



**WESTERN  
MICHIGAN**  
UNIVERSITY

The Journal of Sociology & Social Welfare

---

Volume 39  
Issue 4 December

Article 6

---

2012

## "Where Are My Rights?" Compromised Citizenship in Mixed-Status Marriage A Research Note

April M. Schueths  
*Georgia Southern University*

Follow this and additional works at: <https://scholarworks.wmich.edu/jssw>



Part of the Gender and Sexuality Commons, Social Policy Commons, and the Social Work Commons

---

### Recommended Citation

Schueths, April M. (2012) ""Where Are My Rights?" Compromised Citizenship in Mixed-Status Marriage A Research Note," *The Journal of Sociology & Social Welfare*: Vol. 39 : Iss. 4 , Article 6.

Available at: <https://scholarworks.wmich.edu/jssw/vol39/iss4/6>

This Research Note is brought to you by the Western Michigan University School of Social Work. For more information, please contact [wmu-scholarworks@wmich.edu](mailto:wmu-scholarworks@wmich.edu).



“Where Are My Rights?”  
Compromised Citizenship in  
Mixed-Status Marriage  
A Research Note

APRIL M. SCHUETHS

Georgia Southern University  
Department of Sociology and Anthropology

*Immigration policy has shifted its focus from family reunification to strict enforcement of “illegal” immigration. It has become much more difficult for U.S. citizens to adjust their non-citizen spouses’ legal status, especially spouses who are undocumented. This paper examines the vulnerabilities of female U.S. citizens married or partnered with undocumented Mexican men. Findings challenge the simplistic notion that marriage with a U.S. citizen creates automatic legalization for undocumented individuals and highlights the creation of a second class citizenry for native-born partners. This study argues that punitive immigration law and policies have profound negative implications for the lives of U.S. citizens.*

*Key words: mixed-status families, immigration policy, undocumented immigrants, citizenship*

Most people in the United States assume incorrectly that marriage between a non-citizen and a U.S. citizen creates a seamless pathway to legalization for the immigrant partner with few consequences for the citizen spouse. However, the complex lives of U.S. citizens married to undocumented immigrants (i.e., mixed-status couples) rarely enter the public’s consciousness. What little we do know about mixed-status couples is often mischaracterized by the media. Films such as *The Proposal*, a box office smash in the summer of 2009 reduce

Journal of Sociology & Social Welfare, December 2012, Volume XXXIX, Number 4

the public's understanding of marriage between citizens and those without legal status to an easy and crass tactic to gain citizenship (Mandeville Films, 2009). By and large, the general public is unaware and misinformed of how the emergence of exclusionary immigration policies, with a focus on cracking down on "illegal" immigration, also marginalizes U.S. citizen spouses.

Similarly, the experiences of mixed-status couples have also been omitted from scholarly research. Although academics have examined intermarriage between U.S. citizens and "legal" immigrants (Jasso, Massey, Rosenzweig, & Smith, 2000), no work provides first-hand, qualitative accounts of adult citizens impacted by their partners' undocumented legal status. Fix and Zimmerman (2001) describe demographic profiles of mixed-status families but mainly focus on immigrant couples with citizen children. However, they conclude that family members who have legal rights become "second class citizens." These findings frame the unforeseen loss of benefits experienced by citizens partnered with undocumented individuals.

Although there is a lack of scholarly work examining mixed-status couples, some existing research draws attention to the negative impact of restrictive immigration policies on the lives of U.S. citizens. Bhuyan (2010) analyzes how strict mandates to verify citizenship and identity for public assistance inherently disenfranchise both immigrants and citizens. Attempts to block undocumented immigrants from accessing Medicaid actually reduces the number of eligible immigrants and citizens receiving benefits and creates particular hardships for low-income groups, especially citizen children in single-parent homes.

The benefits of citizenship for children are often dependent upon their parents' legal status, even when the children are citizens (Van Hook & Balistreri, 2006). Recent immigration policies targeting undocumented immigrants have created a decline in well-being for immigrant children, many of whom are U.S. citizens. Androff et al. (2011) point out that children of undocumented parents experience "economic insecurity, barriers to education, poor health outcomes, arrest and deportation of family members, discrimination, and trauma and harm

to the community" (p. 78). Examining the vulnerabilities of mixed-status couples can strengthen our understanding of the experiences of children when they are part of the family, but it is vital that adults involved be studied as well.

The purpose of this paper is to examine the experiences of native-born citizen women who are married or partnered with undocumented Mexican men. This research highlights the ways in which citizens' personal lives directly challenge community misinterpretations and demonstrates the intricate connections between the rights of undocumented immigrants and the rights of U.S. citizens. This study argues that punitive immigration laws have profound negative implications for the private lives of U.S. citizens partnered with undocumented immigrants.

Since the terrorist attacks of September 11, 2001, immigration policy has been framed as a national security issue (Hing, 2006), shifting its focus from family reunification to enforcement of "illegal" immigration. Thus, it has become much more difficult to sponsor an undocumented spouse. Prior to the terrorist attacks, undocumented immigrants married to citizens had an easier time becoming legal residents and were allowed to pay a fine; however, this option is no longer available. Individuals who enter the country "illegally" rather than overstay a visa face the harshest penalties. Astonishing to many couples, "illegal" immigrants who entered the country without inspection must return to their country of origin if they hope to obtain legal residence (which is still not guaranteed). Particularly damaging for mixed-status couples, Congress has decided that individuals with more than 180 days of unlawful presence are now subject to a three-year bar, while individuals with more than a year of unlawful presence are subject to a ten-year bar (Mercer, 2008, pp. 300-301). Even more punitively, individuals with more than one year of unlawful presence who are deported from the United States or who chose to leave and then return "illegally" are permanently barred (Cruz, 2010). Inadvertently, anti-immigrant policies centered on enforcement of "illegal" immigration create a vulnerable social position for citizens.

Filing an extreme hardship waiver is currently the only option U.S. citizens have to adjust their spouses' legal status

(along with the immigrant spouse traveling abroad) (Mercer, 2008). The undocumented spouse must “prove that a denial would cause an extreme hardship, rather than a normal hardship, to the immigrant’s citizen or lawful permanent resident spouse ...” (p. 305). Separation from spouses and children is not considered an extreme hardship. The lack of consistent definitions, the discretionary nature of hardship waiver decisions, and the inability to appeal decisions creates a shaky position for families. If a waiver is denied, the “illegal” spouse will be forced to leave the United States. Naturally, these risks prevent many couples from even initiating adjustment of undocumented status, as “living in the United States without status is a lesser moral harm than abandoning one’s family and home” (Cruz, 2010, p. 13).

Low-income citizens are at a distinct disadvantage when attempting to gain legal status for an undocumented spouse. Sponsoring citizen spouses must document that their income is at or above 125% of the federal poverty guidelines. If the citizen’s income does not meet the eligibility criteria, a financial co-sponsor must be used; the undocumented partner’s income cannot be included (U.S. Citizenship and Immigration Services, 2008). This is particularly concerning as mixed-status families are more likely to be low-income when compared with other families and may have more difficulty meeting the financial standard set by the U.S. government (Fix & Zimmerman, 2001). Also, it can cost thousands of dollars to sponsor a spouse.

To this point, no research has examined the impact of mixed-status partnership on U.S. citizens. Because couples are sometimes treated as a legal unit and other times as legally separate, status complexities exist for these couples. This study fills a gap by exploring the overlooked realities confronting citizens, primarily White female citizens, partnered with undocumented Mexican men, as they attempt to adjust to the ambiguous legal structure of the United States and fight against public misperceptions that leave them vulnerable.

## Methods

This research is part of a larger study focused on mixed-status couples conducted over a two-year period (2007-2009). The focus of this paper is the experiences of 18 U.S. citizen women

(primarily White) who are partnered with undocumented or formerly undocumented Mexican men. I utilized standard written interview questions, however, a flexible format was encouraged. I asked participants open-ended questions related to their mixed-status partnership. The questions included experiences with the immigration system, the quality of the couple's relationships, family strengths and needs, and any other topics they felt were important. I used purposive sampling, specifically snowball sampling, among community networks of undocumented immigrants and their partners (Patton, 2002).

I interviewed participants in person ( $n = 12$ ) or, because of distance, on the telephone at a research center on a Midwestern university campus ( $n = 6$ ). During the initial phases of my research I learned some individuals were hesitant to participate without their partner present. Thus, the majority of interviews took place with both members of the couple present (11 couples) and I interviewed the remaining couples separately per their request (7 couples). In-person interviews generally took place in the couples' homes (9) or at private community settings (3). Due to the sensitivity of this research, participants were not required to provide their names or give written consent; only verbal consent was required per the Institutional Review Board. I gave participants the option to be audio-taped (11) or for notes only to be taken (7), allowing them to choose the option with which they were most comfortable. The interviews typically averaged 60 to 90 minutes. When writing results, pseudonyms were used to protect participants' identities.

This study included participants living in seven states and one participant residing in Mexico. An overwhelming majority of women were married ( $n = 15$ ) and reported being married for three years on average and with their partner for about five years. Couples who were not married or engaged were together from one to three years. Sixteen of these couples were interracial while two indicated that they and their partner are both Latino/a. The average female participant was 32 years old, and slightly older than her male partner (about 28 years old). Most women either had no children or were part of a blended family. The women in this study had more education than their male partners. The median family income reported was \$59,000 per year and about half of the couples owned their own home.

Data analysis for this research began after the first interview. I used an inductive process that focused on building larger themes and description emerging from the raw data (Strauss & Corbin, 1990). First, I converted the word-for-word interview transcripts and notes into Atlas.ti software to analyze the data (Muhr, 2004). Transcribed data are read line-by-line, on at least three different occasions. During the first reading I was concerned with gaining “a sense of the whole” (Hatch, 2002). The second read-through included coding key words and phrases. During the third assessment I began to develop a list of codes. Three themes emerged: (1) once you get married to a citizen it’s (not) over; (2) betrayed by my own country; and (3) little things you don’t think about. Because U.S. citizens partnered with undocumented immigrants rarely have the opportunity to tell their stories, I chose to identify themes using the participants’ own words.

## Results

### *Once You Get Married to a Citizen it’s (Not) Over*

U.S. citizens, regardless of marital status, consistently indicated that few people truly understand how complicated the U.S. immigration system is, including the process of obtaining family visas through marriage. The general public perception is a simple equation in which marriage equals legal papers. Several citizen participants were shocked to learn otherwise.

Rebecca, a newlywed, anticipated that the immigration process would be lengthy and expensive, but she had no idea that her husband, Antonio, would be required to return to Mexico for an unspecified period of time, and even then his case might get rejected. He crossed the Mexico–United States border “illegally” and has lived in the U.S. unlawfully for more than one year, thus he will likely face a ten-year bar from the United States. Similar to other couples, Rebecca and Antonio were advised by an attorney to put their file on hold as their extreme hardship waiver would likely be denied. In essence they were told to “wait until reform happens.” Rebecca explains her lack of knowledge: “I thought, there’s a lot of paperwork, it takes a long time, but it’s for sure. You just gotta put in the time and do it, spend the money.”

Despite what their attorney called a “clean case,” (law-abiding immigrant of good moral character) Abby’s husband, Manuel, received a ten-year bar from the United States and they subsequently relocated their family to Mexico. Manuel also entered the country “illegally” and lived without status for more than one year. Abby has particular empathy for people from Mexico with few resources who apply for U.S. residence:

We went through two and half years of paperwork, thousands and thousands of dollars and he got denied. ... I mean if it’s that hard for someone who’s married to an American, how are people who aren’t married to an American supposed to do it the right way before they come here illegally?

Participants expressed how crucial it is to inform the public about how difficult it is for undocumented immigrants to gain legal status, even through marriage. Lola says, “I think people automatically think ‘well once you get married to a citizen it’s over,’ well no that’s not true.”

#### *Betrayed By My Own Country*

The emotional burdens of mixed-status couples were often greater than U.S. citizens imagined. Faith describes herself as a devout Catholic and college-educated professional who always “does the right thing.” Unfortunately she thought life would get easier after she and her husband, Mariano, were married. She explains, “I couldn’t get car insurance because my husband didn’t have [legal status].” After their wedding, she called her insurance company to add Mariano to her plan; she had been with this company for more than ten years. After speaking with an insurance agent, it eventually became obvious that her husband was undocumented. Not only did they deny Mariano’s car insurance, they also denied her. She said, “I called and called and finally found someone who would insure me.” Faith realized if she wanted to maintain car insurance she was going to have to hide her connection to Mariano; she has done this for their entire marriage. “It was very upsetting to me that I had to lie. I cried all day that day.”

In addition, Faith said that during 2008, when the U.S.

government sent out economic stimulus payments to eligible families, neither she nor her husband received a check, even though they are both employed. According to the Internal Revenue Service (2009), families filing taxes jointly were not eligible for the stimulus payment if any individual in the household used an Individual Tax Identification Number (ITIN) rather than a social security number. Faith asserts, "My rights as an American citizen have been compromised."

U.S. citizens sponsoring an immigrant spouse must also be able to provide documentation that they can financially support their spouse to avoid being a "drain on the system." Sue explains, "I think it's unfair that being a U.S. citizen we have to be able to afford our spouse and we have to be able to prove that without them we are going to be able to suffer. It's ridiculous." An interesting contradiction exists for economic resources and marriage. Having an immigrant spouse leave the country to attempt to adjust their legal status has the potential to increase the likelihood of accessing public assistance as families with two incomes lose half of their resources overnight, especially those with children. No participants reported that they had accessed public welfare programs while their spouse was absent, but a few did present this as a possible scenario.

Wendy and Ricardo faced significant financial struggles during his absence to Mexico. She explained that without her husband's income, she was below 125% of the U.S. poverty guidelines and that her mother agreed to cosponsor her husband. Even though Ricardo's hardship waiver was approved and he now has legal status, she explains her anger at the government. "I felt violated as an American. I was like 'screw this country.'" She continues, "I have the right to pursue happiness, to have my family together, united." She says, "I felt betrayed by my country."

#### *Little Things You Don't Think About*

Undocumented individuals are no strangers to dealing with persecution. Driving without a license or car insurance, working under a false name or false papers all lead to tremendous strain. On the other hand, U.S. citizens consistently reported that their new marginalized social location partnered

with an undocumented immigrant was especially difficult. Chelsea says, "I always worry that something could happen and [Juan] could be taken away." U.S. citizens were much more cognizant and anxious about legal uncertainties than their partners.

The loss of freedom to travel was one of the main issues often taken for granted by U.S. citizens. Castles (2005) argues that within a globalized world mobility has become the most powerful and coveted stratifying factor. The majority of undocumented partners did not have valid driver's licenses and car insurance, but nearly all of them drive regularly. With increasingly restrictive state immigration policies and laws, obtaining a valid driver's license has become an increasing challenge. This has created a substantial barrier for the day-to-day functioning of families and has significant ramifications for citizen partners.

Chelsea's husband, Juan, commutes 40 minutes to work early each morning and for a while she was driving him to work. However, with her full-time job and other family responsibilities, this arrangement soon became impractical. Although Juan does not have a license, he does have car insurance, but it is in his friend's name. Chelsea too is uncomfortable with having him drive to work; however, they are left with few options.

Lola is well aware of the boundaries placed upon her relationship with her fiancé, Eduardo. New restrictive legislation has created additional barriers for them and in her opinion is nothing more than "racial profiling." In contrast to her husband, Lola experiences a great deal of anxiety about their situation:

There are certain things that we cannot do because of our relationship. We can't fly, you know. We were gonna go to [a neighboring state] but I know that you're worried about driving. They just passed a new law. Basically it's like racial profiling. People can pull you over if you're Hispanic, and boom ask you for papers or even, if I'm driving the car and we get pulled over and they ask who's got papers and if he doesn't I would go to jail.

The majority of undocumented partners do not have access to their citizen partner's employment benefits, even if they are married. Anna, who cohabitates with Carlos, explains that marriage will make little difference for their situation. "Even if he were to marry me, he wouldn't be able to get my health insurance." Similarly, Chelsea explains that her company offers health care benefits to spouses, yet her husband does not have a social security number, therefore he has not accessed this resource. She says, "I'm not sure how to pose the questions to the insurance company." Typically a social security number must be provided in order to appoint one's spouse as an eligible beneficiary of benefits such as life insurance.

Finally, going out to a bar to enjoy a few drinks was a surprising hurdle that given another context would seem mundane. Donna says, "There were times when I'd feel like I can't tell the whole truth or we have to make up a story about why my husband wasn't able to do something like travel or even go to a bar." Anna sums it up: "It's little things you don't think about and you take for granted."

### Discussion and Implications

The present study exposes a gap in the literature by exploring the contemporary vulnerabilities of U.S. citizens in mixed-status partnerships. This work moves beyond early discussions that focus on citizen children in mixed-status families (Van Hook & Balistreri, 2006). Citizen partners experience a double burden of navigating an impenetrable immigration system, while at the same time fighting against deep public misunderstanding. Contrary to widespread notions, marriage to a U.S. citizen does not provide automatic legalization for undocumented partners. Instead, the immigration process is extremely complicated, often leading to strain and an unanticipated loss of benefits to U.S. citizens, especially those who are low-income. This research illustrates how the lives of citizens and non-citizens are intertwined in ways of which the public is grossly unaware.

Similar to the findings reported in Fix and Zimmerman (2001), these participants' experiences validate that restrictive immigration policies create a second class citizenship for U.S. citizen spouses. Citizens simply were not familiar with this

new marginalized status in which their rights were suddenly compromised. They took for granted the ability to coexist with few constraints and interpreted these assumed privileges as an entitlement inherently tied to their citizenship. Unlike the families in Fix and Zimmerman's study (2001), the majority of participants in this study were not low-income. Yet, when attempting to sponsor a non-citizen partner, only the citizen's income can be included, which is likely to be lower than the combined family income. In reality, many citizens rely on their immigrant partner's incomes to sustain two-income families and are put at greater risk of needing to access public benefits.

Most of the U.S. citizens in this study were White and coming from a position of assumed rights that they did not get. This caused them anxiety, perhaps more than their Mexican husbands, who may have more to lose from their undocumented status. Future research should explore the complex intersections of race/ethnicity, gender, and social privilege in citizenship. It is also important to compare the experiences of citizens in mixed-status partnership with other undocumented groups, beyond Mexico. Finally, exploring the viewpoints of the immigrant spouses, including women partnered with native-born men, is needed to provide a more complete picture of the challenges for both citizens and non-citizens in mixed-status marriage.

In conclusion, outdated stereotypes must be replaced with the current experiences of mixed-status couples in the context of harsh immigration policies and laws. As one participant, Donna, stated, "I think we do need to get the word out how there are couples like us that exist and it's not as easy as just marrying somebody to be able to get your status." Bhuyan (2010) argues, "legislators and their public supporters may be less inclined to target immigrants through increasing documentary standards, if the costs to citizens are more visible" (p. 80). Increasing awareness of the hardships for citizen spouses in mixed-status marriage may create more social empathy for their vulnerable position, as well as for the plight of immigrants.

Although comprehensive immigration reform is desperately needed, families cannot afford to wait for an improved political climate that supports a complete Congressional overhaul. The hardships of family separation and an impenetrable immigration system support Cruz's (2010)

recommendation that family members with pending visa applications be permitted to live in the country legally and not be forced to travel abroad to adjust their status. She also advocates for creating provisional changes to the current system as modifications which may alleviate some of the immediate hardships facing mixed-status couples. In line with the recommendations made by Cruz (2010), we must permit a greater number of family visas and remove the unlawful presence bars. Laws and policies that impact immigrants also have unintended consequences for U.S. citizens. This study makes clear the need to change harsh, ambiguous immigration policies and promote the human rights of mixed-status families.

Acknowledgements: The author would like to acknowledge Dr. Helen Moore, Dr. Marcela Raffaelli, Dr. Julia McQuillan, and Dr. Nancy Malcom for their comments on an earlier version of this manuscript.

### References

- Androff, D. K., Ayón, C., Becerra, D., Gurrola, M., Salas, L., Krysik, J., Gerdes, K., & Segal, E. (2011). U.S. immigration policy and immigrant children's well-being: The impact of policy shifts. *Journal of Sociology and Social Welfare, 38*(1), 77-98.
- Bhuyan, R. (2010). Reconstructing citizenship in a global economy: How restricting immigrants from welfare undermines social rights for U.S. citizens. *Journal of Sociology and Social Welfare, 37*(2), 61-84.
- Castles, S. (2005). Nation and empire: Hierarchies of citizenship in the new global order. *International Politics, 42*, 203-224.
- Cruz, E. H. (2010). Because you're mine, I walk the line: The trials and tribulations of the family visa program. *Fordham Urban Law Journal*. Retrieved from <http://ssrn.com/abstract=1740685>.
- Fix, M., & Zimmerman, W. (2001). All under one roof: Mixed-status families in an era reform. *International Migration Review, 35*(2), 397-419.
- Hatch, J. A. (2002). *Doing qualitative research in education settings*. Albany, NY: State University of New York Press.
- Hing, B. O. (2006). Misusing immigration policies in the name of homeland security. *CR: The New Centennial Review, 6*(1), 195-224.
- Internal Revenue Service. (2009). *Economic stimulus payment information center*. Retrieved from <http://www.irs.gov/newsroom/article/0,,id=177937,00.html>.
- Jasso, G., Massey, D. S., Rosenzweig, M. R., & Smith, J. P. (2000). Assortative mating among married new legal immigrants to the United States: Evidence from the New Immigrant Survey Pilot. *International Migration Review, 34*(2), 443-459.

- Mandeville Films (Producer), & Fletcher, A. (Director). (2009). *The proposal* [Motion picture]. USA: Touchstone Pictures.
- Mercer, J. (2008). The marriage myth: Why mixed-status marriages need an immigration remedy. *Golden Gate University Law Review*, 38(2), 293-325.
- Muhr, T. (2004). *User's manual for ATLAS.ti 5.0 (2<sup>nd</sup> ed.)*. Retrieved from <http://www.atlasti.com/downloads/atlman.pdf>.
- Patton, M. Q. (2002). *Qualitative research and evaluation methods*. Thousand Oaks, CA: Sage.
- Strauss, A., & Corbin, J. (1990). *Basics of qualitative research: Grounded theory procedures and techniques*. Newbury Park, CA: Sage.
- U.S. Citizenship and Immigration Services. (2008). *How do I... financially sponsor someone who wants to immigrate?* Retrieved from <http://www.uscis.gov/USCIS/Resources/F3en.pdf>.
- Van Hook, J., & Balistreri, K. S. (2006). Ineligible parents, eligible children: Food stamps receipt, allotments, and food insecurity among children of immigrants. *Social Science Research*, 35(1), 228-251.

