers about ‘securing the job for a certain period’ further stressed the economic objective of the policy. Rigorously following the text of law without taking into account the specific situation of domestic workers that either lived-in or worked for more than one employer led to the unintentional negative consequences for women working in domestic services.

Reviewing the requirements for the second regularization in 2001 reveal that similar to the first regularization policy, all applicants that applied for residence permits had to provide social insurance stamps in the amount of 250 days of work (approximately

1,500 Euros) and show evidence of a continuous stay in Greece either by rental contracts or utility bills. Even though it was an employer's responsibility to pay the social insurance contribution, in reality immigrants had to pay for the 250 social insurance stamps themselves if they wanted to meet the requirement for a residential permit (Baldwin-Edwards, 2008). The burden of the 2005 regularization program was no different: it required renewal of permits to provide 300 social insurance stamps that cost approximately 2,000 Euros.

Cleaners, housekeepers, or maids employed in low paid jobs might find this requirement prohibitively expensive or even impossible to meet. Proving a minimum income by providing social insurance stamps can present a special discriminatory obstacle, which is exacerbated for female domestic workers. First, many employers were unwilling to declare their undocumented employees to the social security administration and therefore pay required payroll taxes (Kanellopoulos, Gregou & Petralias; 2006:67). Second, the high cost of social insurance contributions created a difficulty for applicants working at the bottom of the labor market such as female domestic workers. Not recognizing the consequences of these two practices leads to inadvertent discrimination of applicants for regularization. As a result, many undocumented immigrants did not apply for regularization or did not fulfill the requirement of the social security contribution, and therefore lapsed into illegality. Similarly, Baldwin-Edwards argued that:

“The prospects of secure residence status were nil, leaving both legal and illegal immigrant populations in a condition of ‘institutionalized

precariousness’ and, by all accounts, a determination to minimize their contact with Greek state...” (2008:49).

Policy makers realized that many employers (even though they were obligated by the Labor Code) did not provide the social insurance contributions for their domestic workers (Papadimitriou, Lempesi & Spinthourakis, 2008). However, instead of enforcing the Labor Code requirements, the Greek government ‘allowed’ immigrants to purchase the social insurance stamps themselves. Once again, the shift of responsibility from employer to employee presented a “discriminatory relocation of legal and fiscal responsibilities” (Baldwin-Edwards, 2008:54). In essence, it put many applicants, arguably females working for more than one employer, at a disadvantage when striving for regularization.

It seems that the Greek government recognized a loophole in the legal text that led to the unintentional discriminatory consequences for some immigrants and consequently allowed applicants to pay for their social insurance contribution, especially those working in domestic services. The ambiguity of legal text (the regularization program did not specify who is obligated to pay the social insurance contribution for undocumented workers employed in the informal economy) allowed those who administrate the regulation to resolve the legal ambiguity based on their individual discretion. In addition, as already mentioned above, even legally residing domestic workers in Greece are not fully protected by the Labor Code. Domestic services are defined as comprising a private labor relationship that cannot be interfered with by public institutions. This lack of

protection results in domestic workers being vulnerable to exploitation and abuse from their employers.

5.3 Applicants for Regularization through Family Reunion

To reiterate, female migration has been a significant issue for decades. According to Ayres and Barber (2006), there was a large percentage of women in the world's total migration, 47.9 percent in 1990 to almost 50 percent in 2005. Even though the most important reason for migration for both females and males is employment, female immigrants are also more likely than males to migrate as family members. However, when women accompany a male family member, they are relegated to a legally dependent status under his authority.

Providing social insurance stamps became an expensive issue for undocumented workers. However, it became a burden for families where both spouses were undocumented and both had to pay individual social insurance stamps. The Immigration Law 2910/2001 Article 67 offered a remedy by providing the opportunity for family members to apply as dependents if their spouses had resided in Greece for at least two years. Consequently, only one spouse (the sponsor) had to show proof of the social insurance contribution. As the Immigration Law 2910/2001 Article 67 Parts 1 reads:

An alien who holds a stay permit or stay card of limited duration (green card) on the entry into force of this law and has lived in Greece for at least two years before the entry into force of this law shall submit an application for a stay permit for the members of his family for family

reunion, provided that the members of his family have lived with him until the said date and do not have a visa or stay permit.

From the data provided by the Ministry of Interior, it is impossible to account for the number of spouses, especially Albanians, who were already residing in Greece. However, according to Baldwin-Edwards (2008), Albanian family members predominantly used this option: 20,344 beneficiaries (of whom 70% were Albanians) were granted residence and work permits under Article 67 of Law 2010/2001. Even though there is no comprehensive data available for how many females became legally dependent on their spouses, it is known that females are more likely than males being regularized under family reunion conditions. Table 5-3 shows that more females than males changed their dependent migrant status to independent for so called 're-numerated reasons'.¹² This number means that more females than males had a dependent migration status as a result of the family reunion policy.

¹² Renumerated reasons: expiration of five years dependent residence permit.

Table 5-3. Total Number of Third-Country Nationals who Changed their Dependent Status to Independent

		2004	2005	2006	2007	2008	2009
Education and study	Female	7	24	53	48	64	14
	Male	13	16	45	50	53	10
Education and study Total		20	40	98	98	117	24
Other reasons	Female	324	584	1,776	1,634	2,864	746
	Male	408	852	2,216	2,236	2,690	797
Other reasons Total		732	1,436	3,992	3,870	5,554	1,543
Renumeralated activities	Female	429	306	746	275	836	168
	Male	292	158	334	183	220	58
Renumeralated activities Total		721	464	1,080	458	1,056	226
Grand Total		1,473	1,940	5,170	4,426	6,727	1,793

Source: the Ministry of Interior of Greece, 2009.

The economic objective of the regularization policy was implemented into the legal text regarding family reunion. In the end, it institutionalized gender inequality within migrant families by making the acquisition of an independent residence permit very costly. Moreover, legally denying immigrant women an independent legal status by making it too expensive reinforces gender stereotyping about a male breadwinner and female dependents and puts immigrant women in positions of vulnerability not only vis-a-vis the host society but also vis-a-vis their immigrant nuclear family.

In addition, work permits have to be renewed several times; therefore, many of the regularized immigrants lapse into illegality. However, as Article 67(2) states:

“...The stay permit for family reunion shall be granted simultaneously with the renewal of the aliens’ stay permit....”

Simply put, if the immigrant lapses into illegality, his/her family members that were regularized under Article 67 of Law 2010/2001 lose their legal migrant status as well.

As the regularization of 2001 established the conditions for family reunion, the regularization of 2005 tightened the requirements for family reunion by specifying that the income of a sponsor must meet the needs necessary to provide support for his/her family members. The Immigration Law 3386/2005 article 53(c) reads:

Third country nationals.....have the right to apply for the entry and residence of their family members....if...they prove that they have stable and regular incomes,This income cannot be less than the annual income of an unskilled worker, increased by 20% for the spouse and 15% for each minor child... .

According to Maroukis (2008), this law affected many immigrants who could not meet this requirement especially if their spouses did not work nor made sufficient income contributions to the family budget. In addition, Maroukis (2008) argues that officials responsible for evaluating the applications for family reunion in many instances rejected

the applications if the yearly incomes of the applicants were less than 10,200 EUROS (the minimum unskilled worker's wage per year after adding 20% for invited partner).

This passage of the law accidentally created families with mixed migration status where one of the spouses stayed undocumented and therefore vulnerable. However, the requirement of a minimum income emphasized the economic motivation behind the regularization policy. The 'stable and regular incomes' can support family members in times of unemployment and subsequently prevent an immigrant family's reliance on public funds. Public concern about undocumented immigrants has often focused on the costs associated with immigrants, their use of public benefits, and how providing those benefits serve as an incentive for migration. Therefore, the requirement of minimum income should subsequently eliminate from regularization the most impoverished population of immigrants.

One of the significant improvements of the regularization policy of 2005 was the articulation of domestic violence. Experiencing domestic violence became a recognized condition for immigrants to use to change their dependent residence permits for an independent migration status from abusive spouses before the expiration of a five-year period from the issue of a residence permit for family reunion.

Article 60 (1) reads:

“A person, who has been accepted for family reunification purposes, is eligible for an independent residence permit in Greece in the following cases: (ii) Particularly difficult situations occur, as for example that a member of the family has become a victim of domestic violence, during the marriage....”

Nevertheless, the number of immigrants, perhaps very small, who applied for independent residence permits because of victimization is unknown since the Ministry of Interior did not collect the appropriate data. In addition, the law does not define what domestic violence is or use a legal statute that defines and deals with domestic violence as a crime. According to the data from the Ministry of Interior (see Table 5-3 above), more females than males changed their dependent migrant status to independent for re-numerated reasons. Therefore, more females than males entered or were regularized as dependent within family reunion statute.

5.4 Current Legal Remedies for Undocumented Immigrants

Regularization procedures in Greece facilitated a legal status for many undocumented immigrants. However, at the same time, regularization programs did not alter the underlying processes for keeping legal status that can eventually lead to naturalization or stop the further flow of undocumented immigrants into the country. Because so many immigrants lapsed into illegality, regularization policies as formulated and enforced limited the social and economic rights of many regularized immigrants.

Taking into account that some immigrants were not able to obtain or keep their legal status, it is important to look at what legal remedies are available to immigrants with undocumented statuses. According to immigration lawyers in Athens,¹³ currently

¹³ Information based on a field study conducted in Athens Greece during September and October 2009, funded by the University of Delaware.

undocumented immigrants have only two possible legal remedies to use to adjust their immigration status.

First, they can apply for refugee status or apply to stay legally in Greece for “exceptional reasons” as stated in Article 44 of law 3386/2005 on the Entry, Residence and Social Integration of Third-Country Nationals on Greek Territory. Issuance and renewal of residence permits for “exceptional reasons” include two legal possibilities for adjusting an immigration status: for humanitarian reasons and for invocation of specific reasons. The legal grounds for humanitarian reasons can possibly cover undocumented immigrant women who are victims of domestic violence. One of the categories is for immigrants housed in shelters. As the article 44 (1) reads:

“By decision of the Ministry of Interior, Public Administration and Decentralization and of Employment and Social Protection, residence permits may be issued for humanitarian reasons to third-country nationals:
(c) Persons accommodated in charitable institutions and legal entities....”

However, as this research will show in the following chapter, the shelters that are funded by the state are banned from accepting undocumented immigrants. Shelters that are run by non-profit organizations, which in most cases lack sufficient resources, qualified staff, and free legal aid, also provide inadequate help. In addition, the entire legal procedure for applicants for humanitarian relief can take years, leaving an immigrant without the possibility to work legally during the transition time.

The second legal way to adjust an undocumented status is due to “specific reason.” As Article 44 (2) law 3386/2005 reads:

“...A necessary condition for the issuance of the permit is the possession of a passport with a visa for entry in the country, irrespective of the validity, or an expired residence permit, as well as the proven invocation of the specific reasons that makes necessary the residence of the third-country nationals on Greek territory. Only applications that meet this requirement shall be referred to the Committee for its opinion...”

The definition of what constitutes “specific reasons” is unclear, effectively granting major discretionary power to the three members of the Migration Committee that review such applications and then make recommendations concerning applicants to the Ministry of Interior’s Department of Public Administration and Decentralization. The law provides remedies for those who once held a valid permit, but lapsed into illegality when they failed to apply to adjust their status or to renew their permit. However, the crucial requirement of a passport possession with a valid entry visa to Greece ultimately eliminates undocumented immigrants who were smuggled into the country.

The last resort for undocumented immigrants is to apply for refugee status. Nevertheless, it is almost certain that a refugee status will not be granted as Greece holds one of the last places among EU member states in terms of recognition of refugee status and granting international protection. According to the Human Rights Watch (2009), the Greek asylum system grants protection to only 0.05 percent of applicants at initial hearings. In addition, changes to the Greek asylum law in July 2009 eliminated applicants’ right to appeal. Nevertheless, the application for refugee status provides a victim of violence at least an opportunity to stay and work in Greece for six months. In addition, like any legal procedure in Greece, it is a very time consuming process. It is

also likely that this permit would have to be renewed several times before the final decision about deportation is made.

5.5 Conclusion

Even though official data is unavailable to support the initial claim that female undocumented immigrants could be disadvantaged in the process of regularization, the analysis of regularization policies in Greece since 1998 revealed the increased likelihood of gender inequality inherent in the process of obtaining legal status, especially for those working in the domestic services (typically women).

Undocumented immigrants are easily pushed to the social margins. As a result of their undocumented status they are banned from receiving social services assistance, such public social benefits or health care system. In analyzing the regularization policies in Greece, it became clear that the Greek state did little to enable regularized immigrants and their families to live and work in the country after being regularized as a result of short term residence permits and other obstacles erected to maintain the legal migration status. Kyprianos, Balias & Passas (2003) argue that the Greek government was unable to create a coherent immigration policy because of the common negative public opinion about immigrants and concerns that immigrants from different cultural backgrounds create problems for the integrity of Greek social values.

One of the social values of Greek society is the attachment to the nuclear family and the position of females within it (Davaki, 2006). Females in Greek society are

considered to be primary caretakers. The family patriarchal relationship is further reinforced by the Greek labor market structure that provides opportunities for immigrant females to fill only particular types of employment such as domestic services and prostitution (Psimmenos, 2006).

Naturalists argue that written law cannot anticipate every possible situation. The legal actors that implemented regularization programs into practice have recognized some loopholes of the legal text. The issue of employers' unwillingness to provide their undocumented employees with proof of social contribution was raised several times by applicants. However, instead of enforcing the Labor Code and requiring employers to comply with their legal obligation, the state agencies 'allowed' the applicants to pay the social contribution on their own. Consequently, many applicants and most likely the majority of domestic servants were unable to fulfill the regularization requirements due to financial constraints. The gender inequality in the labor market made the consequences for female immigrants applying for regularization programs unfair and the requirements for regularization unintentionally discriminatory.

The vague and ambiguous wording of regularization programs in Greece permitted a great deal of discretionary power to Greek governmental officials who had the responsibility of approving legal permits for applicants. One of the methods of controlling the exercise of discretion is to employ the appeals process, whereby disappointed litigants are given the right to have a higher authority examine the adjudicator's decision (Davis, 1969). However, regularization programs in Greece were a

one-step process (without the rights to appeal) and therefore, decisions of law administrators were final and irreversible.

Positivists such as Hart (1994) argue that law cannot anticipate the condition for every possible individual circumstance. Therefore, those who carry out the law must go back to the key motivation behind the legislation. Female undocumented immigrants, particularly those working in domestic services, could face disadvantages in the process of regularization programs. However, unintentional gender inequality ensued from the economic motivation behind regularization policies. The gender biased requirements for regularization permitted applicants to buy the social insurance stamps on their own because there is an absence of legal tools to force employers to comply with the Labor Code obligation to provide such insurance for their employees. One of the major criticisms of regularization policies as articulated by Baldwin-Edwards (2008) is its economic motivation. The author argues:

“...the emphasis placed on social contributions as a mechanism for managing informal employmentcostly regularization with a very short-term card or permit, followed yet again by onerous demands for permit renewal.....that impel all immigrant workers into intermittent irregular status, since legal routes are over-priced...” (Baldwin-Edwards, 2008:56).

However, for the positivists, the economic motives for regularization matter and must be highlighted.

It seems that the Greek government recognized the legal loopholes through which many applicants for legal status fell and enacted additional legal recourses. However, an

analysis of regularization policies showed that merely to articulate certain conditions in the law did not necessarily translate into how well the law was enforced or operated. To explore these questions, immigration lawyers and social services providers were interviewed about their day-to-day work with undocumented battered immigrants and about the obstacles that they faced when providing assistance. The findings from the qualitative interviews are discussed in the next chapter.

Chapter 6

NO NUMBERS, NO PROBLEMS?

This chapter examines how the legal status of immigrant women affects their options for seeking relief from interpersonal violence using data gathered from in-depth interviews with governmental officials, immigration lawyers, shelter providers, and members of a variety of NGOs. Their interviews illustrate how the undocumented status of immigrant battered women plays a significant role in limiting their ability to get help and legal protection from their batterers.

Greece has changed significantly over the last decade in its migration policies, as evidenced by the effort to include immigrants into the social and economic structure. In particular, the regularization policy Law 3386/2005 introduced some important standards in regard to “social incorporation” of immigrants. The law embodied the principles of “equal treatment in employment,” “respect of fundamental rights,” and support for “family reunion.” In addition, the Law 3386/2005 included protection for female immigrants who are victims of domestic violence or trafficking. However, the previous chapter also revealed that several regularization policies that were implemented in Greece since 1998 left many regularized immigrants in legal limbo. The regularization policies either excluded the immigrants from being regularized in the first place, or erected obstacles for renewal of their legal stay permit and subsequently forced them into

illegality. In addition, migration policies and border protections did not stop the influx of illegal immigrants into Greece.

Adding to the shortcoming of migration policies in Greece and the ways in which immigrants are treated due to xenophobia and racism, the crime of domestic violence is another cumbersome legal phenomenon in Greece. However, defining domestic violence as a crime in legal text does not reflect that society does not view interpersonal violence as a crime. Until 2006, domestic violence cases were addressed by the provisions of civil and criminal law. Batterers were prosecuted if the victim pressed charges for physical injury, regulated by articles 308 (simple bodily harm, which is divided into mild, completely mild and inconsiderable harm, 308A (unprovoked bodily harm), 309 (dangerous bodily harm), and 310 (grave bodily harm) of the Greek Penal Code (Greek Helsinki Monitor & World Organization against Torture, 2002). In other words, until the law 3500/2006 (for Combating Domestic Violence) was enacted in August 2006, domestic violence in Greece was not considered as a separate category of crime. It was covered under the statutes governing general assault and offenses against a person. Thus, if the victims did not require medical treatment or injury that led to disability, cases of interpersonal violence were either dismissed or charged as misdemeanors. Law 3500/2006, for the first time, addressed the issue of domestic violence as a crime, including marital rape and domestic violence.

Greece is still at the very beginning stages of implementing measures to protect victims. Even though there is now a fairly public and political consciousness of the issues related to domestic violence, battered women are still insufficiently protected as a result

of a slow judicial system (it can take up to five years to just complete adjudication) and limited social services (Greek Helsinki Monitor & World Organization against Torture, 2002).

In addition to the limited legal and social protection of battered women in Greek society, the true figures of women suffering interpersonal violence are unknown since no comprehensive national data about victims or the number of cases of domestic violence is collected. The only available data about the prevalence of domestic violence are available from the governmental Office of the General Secretary for Gender Equality. The Office reported that in 2009, the Consultation Centers in Athens and Piraeus received 1,661 telephone calls and had 657 appointments with women who sought and received psycho-social support and legal consultation regarding issues of domestic violence (General Secretary for Gender Equality, 2010). These two consultation centers are the only two places operating under the General Secretary for Gender Equality for the area of Athens and the surrounding islands, which covers a large geographical area. The centers offer legal advice and psychological support for victims, but have no shelters.

Since Greek battered women face legal, social, and safety obstacles when seeking to escape interpersonal violence, the question becomes: how does the undocumented migration status of immigrant battered women contribute to these already inhospitable conditions for victims in Greek society? How does the Greek government respond to issues of undocumented battered immigrants? How does the undocumented migration status of immigrant battered women affect the ability of social workers and immigration lawyers to help them? What other obstacles exist for undocumented immigrant women?

Finally, are there some permanent solutions that can be made to address the problem of undocumented immigrant women? The responses to these questions by study participants are explored in this chapter.

In-depth interviews with thirty respondents in Greece were conducted within three major groups: government, members of NGOs, shelters run by the state, and other social service providers. Within these three broad groves, five themes and seven sub-themes emerged as important and were discussed by the majority of respondents. These themes are discussed in the following sections.

6.1 Theme 1: Undocumented Battered Immigrants' Hidden Issues.

Even though the regularization policy of 2005 articulates that the experience of domestic violence is an option for immigrants to use to change their dependent residence permit for an independent migration status apart from abusive spouses, the policy still assumes that the abused female legally resides in the country. The policy does not clearly define what exactly constitutes domestic violence. In addition, the legal text does not take into account the possibility that the abused spouse did not renew his or his wife's residence permit; therefore, she lapsed into illegality. In other words, this legal remedy may not apply to undocumented immigrants even though their spouses might be holders of a residence permit. In addition, the relatively new law of 3500/2006 on Combating Domestic Violence in Greece does not mention undocumented immigrants or immigrants generally. The fact that there is no specific data on undocumented battered immigrants or

legislation that specifically addresses undocumented immigrant battered women begs the question: are there undocumented immigrant battered women in Greece and, if yes, what is the governmental response to their issues?

All thirty respondents interviewed had vast experience working with undocumented battered immigrant women. In addition, they all believed that domestic violence within immigrant families is a hidden phenomenon. The lack of governmental attention to violence against women and the limited access of women to legal and social remedies were particularly evident in the respondents' discussions about what is going on in Greece regarding the issue of violence against immigrant women. It became apparent throughout the interviews that the governmental response to gender-based violence is inadequate for Greek women and particularly absent and acute in relation to immigrant undocumented women. For instance, one female from an independent, non-governmental organization explained:

I think that the Greek state tries to suppress the issue of violence against women. If we are talking about Greek women, yes, maybe she can get some support even though it is a sort of non-state responsibility because it is still a private issue. But, the fact that there are illegal immigrants in this country and women get battered and nobody cares, it is a political issue. So, admitting that there is a problem, you also admit that there are illegal immigrants and you do nothing. Even women who arrive to counseling centers and you just send them away because you can't communicate with them, you have to admit political responsibility and I think the state is not ready to do it. There are issues in Greece that are far bigger than this one.

Similar to this point of view, the male director of a non-governmental organization that works with refugees and asylum seekers talks about societal response to domestic violence:

Domestic violence is a real problem because we as a society are not interested in these issues, we don't recognize it, and we don't want to see this, especially in the immigrant community. And if they are immigrants, they don't have good access to health care and women from some immigrant communities have a lot of problems.

A female lawyer who practices law in the field of human rights, refugees and asylum seekers agrees: “unfortunately, the current situation in Greece gives no space for specialization in the particular needs of women, due to the general mess and chaos that all non-EU nationals face in Greece.”¹⁴

Nevertheless, many females migrate with their families. They have originated from societies with a strong patriarchal structure, such as Albania, and more recently from Muslim countries such as Afghanistan, Pakistan or Iraq. As one female sociologist from a state run shelter points out:

“It is a narrow minded assumption that immigrant women are not battered. But, the Greek society, whatever it does not like, will put under the carpet. So we don't have illegal immigrants, we don't have a problem of domestic

¹⁴ Non-Greek EU citizens and their family members can work and reside in Greece by simply applying for a registration certificate and this certificate does not need to be renewed.

violence. The Greek society does not want to face the problem connected to illegal immigrants. Because then we have to go back to the sanctity of family and all that. People even of my generation, and I am close to 50, were brought up to believe the sanctity of the family, of the country, and of religion. These things you don't touch, they are secret and they are perfect.”

According to the General Secretary for Gender Equality (2005), 16 percent of women that contacted the two previously mentioned counseling centers in Athens and Pireous between January 2004 and October 2004, were foreign nationals. Similarly, the non-governmental organization European Network of Women-Greece (ENOW) that runs a phone SOS line in Athens revealed during the interview that in year of 2008, 17.93 percent of women who called with issues of domestic violence were foreigners. Within the broader theme of ‘Are Undocumented Battered Immigrants Hidden or are their Issues Addressed’, one subtheme, of ‘Family Sanctity over Individuals’, emerged and was widely discussed by a majority of respondents.

6.1.1 Sub-Theme 1: Family Sanctity over Individuals

Greek society moved towards gender equality predominantly as a result of the increase in the level of educated females and the overall rise in the number of women active in the labor market. However, emphasis on the structure of the family, protection of the family and marriage, and maternal care for large families remain very strong in Greek society. Belief in strong individual ties to the family was incorporated into domestic violence laws. Specifically, domestic violence legislation offers victims of

interpersonal violence the opportunity to solve ‘family problems’ through a mediating process. The mediating process was introduced in the Greek criminal justice system as a new institution through which the General Prosecutor is engaged to bring the victim and the offender together, aiming to resolve the problem of violence. Nevertheless, it is necessary to point out that this ‘mediation process’ was not created in order to provide couples with the environment in which they can resolve issues of divorce or child custody. The idea behind the ‘mediation process’ in Greece was to keep and save the family as a unit. If the victim would agree, the batterer would be sent to therapy. What began as a good will effort can turn against the victim. The respondents raised serious concern about female protection and power imbalances when mediation is used instead of court litigation. The majority of respondents pointed out two problems: the incompetence of the person who led the mediation (prosecutor), and the process and quality of the therapy for batterer. Although interpersonal violence law mentions protection programs for the victims and therapy programs for the offender, no such programs exist for victims or offenders and no efficient protection of victims has operated thus far. One female social worker from a NGO that offers services for unemployed people claimed:

“The culture in Greece sees the professions like social workers, sociologists and psychologist as something stupid and unnecessary. If you are a lawyer, you have a high social status....So if you have this culture, these attitudes towards social science professionals, you will not send the batterer to therapy you will send him back home so the family members will deal with him.”

Another social worker in a state run shelter similarly pointed out:

Mediation process is a pilot program that got a lot of support from psychologists in Greece, but those psychologists were working for many years with couples, not with individuals. They agreed to take a part in the mediating procedure, but only if they can work with the whole family....I think it's a problem a little bit and I don't understand why some other services did not offer their work. But overall, there was no interest to be involved in the therapy just for the offenders.

A female sociologist (service provider) whose work focuses on gender issues summarized:

The prosecutors usually press the offenders to take their responsibility, and they will force offenders to go to therapy. But at the same time, the prosecutors will keep batterers in their homes because we cannot destroy the home of the children, of the family, we cannot separate the family members. That is how I understand the mediating process within law about violence in family. In addition, the prosecutors do not know anything about how to conduct the mediating process. They do it without some sort of structure, guidelines etc. And then I am asking....ok, so father goes into therapy, but where are those therapists? Where are people that are trained to do it? And of course, those therapies must be free of charge. People who are violent....they will not pay for it. You force him to go, but then who monitors his attendance, protects the victim? So, you understand, they made the law, the law is good, but where is the infrastructure that will support and enforce the law? If the law does not have the infrastructure under it, it is an empty piece of paper.

The mediating process is structured and enforced in a way that places the victim of domestic violence into a vulnerable position for re-victimization. Not only does the victim have to attend therapy with the batterer because domestic violence is treated as a problem of the family, but also there is no further legal protection available for the victim while the family attends therapy. Respondents repeatedly mentioned that the mediating

process epitomized the desperate situation for Greek battered women if they seek legal help. The majority of respondents stressed the fact that Greek women cannot reach out for help because prosecutors underestimate the extent and consequences of interpersonal violence. Prosecutors are more likely to press for a mediating process that does not provide any legal protection for victims and view violence against women as a family private issue. Consequently, compared to Greek citizen battered women, undocumented immigrant battered women will not find help at all.

6.2 Theme 2: Police Attitudes toward Undocumented Immigrants: Criminals or Victims?

People turn to police for protection. Police officers have the authority to protect victims, to legally apprehend or remove offenders, and to initiate the investigation of a crime. However, as the majority of respondents claimed, battered women in Greece generally could not rely on police protection. Since the Greek society views domestic violence as a private matter, police officers are not trained to respond appropriately and sufficiently. The majority of social workers responded in a similar tone as the following quote from a female social worker from a non-governmental agency:

...In Greece there has not been any training or systematic work with police. Those police officers that attended some sort of educational training about domestic violence last no longer than 3-5 days. Those seminars were conducted by non-governmental women organization and those educators usually complained about sexist comments or attitudes from the police officers.

Greek society and the criminal justice system expect police officers to become involved in only extreme, isolated cases when the victims suffer major physical injuries. In other interpersonal violence cases, as one social worker from a state organization mentioned:

...Police tend to discourage women from pursuing interpersonal violence charges and instead encouraged them to accept reconciliation efforts. Sending women back home with a clear message that police are not for protection.

Even if a victim suffers significant physical harm, if that victim is an immigrant, the consequences of the legal actions are uncertain. One female sociologist who works with battered women said:

...We have a case of Bulgarian women, a cleaner, that was also a secretary for Union of Cleaners, that was attacked and forced to drink vitriol. The police never apprehended the perpetrator and never really conducted the proper investigation. We all know who the perpetrator is. The cleaning company ordered the attack because she made some waves being actively involved in the Union and fought against exploitation of the cleaners. And now the case is closed. She is still in the hospital and the offender is free.

When asked what kind of help is available for battered women with an illegal migration status who wish to escape interpersonal violence, all of respondents in all three groups expressed their concern that an immigrant battered woman is first a migrant and then perhaps a victim of crime. In reality, it means that immigrant battered women must

first deal with her undocumented migration status and then with the interpersonal violence. This concern was particularly evident when discussing the police role as a first responder for victims of domestic violence in the criminal justice process. A female migration lawyer explained:

... Everybody has an access to Public Prosecutor Office and make complaints. But, prosecutor will give the case for an investigation back to Police, but how you will go to police without documents? How this can work in reality? The first job of police is to apprehend the undocumented immigrants for illegal entry or illegal residency. For prosecutor you must be recognized as a victim. But, how you can be recognized without an open investigation and police involvement in it?

In order to find justice, every victim of interpersonal violence must deal with the police and required legal procedures. However, undocumented immigrant battered women could be re-victimized by police officers. There are no available legal remedies for undocumented immigrant battered women and the lack of other services that are directed against interpersonal violence causes a stalemate situation for battered women without legal migration status.

6.2.1 Sub-Theme 1: Distrust of Police and Police Brutality

In addition to the lack of training and educating police officers about interpersonal violence, police in Greece have their own 'legacy' that includes the use of excessive force and firearms against civilians, cases of torture or other ill-treatment, and arbitrary

detention and denial of prompt access to lawyers. As one of the workers for the United Nations in Greece explains:

People are talking about training in order to change things in the police. But, there is a whole cycle of impunity and corruption inside law enforcement bodies. Of course training is very important, but to have monitoring mechanism is very important as well. In Greece you have incidents of police violence and there is a general mistrust of police. Also we have an incident when a trafficked woman reported her trafficking and she was raped twice in a police station by police officers.

The respondents believed that police violence escalates when they deal with undocumented immigrants. As one female migration lawyer mentioned:

...We had a case of an undocumented immigrant that died in police custody. It became a public case because relatives of the victim claimed that he died in police custody as a result of torture. When they wanted to go to the Prosecutor office to testify in the case, they were turned down because they did not have appropriate paperwork and permissions to legally reside in Greece.

The general mistrust of police in Greece contributes to battered women's unwillingness to go to police stations and file complaints, especially if they are foreign and without appropriate paperwork. For instance, as one female social worker from a non-governmental organization explained:

If she goes to the police, she will be deported. But if she does not have papers she will not even go near the police. She would rather die than to contact the police.

A case described by one female member of a feminist organization paints the picture of police reactions towards battered immigrant women in this way:

I will tell you a story of how undocumented battered women are treated in Greece. I met one Georgian woman, like 4 years ago, and her man was supposedly a Greek Patriot from Pongos. So, this Georgian woman stayed with a Greek man from Pongos for like 2-3 years, they were a couple. He beat her up often and often badly, but the last time he beat her so much that the neighbors called the police. So, the police came there, arrested him and took her to the hospital. She went to the hospital with a broken head. With very bad injury on her head.....she had stitches like 10 or 20 stitches. Very big thing and her whole body was bruised. I know it because I saw her. And when she left the hospital with those stitches, she got arrested. So she stayed in the police station. When he got arrested he was released in 24 hours according to the law. All charges against him were suspended and he was released in 24 hours from the jail with the sentencing paper in his hand. But he never served the time. But, she stayed for 28 days in the jail with her head stitched and she was deported. She had some legalization papers, but the papers were mixed up. They were not what they should be, but she had some sort of legal paperwork. Despite the fact that we as a women's organization went to the jail, protested, looked for legal help, we could not help her and finally she was deported. We had been expecting her to be released; we went to the jail like every two days...she had been deported. So can you imagine?

In order to raise awareness about domestic violence, progress must be made in developing legal protection, resources and assistance for undocumented immigrant battered women. The lack of a legal migration status hampered not only the victims'

search for help, but also the NGOs in providing assistance and services for undocumented immigrant victims of interpersonal violence.

6.2.2 Sub-Theme 2: Respondents' Belief in Patriarchal Attitudes of Police Officers

The in-depth interviews revealed that the majority of respondents believed that strong anti-immigrant behavior and patriarchal attitudes across Greek society are reflected in the governmental officials' unwillingness to appropriately address domestic violence especially within the immigrant population. According to the respondents interviewed, police officers reflect the state's negative attitudes towards immigrants residing in Greece. The undocumented immigrant communities lack any support from the community-based advocates, police, prosecutors, hospitals, and social service agencies. Out of the thirty respondents interviewed in this study, more than half mentioned that gender discrimination is not only a legal problem in Greece, but also it is a structural problem. For instance, one female sociologist from a state run shelter stated:

...The police are the problem because it is quite well known that police officers beat their wives. So, of course they protect the batterer, the husband. And they start to harass the women; something like oh it is nothing...just go home...it will not happen again. And things like that.

Another female social worker from a non-governmental organization stressed:

...There are two kinds of police men. Some of them, very few of them want to help women but, they don't know how to do it...there is no structure. But, it is in Athens like that. I don't think that even some police officers would help in other Greek towns or small villages. The situation in small isolated villages and towns is worse. People are more traditional, patriarchal, and they don't care about women. They don't care. But women who are victims of domestic violence just don't go to the police. Police have some limited training about domestic violence. Police, the same like we do, have the list of shelters, lawyers, and other services that they must to give to the women if she will come to report the violence. But no one does it. They have guidelines but they don't follow them. Only very few of them do it because most of them have the same ideology toward women like a perpetrator.

A female social worker from a state run shelter pointed out:

...some police men are also very bad and they treat these women like garbage, they don't speak nice to them, regardless how many seminars they had attended. Maybe some of them beat their own wives.

The majority of the study participants stressed the fact that police officers view family violence as a private matter that falls outside of their mandate. In other words, in Greek society the family is privatized with female's inferior status the lowest.

Even though specific police guidelines about how police should deal with cases of domestic violence were distributed across the police departments, according to respondents those guidelines are insufficient, very limited, and probably unknown to police officers. One female member of non-governmental organization called Non-Alignment Women's Movement organization specifies:

....There is an official letter from Hellenic Police Headquarter to police stations with instructions how to behave in the case of domestic violence. But, if you go to the police station nobody knows what kind of instructions, or where the paper from the Headquarter is located. Only very few police officers know about it. I have a battered woman and I called the police station and said to the responsible officer that I have a case of a battered woman and he asked me: what do you want me to do with it? I told him about the guidelines and I sent him a copy of those instructions. Police officers are just not interested in interpersonal violence.

After reviewing the guidelines for police officers that were created by the Hellenic Police Headquarters, it is clear that even though the guidelines were formed in order to set forth appropriate and effective responses to domestic violence for police departments, the text lacks any kind of guidelines about how to response to the immigrant community. Immigrant female victims are mentioned only in response to a trafficked victim (which is discussed subsequently):

...In the case of trafficking victims for sexual and economic exploitation, the police officer must try hard, so that the victim cooperates with him in solving the crimes. As is known, the law provides procedures to ensure security and protection even of those immigrants who illegally reside in our country, but are identified by the prosecutor as a trafficking victim...

As a result, undocumented victims of interpersonal violence other than ‘recognized victims of trafficking’ will be arrested for violations of migration law. As one male police officer that was not a part of this study, but had personal contact with the researcher, reinforced this study’s findings by stating:

...Yes, I would arrest her and put her in the detention center. At least she will be safe there from her batterer. I must say that in her own country nobody would do anything for her at all. These immigrants do not have any rights in their own country...

Consequently, the absence of meaningful police guidelines affects the reporting, recording and prosecution of domestic violence cases.

6.3 Theme 3: Legal Remedy or Trap?

The lack of specific legislation for handling violence against undocumented immigrants results in the reluctance of the criminal justice agents to intervene in the cases of domestic violence. The lack of police intervention subsequently puts women in vulnerable positions not only within their family but also through the threat of deportation because of their migration status. Nevertheless, as one male lawyer explained, there are some legal windows of opportunity to adjust the migration status for immigrant battered women:

...Regularization in 2910/2001 article 37 para 4 and 8 as amended, had, let's say, wider terms and conditions for stay permits for humanitarian reasons. That means that people who did not fill the conditions of legal stay could apply for residence permits for humanitarian reasons. These grounds for humanitarian reasons could cover some group of people that for example were accommodated in charitable institutions and legal entities (this can possibly cover undocumented immigrant battered women).

However, he also pointed out that:

The court procedure must be strictly followed, and those shelters are run by social workers and NGOs and I am not sure if they are able to fill those applications needed. And also those shelters are very ordinary, they will not admit illegal immigrants in many instances....they are not organized, trained, or guided very well.”

According to this respondent, the law provides some very limited legal remedies for undocumented battered immigrants. Nonetheless, those available legal remedies provided battered undocumented immigrants with limited success as a result of the complicated and lengthy bureaucratic procedures and its strict requirements. The male migration lawyer quoted above raised two concerns into the discussion that were also widely discussed by a majority of respondents. First, the incompetence of social workers affected social services and created immigrants’ distrust in the quality of their services. Second, the limited accessibility to shelters and a lack of free professional legal aid for immigrants reflected the restrictions of help for immigrant women. Undocumented immigrants are banned from public services. However, the majority of shelters for battered victims in Greece are run by the state. This means that public service shelters are unavailable for undocumented immigrant battered women. Free legal help is available only to Greek citizens and legal residents that lack sufficient financial resources. Therefore, battered woman with illegal migration statuses have no access to the legal aid whatsoever.

6.4 Theme 4: Public Funded Shelters and their Limited Accessibility

In order to adjust a migration status for ‘humanitarian reasons’, according to law 2910/2001 article 37 para 4 and 8 as amended, undocumented immigrant battered women must demonstrate that they were accommodated in ‘charitable institutions and legal entities’ such as shelters. However, undocumented immigrants are legally banned from publicly funded social, medical, and legal services. As previously mentioned, shelters are public entities, so they are not available for non citizens illegally residing in Greece.

When four female social workers from three state shelters in different locations in Athens were asked whether they would provide accommodation for undocumented immigrant women or they would reject them and report them to officials, their responses varied, even though all three shelters were run and financed by the Ministry of Health. One of the social worker replied:

We should not accept undocumented immigrants but we do it. Yes, we have to report her because we are a state organization under the Ministry of Health. But we don’t do it. Of course we don’t do it, we would never do it. We will provide her with support and help because we are social workers and not police officers. If a woman comes here and asks for help, how can I take her to the police? I cannot report her to police even though not reporting her to the authorities is an illegal act on my behalf. I personally do not believe that there is some social worker or psychologist, any person who works in this area that would send this woman to the police. This is not human, how can I do it?

However, another female social worker from the same type of shelter in another location of Athens explained:

She must renew her residency permit; she must put her migration status in order. It has happened in the past that immigrant battered woman had an expired permit card and we tried to cooperate with the Ministry and find some solution for her, find a way how to become a legal resident. So undocumented immigrant battered woman must renew her residence card. Otherwise, we cannot keep her in our shelter and we must report her to the police. Because women that are undocumented immigrants cannot legally work or reside in Greece. We cannot accept her if she does not have a residence permit. She must reside legally in the country.

It seems that whether or not an undocumented immigrant battered woman is accepted in a state shelter depends on the social workers' discretion. However, even if a victim is admitted to the shelter, her undocumented status cannot be revealed. Otherwise, the social worker can face legal retribution from the state government and employer. It is unclear if shelter workers would provide undocumented immigrant battered women with the necessary paperwork for an application for 'humanitarian reason' or not. However, the interviews revealed that even though undocumented immigrants are banned by law from public services, they can be accommodated and provided with the necessary help and paperwork by shelter workers. Another female social worker in one of these shelters surmised:

A woman who is abused can ask to stay in Greece for humanitarian reasons. But, it is up to the Ministry of Interior if it will accept her application or not. But they have a right to do it. As long as they will do it and wait for the answer, we will and we can accept them. This is maybe not legal....but it is a social service and there is an understanding.....However, I don't think I can find a number of how many illegal immigrant women were housed in our shelters because we do not list them in our statistics. Do you understand? It should not be very obvious.

What should not become ‘obvious’ is the number of undocumented immigrant battered women that were accommodated in the state run shelters. Thus, any statistics regarding victims of domestic violence staying in the shelters and receiving services or help, are highly skewed. Undocumented immigrant battered women are occasionally present in the state run shelters and their presence depends on the discretionary power of the shelter worker in charge. However, this number of undocumented immigrant battered women is hidden and not reported; as a result, undocumented immigrants are forced to live outside the law even if they are victims of crime.

In addition to the legal restrictions with regard to undocumented immigrants and their access to public services, the internal guidelines of state shelters do not allow for any battered women to return to the shelter for a second time. All four interviewed social workers in shelters run by the Ministry of Health responded to the question whether they would admit a victim of interpersonal violence more than once:

We usually send woman like that to other shelters and we try to explain to her and make her understand that this is not a game and we don’t accept her exactly for this reason. We show her that this is not a place where you can go every time your husband will beat you up. This has to stop; she must stop it and have her life back.

It is evident that social workers in the state shelters do not take into account the well known fact that for victims of domestic violence the process of leaving the abuser takes time, resources and support. Victims often try to leave their abusers several times before they will be able to make a final break and move forward with their lives. The

social workers do not take into account that battering is not an isolated event and battered women constantly engage in negotiations of their situation for their own survival and protection of their children. Not allowing battered women to return to the shelter means that some social workers blame battered women for the crime committed against them and this attitude consequently further disempowers them and exposes them to re-victimization.

Despite the progress in the area of gender equality and independence, the acknowledgement of interpersonal violence as a social problem is a new phenomenon in Greece. Considerable challenges remain visible especially when considering the practices of social workers. Perhaps some social workers are also guilty of antiquated attitudes towards battered women. The Greek patriarchal approach and the influence of cultural attitudes towards the role of Greek women to keep the family together still play a strong role in the practices of social workers. Perhaps social workers are not properly trained in responding to victims of interpersonal violence and their needs. Social workers in Greece are poorly equipped to respond to battered women with more culturally sensitive approaches.

6.4.1 Sub-Theme 1: Lack of free Professional Legal Aid

Shelters do not provide legal aid. Shelter workers refer immigration cases to lawyers in counseling centers that were established under the General Secretary for

Gender Equality or they find a lawyer who is willing to take a case. However, in many instances, problems ensue. As a female social worker in a state run shelter explained:

We had cases when a lawyer rejected the case of a battered woman because it was a difficult case. They would reject the case even though government said to the woman that she can have a lawyer free of charge. Usually immigration status is the obstacle for the lawyer to help a woman.

Cases with undocumented immigrant battered women were also rejected by the lawyers because free state legal aid is available only to citizens or legally residing immigrants.

We work a lot with the legal aid program in court. It is a state program in cooperation with the association of lawyers. Women can file an application and explain why she cannot pay for a lawyer. So the court decides and gives her a lawyer for free and she does not need to pay the cost of the procedure and lawyer. It is a quite fast procedure. There is some problem because this program requires the woman to provide a tax statement about her income. But if she is married she has a common tax statement with her husband and it is under his name. So she needs him to ask for a tax statement to show her income.

Without legal services available to undocumented immigrant battered women, they lack the access to information about their rights and services available to them. They are pushed deeper into isolation and further vulnerability to the violence. Even though some legal aid free of charge is provided by several NGOs acting on issues that concern the victims of interpersonal violence, they cannot handle the caseload. The legal

issues related to undocumented immigrant battered women are time consuming and impossible to resolve without a trained lawyer.

6.4.2 Sub-Theme 2: Complications with Children

Free legal consultation for battered women exists at one of the centers funded by the Greek state under the General Secretary of Gender Equality. However, it is insufficient because victims receive legal consultation without being provided legal representation in court. The lack of legal support during the court procedure creates a specific obstacle for victims of domestic violence, whether it is in the process of testifying against a batterer or in cases of child custody. The majority of interviewed social workers and other providers of social services pointed out the fact that women with children have to overcome extra problems in the process of establishing child custody, especially because they lack access to free or adequate legal help.

According to Greek Family Law (Civil Code), during a marriage both parents have joint custody of any children. Custody includes not only the care of the child and management of the child's property, but also the right to make a decision regarding the child's education and place of residence. In practice, this often means that a mother who is housed in a shelter and wants to change a school for her child or children needs the batterer's approval for the act. The majority of interviewed social workers stated:

A lot of women will eventually go back to their husband, not only because many of them are legally dependent on their spouses, but their children are

totally dependent on their fathers. Children in Greece are always recognized only under the father's name. So, if the mother is battered and wants to arrange things for her child, in many instances the father's presence is necessary. If the mother does not have legal custody over the child, she needs a signature and consent of the child's father for almost everything.

The interviews revealed that once a battered woman has children in common with her batterer, regardless whether those children came from marriage or were born out of wedlock, she heavily depends on the batterer's decision with regard to their children. If the father recognizes the child, it is almost impossible to help the battered woman. An exception was raised by a social worker:

She needs to file charges against offender because it is kind of protection for her and for us as the service provider, especially if the woman wants to have custody over her children. If she is married, parents have common custody. So, if she comes to the shelter, it is like we are helping her to kidnap those children from her husband. In those cases we are very careful and persistent. We try to push her to file for charges and for custody. At any time she can ask a court for child custody, but if she does not have any proof that she left the house because of violence, she can have a problem...

Not only immigrant women with undocumented or dependent migration status face unique difficulties to solve issues concerning the custody of their children. It is worse if the father is of Greek nationality. Greek courts frequently deny mothers' requests to allow common children to reside in a country other than Greece. As one lawyer mentioned, judges defend their decision with the argument that there is "a serious risk of physical or psychological damage for the child if he or she will return to the

mother's country of origin, or by placing the child in unbearable conditions.”

Consequently, if the mother does not want to lose her child, in many instances, she will stay in the abusive relationship.

6.4.3 Sub-Theme 3: Insufficient Resources

The problem of undocumented battered immigrants in Greece is a complex one that social workers try to solve with limited legal knowledge and without clear guidelines about what legal help is available for these victims. They not only deal with the legal confusion, but also with a limited infrastructure and a hostile environment towards females and immigrants particularly. The shelter is a facility that can keep the public aware of battered women's concerns and problems especially within immigrant community. Because of the inadequacy of police protection and its response to immigrant battered women, battered women usually viewed the shelter as the first protection from their abusers. Shelter workers have firsthand knowledge about immigrant battered women's linguistic and cultural needs, their lack of familiarity with the legal system, fear of police and legal consequences such as arrest and deportation. However, at this point, social workers in state run shelters cannot advocate for undocumented battered immigrants because they would be helping undocumented battered immigrants illegally. There is no universal access to shelters for any woman who needs it, and by helping undocumented battered immigrants, some of the state shelters have juggled between

providing social service and recognizing a political climate that keep the problem of immigrants under the rug.

The state's inability to provide social services and to view domestic violence as a significant social issue is illustrated by its practice of insufficient financing of already existing shelters. This study revealed that one of the shelters run by the Ministry of Health closed (not for the first time) because it did not have enough staff to provide services for almost 40 families. As one of the social worker disclosed:

We believe that for the shelter to work properly, we need personnel and staff 24/7. But, when this organization started only social workers, psychologists and sociologists were hired. But for the shelter to work, we need people who help clean the shelter, cook for women, general supervision over the shelter, we also need somebody like guards. We need to protect the women from their spouses. However, these personnel do not exist and the Ministry over time had found how to hire these people, these personnel. The best way was by contract for 8 months. So for 8 months we work and then we stop because we have to stop. The same people cannot work for another 8 months, their work contract cannot be renewed.

In other words, the government is unwilling to hire full time staff. Therefore, the state hires temporary workers for lower salaries with limited social and health benefits. When their contract ends, the shelter is closed until a new staff is hired for another eight months. This same shelter was closed in 2008 for ten months and currently has been closed since September 2009. The social workers that have a status of civil servants are in the meantime placed in other shelters temporarily. Another social worker from state shelter clarified the situation further:

...We are closed. It is a big and wonderful place, we are here but we have nothing to do because we don't have any women. To hire someone for 8 months looks like an illegal thing to do and it is like slavery. These workers are like slaves, they are paid 450 Euros per month without medical insurance, with nothing. So, as you can understand the situation in Greece as far as the way things work is not very good.

Apart from an awareness campaign that included a conference, creating booklets and other awareness material such as stickers and leaflets sent by mail together with electricity bills, posters in public places, organized by the Research Center for Equality Matters and the General Secretariat for Equality for approximately a year (1999-2000), there has been no other widespread effort to educate society with regard to domestic violence. In addition, state shelters should be in undisclosed locations, but the addresses of all three shelters are mentioned on their flyers.

6.5 Theme 5: Social services provided by a variety of NGOs

When discussing the role of NGOs in helping undocumented battered immigrant women, the four social workers from public funding shelters stated that they have a good relationship with NGO run shelters because, in many instances, they refer their clients to them. However, they also pointed out that NGO shelters usually have additional medical requirements for their clients that are hard to meet due to the time consuming medical procedures. Medical exams are required in order to prevent spreading of infection diseases, such as hepatitis and tuberculosis, which might be prevalent within immigrant populations. Thus, medical tests are used for screening and the identification of high-risk

clients. Furthermore, as one female social worker explained, “Some NGO shelters need additional medical tests such as tests from cardiologist, dermatologist or more blood tests for cholesterol, etc. This is a big problem; it is a big problem for us to place battered women in those shelters. Other NGO shelters only need a general check-up.”

As the respondents mentioned during the interview, virtually none of the illegal immigrants in Greece have access to medical care. Thus, these people are extremely vulnerable towards illnesses and infectious diseases. In addition, many recent immigrants to Greece came from countries that lack adequate medical care in general. However, many shelters for immigrant battered women in Greece have used a medical screening that perhaps does not necessarily deny their entry, but almost certainly makes the entry harder.

6.5.1 Sub-Theme 1: Scarce Resources

There had been an increase in the number of Greek civic associations that provide social services to immigrants. However, in many instances, these organizations are excessively influenced by the central government. For example, non-governmental organizations in Athens, which provide social services to immigrants, are mostly funded by the state. Limited state funding has often resulted in scarce resources for NGOs, such as an insufficient number of qualified staff, which causes discrimination in the process that decides which organization and under what conditions will it receive state funding. Despite increased efforts to fund social services from domestic sources, the Greek state

administers financial resources that originate outside of Greece, such as those from the European Social Fund (Petmesidou, 2006). However, those resources are undertaken in the context of specific programs for a limited time. The fragmented practices of state agencies that are involved in managing the finances for the specific programs have, in many instances, resulted in significant delays. These delays result in situations where employees work without paychecks for several months. A female social worker from a NGO that provides support for unemployed people summarizes:

...The problem with NGOs in Greece is their economic status. Most of them are funded through the state from different EU short social programs. But, that money is not distributed on time, so people don't get paid on time.

As a rule, NGOs lack the necessary financial and human resources to effectively participate in the process of implementing support programs, which was stressed by the majority of interviewed NGO members. For example, one female sociologist who works for an NGO said: "We are in trouble. Actually we don't have any funds for 17 months, so we are really in debt, something like 80,000 Euros."

A female lawyer addressed the issues related to the work of NGOs in Greece:

You have no help from the state and you have only certain NGOs with limited funds from the state. So, they help battered women for a certain time, then the fund is cut and they will stop providing the service and we forget that we have a problem and victims of domestic violence. You have to have some help from the state here. The NGOs are not enough. It must be something public, something permanent. We cannot rely on NGOs

because we cut their funding and they can't get money from private institutions because Greek society just does not have this kind of citizenship tradition to support NGOs. The NGO thing is a relatively new issue in Greece, they work with young people under 30 years old, they don't have a lot of experience, but they want to do something...but they don't have money, those workers are usually volunteers or work for very small amount of money. You can work for that kind of money when you are very young, but then later on who wants to work for nothing? So at the end, you have nothing, you cannot supply social services for so serious social problems with volunteers, without funding, without support from the state.....Those NGOs in Greece operate like businesses, making money, create jobs, they get time limited funding, they create programs, they help, they spend the money and then they disappeared.

To promote awareness of issues of battered women often depends on the activity of NGOs that focus on violence against women issues and work with battered victims. In Greece, these NGOs vary in the terms of structure and operation, but basically the majority of them are funded through the Greek state. Consequently, most of them provide services to battered women that are limited in their scope or timeline. The fact that majority of NGOs that provide services to battered women are financed mostly through the state grants promotes state biased interference into NGOs' practices and make NGOs weak to negotiate or have an impact on the state's reaction to violence against women issues. The projects related to violence against women do not attract wide public attention; thus, NGOs struggle with financial problems that block them from taking advantage of an organized professional work force and developing adequate responses to the problems of interpersonal violence.

6.5.2. Sub-Theme 2: Trafficked Victims Resources for Battered Women

As previously mentioned, interviewed respondents from NGOs said that most of their funding came to Greece typically from EU short term programs. However, the funds were not handled by the NGO's management, but they were controlled by a variety of state ministries. The respondents were also aware that the initial target population, for which the funding was reallocated, was not earmarked for addressing problems of battered women. The short term social programs in the past were created mostly for the victims of trafficking. In 2002, predominantly as a result of the US Department of State's Trafficking in Person Report, the Greek government was pressured by the international community to deal with this wide spread phenomenon. At the same time, significant resources were pumped into Greece to support its effort to tackle this problem. One female sociologist who worked for an NGO and who was a part of the initial organization to respond to trafficking victims in Greece mentioned:

...We tried to approach all the shelters in Greece that deal with trafficking victims and we found out that there were no trafficking victims when we started in February 2009, none of the shelters in Athens had trafficking victims. But on the contrary, what we realized....the main issue for the women in the shelters is domestic violence. So, by discussing this with the officials from NGOs, we realized that although all the funding is provided for trafficking it is actually used for battered women....and that the problem of domestic violence in immigrant families is widespread.

Financial resources received from short term programs means that in two years, an NGO would run out of money and eventually closed, or shift its focus to issues other

than domestic violence. Therefore, in Greece there is no stable long term help designated specifically for battered women. In addition, because the target population is usually broader than battered women, social services are provided without any clear guidelines or structure. As one female worker for the UN stated:

...A change needs to be done on every level. We need change in the strategy of the state in terms of social security. For example the last project that I had participated in for victims of violence, lasted for two years and the project was managed by the Ministry of Foreign Affairs. But what does the Ministry of Foreign Affairs have to do with the problem of domestic violence? You need to have a referral mechanism, an action plan, and this does not exist in Greece. You have here bits and pieces, but not a system that works. So, you need to have a law, then you have to have a mechanism that enforces the law, and then you have to have services.

It seems that non-governmental organizations depend on state funding because there is an absence of a relationship between civil society and the private sector. The state's funding projects that are carried out by the majority of NGOs without any specific guidelines led to some public distrust of the NGOs' work quality in Greece. One female sociologist that works for a constitutionally sanctioned Independent Authority organization offered her view when asked about the work of NGOs in Greece and their response to the problem of domestic violence within the immigrant population:

...They are businesses. You cannot trust those NGO's. In order to fight domestic violence you have to have the wheel, first the society must accept that we have a problem of domestic violence....but NGOs work with issues that are right now in 'fashion'. They create their services and programs according to where the resources are available.

This sour view of NGOs was also visible when one female activist mentioned: “Our group is an activist group; we do not call ourselves non-governmental organization because we are not accepting any resources from the state.” The negative reputation of some NGOs in Greece is mostly related to the fact that most NGOs rely on state financing and therefore are bound by state policy and rules. There are no sufficient inquiries into the NGOs’ practices, programs or evaluation of their services. In addition, there is lack of long-term assessments of the effects created by NGOs. Those few NGOs that provide services without state funding have problems in securing their finances due to a lack of voluntarily contributions of funds or staffing from the general public.

6.6 Conclusion

The situation of undocumented immigrant battered women in Greece is alarming (Miller& Wasileski, forthcoming). Not only is the issue of domestic violence viewed as marginal by the Greek state and society, but also immigrants lack access to any legal and social remedies. In many instances, they are vulnerable to arrest and/or deportation. They have little or no access to institutional and economic resources or to information about the legal system in the country (Miller& Wasileski, forthcoming). Unlawful immigrant statuses put battered women in vulnerable legal, social and personal situations. It was not until 2006 that specific legislation in Greece defined domestic violence, recognized domestic violence as a crime, provided penalties for offenders, and recognized marital rape as a punishable criminal offense against a person and personal freedom. However,

this particular legislation did not address issues of intimate violence against undocumented immigrants. As this study found, immigrant women are legally protected against violence only if they are recognized as traffic victims. Undocumented immigrant battered women lack any legal or social protection against their batterers.

Since immigrant women often lack necessary work permits as a result of their unlawful immigration status, employment in the informal economy is their only alternative. Work in the underground economy typically involves a lack of legal protection from employers' exploitation and no access to welfare benefits. In addition, the long work hours and the typically poor working conditions of immigrant women contribute to their social isolation. Separation from native populations and members of their own migrant community leaves them with nowhere to go for safety and protection from violence in their homes. These factors exert an influence on immigrant battered women's decision to leave their batterers. Even if they found the power and courage to leave their batterers and seek help from shelters, they are legally banned from services provided in state run shelters. This study revealed that it is based on the discretion of social workers in state run shelters whether or not the undocumented immigrant battered women will be housed illegally in the shelter.

The situation of immigrant battered women compared to battered women who are citizens is dismal. Immigration policies disadvantage immigrants with regard to access to social support and criminal justice agencies. In other words, the immigration status of battered women is in many instances the first and foremost issue with which officials deal. Immigrants are first viewed as aliens, possibly illegal, and only second as potential

victims of violence. In the case of undocumented immigrants, despite a public and legal acknowledgement of intimate abuse, women can still be subjected to legal consequences such as arrest and/or deportation. Consequently, an abused immigrant woman, besides fearing the perpetrator, also fears deportation and other legal sanctions related to her undocumented immigration status. The majority of respondents mentioned that undocumented immigrant battered women will be arrested and detained after seeking help from local police departments. In addition, police officers have very little or no training in responding to violence against women.

Thus far, the Greek state has demonstrated little inclination to address the issues faced by immigrant battered women. Perhaps the reason behind this is belief in the sanctity of family institutions, which inhibits a much needed response to the prevalence of domestic violence. Moreover, overcoming antipathy might lead to a widening of the public agenda to include related controversial issues involving immigrants, such as their integration, access to naturalization, and their political enfranchisement. Of all EU member-states, the Greek public consistently registers as the country with the highest degree of hostility towards immigrants (Shashati and Mardaki, 2007).

Scarce social services in most cases provided only limited support to immigrant battered women as a result of insufficient resources and lack of general infrastructure in Greece. Most of the governmental and non-governmental shelters were funded to help trafficking victims. However, these funds were time limited and the majority of shelters had lost funding or was refused grants as a result of contract conditions. The interview data revealed that undocumented immigrant battered women are housed in shelters.

However, their problems are not adequately dealt with because the Greek legal system does not address issues within immigrant communities. This study also revealed that as a result of limited state funds, many NGOs provide services to battered women only for a very limited time and only partially within a limited scope. Many NGOs do not employ personnel that specialize in issues of intimate violence. In addition, legal aid is scarce and available only for Greek citizens.

Even though the study was limited to the geographical area of Athens, the findings suggest that there is an insufficient geographical distribution of services that the governmental or non-governmental organizations provide for battered women. Even fewer resources would exist in smaller cities. In addition, there is a lack of collaboration and communication between various organizations and their services.

Chapter 7

REGULARIZATION IN THE UNITED STATES

Chapter Five explored the role of gender in Greek regularization programs. This chapter analyzes whether gender is a factor that influences the process of migration status adjustment for undocumented immigrants in regularization programs in the United States under the Immigration Reform and Control Act of 1986 (IRCA). Although a number of studies have looked at gender differences of economic consequences for newly regularized immigrants within IRCA (Powers, Seltzer and Shi, 1998; Kossoudji and Cobb-Clark 2002; Amuedo-Dorantes, Bansak and Raphael, 2007), there are no analyses available about whether or not the requirements for adjusting the migration status of applicants at the beginning of the regularization process are affected by applicants' gender.

While the IRCA consisted of several provisions (e.g. sanctions on employers for hiring undocumented workers; enhanced resources for the U.S. Border Patrol; and, reform of legal immigration-temporary agricultural workers), this chapter focuses explicitly on the requirements for regularization of undocumented aliens' migration status under Section 201 of the Immigration Reform and Control Act of 1986 (IRCA). More specifically, analyses focus on prerequisites of entrance before January 1, 1982,

continuous unlawful residence since 1982, English proficiency, and knowledge of U.S. history and government as requirements for permanent resident (LPR) status.

This chapter aims to highlight whether females were disadvantaged in their access and abilities to meet the above mentioned requirements for becoming legally residing immigrants in the U.S. This issue is especially salient given the possible discretion that adjudicators are afforded in carrying out and enforcing the IRCA (while using positivist and naturalist legal thought as a backdrop to the analysis).

Before turning to the analyses of regularization programs in the United States, two major differences from Greece have to be pointed out. First, while the Greek government until the late 1990s was unable or unwilling to deal with the migration phenomenon, the United States, as an established land of immigrants, has dealt publicly and politically with immigration events and integration of immigrants for decades. Second, the Greek government had implemented regularization program several times since 1998 mostly because many of its regularization programs failed to adequately reduce the number of undocumented immigrants and consequently their integration into the Greek society. Regularization practices in Greece provided only temporary residence and work permits that needed to be renewed more than once. Thus, many regularized immigrants in Greece eventually fell back into illegality, some of them several times. On the other hand, a large-scale regularization program (IRCA) that was implemented in the United States in 1987 was specifically designed to stop the further flow of unlawful migration into the country and change the undocumented migration status for those who had been part of the U.S. labor market for a certain period of time (Kossounji & Cobb-

Clark, 2002). The IRCA program was designed with a clear and straightforward pathway to permanent residency and eventual naturalization for regularized immigrants. Even though possible consequences of IRCA program were spelled out in economic terms, unlike with Greek's regularization programs, the entire IRCA process was the final result of ten years of long congressional debates (Hayes, 2001). However, many undocumented resident aliens did not apply for regularization as they were ineligible due to the fact that they had to prove their residency in the U.S. prior to January 1982 and also as a result of a high administrative fee that they could not afford to pay.

As it was already mentioned in previous chapters, undocumented immigrants face more obstacles to employment than legally residing immigrants. Consequently, the majority of undocumented immigrants are forced to work in the informal economy, often for a minimum income and without benefits. For undocumented female immigrants in Greece and in the U.S., the variety of available jobs in the informal economy is even further limited. As such, the vast majority of female undocumented immigrants are employed in domestic services. Domestic services in both countries are considered to be informal jobs without legal regulations or governmental attempt to control this labor. Even though some states in the U.S., such as New York, regulate labor in domestic services and some of those services might be performed by legal immigrants receiving the legal minimum wages who pay social security and income taxes, the vast majority of domestic service works are performed by undocumented immigrants (Pisani, Yoskowitch, 2002). Domestic services are considered to be the extension of a 'natural' female's roles in the family and society (Human Rights Watch, 2006). It is a job mostly

performed in the privacy of an employer's residence, beyond the public eye, and without legal protection. Thus, it is also often a setting that breeds employees' exploitation (Clifford, Pearce & Tandon, 2005). While in Greece, it is considered unlawful to interfere into the privacy of households, courts in the U.S. have histories of prosecuting and convicting employers under a statute prohibiting involuntary servitude (Human Rights Watch, 2006). Therefore, employers face criminal charges if they knowingly and intentionally subject another person into forced labor and services without due process.

The analysis of regularization programs in Greece revealed that law makers as well as those agents that carried out the regularization programs exercised significant discretion in their decisions about who was eligible for regularization and who would be eliminated from the process. In many occasions, females were disadvantaged in the process of regulating their migration status as a result of the ways in which particular requirements were articulated in the text of law and later interpreted into the practice. The situation is even worse for undocumented immigrant battered women who were neither eligible nor able to adjust their migration status through regularization. One of the key solutions to end abusive relationships is to connect with the public social services, get a job, and access social benefits. However, residing in Greece with an undocumented migration status while living in an abusive intimate relationship left battered women marginalized and alienated without the opportunities to work in the formal economy, utilize social benefits, and access conventional legal or institutional help.

This chapter analyzes the U.S.' requirements for regularization under IRCA and how social actors have interpreted the legal text. Were females disadvantaged in the

process of adjusting their migration status due to the articulation of the legal text that gave migration officers' discretion? Did officials vary in their interpretation of the law, such as, did they resist following the text of law, or did they modify the requirements for regularization?

7.1 Regularization of Undocumented Immigrants under IRCA Legislation

As discussed in greater detail in Chapter Three, under the Immigration Reform and Immigrant Control Act of 1986 (IRCA), two categories of undocumented immigrants were allowed to regularize their migration status: those that have been residing unlawfully in the U.S. prior to and since January 1, 1982, and 'special agricultural workers' (SAWs) who had performed agricultural work for a specified period prior to IRCA's enactment in 1986. The latter category (SAWs) is not the focus of current analysis.

7.1.1 Two-tiered procedure of IRCA

The IRCA procedure was divided into two stages. In the first stage, undocumented immigrants applied for temporary legal residency. To be eligible for temporary residence, an undocumented immigrant needed to establish that he/she entered the United States before January 1, 1982, and that he/she resided continuously in the United States until the date when the application was filed. The period for filing the application for regularization was from May 5, 1987, until May 4, 1988. It is important to

mention that temporary residency was issued with temporary work authorization. After 18 months of having temporary residency, immigrants had 12 months to apply for a permanent resident status by meeting certain conditions, typically required for the naturalization process, such as understanding English and knowing the history and government of the United States.

7.1.2 First-stage: Requirements of Residency and Physical Presence in the U.S.

In order to prove a continuous physical presence and residence in the U.S. applicants needed to submit proof of identity, proof of residency, and evidence of sufficient financial resources. Undocumented immigrants are unlikely to use the banking system in the country since they generally tend to work in the informal economy and live on cash. Thus, in order to prove financial resources and residency, the majority of undocumented immigrants have depended on their employers and landlords to provide required documentation for them. However, similar to the situation in Greece, many employers, property-owners, or former co-workers refused to provide such credentials for the immigrants, possibly fearing civil or criminal penalties and legal consequences from the tax departments (Hayes, 2001). Unfortunately, there is no available data on whether female immigrants were less likely than their male counterparts to obtain such documents as a result of their specific position in the family and labor market. Several researchers argue that female immigrants were likely to fail to provide the proof of continuous physical presence in the US as a result of working in domestic services (Baker, 1997,

Cooper & O'Neil, 2005). As studies about domestic services suggest, the bulk of domestic services are done outside the purview of government authorities and thus, it is not surprising that these employers were unwilling to provide supportive documentation for their employees (Pisani & Yoskowitch, 2002; see also Mattingly, 1999).

The key responsible agents in the first stage of the IRCA implementation were the local Immigration and Naturalization Services (INS) or organizations certified by the INS to assist in the regularization such as United States Catholic Conference and National Immigrant, Refugee and Citizenship Forum (Hagan & Baker, 1993). According to Hagan and Baker (1993), a total of 33 local INS offices, separate from INS district offices, were set up across the United States to collect the applications and to interview the applicants. Taking into account the decentralized structure of INS and the fact that staff for local INS offices were hired outside the agency, the officers exercised a great deal of discretionary power over applicants (Hagan & Baker, 1993). For instance, the authors argued that the local INS staff in Houston was significantly influenced by local immigrant advocates. Immigration officers found it hard to personally face the applicants and subsequently reject their application because they lacked documentation from their employers or colleagues. As such, local INS staff processed applications of undocumented immigrants even for those that were ineligible for regularization and "...within several weeks, they received work authorization cards and were notified that their residence status would be determined by the Regional Office within six months..." (Hagan & Baker, 1993:523). Consequently, many ineligible immigrants applied for temporary residence with the knowledge that although they were ineligible for regularization, they could be granted a

temporary issued work authorization, for at least six months, possibly prolonging their presence in the United States' labor market (Hagan & Baker, 1993).

One might argue that the decision of INS officials to process the application of ineligible immigrants for regularization was illegal. The INS staff avoided applying the law as it was articulated in the text and therefore, the rule of law lost its strength. There is always room for discretion in the application of the law since the law cannot possibly regulate every scenario. Positivists and naturalists as well would not consider the actions of INS officials in the abovementioned situation as illegal because, at the end of the process, it was up to officials from the Regional INS offices to decide whether applicants met the regularization requirements and were eligible for a grant of temporary residency.

The second requirement for temporary residence, entrance in the United States before January 1, 1982, provided a significant challenge for certain groups of immigrants. There is a sizable body of literature on how this particular requirement has created families with 'mixed' immigration status. Under IRCA's regularization provisions, every alien had to individually meet the requirements. Thus, it was not uncommon that some family members (spouses, minor children) did not qualify for regularization as a result of the cut-off date for eligibility (Woodrow-Lafield, 1994; Hagan & Baker, 1993; see also Cooper & O'Neil, 2005). Just like regularization programs in Greece, the IRCA did not contain any provisions for undocumented family members of regularized immigrants. Thus, many eligible aliens were probably reluctant to apply for regularization as they feared that their family members would be deported from the country. As a result of the negative consequence of this requirement, through the 'Family Fairness Guideline' the

INS eventually granted so called ‘indefinite voluntary departure’. In other words, ineligible undocumented family members were allowed to stay in the country without adjusting their undocumented status under some kind of semi-legal status. As Hagan & Baker (1993) argue, this guideline helped mainly female undocumented immigrants working in domestic services who were unable to provide documentation for their employment or residence. However, the ‘family fairness guideline’ as articulated in the INS procedures gave major discretionary power to immigration officers:

“...Unmarried children under the age of 18 who were in the United States in an unlawful status prior to November 6, 1986 and whose parents (or sole parent in the case of divorce or death of spouse) have qualified for lawful temporary residence status under IRCA, will be granted voluntary departure on a “blanket basis”.

Ineligible spouses and those children not covered by blanket grant of voluntary departure will be considered on a cases-by-case basis and may be granted voluntary departure if compelling or humane factors are present.” (Central Office Memorandum, October 21, 1987).

While some testimonies that informed the ‘family fairness’ relief were transferred into the practice by individual INS staff, not every officer was receptive or acted on behalf of applicants. For example, Vanna K. Slaughter, the North Texas Immigration Coalition in the hearing before the Subcommittee on Immigration, Refugees, and International Law, One Hundredth Congress, Second Session, August 23, 1988 testified:

The INS' Family Fairness Guidelines issued in November 1987 fall short in their contemplation of a viable remedy to the painful, yet common scenario, of family units which are tragically separated by IRCA's very provisions...It is of concern to us that the door wide open to an inconsistent application of the guidelines, given the discretionary nature with which the non-blanket cases are to be considered. Already in Texas we are aware of discrepancies in the different INS districts

Due to a lack of data, it is impossible to estimate the magnitude of this 'mixed migration status' phenomenon. It is also impossible to conclude whether females were more likely than males to be ineligible for regularization and thus, forced to apply for the family fairness benefit. As the INS's Family Fairness Guidelines were solely based on discretion of the officers, and therefore applied unequally, immigrant advocates and some legislators pushed for legislation that would specifically deal with this problem. A member of the Subcommittee on Immigration, Refugees, and International Law, John Bryant from Texas argues:

...I feel that the family unification matter should be resolved through statute, using the same logic that was used to justify the legalization in the first place. If you are trying to bring people out of the shadows, then you must bring the family out of the shadows, not only the individual. I think, however, it is interesting to note that, at least as of now, apparently you have no heard reports of deportation yet." (Hearing before the Subcommittee on Immigration, Refugees, and International Law, One Hundredth Congress, Second Session, August 23, 1988).

The INS officials acted like legislators when they created the 'Family Fairness Guidelines'. Because the IRCA legislation did not provide answers to the problem of

‘mixed families’, INS officials could not avoid acting as law makers and making decisions according to their preference.

The ‘Family Fairness Guidelines’ permitted non-regularized family members to stay in the country in some sort of semi-legal migration status, but the immigration quota system subsequently raised a major obstacle for non-regularized immigrants to eventually adjust their migration status through family reunion. Unlike immediate relatives of U.S. citizens who are not subject to numerical limits, relatives including immediate relatives of permanent residents are subject to quotas (numerical limits). Depending on the country from which one originates, these relatives may also be subject to country-specific numerical limits. Thus, even though non-regularized spouses were able to stay in the US, it would take years for some of them to receive permanent residency within the family reunion program. After significant pressure from lobbyist groups, Congress eventually, through the Immigration Act of 1990, created the ‘family unity’ provision to provide protection from deportation and/or removal and eligibility for employment authorization to the spouses and children of aliens who were regularized under IRCA. This Act significantly increased the availability of visas for undocumented resident family members of regularized aliens.

7.1.3 Second-stage: Understanding English, the History and Government of the United States.

One of the requirements for adjusting the temporary status to permanent residency was having literacy and basic citizenship knowledge. As the Article 245A(b)4(i)(A) of the Act, reads:

...the alien meets the requirements of section 312 of the Immigration and Nationality Act, as amended (relating to minimal understanding of ordinary English and a knowledge and understanding of the history and government of the United States); or (B) Is satisfactorily pursuing a course of study recognized by the Attorney General to achieve such an understanding of English and such a knowledge and understanding of the history and government of the United States...

Therefore, the applicants could fulfill this prerequisite either by:

(iii)(A) ...Speaking and understanding English during the course of the interview for permanent resident status. An applicant's ability to read and write English shall be tested by excerpts from one or more parts of the Federal Textbooks on Citizenship at the elementary literacy level...

or

(iv) ...the applicant must submit evidence of such satisfactory pursuit in the form of a Certificate of Satisfactory Pursuit (Form I699) issued by the designated school or program official attesting to the applicant's satisfactory pursuit of the course of study...

In other words, the applicants could either take a test immediately during the interview for permanent residency or attend 40 hours of a 60 total hours English course approved by the INS. Baker (1990) argues that the option for attending English classes became the most selected among immigrants but, at the same time, it was the most challenging one in terms of implementation, funding, and establishing cooperation between a variety of public and private organizations. State's educational agencies had to implement and carry out those courses and the IRCA under section 204 provided financial assistance for the so-called State Legalization Impact Assistance Grant (SLIAG).

The federal government gave states a great deal of discretion to design the size, scale, and priorities about how to use the grant (California Postsecondary Education Commission, 1989). However, the classes offered in many states were significantly delayed as a result of either conflict between state and community-based educational agencies, delays in federal reimbursement, or the holdup in circulating the SLIAG rules (Baker, 1990, see also Liu, 1991). The SLIAG rules were supposed to assist states in the process of making decisions regarding how many English classes would be needed for the number of eligible immigrants and their level of proficiency in English. For example in California, delays in obtaining this information resulted in a limited number of classes. So, providers of English classes were forced to choose between a first-come first-serve policy, or rely on discretionary power to decide who can enroll, for how long, or what type of classes were the most needed (California Postsecondary Education Commission, 1989). Consequently, delays in classes or their limited numbers resulted in postponed

meeting of the regularization requirements for many immigrants and their process to obtain permanent residency.

There are no data available about how the abovementioned problems affected the probability of female immigrants attending these classes since they had to work and take care of their children. It is also impossible to conclude if female immigrants were more or less likely than males to fail the tests as a result of insufficient proficiency in English. Because the majority of applicants for regularization came from Mexico, there was a strong reason to believe that they had high educational needs and little if any literacy in English above the national average (California Postsecondary Education Commission, 1989).

Table 7-1. Proficiency in English of Applicants for Temporary Residency in 1989

	Male		Female	
	yes	no	yes	no
Ability to read and understand a newspaper in English	2,267 (59%)	1,201 (51%)	1,563 (41%)	1,162 (49%)
Ability to speak English with sales clerk	2,608 (60%)	860 (46%)	1,707 (40%)	1,018 (54%)
Ability to speak English with a doctor, nurse and a teacher	2,475 (60%)	993 (49%)	1,679 (40%)	1,046 (51%)
Ability to speak English by phone	2,464 (61%)	1,004 (47%)	1,581 (39%)	1,144 (53%)

Data source: 1989, US Immigration and Naturalization Service; 1992, US Department of Labor

Table 7-1 shows the proficiency of undocumented immigrants to speak and understand English at the time when they applied for temporary residency. The data collected by The Immigration Nationalization Center (today known as the U.S. Citizenship and Immigration Services (USCIS)) is described in much detail in the proceeding text. Nevertheless, male immigrants report slightly higher proficiency in English in all categories compared to their female counterparts.

7.2 What the Data Says about the Gender?

According to Rytina (2002) 1,763,434 undocumented immigrants (70% Mexicans) applied for temporary residency and approximately 90 percent of applicants were successful in the entire process of regularization. In other words, from 1,763,434 applicants for temporary residency, 1,595,766 (90%) were granted permanent residence. There is no available data regarding applicants that did not meet the requirements for regularization in the first stage for temporary residency. Thus, it is impossible to statistically support the initial assumption that gender played a role in the process of migration status adjustment.

This gap in data can be partially rectified by examining the results of a survey commissioned by Congress in the late 1980s. The Immigration Nationalization Center (today USCIS) was authorized to conduct a survey with randomly selected undocumented immigrants applying for regularization under IRCA. A total of 6,193 applicants for temporary residency were interviewed by officials from the Immigration

Nationalization Center in 1989. Females comprised 44% of the sample (2,725). Survey questions, among other issues, provided information about the applicants' labor force status, and information about household compositions including family members' migration status and their relationship to immigrant applying for regularization in 1987 under Section 201 of the IRCA provisions.

Two-thirds from the original sample size of 6,193 immigrants (total of 4,012) were granted lawful permanent residence and they were re-contacted for follow up interviews by The Immigration Nationalization Center in 1992. In other words, approximately 65 percent of applicants for regularization were successfully legalized and able to obtain permanent residence statuses. From the total of 4,012 individuals, 3,766 (94 percent) were successfully contacted again when the second stage for regularization was completed and they were re-interviewed in the 1992 survey. As the total sample of 6,193 applicants for regularization was randomly selected, the results of data analyses can be generalized for the entire population of undocumented immigrants that applied for regularization under IRCA.

This national data set reveals that 35 percent of applicants for regularization did not receive permanent resident status. However, it is impossible to conclude whether or not those 35 percent of undocumented immigrants were ineligible for temporary status (they were eliminated from the process at the first stage), or if they were ineligible or withdrew their application for permanent residency (the second stage of regularization).

Table 7-2 below shows gender differences among applicants that were unsuccessful in the process of regularization.

Table 7-2. Gender Differences of Unsuccessful Applicants for Regularization under IRCA

	Male	Female	Total
Applicants for temporary residency	3,468 (56%)	2,725 (44%)	6,193
Unsuccessful applicants for regularization	1,340 (39%)	841 (31%)	2,181 (35%)

Data source: 1989, US Immigration and Naturalization Service; 1992, US Department of Labor

The data shows that there were no significant differences in the number of applicants that were eliminated from the regularization process based on gender. From the entire sample of 6,193 immigrants, 39 percent of males were not granted permanent residency as compared to 31 percent of female immigrants.

To further explore any potential gender differences among immigrants striving to adjust their undocumented migration status under IRCA, a sample of 3,087 immigrants (44.7 percent of female) was selected from the data set conducted by the USCIS. The selection was made for two reasons: first, all 3,087 individuals were interviewed both times, in 1989 and 1992, since they were successful in the process of adjusting their migration status and granted permanent residency (green card). Second, some of the immigrants in this sample were married or had a partner and answered questions about the migration status of their spouse either in one or both surveys (see description of respondents' status in Table 7-3 below).

Table 7-3. Status of Respondents in 1989 (First Wave-temporary Residency)

	Male	Female
Married and living in the same household	963 (54%)	812 (46%)
Living with partner as married	213 (47%)	241 (53%)
Total	1,176	1,053

Married but spouse living somewhere else in the US	29 (49%)	30 (51%)
Married, but spouse outside of US	139 (73%)	51 (27%)
Widowed	2 (33%)	4 (67%)
Divorced	22 (44%)	28 (56%)
Formally or legally separated	19 (49%)	20 (51%)
Never married	321 (62%)	193 (38%)
Total	532	326
TOTAL	1,708	1,379

Data source: 1989, US Immigration and Naturalization Service; 1992, US Department of Labor

In 1987 when the immigrants filed their application for adjusting their migration status, from total of 3,087 applicants 1,176 males (38 percent) and 1,053 females (34 percent) were living in the same household with a wife/husband or a partner. Therefore, a total of 2,229 respondents were asked about their migration status of their spouses in the

1989 survey. Table 7-4 below shows that majority of applicants' spouses were undocumented immigrants at the time when the application for regularization was filed. Almost 86 percent of male spouses were living in the United States without U.S. citizenship or permanent residency as compared to 80 percent of female spouses. The category of 'other migration status' may possibly consist also of immigrants with visa entry. Moreover, this category most likely refers to the immigrants with undocumented status whether they entered the US undetected or if their visa expired.

Table 7-4. Spouses' Migration Status in 1989

	U.S. Citizen or Permanent Resident at the time of application (1987)	Other migration status
Male spouse of applicant for regularization	168 (14.3%)	1,008 (85.7%)
Female spouse of applicant for regularization	207 (19.7%)	846 (80.3%)
TOTAL	375	1,854

Data source: 1989, US Immigration and Naturalization Service; 1992, US Department of Labor.

In 1992, a slightly higher number of re-interviewed immigrants were either married or lived with a partner compared to 1989. A total of 2,608 immigrants (of which females comprised 44 percent) were asked questions about the migration status of their spouses/partners. Table 7-5 illustrates that in 1992 when regularized immigrants were re-interviewed, the majority of their spouses were regularized and granted legal migration status under various provisions of IRCA.

Table 7-5. Spouses' Migration Status in 1992.

	Male spouses	Female spouses
Regularized under General Regularization	830 (52%)	771 (48%)
Regularized under SAW provision of IRCA	28 (44%)	36 (56%)
Family Fairness Provision	108 (83%)	22 (17%)
Permanent Resident	155 (50%)	153 (50%)
Temporary Visa	50 (74%)	18 (26%)
U.S. Citizen	119 (55%)	99 (45%)
Other	166 (76%)	53 (24%)
TOTAL	1,456 (56%)	1,152 (44%)

Data source: 1989, US Immigration and Naturalization Service; 1992, US Department of Labor.

Once again, the data reveal that there are no significant differences in the regularization procedure based on gender. In addition, more male than female spouses were regularized under the ‘family fairness provision’. Thus, the data suggest that more male than female undocumented immigrants were ineligible for regularization under the IRCA provision. As mentioned above, the ‘family fairness provisions’ was set up as a relief for non-regularized spouses who wanted to remain in the United States with their regularized husbands/wife. Therefore, they were subject to case-by-case decisions by individual INS District Directors reflecting the latter’s own values and principles. The category ‘other’ consists of immigrants’ spouses that were undocumented and illegally

residing in the country. Once again the data suggest that there are more males' spouses than females' spouses listed in this category, therefore more male immigrants remain undocumented.

7.3 Conclusion

Unlike regularization policies implemented in Greece, the IRCA provisions and requirements for regularization in the U.S. were clearly articulated in the legal text. However, INS officials did exercise some level of discretion because they were influenced by individual immigrants and their life stories. Faced with real people, the INS responded to exigent circumstances where the strict application of law potentially seemed unjust.

The inadequacy of the available data of IRCA's process makes it difficult to determine whether requirements for regularization disadvantaged immigrant women since the data includes only immigrants who were successful in the first stage of regularization (and were granted temporary residency). The data does not include immigrants who were ineligible or who did not apply for the adjustment of their migration status. Therefore, immigrant women who were rejected from the process of regularization as ineligible or who did not apply for regularization remained absent from social inquiry.

However, the analysis of the legal text and the requirements that were articulated in economic terms provides a space for the possible discrimination of immigrant women

through the process of adjusting their migration status. To gain temporary residency, the requirements for regularization were strict in economic terms. Applicants had to prove that they had a sufficient income and a place to live. Because many immigrant women work in domestic services with low incomes, their ability to meet these requirements would be more difficult than for immigrant men. In addition, scholars have argued that females were more likely than males to be ineligible for adjustment of their migration status, (Baker, 1997, Cooper & O'Neil, 2005). It is possible that the economic restrictions of regularization requirements could have filtered out immigrant women who were not able to meet these strict criteria, therefore biasing the available data of those who received temporary residency.

The analysis of available data did not show any differences between male and female immigrants in the process of gaining permanent residency once they were granted a temporary residency permit. After receiving temporary status, the data shows that the majority of both male and female immigrants were successful in the process of obtaining a permanent residency. Unlike the requirements for temporary status, the requirements for permanent residency were not based on economic factors. Instead, the requirements for permanent residency were literacy and basic citizen skills. Because these new regularization requirements were not articulated in economic terms, they likely did not have a discriminatory impact on immigrants based on gender.

Throughout the analysis it became obvious that the major problem associated with the IRCA was its refusal to grant derivative legalization for family members of undocumented immigrants eligible for regularization. These non regularized family

members under the IRCA would eventually become eligible for legal admission under the second preference of U.S. immigration law. However, the visa numerical restriction for the spouses and children of permanent residents possibly created a several years waiting period prior to being admitted in the U.S. legally (Miller, 1989). The INS' effort to deal with this problem through so called 'Family Fairness Guidelines' was widely criticized because the guidelines gave arbitrary discretionary power to the individual officers. Consequently, after long Congressional debates, the Immigration Act of 1990 issued 55,000 visas to spouses and children of aliens legalized under the provisions of the Immigration Reform and Control Act of 1986 in each of the Fiscal Years of 1992 – 1994.

The IRCA spearheaded a dramatic change in the United States immigration law. Prior to the IRCA, migration legislature outlawed illegal entry into the United States, but it did not explicitly prohibit businesses to employ undocumented immigrants. In the more than twenty years after implementation of IRCA, a noteworthy amount of literature emerged in order to interpret and evaluate the IRCA's impact on migration to the United States. The IRCA served two major functions. First, by enacting employer sanctions, Congress acknowledged that U.S. demand for unauthorized migrants was an important reason for illegal migration. Second, by regularizing almost 2.7 million of undocumented immigrants already residing in the United States for several years, legislators focused on integration of regularized immigrants into the host society and its formal economy.

However, since the regularization, the pool of illegal immigrants in the country has continued to grow and now exceeds eleven million (Passel & Cohn, 2011). Undocumented immigrant populations have long been residing in the U.S., and IRCA

provisions, under which approximately 2.7 million unauthorized aliens were legalized, proved to be only a temporary solution. Regularization programs were viewed as a one-time solution, however; today some of the immigrants still might receive legal status under IRCA provisions or subsequent family reunification. The conditions articulated in the family reunion legislation, whether for spouses of regularized undocumented immigrants under the IRCA provisions, or those entering the U.S. as a spouse of U.S. citizens and permanent residents, can create significant difficulties in the case of intimate violence.

The following chapter focuses on analyses of the data that were obtained through interviews with immigration lawyers and social services providers about their day to day work with undocumented battered immigrants and about the obstacles that they faced when providing assistance.

Chapter 8

INTERSECTION OF UNDOCUMENTED MIGRATION STATUS AND INTERPERSONAL VIOLENCE– CASE STUDIES IN DELAWARE AND NEW YORK CITY

The intersection of domestic violence and migration became a subject of research and scholarly literature in the United States only in the last decade (Ingram, McClelland, Martin, Caballero, Mayorga & Gillespie, 2010). Most of the existing research focuses on cultural differences, gender relations in immigrant's families, the ways in which migration may possibly increase violence in immigrant families, and immigrant women's vulnerability to this aggression (Erez, Adelman & Gregory, 2009). In addition, the bulk of existing studies highlight the connection between domestic violence and the legal challenges faced by immigrant women that entered the United States legally within family reunion programs (Erez, Adelman & Gregory, 2009; see also Ingram, McClelland, Martin & at al., 2010; Cransall, Senturia, Sullivan & Shiu-Thorton, 2005). However, this body of research fails to address the legal response to the unique situation of undocumented immigrant battered women who are not in a legal union with U.S. citizens or permanent residents (green card holders). The gap between migration statutes and their implementation places these women at risk for continued violence and exploitation.

According to Passel and Cohn (2009), based on data collected by the Census Bureau in March 2008, approximately 4.1 million immigrant women in the U.S. reside unlawfully. Consequently, this chapter predominantly focuses on undocumented immigrants who have not necessarily entered the U.S. through legal channels, but perhaps crossed the borders undetected or overstayed their visas, and who are not in legal unions with U.S. citizens or permanent residents. Through in-depth interviews with migration lawyers and social service providers, this research presents new data to broaden our understanding of the impact of migration status on the victims of domestic violence.

This chapter attempts to bridge the gap in knowledge about how the undocumented migration status of female victims of interpersonal violence plays a role in their efforts to leave abusive relationships. Undocumented immigrant battered women were not recognized by the law as victims of crime until the year 2000, when Congress created a nonimmigrant U-visa as a way for adjusting the migration status for victims of particular crimes including domestic violence. However, U-visa relief raises new questions about how the existing legal framework accommodates the special needs of undocumented immigrant women who suffer from interpersonal violence. This research therefore asks: What are the obstacles that undocumented immigrant battered women face even though such a powerful policy exists? Are they punished for the violation of migration law by residing in the U.S. unlawfully, or are they treated by law enforcement agencies and social service providers as crime victims that need and deserve protection and assistance?

United States migration legislation is primarily a family-based system. In other words, the family reunion policy is the predominantly used legal channel through which immigrants can migrate and lawfully reside in the United States while accompanying their U.S. citizens or permanent resident spouses. As already mentioned in Chapter Three, the majority of immigrants who enter the United States through family reunion policies are women who are legally dependent on their spouses. Nevertheless, many immigrant women enter the U.S. illegally or simply overstay their visa whether as a result of quotas (in the number of immigrants who are allowed to join their family members in U.S.) that creates lengthy backlogs in the family reunion migration, or as a result of promising economic opportunities in the American labor market. According to *The New York Times* in 2008, undocumented immigrants outnumbered lawfully residing immigrants for the first time in the history of the United States (*The New York Times*, 2011). The impacts of interpersonal violence in this growing population have not been adequately researched.

To address the void in understanding about undocumented immigrant battered women, 22 in-depth interviews were conducted with immigration lawyers and a variety of social service providers; 12 of these interviews were conducted in the state of Delaware and 10 in New York City. These interviews revealed the obstacles that professionals confront while attempting to assist undocumented immigrant battered women. Talking with the respondents revealed how the legal status of immigrant women, especially their undocumented migration status, affects female immigrants' chances to escape interpersonal violence. Respondents from this diverse groups of social

services providers and migration lawyers described their experiences working with immigrant women, their suggestions for change or improvement, and the obstacles that they have faced in their attempts to help undocumented immigrant battered women. In addition, the respondents provided insight on the impact of migration policy on undocumented immigrant women experiencing interpersonal violence. Using the perspectives of social service providers and migration lawyers reveal the great difficulties that undocumented immigrant battered women face while seeking help and assistance.

Each transcript was read through several times until common ideas and concepts emerged from the data. For each group of respondents (migration lawyers and shelter workers or other service providers), a different questionnaire was created (see Appendix A,B). Therefore, data from each group was analyzed separately. Each questionnaire was summarized with descriptions of key themes that emerged across the set of interview transcripts for each group. Then new themes, consistent across both groups of respondents, were created.

Four major themes emerged from the interviews and were discussed by the majority of respondents: ambiguous laws, work authorization, limits to assistance, and anti-immigrant attitudes in connection to the recent economic crisis. In addition, one sub-theme, problems with certification, appeared to be important. This sub-theme specifically emerged from transcripts with immigration lawyers and was discussed at length as one of the key legal problems that immigrant lawyers face while they attempt to assist undocumented immigrant battered women. These themes are discussed in the following sections.

8.1. Theme 1: Ambiguous Laws

Unlike Greece, significant legal reforms have been instituted under the Violence Against Women Act (VAWA) in order to provide a way for changing the legal and economic consequences for battered immigrant women residing in the U.S. (Erez, Adelman & Gregory, 2009). Chapter Three discussed in detail the existing legal opportunities available to immigrant women who wish to escape interpersonal violence. The legal reforms in the U.S. include waiver applications and self petitions under VAWA that grant permanent residency to immigrant battered women without the assistance of their abusive spouses who are either U.S citizens or U.S. permanent residents. Legal remedies for undocumented immigrant battered women¹⁵ consist of the possibility of securing a U-visa for survivors of certain crimes to adjust their migration status and it also allows for the canceling of removal or deportation proceedings.

Before the existence of U-visa relief, undocumented immigrant battered women who came forward to report a crime were subjected to apprehension and deportation as a result of their unlawful presence in the U.S. As a result of U-visa relief, undocumented immigrant women have more choices than to either face deportation or to remain silent and suffer interpersonal violence. Undocumented immigrant battered women are now able to apply for U-visa and adjust their migration status. U-visas provide empowerment

¹⁵ Undocumented immigrant battered women that apply for a U-visa are usually married or are in a relationship with undocumented immigrant spouses or immigrants that do not hold U.S. permanent residency, for example, international students or holders of business visas.

and a new pathway for undocumented immigrant women who suffer from interpersonal violence to eventually obtain a green card and perhaps even U.S. citizenship. As these women enter this new system, their access to resources and rights as a part of society, including education, insurance or a pension, could dramatically improve. As one staff attorney in New York City summarized:

...What these immigration benefits can do is give a lot of women some sort of autonomy to make independent choices about where they will work and where they will live. To take that undocumented migration status out of the equation can prevent the batterer to use that against her. It also encourages people to move forward with their lives.

By decoupling the migration status of immigrant battered women from the legal status of their spouses/abusers, migration lawyers recognized the crucial significance of obtaining U-visas for women's security and self-determination.

While the U-visa provides a new opportunity for undocumented immigrant battered women, the in-depth interviews revealed important gaps in the manner in which the text of migration law is articulated and the goals that these migration laws seek to achieve, all of which deter undocumented immigrant battered women from seeking help. Instead of providing a safe environment in which immigrant battered women are not afraid to come forward to law enforcement agencies and report the violent crimes committed against them regardless of their migration status, migration law creates obstacles for certain categories of immigrant battered women that deter some of them from reporting crimes and finding justice in the legal system.

While there are opportunities for undocumented immigrant battered women to seek legal remedies and social assistance, the amount of legal protection for immigrant battered women varies in terms of rights and security, depending on whether immigrant victims are in relationships with U.S. citizens, legal permanent residents, or neither. For the spouses of U.S. citizens and permanent residents, there are many more options available. As one lawyer from Delaware mentioned:

...Victims who are married to U.S. citizens or green card holders have services available to them regardless if they cooperate or not with the law enforcement. They have legal and social remedies available unlike undocumented immigrant battered women who are not married to U.S. citizens or permanent residents.

Another lawyer from New York City described the differences between battered women who are married to U.S. citizens and those who are married to permanent residents as follows:

...In VAWA there are two different types of situations for non-citizen battered women. If they are married to US citizens, they are considered to be immediate relatives and they can receive employment authorization with the filing for self petition. We usually file an application for lawful permanent residency (green card) at the same time when we file for self petition. For everyone else, like spouses of permanent residents, they will get work permission after their petition is approved. But, there is a waiting time for a green card because we have quotas... annual quotas for how many green cards we will get out per year. So, every month the Department of State will give us a new statement through a memo for how long the waiting times are. The longest waiting time for a green card is for Mexicans and nationals from different parts of China and the Philippines.

Within migration policies in the United States, the rights granted to immigrant battered women, such as the right to work, depend on the status of their abusers. Therefore, the timeline for when they are granted work authorization and when they can actually apply for green cards depends on whether or not their abusers are U.S. citizens or permanent residents. The ability of undocumented immigrant spouses of U.S. citizens to receive immediate work authorization greatly enhances their ability to become financially independent and autonomous from their abusers. In contrast, the delay in achieving the right to work for undocumented immigrant spouses of U.S. permanent residents limits their ability to leave their abusive relationships. In addition, despite being victims of domestic violence, spouses of U.S. permanent residents are still subjected to the quota system for permanent residency (green cards) because migration law determines the rights and obligations of battered women associated with their migration status, and most importantly with the status of their spouses.

Every migration lawyer stressed the fact that battered women who are married to permanent residents receive their work permission after their application for conditional residency is approved, a process which can take months. In addition to this long waiting period for the right to work, they are also placed in another waiting line for a green card (permanent residency). Therefore, depending on their nationality, it can take years until they can gain permanent residence (green card) or citizenship within the United States. Because the waiting period for a green card depends on nationality, battered women are forced to renew their conditional lawful residency in many cases for several years. As a result of these delays in immigrant battered women's ability to obtain citizenship, they

can be deported from the U.S. for unlawful activities, such as drug convictions or other crimes. Similarly, applicants for U-visa are eligible for work authorization after the U-visas are granted. However, U-visa holders are eligible for green cards after four years without any restrictions of quotas. This places U-visa holders in a privileged position in comparison to the spouses of U.S. permanent residents.

Despite these new opportunities for immigrant battered women, migration laws continue to reveal how patriarchal attitudes and class structure remain salient in the law making procedure (van Walsum and Spijkerboer, 2007). The consequence of these laws keeps immigrant women in either a dependent status on their batterers or without work authorization and access to social protection until their migration status is adjusted. By granting different rights and protections to undocumented immigrant battered women based on the status of their abusers, the migration laws also create specific classes of women: those married to U.S. citizens or permanent residents and those who are not. Consequently, migration law excludes undocumented immigrant battered women from regulated formal labor relations and social protection. In addition, as discussed in further detail under the sub-theme of certification, undocumented immigrant battered women find protection under the U-visa option *only* if they are willing to be labeled as victims and are declared by the law enforcement agencies as useful in the process of investigation, prosecution, and punishment of their abusers (usually other undocumented immigrants) that engaged in criminal offenses.

The limited use of quotes from data reflects the repetitive responses among migration lawyers in New York City and Delaware. All of migration lawyers strongly

criticized the lack of access to legal remedies for undocumented immigrant battered women as contingent not upon their status as victims of domestic violence, but on the legal status of their spouses/abusers. The migration lawyers were uniform in believing that this considerable limitation of migration law greatly complicates the options available to undocumented immigrant battered women based upon factors beyond their control.

8.1.1. Sub-theme 1: Certification

Every group of immigrant women, either ones married to U.S. citizens or permanent residents, and women entering the U.S. illegally or having overstayed their authorized stay, face many legal, social, and economic challenges when seeking relief from their abusive spouses. However, undocumented immigrant battered women who are not married to U.S. citizens or to permanent residents, must prove that they suffered “substantial physical or mental abuse” in order to secure legal protection against their abusive spouses (Victims of Trafficking and Violence Protection Act of 2000, Sec. 1513, (b)(3)(I). In addition, to demonstrate ‘substantial harm’, undocumented immigrant battered women must be officially recognized as victims of this abuse by law enforcement agencies. They must also possess credible and reliable information about the crime, and must be helpful in the process of investigation and prosecution. As the Article 214.14 (b)(1,2,3,) of the Code of Federal Regulations of 2007 reads:

“ An alien is eligible for U-1 nonimmigrant status...

(1)...has suffered substantial physical or mental abuse...whether abuse is substantial is based on a number of factors...the nature of the injury...the severity of perpetrator's conduct, the severity of the harm...the duration of the harm, and the extent to which there is permanent or serious harm to the appearance, health, or physical or mental soundness...

(2)The alien possesses credible and reliable informationthe details concerning the qualifying criminal activity upon which his or her petition is based...

(3) The alien has been helpful, is being helpful, or is likely to be helpful to...the investigation or prosecution....

As a result, these U-visa legal requirements of harm, the official recognition as victims of crime, and the obligation to cooperate with law enforcement agencies prevent many battered women from seeking or receiving U-visa relief. Some immigrant battered women are not officially recognized as victims by law enforcement authorities; others may continue to endure violence instead of reporting the crime. This silence of undocumented battered women may not reflect the severity of their abuse, but their reluctance to come forward to law enforcement agencies due to cultural reasons, language barriers, lack of social network support, or lack of knowledge about available options for help. Additionally, undocumented immigrant battered women are excluded from U-visa assistance if their victimization cases do not meet the law enforcement officers' perceived threshold of harm. To prove substantial harm is problematic because

of its subjectivity; different law enforcement agencies or individual officials may interpret the legal term of ‘substantial’ differently.

All lawyers interviewed in Delaware and New York City view the wording of the U-visa law as ambiguous and vague. This lack of clarity in legal text provides unnecessary obstacles for lawyers who assist undocumented immigrant battered women with the process of application for U-visa relief. Subsequently, the law presents barriers for undocumented battered immigrant women to receive U-visa’s protection.

Respondents questioned what exactly constitutes “substantial injury and harm”, and what is included under the terminology of “being helpful”. All of the lawyers expressed great frustration, maintaining that the unclear legal text and lack of explanatory guidelines provide a space for police and other law enforcement agencies to exercise unlimited discretionary power in the process of signing the ‘U Nonimmigrant Status Certification’ for undocumented immigrant victims of crime.

This certification is a mandatory prerequisite for U-visa applicants and a compulsory part of victims’ application to adjust their migration status. The certification can be signed by a head of a Federal, State, or local law enforcement agency, prosecutor, judge, and other authority that has criminal investigation jurisdiction in the particular place. The certifying agency, therefore, determines that the applicant for U-visa was a victim of particular crime and is, has been, or is likely to be helpful in the criminal investigation or prosecution

Therefore, obtaining certification from law enforcement agencies is crucial for a successful U-visa process. Yet, its success rests on individual police officers, who in

many instances lack proper and sufficient training to make such decisions or even lack an understanding of U-visa purposes. As one migration lawyer in Delaware reported:

...The wording of “being helpful” often creates a situation when a Head of a Police Department declines to sign the certification because the police actually never caught the guy (offender). But, you know it is not my client’s fault that they never arrested anyone. She was helpful to them because being helpful also means that she notified the police about the crime. The legal stipulation does not mean to catch the guy, to prosecute him, and to find him guilty. But, some police officers do not understand that. A victim can also report a crime that was committed against her 10 years ago. But, law enforcement does not understand that a crime can be committed at any point in the time spectrum, as long as the victim doesn’t stop cooperating with the police.

Another migration lawyer in New York City similarly described the problems with the certification procedure:

...With this certification I see the biggest problem is that prosecutors usually like to wait until there is a conviction of the batterer. First, it can take a long time. Secondly, in the meantime the prosecutor can keep this certification over the head of the victim. Another possible problem is that in order to issue the certification for the woman, law enforcement agencies must consider the ‘helpfulness’ of the victim. However, there is not a definition or explanation in the statute of what consists of being helpful....So, what ‘helpful’ means, depends on the law enforcement agency. And some agencies have a higher or different standard for what being helpful means. There is a lot of discretion given to a variety of agencies.

As many migration lawyers revealed, the implications of legal terms, such as ‘helpful’, are uncertain and inconsistent. This ambiguity and lack of understanding of legal text by

certified law enforcement agencies can have serious negative consequences for undocumented immigrant battered women.

Because the legal text is interpreted differently by individual police officers, the certification process varies from one jurisdiction to another and even from one police officer to another. This lack of consistency in the implementation of U-visa certification provides undocumented immigrant battered women with uncertainty about how the entire process will end. It also places obstacles between immigrant battered women and their opportunity to adjust their migration status and seek relief from a violent relationship.

The majority of lawyers asserted that law enforcement agencies play an indispensable role in certifying U-visas for undocumented immigrant victims of crime. However, the certification process is entirely a process based on law enforcement agencies' discretion because there is no federal mandate to complete the certification for any particular victim of crime. Consequently, the certification for U-visa in many instances reflects either an individual law enforcement agent's attitude or sentiments of local politics toward undocumented immigrants. One lawyer in New York City stated:

...The U-visa relief is created as a law enforcement tool. The idea behind it is that the Federal government thinks that every community member will be safer if everybody, including undocumented immigrants, feels comfortable to report any criminal activities. So, depending on where you live, it might be easier or more difficult to get the agency that investigates the crime against you to sign the certification. So, in theory, there are all these different people who can certify that you were the victim and you cooperated with the agency. In reality, it really just depends on politics and what is going on in your community. Like, I would imagine that with everything that is going on in Arizona, you are not going to be able to convince the local police department to sign the certification for your U-

visa application. We are struggling to get NYPD to do certification and they are reluctant to issue the certification for a variety of reasons...

The bulk of migration lawyers interviewed revealed that the local sentiments in favor or against immigrants exert a significant impact on the certification process. In addition, the amount of police knowledge and training related to issues of undocumented immigrant battered women can influence law enforcement agents' perceptions about U-visa certification. According to the majority of lawyers, many police departments often lack important information about the implications of certification. A lawyer from the state of Delaware mentioned:

...It is interesting down here. I don't know if you are aware, but the state of Delaware has the smallest police departments per capita than any other state in the nation. So, often times I have to go to these small police departments and explain to them everything, every single detail about the U-visa relief. And they might say... oh no... I cannot sign the certification, or they might have a wrong idea about the process. So, they have a wrong understanding of the U-visa purpose. Last time it took me four hours to convince the chief of a police department to sign the certification for my client. And he did, but generally it is a very time consuming process because it requires a lot of advocacy and education to explain to them what the U-visa is about. A lot of the time, they are just reluctant to do it. A lot of the time I have to fill in the entire certification form and they will just check it, perhaps add something and let me know if they agree or not with it.

The majority of migration lawyers believed that many police officers would rather have the problems of undocumented immigrants addressed by migration legislation. According to the respondents, law enforcement agencies were reluctant to get involved in

the process of signing the certification that is so crucial for U-visa applicants. As the majority of lawyers mentioned, law enforcement agents view such signing of the certification as indicating their approval of residency permits for battered women. Lawyers suggested that police feel that by signing the certification they become involved in migration issues over which they do not have legal jurisdiction. Many migration lawyers revealed that police officers are sensitive to recent political debates about the extent states should be involved in migration related issues. Yet, enforcement and adjudication of migration law continues to be the exclusive power of the federal government. Therefore, this study revealed that migration lawyers blame law enforcement agencies for their lack of necessary knowledge about the purposes of certification.

The legal framework of the U-visa certification process, therefore, establishes an insurmountable chasm between undocumented immigrant battered women and their protection. Most respondents mentioned that the lack of U-visa certification bars many otherwise eligible undocumented victims of crime from being able to apply for U-visa relief because of the clause that victims must prove ‘substantial harm.’ As a migration lawyer in Delaware described:

...Another problem of issuing the certification, and sometimes even with the Attorney General Office, is the seriousness of the crime. People very often think that crime has to be related to harm and injury. It is again about wording in the law, that a person must have suffered substantial physical or emotional abuse. But that can be defined in a number of the different ways.

The ambiguity of the precise definition of ‘substantial harm’ further complicates the certification process. An immigration lawyer from New York City similarly described the difficulty in proving ‘substantial harm’:

...Even though U-visas are for victims of a variety of crimes, the statistics from the immigration office said that 75 percent of applicants for U-visa are victims of domestic violence. When I say that recently it is harder to get approval for emotional or psychological abuse, it means that it is harder to have some tangible evidence of that abuse and that evidence for such abuse is viewed as more subjective. It is considered being more objective if someone sees that you have been in the hospital and you need treatment for a physical injury. It is almost impossible to prove emotional or psychological abuse. It is just harder to prove why this was so harmful to your client.

Even though certification alone is not enough to establish the eligibility of undocumented immigrant battered women for U-visa relief, without it, the U-visa application cannot be submitted. Therefore, the strong emphasis that the migration law puts on victims to be ‘helpful’ in the process of investigation and prosecution makes the U-visa relief more of a tool for law enforcement agencies to tackle crime than to promote and ensure that undocumented immigrant victims will inform and call law enforcement for assistance in cases of criminal victimizations.

Consequently, even if victims of interpersonal violence find the courage to come forward, report the crime, and cooperate with law enforcement in criminal investigations and prosecutions, because they must rely upon the individual discretion of law enforcement officers, they still might not be eligible for a U-visa. Without certification, victims are unable to apply for U-visa relief no matter how compelling their case is or the

amount of crime evidence they have amassed. However, according to migration lawyers, law enforcement officers fail to understand that when they sign the certification for U-visa application, they are merely indicating that the woman is a victim of a particular crime who assisted in the investigation and prosecution of the offender. Instead, many law enforcement officers inaccurately believe that they are making a decision about battered women's migration status. Because of this lack of knowledge about U-visa certification, individual bias or local politics about immigrants increase the vulnerability of undocumented immigrant battered women. Victims remain in violent relationships with illegal migration statuses and face legal consequences, such as apprehension and deportation. Although deportation is more likely to happen to undocumented immigrants with serious criminal backgrounds, as the Obama administration extended deferral immigration enforcement to state and local police (Hsu, 2009), some states moved in a direction to sweep up undocumented immigrants even for traffic violations. By giving such a great amount of authority to the hands of local law enforcement, the U.S. migration law subjects undocumented immigrant battered women to a politically charged certification process and serves to perpetuate interpersonal violence.

8.2. Theme 2: Work Authorization

A second theme widely discussed among all the lawyers and to some extent among other respondents in this study was the economic hardships faced by abused immigrant women. Findings from the violence against women literature stressed the

significance of financial challenges, poverty, and marginal economic support that present enormous obstacles for battered women when seeking relief from abusive relationships (Erez, Adelman & Gregory, 2009; see also Ingram et. al, 2010). Current U-visa procedures exacerbate this problem of financial dependency and deter undocumented immigrant battered women from coming forward and contacting law enforcement authorities because of the timing of work authorization. Until their migration status is adjusted, undocumented immigrant women are legally banned from working in the formal economy. This places them in an additional vulnerable situation, as they are at risk of homelessness, dependence upon their abuser for financial support, or employment exploitation in the shadow economy. By placing undocumented immigrant battered women in such jeopardy, the U-visa policy fails to accomplish the fundamental protection of crime victims that was one of the primary reasons for which it was enacted.

The economic condition for undocumented immigrants in any host country can be difficult. Without proper documentation, they cannot find a suitable job or secure permanent employment. Even though waiver applications, self petitions, and U-visas under VAWA provide a legal remedy for undocumented battered immigrant women to obtain a legal migration status and to become independent from their abusers, work authorization is usually issued only *after* the legal migration status is granted. However, the time period between when an application for adjusting migration status is filed and when legal migration status is granted can take several months. Meanwhile, immigrant battered women may find themselves with limited or no financial support. A migration

lawyer from Delaware described the economic situation of battered immigrant women this way:

...So, if they are victims of crime that involved police and these are predominantly U-visa cases, there is something called the “Violent Crime Victims’ Program” which can help them with relocation costs, lock changes, and first month rent payment. I have assisted several clients that applied for the Violent Crime Victims Program funding because it pays medical bills and therapy costs related to the crime. So, this is a good starting point to put some money together until the U-visa will be approved and she can legally work. But, I have to say that many clients work for cash under the table. I advise them that they should not do it. But, you know they have to feed their kids or to live somewhere. It is a real issue and that is a part of the reason why we try to lobby the Vermont Service Center where the VAWA unit for immigration is located, to point out these issues, to let them drive legally, to work until the U-visa is granted etc.

A social worker from New York City similarly described the lack of immediate work authorization for battered immigrants as a substantial problem:

...U-visas are granted approximately between 6 months to one year. The biggest obstacle is that until the U-visa are granted the victim cannot work, cannot legally work. And we have to tell her “you cannot work”. But, how will she support her and her family? How is this going to happen? So yes, I have to admit, most of them still work, they try to find some cleaning job, they clean houses, and they work in restaurants under the table. She will do anything that she can to support herself and her family.

The long waiting period for granting U-visa creates pressure for undocumented battered women to stay in abusive relationships or to eventually give up and cancel the procedure for adjusting their migration status. As a social worker in Delaware expressed:

...it is the fact that she is not allowed to work legally, but they have to work. So, in many instances the women become someone else. They use false documents or false names. Our main focus is that these women will stay in touch with the law firm. They need our support, to tell them not to give up, not to give up until they will receive the visa and work permission. We have to constantly remind them that they went a long way and they are close to settling things up. A lot of women are willing to wait and suffer, but of course we have also women that would give up. They would give up filing the application for a U-visa when we inform them that they cannot work in the meantime or after applying if the process is taking too long....

The applicants for U-visa are usually immigrants that are not married to U.S. citizens or permanent residents. Therefore, they are likely to be in a relationship with a spouse who is an undocumented immigrant or visa holder. However, once the battered woman approaches law enforcers, reports the crime, and cooperates in its investigation and prosecution, it becomes more likely that her undocumented spouse will be deported from the United States. As mentioned in the previous sub-theme of certification, the deportation of undocumented immigrants is currently actively enforced, especially if undocumented immigrants are involved in criminal activity. Therefore, battered women face the possibility that by reporting spousal abuse, her spouse will be deported and she will lose household income or even child support from the abuser. Furthermore, because immigrant battered women are less likely to have a social network of friends or other

family members, they lack the opportunity for any additional financial support from the community.

By not providing undocumented immigrant battered women with the right to work, at least temporarily until their migration status is either denied or granted, these women are even less likely to report crimes against them. Fear of losing subsequent income from their undocumented spouses/abusers, who once indentified as offenders in a criminal investigation will likely be deported, is often sufficient to insure their silence. A migration lawyer in Delaware argued:

...if calling the police initiated the arrest of a perpetrator and her cooperation with the prosecutor facilitated the sentencing of the perpetrator and if he is undocumented, he is likely to be deported. So even if she has the protection for abuse order and he must pay for example 300 dollars for child support, but if he is not here, who is going to enforce it?

Another migration lawyer in New York City similarly expressed:

...Here, in New York City every police department has domestic violence unit, which is great. And police officers definitely understand and know a lot of about domestic violence. But immigrants tend to be non-collaborative and they are afraid to collaborate with police and mostly when their partner is undocumented as well. In the most cases, immigrants are worried that their spouses will be deported and in many cases there is a lot of financial dependency on their abusers.

Undocumented immigrant battered women's financial needs are ignored by migration policies. That reporting a crime inevitably leads to an uncertain financial

situation, U-visa process actually prevents undocumented immigrant battered women from seeking help.

As already mentioned in Chapter Three, the U-visa has a quota for 10,000 applicants for each fiscal year. In July of 2010, the U.S. Citizenship and Immigration Services (USCIS) announced that it granted all 10,000 applications for U non-immigrant status for Fiscal Year 2010. However, in response to the pressure from a variety of feminist organizations, the applicants were encouraged to continue to submit their applications, and, as a lawyer from Delaware explained:

...those applications are pending, but the applicants in the meantime can apply for work permission, a so-called 'interim work release'. That is great and it is the first time that it has happened. So U-visas are not issued this year anymore, but the applications could be sent to the Vermont Center and those applicants can get 'interim work release.'

An undocumented migration status limits immigrant women from economic mobility or the ability to provide for their family's needs. By reporting interpersonal violence and revealing their undocumented migration status, battered women often feel as though they place their health and welfare in even greater jeopardy. In summary, the interviews revealed that even though the U-visa provides relief for undocumented immigrant battered women, at the same time the U-visa procedure remains an issue articulated within migration policies with a strong emphasis on tackling undocumented immigrants with a criminal background. Therefore, undocumented immigrant battered women continue to be viewed as second-class without the legal right to work until the

visas are granted and their migration status is adjusted. The law does not take into account the unintentional consequences of the lengthy legal procedures that in the meantime trap victims of interpersonal violence into economic hardship and vulnerability for further abuse. Without work authorization, immigrant battered women cannot find a job in the formal economy and cannot provide their families with a legal income. Consequently, the law provides a major obstacle for immigrant women to leave their abusive relationships and at the same time keeps them as an exploited part of the general population.

8.3. Theme 3: Limits to Assistance

The fact that migration law creates a specific class of women is visible in that battered immigrant women who are married to U.S. citizens or lawful permanent residents can more easily obtain certain types of public assistance than undocumented battered applicants for U-visas. For example, self petitioners under VAWA are eligible for Safety Net Assistance and Medicaid after their applications are filed with the USCIS. This study revealed that the sixty days limit of housing in battered women's shelters presents a significant obstacle for battered immigrant women who are without work authorization and access to social benefits such as public housing. In some instances, when there is no other option for accommodation, immigrant battered women are forced to be housed in shelters for the homeless, to return to their batterers, or to their home countries. As a social worker in a New York City shelter concludes: "We lack some sort

of transitional housing options for immigrant battered women who are ineligible for public housing programs based on their undocumented migration status.”

The combination of the lack of legal work with the lack of access to public housing is a major problem for undocumented immigrant battered women that places them at risk of homelessness, especially after they must leave the shelter. Some of the shelters in the state of Delaware and New York City do not accommodate victims for longer than 60 days. As one social worker in a Delaware shelter explained:

...Women can stay in the shelter for 60 days but that is it. The problem of the shelter here is that shelter receives funding from the federal government and donations. But funding usually has restrictions, so shelters cannot keep people for more than 60 days.

Taking into account that applicants for U-visas cannot legally work for at least six months (the average time for pending applications) and at the same time are banned from public housing by the law, victims are relegated to the shadow economy, forcing them to work under the table and making them vulnerable to economic instability, exploitation and perhaps to further abuse. However, the majority of social workers in the shelters mentioned that there is a wide recognition of immigrant battered women’s situations. Some shelters, especially those that were established to meet the needs of immigrant women, allow victims to stay in the shelter for an extended period of time. A social worker in Delaware explained:

...Even though we have a policy to stay in the shelter for up to 30 days, we had cases when a woman had to stay for several months ... for 6 months. So, we are not really enforcing the policy. But, we have to keep in touch with the woman; we have to work with her the entire way. Because like we have mentioned, they are coming from a lot of different cultures not only just from Mexico, Guatemala, and Puerto Rico. Once the woman is in the shelter, we set up a safety goal for the woman; we help them to set up goals for the future, some sort of goals for emotional health, how to deal with the things that have happened to them....if it is necessary we can help them to deal with transitional issues if they need to move to another community or state. We have money to help women to reintegrate into a community, but not necessarily into the same community. So as long as the woman stays in the shelter we are working with her towards goals. And the one most important goal is that the woman will leave the shelter in better condition than she came...

While some shelters and social workers are able to address the unique needs of undocumented immigrant battered women, many others cannot provide long-term shelter. The timing of work authorization therefore results in enhanced vulnerability of undocumented immigrant battered women.

Therefore, despite the beneficial consequences of U-visa, migration law limits and exerts a significant negative impact on the life of undocumented immigrant battered women during the process of migration status adjustment. These inadequacies include not only the lengthy waiting period for work authorization, but also the lack of access for battered undocumented immigrant women to federal and some state social benefits. The lack of access to federal and some state benefits, as a key obstacle for undocumented immigrant battered women that already lack a possibility of income through legal work, was widely discussed with the majority of respondents in this study. All of the respondents, whether they were social workers or migration lawyers, stressed the fact that

the process of U-visa is used as a control mechanism than as a protection instrument; therefore, many applicants will never go through the entire process as a result of being denied financial legitimacy through legal work or social service help. U-visa policy places numerous barriers between undocumented immigrant women and the legal protection from interpersonal violence that they need. These barriers are sufficient to prevent many women from seeking assistance from law enforcement and perpetuate violence within their households.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Welfare Act) and the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (IIRAIRA) place many burdens on immigrants' eligibility for public benefits (Broder, 2005). Even though the qualification for public benefits varies by programs and by individual migration status, undocumented immigrants are ineligible for federal benefits such as Food Stamps, Social Security benefits, Temporary Assistance for Needy Families benefits, or Medicaid. Even if an undocumented immigrant battered woman applies for the U-visa and eventually is granted this relief, she still remains 'not qualified' for the above mentioned federal benefits until the time when she becomes a permanent resident.

As mentioned in Chapter Two, the purpose of the U-visa is to give victims of certain crimes temporary legal status and work eligibility in the United States for up to four years. After four years, the victim can become a permanent resident. However, the Welfare Act and IIRAIRA have declared a five year ban for those immigrants who entered the United States on or after August 22, 1996. Consequently, immigrants become

eligible for federal benefits five years after they become permanent residents. Thus, in reality, many U-visa receivers are still not eligible to receive federal benefits for up to nine years. A migration lawyer in Delaware explained the situation:

...An immigrant is banned from social benefits for some time even after a U-visa was granted. Even self-petitioners are banned from housing and food assistance. It is a tragedy in some cases. Immigration law from 1996 banned immigrants from certain social benefits for a period of 5 years after they became permanent residents. Some states provide some supplemental benefits, but they are very limited...

As respondents in this study have mentioned, all immigrant battered women have access to protection orders, emergency shelters, legal services, crisis counseling and intervention programs, soup kitchens, and other services. However, the most common way in which undocumented immigrant battered women can receive a semblance of a regular income is through federal benefits for their children who are U.S. citizens. Denying their right to work while simultaneously denying them access to social benefits challenges the U-visa policy because it creates an income gap which undocumented immigrant women cannot fill to support themselves and their families. This process, perhaps inadvertently, creates a new class of battered women in the United States, one that is deprived of dignity, ineligible for social protection, and denied the financial independence from their abusers that they desire. One social worker in a Delaware shelter explained:

...We try to get them benefits that are available for them. Usually it is for children that are born in the U.S., so they have some sort of income for some time after they leave the shelter and their application for U-visa is pending. Somehow it makes their lives easier especially if they have children who are U.S. citizens.

In some cases, the financial jeopardy that undocumented immigrant battered women must endure during the U-visa process is considered more harmful than their unlawful migration status and abusive relationship. A social worker from New York City explained during the interview:

...The biggest problem is that after women leave the shelter, they have no access to public housing and they have nowhere to go, no money, or social network support. From my experience I found out that if someone will come to our office without legal migration status, this is not really the issue for them because they live with that illegal status for years, they know how to deal with it. But, what they don't know how to deal with, is to get a home, to get the food. The economic pressure makes these victims unable to deal with intimate violence, to find the service providers. But at the same time it makes it difficult for service providers to be able to represent and to help everyone. We have a waiting list for so many people and not because they are the most complicated cases, but because we lack the sufficient resources.

As the financial crisis has hit the United States and the entire world in general, many states were forced to significantly cut their budgets. Consequently, many social service organizations lack adequate financial resources and operate on shoe string budgets. The majority of respondents particularly mentioned the lack of availability of legal aid. Respondents articulated that current resources do not meet the needs of the battered female immigrant population. The suffering of immigrant battered women is

exacerbated because so often they are isolated from mainstream communities as a result of their culture, language, and migration status. They have little or no knowledge about social, legal, and other supportive services. As such, they need legal help and support from the beginning to the end of the process for adjusting their migration status and establishing their lives in the U.S. In addition, the application for adjusting a migration status through U-visa is a complicated process that requires a person that is specialized and trained in migration law. The need for trained legal staff greatly exceeds the resources available. This also places undocumented immigrant battered women in a position of vulnerability, as they must negotiate the complex legal process without sufficient help. A social worker in the shelter described the situation in Delaware:

...No, there is no adequate legal help for any of these women [victims]. There is also no general legal training for advocates about U-visas. Legal Aid program has very small grants that cannot cover the problem. The Department of Justice had some small federal grant that expired in 2009. Their budget has been cut and cut and cut. So many women go to the court without help, without an attorney. The legal aid has used to help them, but now there is no money anymore. There is no legislative priority for immigrants and again it reflects the bias against immigrants. But even American women do not get the benefit of legal help in cases of custody and visitation issues.

When asked about obstacles, a lawyer in Delaware answered:

Honestly? The resources. I am the only lawyer for the entire state agency without a paralegal and even without one secretary. And I am very pleased with the money that we get from VOCA and VAWA, but it is not enough. My case load is mostly for the entire New Castle County.

Another migration lawyer in Delaware described the situation:

...Unlike within criminal law in this country where you are guaranteed an attorney, that is not the case with migration law. You are allowed to have an attorney, but there are no funds for that. So, you have to pay for your own attorney. And in this kind of area, you have to have someone legally trained, but you can fall in the crack because you either do not have financial resources, you don't know anyone, or there is a lack of agencies at low cost. For example, here in Delaware we lack lawyers that would work pro-bono in these cases.

Access to affordable legal help for undocumented immigrant battered women is inadequate because there are not enough legal advocates to assist them through the overly burdensome process of adjusting their migration status in order to gain emancipation from abusers.

The participants in this study also mentioned that as a result of state budget cuts it became almost impossible for poor immigrant women to get publicly provided legal representation in custody cases. Consequently, the difficulties for accessing the civil legal system often cause undocumented battered women to avoid the legal system in general. A social worker in Delaware described the situation in child custody cases as such:

We have a lot of cases when women are losing their children because the child protection agencies viewed the environment as dangerous for the children. I personally think that immigrant women are more afraid than American women of the entities like the Department of Child Protection. They fear that their children will be taken away and it actually happens quite often across Delaware. We still have that attitude that if there is domestic violence in the family, we hold a woman accountable for safety of the kids. We still have the situation when children are taken away from

the family, and we see it very often,... but instead of expecting the offender to do A,B and C, we push women to do A,B, and C in order to get their children back. For immigrant women, the situation is even harder because they don't understand the system and how it works at all.

It seems that resources of the social service providers in New York City are slightly better than in the state of Delaware. The majority of participants from New York City stressed the fact that the Mayor's office is pro-immigrant oriented and it puts effort and allocates more financial resources to reduce the vulnerability of immigrants and to promote their integration into society. In addition, the Mayor's office directly provides services to immigrants but also actively cooperates with a variety of state agencies and NGOs in order to recognize and make visible those programs oriented towards immigrants. The majority of participants in this study from New York City agreed that:

...New York City is actually an exception in terms of available resources because we actually have a really strong network of support organizations. We have foundations in local and state governments that support us.

One of the lawyers in New York described the more extensive financial resources in the city:

...We get federal funding and we get a lot of private funding. We get a lot of funding from law firms that we closely collaborate with because they do a lot of pro-bono cases on a volunteer basis. So, there is a partnership with these law firms. It allows us to work with more clients because it is

easier for me to supervise some cases than to do all of them by myself. We also get a lot of city and state funding...

Even though respondents from New York City and the state of Delaware did not vary in enumerating their problems and obstacles that they face in order to provide help and assistance to undocumented immigrant battered women, this research found some major differences between these two study sites. As mentioned above, in New York City private funds are more available than in the state of Delaware. This can not be fully explained by the differences in income and wealth of people living in these two areas. However, in contrast to social service agencies in Delaware that experienced cuts of resources from the state government in past few years, the Mayor's office in New York City prioritized efforts to combat domestic violence generally and within immigrant communities specifically since 2002. New York City's directories of social and legal services list approximately 240 organizations and services that provide a variety of assistance in different languages to victims of abuse, their family members, and victims with different mental and health issues. This well-organized infrastructure, led by the Mayor's Office to Combat Domestic Violence, a permanent office established in November 2001, has improved resources for those organizations that are involved in work with battered women. Undocumented immigrant battered women in New York City may find greater support from social service providers who are more sensitive to their special needs and are able to provide adequate services to a larger number of victims.

This study found that despite scarce resources for public legal aid, the migration lawyers and shelter providers that work with immigrants are very familiar with special migration and public benefits that are available to battered undocumented immigrants. However, the in-depth interviews also revealed that the majority of the immigrant communities that benefit from the available resources are usually Spanish speaking communities. This is perhaps because Spanish speaking immigrants comprise the majority of immigrants in the United States. Both Delaware and New York City have a large number of community based organizations, church groups, and immigration-based nonprofit agencies for Spanish speaking immigrant communities.

While service providers in New York City speak numerous languages, bi-lingual organizations and services that work with immigrants in the state of Delaware are almost exclusively oriented towards Spanish speaking immigrants. In New York City, immigrants can access services provided in variety of languages from Eastern Europe, Asia, and the Middle East. Language diversity of immigrants in New York City is greater than in Delaware; therefore, the demand for services in numerous languages is larger in New York City. In addition, social services in New York City widely employ immigrants themselves. Immigrants' proficiency in their native languages assists with interpretation and translation for social service providers. In comparison, Delaware's ability to meet the needs of non- English- or Spanish-speaking battered women is limited.

Nevertheless, even in New York City, small immigrant communities such as African or Muslim immigrant communities are isolated and hard to reach. As a social worker in New York City mentioned: "there are still communities, especially Arab

speaking communities, that live in isolation and service providers lack the personal fluency in their languages.” The ability of social service providers to meet the needs of all immigrant communities is therefore also limited.

The lack of proficiency in languages other than English is more visible in police departments. Social workers in Delaware and New York City stressed the importance of police officers to stay informed about services and benefits for victims of domestic violence and the available resources of translators to adequately serve the needs of the extensive diversity of immigrants who speak many different languages.

Even though social service providers and immigration lawyers lack proficiency in diverse foreign languages, their commitment to help undocumented immigrant battered women was central to their thoughts expressed in the interviews. Respondents overwhelmingly expressed their desire and commitment to search for new service providers, new channels for financial resources, and funds. They demonstrate their strong devotion to help battered women achieve independence from violent relationships and adjust their migration status so women can be less socially marginalized. The commitment of these professionals is evidenced by the extensive cooperation between service providers, including regular and frequent meetings, where they discuss common issues and plans strategies to press law makers and state governments for change. Social service providers and migration lawyers are highly motivated to improve the conditions of undocumented immigrant battered women despite the numerous obstacles they confront in their line of work.

8.4. Theme 4: Anti-Immigrant Attitudes and the Recent Economic Crisis

In response to the threat of terrorism after 9/11, the U.S. experienced a shift in its political discourse towards undocumented immigrants. In post 9/11 America, immigrants are less likely to be viewed as a cultural threat to the country, but instead are more likely to be linked to the potential violence of terrorism (Lahav, 2004). This new dynamic in the perception of immigrants has led to a more regulatory securitizing framework of migration: control of human movement through the securing of state borders and increased attention to the connection between immigrants, crime, and national security. The recent economic crisis only added fuel to the already hostile public's attitudes towards immigrants in post 9/11 America.

Several states, such as Arizona and Oklahoma have recently passed legislation targeting undocumented immigrants. The controversial and some would argue unconstitutional bill to address immigration that was passed in Arizona in 2010 requires police officers to check and verify migration status and to detain those who are suspects of being unlawfully present in the country. In addition, it became a state crime not to carry migration papers (Archibold, 2010). Political leaders from Georgia, Mississippi, Pennsylvania and South Carolina follow the Arizona immigration model (Preston, 2011). According to Preston (2011), the political debates about tough immigration measures include the elimination of the right of citizenship to children of undocumented parents that were born in the United States. These political and public shifts in attitude against undocumented immigrants in general increase the vulnerability of undocumented

immigrant battered women. In addition to negotiating the complex U-visa process and its many related challenges, undocumented immigrant battered women are also subjected to public contempt, further limiting their ability to escape from interpersonal abuse and receive help. The combination of anti-immigrant public sentiment and political discourse towards targeting undocumented immigrants already results in the exclusion of many immigrants from access to public education, social and health benefits, finding jobs or housing, and obtaining drivers licenses (Erez, Adelman & Gregory, 2009; see also Fears, 2007). The political influence of public sentiment impacts the ability of undocumented immigrant battered women to seek help. The in-depth interviews reveal the immense power that law enforcement agencies have in the certification process for U-visa relief. The public alarm over growing unemployment, terrorism threats in post 9/11, and the increasing intensity of anti-immigration laws and sentiments in individual states further enhances the political pressure on law enforcement agencies to prioritize migration control in their individual interactions with immigrants.

Ongoing political and public discussions have raised the issue about whether or not and to what extent local law enforcement agencies should be involved in locating or removing undocumented immigrants. As previously mentioned, the migration related issues explicitly belong to the jurisdiction of the federal government. However, some states' programs shift the federal immigration enforcement authority to the state and local police, especially when states face an undocumented immigrant population involved in serious criminal activity. Therefore, as some of the lawyers mentioned, police officers do not only exercise discretionary power based on their personal attitudes and biases, but

also in many instances, police behavior reflects the attitudes of local politics and environment. A migration lawyer in New York City described the situation:

...Now, under the New York City law, Executive Order number 41 from 2003 which is New York City statute, nobody who is a public official in New York City is permitted to share someone undocumented status with other authorities. So for now, we have this strong pro-immigrant politics and support across New York City. However, it can change. And then some new and different political discourse can have an impact on individual police officers and their individual views towards undocumented immigrants.

Once the police are called to a case of domestic violence, law enforcement action is based on the individual discretion of a police officer and how she/he might evaluate the situation. Even though police officers in Delaware and New York City attend training that addresses violence against women, with many police departments establishing special units for domestic violence cases, it is still often the case that women will be arrested together with the offender. As opposed to New York City, the state of Delaware's law enforcement agencies operate with a mandatory arrest policy used in cases of domestic violence based on 'reasonable grounds'. Therefore, warrantless arrests depend on officers' discretion. It is up to police officers' discretion whether they will label women as a victim, an offender, or as a victim and an offender at the same time. If women who attempt to defend themselves against their abusers are labeled as offenders by a law enforcement officer, they are processed as undocumented immigrant offenders involved in criminal activity and they possibly face apprehension and deportation.

Because undocumented immigrant battered women are often labeled as offenders, they are even less likely to seek help or call the police in a domestic violence incident. A social worker in Delaware revealed:

...With the mandatory arrest, we have generally a lot of women that are arrested and should not be. These women are immigrants or non immigrants. And once they are in the jail, almost all of them plead guilty, because they are sitting in the jail, nobody bailing them out, so instead of waiting for the hearing and not going home to their children, they plead guilty. All the women plea and they cannot afford the attorney. Or they don't want their children to testify so they plea. In the long run, the offender can later use her arrest against her in terms of custody and in terms of visitation rights. In Delaware we get a lot of custody awarded to male offenders. We have this systematic problem. Also a lot of domestic violence offenders are child abusers, so the woman might be worried what he is doing to her children. We have a lot of child abuse and there is a high correlation between DV and child abuse. If we, as a care provider can get in touch with these women before they plea guilty, we would advise them, "do not plea guilty." It is very likely that he would not even show up for court and the case will be dismissed. But, they don't know it and they do not trust the system. And we are talking about American women, women who grew up here. So for immigrant women, it is even harder. If they are undocumented, once they will get into the criminal justice system as an offender, it is very likely that they will be deported. So many immigrant women just live with domestic violence. So, I believe that many women are just willing to live with domestic violence because her risk is so enormous...

A private clinical social worker in Delaware explained the situation of undocumented immigrant battered women who entered the criminal justice system often being arrested as the domestic violence offender:

...Once, I had a case of an undocumented immigrant woman who fought back and she was charged as an offender. She got her order to go in front of board of parole and probation. She was victimized for several years. I called the probation office because I know the director and they told me: Yes, we have to contact and report her to the ICE and they will usually come here, pick her up and detain her. So, she should come without children. I went there with her and she just repeated: 'they told me don't bring your children. But, I have to take my little boy with me....' We had to wait for the hearing....for like an hour....We went to the back office and heard that the immigration officers were already there. And the man came out and asked "Are you legally in the United States?" and she said "No I am not, I don't have any legal papers". And he asked "So how did you come to this county? And she said "I came from the desert" and he responded: Well, then I have to put you under arrest and I have to process you and you cannot take your child with you. She asked to go to the car so she could make a phone call to her family, so someone will take care of her child. I was furious that they would take her away without even asking what would happen to her child...

In Delaware, the majority of respondents also discussed that undocumented immigrant battered women are not only vulnerable for deportation if they entered the criminal justice system as an offender, but also when they are arrested for a traffic violation. The regulation that undocumented immigrants cannot possess a driver license is not new. Many states after 9/11, including Delaware, were forced to change their state law to ban undocumented immigrants from holding a driver's license because of the belief that it can be used for terrorist activities. However, many immigrants in the Southern part of Delaware tend to live in rural areas without access to public transportation. Therefore, they have no other option than to drive without a driver's license and to risk apprehension. This apprehension might lead to jail time, ICE

notification, and finally a deportation proceeding. However, this situation might vary by counties and by judges who process individual case. As one migration lawyer in Delaware discussed a case:

I had a case of an undocumented immigrant woman that was put in jail for driving a third time without a driver's license. I don't even know if someone bothered to ask who is taking care of her child. So, a traffic stop led to an arrest for driving without a license. Because she was driving without a license for a third time, the arrest led to a trip to jail. The U.S. Immigration and Customs Enforcement (ICE) were immediately notified and she was put into a deportation procedure.

Because of the current economic crisis and public fear of terrorism, the voices in opposition to immigrants have gained strength in many regions of the United States. This increases the likelihood that undocumented immigrant battered women will be apprehended, which will begin a deportation procedure for even minor misdemeanors, such as traffic violations. Therefore, undocumented immigrant battered women not only fear their abusers in their own families but also they fear repercussions for their undocumented migration status from the general public. This places battered women in a deeper state of marginalization, a double-burden that increases their vulnerability for interpersonal violence and the ability of their abusers to exercise control over them.

In addition to state initiatives that have gotten tougher on illegal immigration, the availability of jobs for undocumented immigrants also became scarcer. Companies can be audited by ICE and fined for employing illegal workers. Now more often than before, businesses are registering with the E-verify system. This system was created to provide a

way for companies to enter government databases and verify whether their employees are authorized to work in the U.S. Many businesses, such as the Delaware poultry industry, strengthened hiring practices in order to comply with the migration laws. Using the voluntary federal verification program to assure employee eligibility reduces the number of jobs that were filled with undocumented immigrants. A lawyer in Delaware described the situation:

Undocumented immigrants were visible in several segments of the economy in Sussex County and slowly across the state. By using false identification cards and fraudulent documentation they had jobs in the poultry industry, at restaurants, and hotels. However, recently as immigration became a highly discussed issue in Delaware, many immigrant women were laid off. They lost their jobs and were further pushed deeper into the informal economy in domestic services.

Many interviews with social service providers revealed that once the migration issues became a political agenda at the state level and state politics moved in the direction to clamp down on illegal migration, many immigrants became jobless or moved to other states where they think it will be easier to get jobs. In addition, the recent global economic crisis contributed to worsening employment opportunities for undocumented immigrants. For example, the construction sector, which tends to employ undocumented immigrants, experienced a significant decrease in demand, which led to a labor reduction. However, undocumented immigrants are not covered or protected by unemployment services, further increasing their vulnerability for poverty or creating pressures that can lead to an increase in intimate violence.

8.5 Conclusion

The growing number of undocumented immigrants in the United States raises many social concerns ranging from community organization to labor force participation to increases in crime rates. What is often overlooked when discussing the relationship between immigration and crime is the victimization of undocumented immigrants. Much has been done by way of examining offending rates of this population; however, the rates of victimization among undocumented battered women are an important but under-explained issue in criminology and criminal justice.

This study reveals that the migration status of undocumented immigrant battered women results in legal retaliation if they seek help that they are eligible for through the available legal channels. This study reveals that unlike in Greece where undocumented immigrant women lack legal options for adjusting their migration status unless they were recognized by the justice system as victims of trafficking, the American legal system recognizes and provides legal remedies for undocumented immigrant women beyond victims of trafficking. Since 2000, undocumented immigrant women can adjust their migration status through the U-visa if they are victims of crime including interpersonal violence. Adjusting the migration status is an important way to empower undocumented immigrant battered women and remove them from their dependence on their abusers through work authorization. In addition, adjusting migration status protects victims of intimate violence from deportation and therefore, it can increase their social and economic mobility.

Even though the law offers legal remedies such as the U-visa for undocumented immigrant victims of crime, it does not necessarily protect every undocumented immigrant battered woman from her batterer or from the legal consequences for violating migration law. A crucial legal protection such as U-visas can be often overlooked by law enforcement agencies especially when officials carry out crackdowns or operations against undocumented immigrants. In addition, as respondents in this study reveal, the U-visas are limited to only undocumented immigrant victims of a crime that are *officially* recognized as such by the criminal justice authorities. Therefore, undocumented immigrant battered women who do not approach the law enforcement agencies, do not report a crime, or enter the criminal justice system as offenders, lack the eligibility necessarily for U-visa relief and face the possibility of deportation from the U.S.

This study uncovered that the process used to adjust the migration status through U-visa is not always quick and straightforward, even for those undocumented immigrant battered women that *are* recognized by law enforcement as victims of crime. In addition to the official recognition of being a victim of crime, undocumented immigrant battered women must meet the legal requirements for U-visa relief: suffering ‘substantial harm’, being helpful with the criminal justice authorities’ investigation, and prosecution of the offenders. Vague wording of the law in many instances creates hurdles for undocumented immigrant battered women and increases the discretionary power of law enforcement officials. For example, an applicant for a U-visa must be certified by a law enforcement officer, judge, or prosecutor that he/she is a victim of crime and has been helpful in an investigation and prosecution of the offender. However, as the majority of respondents

revealed, the certification process can be lengthy and not necessarily successful. Police in particular are often reluctant to sign the certification as a result of a lack of appropriate information and their subjective (and incorrect) viewing of the certification process as an issue of migration law.

Another major obstacle for undocumented immigrant battered women is that a U-visa does not grant the right to work until their migration status is adjusted. Since immigrant women lack the necessary work permits until U-visas are granted, which can take between six to eighteen months, they are forced to work in the informal economy, risking apprehension and deportation for the violation of the U-visa conditions. However, the lack of access to legal work is accompanied by the lack of access to federal public benefits that are tied to lawful residency status. In some states undocumented battered women can be eligible for some state benefits, but recent economic crises and severe state budget cuts eliminated even this possibility of financial relief. These factors exert an influence on immigrant battered women's decisions to leave their batterers. Even if they found the power and courage to leave their batterers and seek justice, the lengthy process of a U-visa and a lack of work authorization often discourage victims from proceeding with the application and hasten their return to their batterers or to their native country.

Consequently, the only option for relief until the migration status of battered women is adjusted becomes the social services offered through non-governmental organizations. Unlike in Greece, which lacks a sufficient and well organized infrastructure of social services, the social assistance provided by NGOs and

governmental organizations in the U.S. are well developed and organized. In addition, unlike in Greece, they provide help to any person that seeks help regardless of the migration status. They are committed to assist even those undocumented immigrant battered women that do not report the crime to the law enforcement authorities. For example, social service workers assist undocumented immigrant battered women with a petition for order of protection from abuse, with child custody paperwork, or with the receipt of social welfare benefits that might be available for their U.S. born children.

Nevertheless, even though these grass-root organizations in America are strong and widely recognized, they still struggle for financial resources. In many instances, they are required to limit shelter accommodation for undocumented battered women to no longer than 60 days. However, the process for adjusting migration status takes no less than 3 to 4 months, so battered women have to change shelter residences or find alternative housing, which is often financially impossible. Only a few shelters can accommodate women for longer periods of time. Unlike in Greece, shelters in Delaware and New York City are well organized and they provide a large spectrum of services to battered women as well as to their children. In addition, every shelter in Delaware and New York City uses a secret location in order to ensure security for their clients. However similar to Greece, service providers in the state of Delaware and New York City stress the need for additional legal aid resources and all of the lawyers that participated in this study felt that there is a substantial need for hiring more lawyers who know migration law since they themselves felt so over-burdened.

Undocumented immigrant battered women and the migration lawyers and social service providers who help them face many social and legal obstacles that are embedded in migration legal practices. Even though U-visas were enacted to provide legal relief for undocumented immigrant victims of crime, the implementation of the U-visa process has instead become a mechanism for law enforcement agencies to pursue their mandate to fight crime. Undocumented immigrant victims of crime are empowered only *after* the legal migration status is granted. Until then, undocumented immigrant battered women are helpless victims of a complex social and legal system. Recognizing the vulnerability of undocumented immigrant battered women created by the U-visa process illuminates that additional steps need to be taken to more effectively achieve the goals of U-visa and improve the security and safety of crime victims.

Chapter 9

DISCUSSION, PUBLIC POLICY IMPLICATIONS AND FUTURE RESEARCH SUGGESTIONS

Migration has always been an important part of history. Human mobility across national borders has forged the contemporary age of migration and has also shaped global society (Castles and Miller, 2009). Migration policies have been created and implemented across the globe in an effort to control international migration, to set rules about who can migrate under what conditions, and to establish the rights and obligations immigrants have in their new homelands.

Immigrants are more than simply a homogenous community with similar problems and concerns. Even though female immigrants have become increasingly prominent in international migration, social research has not adequately addressed the important role of women in migration, especially those individuals with undocumented migration statuses. The consequences of international migration for immigrant women become increasingly complex when their personal situations of experiencing interpersonal violence correlate with their undocumented migration status. By examining the unique needs of undocumented immigrant battered women within a migration policy framework, this research attempts to place immigrant battered women at the center of a social discourse.

The United States and Greece belong to the Organization of Economic Cooperation and Development Countries. Both are among the twenty most highly developed nations in the world and experience a significant influx of undocumented immigrants. Immigration, whether legal or unlawful, has been a subject for policymakers in both countries for many years. Migration policies in the United States and Greece have been modified several times to address the increasing influx of immigrants and the purposes behind their migration. However, migration policies are usually articulated in gender-neutral language. Migration policies have not acknowledged gender-segregated labor markets, socio-economic power structures, and socio-cultural gender roles; therefore, they have neglected to adequately address the special needs and concerns of female immigrants. Even though the majority of immigrants who immigrate to these countries through family reunion policies are women, women have been a substantial part of undetected migration patterns and are therefore excluded from legal rights and protection.

Migration policies in the United States and Greece tend to neglect the different consequences of migration for males and females. The present study examined the special situation of how migration policies correlate and respond to the needs of undocumented immigrant battered women and address their protection. In order to include the gender dimension and related gendered sensitivity that are often absent in migration policies, social science inquiry into these policies requires broader-gauged analysis that extends beyond the scope of migration policies *per se*.

This chapter reviews the principal findings of the present analysis of regularization policies and the in-depth interviews conducted with immigration lawyers and social service providers who work with undocumented immigrant battered women in the United States and Greece. This research reveals that migration policies in these two countries are ill-equipped to respond to the special needs of undocumented immigrant women who suffer from interpersonal violence. Instead, migration policies provide overwhelming obstacles for undocumented immigrant battered women to obtain protection from their abusers. As a result of the legal text analysis of migration policies and their practical application, it is clear that undocumented immigrant women are often forced to remain in abusive relationships and they lack empowerment and protection. Important principles of democracy, such as economic justice, social welfare, safety, and civil rights are therefore out of reach to immigrant battered women because of their undocumented migration status and the constraints of migration policies.

The idea behind the rule of law is based on a concept of legal control rather than individual discretion of legal actors. However, a challenge presents when deciding whether the rule of law is legitimate if the legal text is fixed and certain because its ambiguity can provide an opportunity for arbitrary and discriminatory interpretation of statutes that undermines justice. Nevertheless, this study showed that discretion might not satisfy the sense of justice especially in cases of undocumented immigrant women seeking relief from interpersonal violence, while at the same time, the ambiguity of legal text allows for discretion on clients' behalf. This study also revealed that migration law makes an explicit distinction among undocumented immigrant battered women based on

the status of their spouses. This clear legal distinction facilitates discrimination of undocumented immigrant battered women that are not married to U.S. citizens, denying them the access to adjust their migration status in the way that is granted to those who are married to U.S. citizens or permanent residents. In addition, the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) eliminated discretion of federal bureaucrats, causing an enormous rise in deportation based on criminal conviction of immigrants.

9.1 Rationale for Comparison

The United States and Greece were selected as the subject of this research for their unique historical relationship with international migration. Traditionally, the United States has been strongly influenced by international migration and immigrants have long been present in American society. As a result, migration is inseparable from the American identity, which has proven quite malleable and has been shaped by migration history. In many cases, migration has provided an important economic function by expanding the labor force during periods of rapid economic development. The American social consciousness is often inseparable from the broader issue of migration. This intimate connection between immigrants to America and the narrative of social history has informed migration policies in the United States.

However, this is not the case of modern Greece, which was largely a source for emigration and sent many emigrants principally to Germany and North America, as well

as other host countries including Australia and France. This pattern changed in the early 1990s, when Greece became affected almost overnight by a massive inflow of migrants for the very first time since the population transfers due to the Greek-Turkish conflict in the early 1920s. These immigrants were primarily from collapsing European communist countries that were culturally distinct from the Greek native population. Consequently, Greece has experienced a truly massive transformation in its demographic composition. The rapidity of that transformation has wrought profound changes in Greek society, thereby narrowing the earlier stark contrast between the migration experiences of Greece and the United States. At the same time, prejudices towards immigrants, xenophobic attitudes and patriarchal beliefs, some of which are shared by Americans today, have complicated the migration policy process and have left Greece ill-prepared to respond to emergent immigrant needs.

Despite two decades of intense immigration and a concerted effort to develop comprehensive immigration policies, Greece still has not achieved public policies commensurate with those of the U.S. Recent Greek economic problems have further complicated the process for developing public policies and anti-immigrant attitudes have become more visible in society. In many instances, Greece is viewed by the international community as a country that does not fully comply with international agreements about immigrants' human rights and does not sufficiently aid immigrants' integration into society.

An important area of inquiry for social constructivist theorists in particular involves understanding the spatial diffusion of norms. Therefore, one of the rationales for

the comparison between Greece and the U.S. is that it enables the tracing of the evolution of the issues of undocumented immigrant battered women in two contexts: one where norms are generated and another to which norms are diffused. Although governments of Greece and the U.S. have recognized that allowing undocumented immigrant battered women to adjust their migration status is harmonious with international efforts to protect victims of interpersonal violence, not every immigrant battered woman has been provided with sufficient legal and social protection.

Because of the diversity of public policy approaches developed by OECD countries to comprehensively address migration, which are exemplified in the experiences of the United States and Greece, this research revealed the variety of problems confronting undocumented immigrant battered women. The importance of the historical context for the development of migration policies in the United States and Greece are reviewed in Chapter Two. Chapter Three discusses in detail the changing attitudes towards females in the United States and Greece, including female immigrants and social responses to immigrant battered women. The historical and cultural context provided in these chapters enables contemporary migration policies and their differing approaches towards undocumented immigrant battered women to be understood as a social discourse.

The review of regularization policies and in-depth interviews conducted with migration lawyers and social service providers reveals the problems that undocumented immigrant battered women face as they attempt to negotiate the adjustment of their migration status and embrace the ideals of modern democracy, including economic and

social equality and political and civil rights. While Chapter Four reviewed the methods utilized in this research, analysis of regularization policies are explored for Greece in Chapter Five and for the United States in Chapter Seven. The findings from in-depth interviews are detailed for Greece in Chapter Six and for the United States in Chapter Eight.

By comparing the findings of regularization policies and in-depth interviews, this research responds to the following two research questions: Do regularization programs that are implemented in the United States and Greece take into account the gender differences within an undocumented migration population, or are undocumented immigrant women disadvantaged in the process of adjusting their migration status as a result of gender blind language used in regularization policies? How does the legal status of immigrant women affect their options for seeking relief from family violence situations?

9.2 Reprise: Undocumented Immigrant Women and Regularization Policies in the United States and Greece

Regularization programs are one of many migration policy tools. While regularization programs serve several purposes, they are often articulated in economic terms. For instance, regularization programs are implemented to control undocumented migration as well as the informal economies that tend to attract illegal immigrants. However, regularization programs also provide humanitarian relief to undocumented

immigrants by providing amnesty for those with an unlawful presence in the host country. These programs work in accordance with international agreements to ensure human rights and dignity for immigrants. In addition, regularization programs are a way for governments to learn about their illegal population. Regularization policies therefore are designed to achieve many multiple objectives.

In democratic societies, regularization programs reflect important social norms, including public participation in governance of the host countries. Therefore, the first step towards enfranchisement for undocumented immigrants is to obtain a legal migration status. Yet, many undocumented immigrants who live in democratic states are legally banned from participating in governance. As a result of their unlawful migration status, they cannot vote, they lack the ability to influence governance, and they are invisible to the policy making process. Migration policies therefore create disparities in democratic societies. While governance is thought to emerge from the body public, certain segments of the population are excluded from the very definition of who gets to participate.

Regularization programs also can have negative aspects. They may actually encourage the opposite of their intent by creating a magnet effect for additional illegal inflows of immigrants, as experienced in Greece. Some OECD governments, such as Germany and Switzerland, have traditionally strongly opposed regularization policies because they consider those policies to be a reward for law breaking. Therefore, it is often argued that democratic societies should not regularize undocumented immigrants because regularization undercuts the rule of law.

Through an analysis of regularization programs in Greece and the United States, this research offers a detailed picture of the Immigration Reform and Control Act of 1986 (IRCA) that was implemented in the U.S. in 1987 and the three major regularizations that took place in Greece since 1998. The focus of this examination is to understand regularization policies' possible impact on undocumented female immigrants who are in the process of adjusting their unlawful migration status. Even though regularization in the United States under the IRCA was not without its hurdles, the program emerged as a well-developed policy. This practice differs profoundly from the experiences of Greece in two fundamental ways. First, Greece seemed overwhelmed by immigration challenges, which resulted in inadequately planned regularization policies. Greece's poorly developed regularization concept and the lack of cooperation between involved governmental agencies created many obstacles for undocumented immigrants meeting the requirements and consequently adjusting their migration status.

Second, once immigrants in the United States have adjusted their migration status, the regularization program clearly defined a future procedure for regularized immigrants to use to obtain permanent residency and eventual citizenship. In Greece; however, the formulation of the regularization program did not address the long-term consequences for regularized immigrants, such as permanent residency and possible a pathway to naturalization. There was no long-term vision in Greek regularization programs to provide immigrants with either civil rights or to facilitate their permanent integration into Greek society. Instead, regularization programs granted only temporary residence permits that needed to be renewed several times. Unlike the United States, the pathway for

permanent legal residency defined by Greek regularization programs was complex, difficult for immigrants to negotiate, and in many instances, it led to their relapse in an unlawful migration status. Nevertheless, it remains conceivable that the growing role by the EU in matters pertaining to international migration may someday more directly influence Greek politics towards migrants.

Detailed analysis of regularization programs implemented in the United States and Greece reveals that both countries articulated some requirements, for adjusting migration status, in exclusively economic terms. Though unintended, this narrow economic definition of the requirements for regularization resulted in discrimination against immigrant women. For example, the regularization requirement of an employment contract failed to consider that undocumented immigrant women, especially in Greece, are predominantly employed in domestic services. Domestic workers are more likely to work for more than one employer and therefore cannot obtain an employment contract. Domestic services are also among the lowest-skilled sector of the shadow economy, resulting in the lowest incomes and vulnerability to employer exploitation. Without the ability to obtain proof of employment because of the very nature of their domestic work, immigrant women were unable to provide the documentation necessary to adjust their unlawful migration status.

Analyses showed that the gender discrepancy in regularization requirements was more pronounced in Greece than in the United States. In Greece, the gender neutral language used in the formulation of requirements for regularization clearly disadvantaged female immigrants in the process. Furthermore, regularization programs were stated in

vague and unclear terms, leaving a wide space for discretionary action by those involved in the implementation of these programs. Unless regularization policies take into account the specific conditions of undocumented females in the labor market, these gender inequalities will remain ever-present in the legal process and policies.

The economic motivation behind regularization programs, to transition undocumented immigrants from the informal economy into the formal economy where they participate in society as tax-payers and consumers, is also visible in the application fees required for immigrants to adjust their migration status. While regularization fees in the United States have been criticized as too high for immigrants who work for less than minimum wage, the fee structure in Greece was even more unaffordable. In the United States, immigrants were also only required to prove employment. In contrast, Greece required undocumented immigrants to declare both: their employment and their minimum income by purchasing social security stamps. The cost of these social security stamps exceeded what many undocumented immigrants could afford to pay with their real wages, especially undocumented female immigrants who were in the lowest paid sector of the labor force. As a result, the documentation required to prove minimum income in Greece created an insurmountable barrier for many immigrants, especially undocumented women, to be regularized.

As a result of the gender bias of migration policies, regularization in the United States and Greece created families with mixed migration status; some family members were regularized while other family members were ineligible to adjust their migration status. The solution offered by both countries was to allow ineligible family members to

adjust their migration status under family reunion programs. In Greece, immigrant women comprised the majority who adjusted their migration status under family reunion programs. However, family reunion policies, while enabling some immigrants to adjust their migration status, simultaneously created new difficulties for those regularized under family reunion statutes.

In both countries, difficulties increase when immigrants regularized under the family reunion statutes are legally dependent on their spouses. Immigrants with dependent migration status in the United States and Greece rely on their spouses to obtain work authorization or permanent residency. Therefore, the structure of family reunion policies places spouses with dependent migration status in a subordinate category. This became especially problematic for those immigrants who suffered from interpersonal violence.

Even though migration strategies including regularization programs are commonly portrayed as fostering immigrants' integration, the history of migration control has led to much different results. Regularization programs in the United States and Greece failed to either control or reduce unauthorized migration or to sufficiently address the special needs and issues of some categories of immigrants, such as battered women. Furthermore, regularization programs have not addressed the negative consequences for those undocumented immigrants who were either not able to meet the regularization requirements or accompanied their family members and therefore were granted a dependent migration status. These negative consequences have endured long after the regularization policies were no longer in effect.

Despite their migration policies, both countries continue to experience a significant influx of undocumented immigrants, a large proportion of whom are females. Of the almost twelve million undocumented immigrants who presently reside in the U.S., 4.1 million are females (Passel & Cohn, 2009). The estimates of undocumented immigrants living in Greece are currently unknown. Insufficient accounting of undocumented immigrants in Greece has been further complicated by the recent massive and uncontrolled influx of undocumented immigrants from the Middle East through Turkey. This enormous uncontrolled movement of people raised alarms across the entire European Union. In the summer of 2010 for a first time in its history the EU launched an initiative to secure the Greek-Turkey border with the help of the European Union's border monitoring agency Frontex.

Even though undocumented migration is an area of social concern and the visible presence of females immigrants is increasingly significant, there has been surprisingly little debate or scholarly inquiry about remedies available for undocumented battered women to escape from interpersonal violence. Instead, the international community appears to be more concerned about victims of trafficking than about the presence of interpersonal violence within immigrant families. The needs of undocumented immigrant battered women are absent in migration policies. Moreover, the gender neutral language of migration policies leads to obstacles in victims' ability to seek relief and assistance in cases of interpersonal violence.

9.3 Policy Response to Undocumented Immigrant Battered Women in the United States and Greece

While this study has framed the issue of undocumented female immigrant regularization broadly, it also focused on the special circumstances that arise when undocumented immigrant women are victims of interpersonal violence. Interviews with shelter workers, social service providers, and migration lawyers in the United States and Greece reveal how the migration status of immigrant women affects their options for relief from interpersonal violence. The findings from in-depth interviews revealed three important differences and one similarity between the United States and Greece that highlight challenges resulting from governmental policy responses to undocumented immigrant battered women who seek relief from domestic violence.

9.3.1 Differences

The first of the differences between the United States and Greece pertains to the perceptions of interpersonal violence as a wider social problem. In the United States, the response to male violence against women has been an important part of national policy for the last three decades. Examples of the prioritization of domestic violence include the Violence Against Women Act, the development of community-based services for victims, changes in professional responses to victims, and the creation of a variety of social service programs for the victims of domestic violence. These changes were embedded in broader policy and service arenas and extended into programs that

addressed the issues of interpersonal violence in immigrant communities. While interpersonal violence has not developed as an exclusively immigrant issue in the United States, the larger framework for domestic violence has improved undocumented immigrant battered women's access to help. Since 2000, the amendment to VAWA has provided legal remedies to undocumented immigrant victims of crime, including interpersonal violence, so they can adjust their migration status through non-immigrant U-visa.

Conversely, in Greece, domestic violence has only recently been recognized as a social problem that requires a governmental and social service response. However, even with this recognition, the process of establishing an infrastructure of social and legal services assist to the victims of domestic violence has been slow and fragmented. Greece is intensely patriarchal with clearly divided gender roles within society and within families. The responses of law enforcement agencies to Greek battered women are very limited as a result of their emphasis on the family structure and the privileged protection of family and marriage. Consequently, even Greek women who suffer from interpersonal violence have very limited access to legal and social help. The limited legal statutes for domestic violence in Greece do not provide remedies for undocumented immigrant battered women. Instead, the adjustment of undocumented migration status is offered only for victims of trafficking or under the statute of 'humanitarian reasons.' Cases involving undocumented immigrant battered women rarely fall within the definition of 'humanitarian reasons.'

In Greece, domestic violence is addressed within the family context to preserve the family as a social unit. Segue of family-oriented problem solving in Greek society is the ‘mediating process.’ This study found that the ‘mediating process’ is overwhelmingly used in lieu of legal procedure to address interpersonal violence as opposed to court litigation. As the study’s respondents mentioned, the mediating process is used to emphasize the importance of keeping families intact and the restoration of family relationships without acknowledging and developing the need for resources and infrastructure to monitor offenders and protect victims. Without consideration for the cumulative effects of interpersonal violence, the mediating process places victims at the same table with their offenders. This can reinforce the power imbalance between victims and offenders and re-privatizes interpersonal violence.

The second of these differences between the United States and Greece pertains to social attitudes towards immigrants and their access to social and legal services. Even though both countries experience tensions against undocumented immigrants, especially in the current time of economic crisis, access to services for undocumented immigrant battered women is much more available in the United States. Service providers in the U.S., such as shelters for battered women, do not ask victims about their migration status before providing assistance and accommodation. In addition, unlawfully residing immigrants can access legal remedies in the United States. For example, undocumented immigrants can file orders of protection against their abusers, seek custody of their children, and have access to civil courts. Like social service providers, civil courts also do not ask about clients’ migration status prior to legal proceedings. Undocumented

women who do not engage in criminal activity therefore should not be at risk of apprehension and deportation by approaching civil courts. When guided by knowledgeable social service providers, undocumented immigrant battered women can be well served by civil courts in the issues of child custody or order of protection against their abusers.

Because access to legal remedies for undocumented immigrant battered women depends upon individuals within the legal system, including police officers, these women are vulnerable to the personal prejudices of individuals. The migration lawyers and social service providers in Delaware and New York City reveal their beliefs that police officers are influenced in their interaction with undocumented immigrant battered women by their personal attitudes and local politics. Their gender biased and anti-immigrant response could be particularly harmful when they are called to domestic violence incidents when victims defend themselves against their abusers. If the police officer labels the victim also as an offender, she could be subjected to apprehension and deportation as a result of her migration status. Even though Greece, as a part of the EU community, has to comply with EU requirements in the areas of gender and racial anti-discrimination policies, the international pressure is usually limited to enacting appropriate legislation, not enforcement of statutes. In addition, the international pressure has focused more on anti-trafficking standards than on immigrant battered women protections.

In Greece, the legal options to adjust migration statuses that are part of U.S. policy are not available to undocumented immigrant battered women. Therefore,

battered women are marginalized, living on the edges of society and are unlikely to approach service providers, police officers or civil courts for assistance. Xenophobic and racial anti-immigrant attitudes in Greece amplify this lack of legal response or available social remedies for undocumented immigrant battered women. When the patriarchal challenges that Greek women confront in their families and society are combined with a single Greek identity, undocumented immigrant battered women are even more vulnerable to violence and abuse. This vulnerability is therefore experienced at multiple levels, not only in their intimate family relationships, but in broader Greek society as well. The majority of respondents in Greece mention that police officers are not trained to provide assistance to undocumented immigrant battered women. The respondents interviewed revealed that when undocumented immigrant battered women interact with police officers, they are always treated as violators of migration policies and almost never as victims of crime.

The fragmented infrastructure of social services that provides some limited relief to Greek battered women excludes undocumented immigrants as a result of their unlawful residency. Undocumented immigrant battered women are considered violators of migration law rather than victims of domestic violence. According to analysis of the in-depth interviews with migration lawyers and social service providers, undocumented immigrant battered women who seek help from law enforcement are very likely to be apprehended as criminals and deported.

The third of these differences between the United States and Greece relates to the involvement of civil society, volunteer organizations and community activism in the

provision of services to those who need help. In the United States, providing social services is under the purview of community and non-government organizations, not just government entities. For example, while shelters for battered women may use government grants, they are also financially independent organizations that receive private funding. These non-government organizations are highly-organized entities that advocate at a state and federal levels for political equality, improvement in services, and legal remedies for undocumented immigrant battered women. Once undocumented immigrant battered women are accommodated in shelters or reach out for help without need of accommodation, they are provided with a variety of service options and are also assisted in the legal process of adjusting their migration status through available legal channels such as U-visa.

However, due to the recent weakness of the U.S. economy, these non-government and community organizations have experienced financial difficulties. Because many organizations receive resources from governments, budget constraints at the state level have limited the amount of services they can provide. Without the ability to hire additional legal aid attorneys to keep pace with the growing undocumented immigrant battered female population, the existing infrastructure is spread increasingly thin. The extensive amount of legal work required to process the application to adjust migration statuses compounds the abilities of legal services providers to help undocumented immigrant battered women.

In Greece, the infrastructure for the provision of services is not based on such civil involvement by non-government, community and volunteer organizations as

experienced in the United States. Instead, the family has long been understood as the appropriate entity for providing social services. Greece does not have an extra-familial commitment to address social problems through grassroots organizations. As a result, robust, independent non-government organizations have not been developed to meet community needs.

While there are some organizations in Greece that provide minimal services, including accommodation, for undocumented immigrant battered women, most organizations are funded exclusively with state resources. These state-funded organizations function as an arm of the state, promote state politics and enforce government laws. For example, shelter workers in state-run shelters are obligated by the law to reject undocumented immigrant battered women seeking accommodation and assistance. However, in some cases these shelter workers do provide accommodation to undocumented immigrant battered women even though this assistance is outlawed. In recent years, Greece has cut existing resources for these shelters and several were forced to close, thereby further constraining the already limited social services to undocumented immigrant battered women. Even though some shelters will provide accommodation to undocumented immigrant battered women, due to the lack of available legal remedies to adjust their migration status, these shelters are not able to help battered women gain independence or freedom from their batterers. The infrastructure and variety of services that are available to assist undocumented immigrant battered women in the United States are simply absent in Greece.

9.3.3 Similarities

Despite these major differences between the legal and social responses to undocumented immigrant battered women in Greece and the United States, this study also reveals one key similarity. Both countries provide legal remedies for adjusting undocumented migration status for battered immigrant women under migration policy statutes, as opposed to social policies. Because the motivations behind migration policies are to control immigrants, the needs of undocumented immigrant battered women are not adequately addressed. While social policies are created to help those in need, undocumented immigrant battered women must comply with migration policies before they can access social assistance.

In the United States, undocumented immigrant battered women are eligible for U-visa relief only *after* they are recognized as victims of interpersonal violence by official law enforcement authorities, suffered substantial harm, and were helpful in the investigation and prosecution process. This legal articulation of requirements for U-visa relief focuses on solving crime rather than providing assistance to victims of interpersonal violence. Even though undocumented immigrant battered women are recognized as victims of crime, migration policies put significant restrictions on the opportunities for immigrant battered women to escape from their abusers. The application process for U-visa relief further complicates victims' situations. They lack the right to work until their U-visas are granted, yet simultaneously are banned from accessing federal and state benefits. Because obtaining the right to work can take as long as 18

months, women are left with limited housing options because many shelters will not offer accommodation for longer than sixty days. Undocumented immigrant battered women are left with few options but to return to their abusers for financial and housing support.

By placing the emphasis on fighting crime rather than on the needs of victims, migration policies also control eligibility for adjustment of migration status. The discretionary power these policies grant to police officers, who must sign certifications, further complicates the U-visa process for undocumented immigrant battered women. Police signatures that document the abuse are a crucial part of the application for adjusting migration status for immigrant battered women. The reluctance of individual police officers to sign such forms, therefore, can have serious consequences for undocumented immigrant battered women. Migration lawyers and social service providers felt that individual police officers are reluctant to sign such forms as a result of their own personal biases or broader negative directions of local politics towards undocumented immigrants, in addition to their lack of knowledge about U-visa relief and its purposes.

In Greece, there is no specific legal option for adjusting an undocumented migration status for battered women like in the United States. While the option for so-called ‘humanitarian reasons’ provides opportunities for undocumented immigrant battered women to adjust their migration status, this option is available only for those victims who are accommodated in public or non-governmental shelters. This shelter-requirement becomes problematic because undocumented immigrants are legally banned from access to public-provided services, including shelter accommodation.

Undocumented immigrant battered women are therefore at the mercy of those shelter workers who violate the law and provide them with accommodation illegally. Even for the battered women who apply for a change in their migration status through 'humanitarian reasons' discover that the application entails a lengthy legal process with strict requirements that further decrease any likelihood of success.

While the United States has an existing infrastructure network of social services to assist undocumented immigrant battered women, and Greece lacks a similar organizational network of service providers, migration policies in both countries focus on immigrant control. The legal language of migration policies and its practical application often overrides any good intention by social service providers or migration lawyers to help and protect undocumented immigrant battered women. The consequences of migration policies in both countries extend beyond simply the control of migration movements. The articulation of legal text in migration policies does not provide any civil and social rights to undocumented immigrant battered women until their migration status is adjusted. Through the very structure of migration policies, these women are forced to endure violence. Therefore, undocumented immigrant battered women do not just suffer from the lack of civil and social rights; they also lack basic human rights. Migration policies limit their ability to protect themselves from exploitation and abuse from batterers and other criminal offenders such as abuse in workplace. In many instances, because migration policy treats undocumented immigrant battered women primary as immigrants that broke the law, it often ignores that women are also victims of crime that

need assistance and protection. This marginalization of undocumented immigrant battered women is more prevalent in Greece than in the United States.

9.4 Contribution to Social Science and Policy Implications

The suggestion that acceleration in the number of immigrants, particularly those without documentation, has a negative impact on the host country is not a new subject of social discourse. Public ambivalence toward immigrants, disputes over their contribution and arguments about their adverse effects upon the host society and economy have resulted in the growing politicization of migration policies. In addition, the number and diversity of immigrants has become a catalyst for population change. This growth, in turn, has increased pressure for an immediate government response to control immigration.

Many American politicians, including President Obama, have defined U.S. migration policies as a broken system. However, this position reflects an insufficiently nuanced view of the effectiveness of migration policies, particularly in regard to undocumented immigrant battered women. In some cases of undocumented immigrant battered women, immigration policy works successfully. As opposed to Greece, the American legal system recognizes the special problems of undocumented immigrant battered women and their vulnerability to interpersonal violence.

One of the goals of this research was to offer recommendations to improve migration policies so that there is a better response to undocumented immigrant battered

women. The arguments that migration affects female immigrants differently than their male counterparts, or that the vulnerability of immigrant women to intimate violence and that the abuse can increase as a result of their illegal migration status, are common among scholars. However, despite these academic concerns, migration policies have framed interpersonal violence against migrant women as merely a migration issue. In both the United States and Greece, the application of available legal standards and their success depend on the migration status of the abuser.

The motivations behind migration policies are to protect the host country from unwanted immigrants and to control the movement of migrants through family reunion policies, workers' programs, or a refugee and asylum seekers programs. Framing intimate violence against undocumented immigrant women within this larger migration-control strategy limits immigrant battered women's possibilities for legal remedies and solutions for relief from violence. The purposes of migration control strategies are so tightly confined that they do not consider the quality of life of undocumented immigrant battered women. Instead, these policies often constrain women's options, leaving them unprotected in violent household situations.

By expanding the scope and purpose of migration policies to not merely controlling immigrant movements, but also to include the temporary needs of undocumented immigrant battered women, the policies in both countries could serve both migration-control and quality-of-life purposes. A simple measure, such as providing temporary work authorization for undocumented immigrant battered women until the adjustment of their migration status is denied or granted, could dramatically improve

their health and safety. Their lack of access to services and benefits would therefore be removed from the equation because these women would be able to support themselves through legitimate sources, such as legal work. Such a measure as a temporary work authorization for undocumented immigrant battered women would therefore serve multiple social functions. It would assist women in their transition into the formal economy as employees and tax-payers. Their new financial independence would prevent battered women from further vulnerability to violence. Their income from legitimate work would also alleviate pressure on already burdened social services.

The gender bias of the language of the text of migration policies is also inappropriate because it privileges men. Men are no longer the predominant gender of migration. Women migrate in increasing numbers, not only through family reunion policies, but also as economically motivated workers with or without proper documentation, or for a variety of other reasons. The text of migration policies in both countries must consider the needs of women immigrants and the special needs of undocumented immigrant battered women.

Adequate police officer training in the U-visa process, especially for purposes of certification, could greatly enhance the ability of undocumented immigrant battered women to escape from interpersonal violence. The gender bias and anti-immigrant attitudes of individual police officers often influences their willingness to identify undocumented immigrant battered women as victims who suffer ‘substantial’ harm and who were helpful in investigation and prosecution. Sensitivity training in the special

needs of undocumented immigrant battered women could significantly improve police responsiveness and reduce the influence of anti-immigrant attitudes and gender bias.

Greece can offer special opportunities to enhance their policy protections of undocumented immigrant battered women. By removing the shelter accommodation requirement for the adjustment of migration status in the case of victims of interpersonal violence and opening state run shelters to victims regardless of their migration status, Greece can greatly improve the safety and protection for undocumented immigrant battered women. For Greece to establish the political momentum for policy change may necessitate a more fundamental social change that recognizes the needs of the victims of interpersonal violence and advocates for the safety and protection of battered women.

Female-interest grassroots organizations in the United States have played an important role in improving services and legal remedies for undocumented immigrant battered women. Undocumented immigrant battered women are no longer an invisible segment of society. Instead, through the work of non-government organizations and advocacy groups, these women have been brought into the wider discussion of migration policy and now to better address the needs of undocumented immigrant battered women.

Because the institutional conditions and organized interests in these two countries varies, in Greece they have had a different impact on political outcomes than in the United States. Social advocates and female interest groups in Greece are far less organized as they are in the U.S. To fill the gender gap in migration policies in Greece will require a similar presence of legal actors and social advocates including non-government organizations and migration lawyers who are sympathetic to the needs of

undocumented immigrant battered women. This may take the form of an organized public, political lobbies, or social movements that can assert political power to press for improved policies that address undocumented immigrant battered women's issues.

Without a social movement of civil society to advocate for battered women in general, and immigrant battered women in particular, the victims of interpersonal violence may remain silent players in Greek migration policies.

This present research offers an opportunity to learn about the process that undocumented immigrant battered women must negotiate to adjust their migration status and obtain protection from their abusers. These women have different motivations and positions in the labor market, in society and in many instances even within their own families. To adequately address the needs of undocumented immigrant battered women, these social and familiar positions must be taken into account while formulating migration policies and the requirements for adjusting migration status.

9.5 Future Research Orientations

It is not the intention of this study to contradict the original intent and traditional interpretation of migration law. Through more than two years of inquiry into this subject, numerous interviews conducted with a variety of social service providers and immigrant lawyers, it is clear that there is a need for a long term immigration and violence against immigrant women research agenda that extends beyond the Greece-U.S. comparison. The comprehensive framework utilized in this research is not time and space specific.

Instead, this research can and should be replicated in additional states and countries to fully understand the impacts of migration policies on undocumented immigrant battered women. For example, Scandinavian countries such as Denmark or Sweden are characterized as social welfare states and are often used as a comparative model in European countries because of their social protection policies in the form of pension, health and long term care, and support for the poor, the disabled, and the unemployed. In addition, the Nordic countries are viewed as states with strongly developed ideologies of gender equality. Even though populations in the Nordic countries are small and homogeneous, through the expansion of EU's common labor market since 2000 and the enlargement of the European Union in 2004 and 2007, the immigrant population has grown and Scandinavian countries are experiencing an increased number of labor immigrants and family related immigrants. Thus, future research in Denmark or Sweden can uncover how migration status affects the lives of immigrant battered women and their options for seeking legal and social protection.

This research has served as a launching-point for future research into the issues faced by undocumented immigrant battered women. For instance, discovering more about battered women's interactions with police officers and continuing this inquiry by interviewing the police officers themselves. Future research on gender policies specific to battered women such as mandatory arrests or 'no drop' prosecution policies can uncover additional obstacles for immigrant women if they enter the criminal justice system as offenders rather than as victims of crime. The language barriers to accessing social and legal services could be better understood by investigating the language-needs

of undocumented immigrant battered women in various other jurisdictions. Expanding the scope of research to additional states can expose how local political agendas impact the way law enforcement officers and prosecutors investigate interpersonal violence within undocumented immigrant populations. Additionally, because available studies tend to focus exclusively on trafficking for sexual exploitation, future research also needs to explore other reasons trafficking of female immigrants in areas such as domestic work, as domestic services are predominantly an area of female employment.

The opportunities for future research into the needs of undocumented immigrant women who are victims of crime are numerous. This research has just begun to unfold the many complex interactions between immigrant communities, law enforcement agencies and social services providers. That undocumented immigrant battered women are often invisible to law enforcement has masked the size and scale of this problem. By shifting the focus of research onto undocumented immigrant battered women, future research can provide meaningful recommendations to improve migration policy to bring these women closer to protection from abuse.

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APPENDIX A

QUESTIONNAIRE FOR MIGRATION LAWYERS

General questions:

- What is your job description?
- How long have you been working with immigrant victims of violence?
- Since the last regularization policy, what was going on in your country regarding the issue of violence against immigrant women?
- What is your sense of how the regularization program has influenced the issue of violence against immigrant women in terms of their legal status, access to the public services, and so forth?
- What type of cases do you most frequently deal with?
- What is your working definition of violence against immigrant women, specifically battered immigrant women?
- What does “violence against women” mean to you? (Probe: who does this include?)
- What resources are available to you as an immigration or criminal lawyer for battered immigrant women cases?
- What resources are available to you as an immigration or criminal lawyer for battered undocumented immigrant women cases?
- What protection can be offered to battered immigrant women?

- With the crime of battering among intimate partners, who is the typical victim? Typical offender? What role does gender play in battering? What role does 'power and control' play in battering?
- How do you think your country in general is responding to this issue?
- How do you think your particular organization (i.e., immigration or criminal lawyer or government organization or NGO) is responding?
- What legal obstacles do you face in responding to the issue of battered immigrant women or battered undocumented immigrant women?
- Do you have to report the undocumented legal status of battered women?
- How does this affect your ability to help battered immigrant women?
- How does this affect battered women's willingness to seek your help?
- What do you think are the causes for violence against women? (probe to be sure they are talking about women battered by men)
- What are some short term solutions to the problem of violence against immigrant women?
- What are some permanent solutions to the problem of violence against immigrant women?
- What do you think the government should do to respond?
- What do you think the role of NGOs is or should be? (for this question and the one above, probe about if they think the government/NGOs are doing enough)
- What else could be done? (probe: short term? long term?) (probe about: creating and reforming law, meaningful prosecution and punishment, delivering victim services related to housing, safety, economic justice, etc.)
- Are you collecting data on violence against immigrant women and their country of origin?
- Is there anything else that you think we should know about that we have not asked about?
- Is there anyone else that you think we should be sure to try to talk with?

- Would you be willing to be re-contacted by email if we should have any additional questions or need any clarifications? (verify email address).

THANK YOU

APPENDIX B

QUESTIONNAIRE FOR SERVICE PROVIDERS AT SHELTERS

General questions:

- What is going on in your country regarding the issue of violence against immigrant women?
- How the government to respond issues of battered immigrant women?
- How can you help battered immigrant women with illegal status?
- Are you obligated to report undocumented women to the officials?
- What does “violence against immigrant women” means to you? (Probe: who does this include?)
- How do you/does your organization define violence against immigrant women?
- With the crime of battering among intimate partners, who is the typical victim? Typical offender? What role does immigration status of women play in battering? What role does ‘power and control’ play in battering?
- How do you think your country in general is responding to this issue?
- How do you think your particular organization (i.e., Ministry of Justice or government organization or NGO) is responding?
- What obstacles do you face in responding to this issue?
- Do you have to report the undocumented legal status of battered women?
- How does this affect your ability to help battered immigrant women?
- How does this affect battered women’s willingness to seek your help?

- What do you think are the causes for violence against immigrant women? (probe to be sure they are talking about women battered by men)
- What are some permanent solutions to the problem of violence against immigrant women?
- What do you think the government should do to respond?
- What do you think the role of NGOs is or should be? (for this question and the one above, we should probe about if they think the government/NGOs are doing enough)
- What else could be done? (probe: short term? long term?) (probe about: creating and reforming law, meaningful prosecution and punishment, delivering victim services related to housing, safety, economic justice, etc.)
- Are you collecting data on violence against immigrant women?

Specific questions:

- What is the history of the shelter?
 - How did its development come about?
 - Was the idea and operation of shelters well received? (probe – who supported/not supported and why/why not)
 - What are the connections between the government and NGOs? (probe – are there any tensions? Do you share the same goals, understandings, and/or visions?)
- Could you please tell me about your shelter?
 - When did it open?
 - Funding?
 - Operation? Who are the founders and workers? Background?
 - Specifically, who are the battered women (battered by their current or former intimate partner) your organization deals with?
 - How do you reach immigrant or undocumented battered women?

- How do you cooperate with law enforcement, court services, legal representation, corrections, health, education, social services, and the ministry? (go through these separately)
- Who are the shelter workers (what is their education and gender?)
- Do you provide training for new employees?
- Who gets shelter? (probe – kids? How referred? How long can they stay? How many can reside there? How are the chores – cleaning, dining, etc. – carried out?)
- Do victims return to the facility over time or the service is restricted?
- Do you have services for male victims?
- How do you deal with situations when your capacity of beds is full?
- What kinds of resources, support, etc. available? (probe: legal, therapeutic)
- How do you address victims' needs for safety?
- Other victim services? (such as counseling, employment, housing, issues with children)
- Outreach to community?
- Is the housing free? (if not how much?)
- Is there anything else that you think we should know about that we have not asked about?
- Is there anyone else that you think we should be sure to try to talk with?
- Would you be willing to be re-contacted by email if we should have any additional questions or need any clarifications? (verify email address).

THANK YOU

APPENDIX C

CONSENT FORM

My name is Gabriela Wasileski and I am a Ph.D. student in the Department of Sociology and Criminal Justice at the University of Delaware. I am conducting this research as a partial requirement for a Ph.D. degree.

PURPOSE: Many studies have evaluated the regularization policies as a tool for decreasing number of illegal immigrants in the country. However, very few studies have specifically explored the gender variable within such legislation and how these policies address battered immigrant women. I think it is important to explore the ways in which the regularization programs can affect men and women. I would like to explore the ways in which your organization, institution, or department addresses violence against immigrant women. The goal of the interview is to explore the efforts and obstacles you face in addressing immigrant women's needs regardless of their legal status.

PROCEDURES: If you agree to participate in this study, you will be asked to answer questions during a semi-structured interview about your program or organization. The questions will be open-ended and the approximate time that it will take to complete is approximately 45 minutes. I would like to tape record the interview because it makes it easier for me to pay attention to what you are saying if I do not have to rely solely on my written notes. Furthermore, by recording the interview, I will be able to review the tape at a later time in order to ensure that I accurately represent your perspective. You will not be identified by name or other identifying information on the tape. You have right to refuse to be audio-recorded or to stop the recording at any time. If you decline to be recorded, you may still participate, and I will make notes during the interview.

RISKS: If the recording makes you feel uncomfortable, I can stop the recording at any time. If you feel uncomfortable at any point in the process, you may choose not to answer any question or any part of a question or terminate the interview.

BENEFITS: As part of the project, your own experiences and suggestions will be used to help with policy and program recommendations.

COMPENSATION: None.

CONFIDENTIALITY: Your records will be kept confidential. Your name will not appear on any questionnaire, transcript, data file or research report. All tapes, consent forms, and transcripts will be secured in a locked file. The tapes will be destroyed (erased) at the completion of the research analyses. The interview transcripts will be retained indefinitely for use in future analysis. For comparison purposes only, the final analysis may reveal if the participant is immigration or criminal lawyer, shelter provider or other NGO member, but any other specific information will not be named.

RIGHT TO WITHDRAW: Participation in this research project is voluntary and you have the right to withdraw from this study at any time.

You may ask and receive answers to any questions concerning this study. If you have any questions about this study, you may contact either Gabriela Wasileski at (302) 831 6625, gwasi@udel.edu, or Dr. Susan Miller at (302)831-1562. If you have any questions about your rights as a research participant you may contact the Chair, HSRB at (302)831-2137.

_____ Initials

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_____ Initials

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CONSENT: I have read and understand this form, and I agree to participate in the interview for the research project.

Signature of Participant to agree with tape recording Date

Signature of Participant Date

Signature of Witness Date

Would you be willing to be re-contacted by email if we should have any additional questions or need any clarifications? (verify email address).

_____ Initials