



## IMMIGRATION LAWS AND WOMEN: A HISTORY OF UNFAIRNESS AND INEQUALITY

- A comprehensive review of the Immigration Reform and Control Act (IRCA) found that undocumented women who became eligible for legalization faced “great difficulty” in legalizing because of a lack of documentation needed to demonstrate that they had been residing in the U.S. since 1982. The study by the Urban Institute and Rand Corporation found that women were less likely to have the necessary paper trail for two reasons: 1) important documents such as leases, utility bills, and bank accounts were in their husband’s names and 2) many women worked as domestic workers in the informal economy. Women without documents were forced to rely on affidavits to prove their residence, resulting in higher levels of scrutiny, denials and extensive litigation.<sup>1</sup>
- For the first 150 years of our nation’s history, women had no independent pathway to citizenship. They could only become citizens through their husbands or fathers. Women who did not have a husband or father to sponsor them had to find male relatives in the United States who would swear to support them. Affidavits from female relatives were not accepted.<sup>2</sup>
- Until the 1930s, mothers could not pass on their citizenship status to their children because as wives they had no nationality of their own.<sup>3</sup>
- In the early 1900s, women who were American citizens could even *lose* their citizenship if they married noncitizens because a wife’s citizenship status was derived from her husband.<sup>4</sup>
- Regardless of a woman’s skills or abilities, at that time it was assumed that women could not be self-sufficient without a man. Women were routinely denied admission to

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<sup>1</sup> Baker, Susan Gonzalez. *The Cautious Welcome: The Legalization Programs of the Immigration Reform and Control Act*. Washington, DC: The Urban Institute Press and the Rand Corporation (1990) at 137-8. *See also* Baker 1997 "The 'Amnesty Aftermath: Current Policy Issues Stemming from the Legalization Programs of the 1986 Immigration Reform and Control Act," *International Migration Review*, 31(1):5-27.

<sup>2</sup> *Id.* at 124, 94.

<sup>3</sup> *Id.* at 172.

<sup>4</sup> *Id.* at 121. The law that forced women to cede their citizenship when they married noncitizens was in effect from 1907 to 1931. The story of Fung Sing, a native-born American, illustrates the harsh effect of the law. Fung was born to Chinese parents in the United States in 1898 and went to China in the early 1900s where she married a Chinese subject. When her husband died, Fung tried to return to the United States. She was held as an alien and not allowed to enter.

the country if they arrived alone on the assumption that they would become “public charges” or prostitutes.<sup>5</sup>

- In the early 1900s, Congress made women excludable for prostitution and “any other immoral purpose.” Immigration officials frequently found that women involved in any kind of extramarital sexual relationship qualified as prostitutes. Immigration officials also launched widespread investigations of legally resident immigrants to ferret out women engaged in “prostitution.”<sup>6</sup>
- Historically, our immigration laws have recognized the value of immigrant women’s contributions as domestic workers. The first laws banning contract laborers from immigrating to the United States carved out a special exemption for domestic workers. Exemptions were also made for agricultural workers and nurses.<sup>7</sup> Despite this recognition, many past immigration reform proposals would have excluded many women domestic workers from legalization and a pathway to citizenship because they could not provide proof of work.

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<sup>5</sup> *Id.* at 97-99.

<sup>6</sup> *Id.* at 81.

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