

Women Cover the Map in Immigration Law and Its Debates

By Cynthia L. Cooper

A globe of blue, green, and white nestled on the upstretched arms of children rests on a windowsill in Frances C. Berger's Lower Manhattan immigration law office, where the vista points to Ground Zero and Ellis Island hidden beyond it. Berger's immigration law clients also span the globe, seeking her help to secure visas, legal residency status, and citizenship in the United States.

"I see a lot of hard-working immigrants," says Berger, who specializes in employment-based immigration for foreign-born people with special skills. "When you open the [government's] letter and it says 'Your application for permanent residency has been granted,' it opens an opportunity for clients that they didn't otherwise have," she adds. "You've improved the quality of their lives."

Although Berger has lost count of the number of clients that she has represented in 31 years of practice, "Best Lawyer" awards on every wall attest to their admiration. Berger, like a large number of immigration lawyers across the country, runs her own small firm, with three lawyers in total.

"People used to think immigration was a nonlaw area and that you could dabble in it," Berger says. "Now people say it's worse than tax law. There are so many risks, so many paths that could go wrong."

Immigration Inroads

The issue of immigration is undoubtedly a hot-burner topic, and women lawyers gained early prominence in the field. Women currently comprise approximately half the membership of the American Immigration Lawyers Association (AILA) in Washington, D.C. Founded in 1946, AILA is an affiliated organization of the American Bar Association. Its executive director and president are women and so are half its executive committee and elected directors.

Among the founders of AILA was Lena Orlow, an immigration lawyer who practiced with her husband in Philadelphia in the 1930s and who ran the firm after he died in 1949. Orlow planned the first AILA educational program and became its first woman president at a time when membership was but 100 or so. "This bar is significantly egalitarian," says her son, Jim Orlow, an immigration lawyer at the firm that his parents began. He notes that his late mother—who handled cases until she was 91 years old—was the child of Russian immigrants. "She understood immigration," he says. "She understood the tactics of how to advocate for a client."

The number of immigration lawyers has since exploded. AILA reached 10,425 members in 2006 when just 12 years earlier, it had only 3,833. So complex are the issues today that lawyers subspecialize in three general areas: family-based immigration, assisting people with legal documentation to bring their spouses, children, and parents to the United States; employment-based immigration, assisting qualified foreign-born employees with finding work in the United States; or defense law, assisting people against possible deportation or penalties. Niche practices help foreign students, gay and lesbian applicants, refugees, and asylees. Women lawyers throughout the country are taking central roles in representing clients on ever-evolving issues and in shaping the immigration debate.

Cross-Country Concerns

In San Jose, California, Marcine A. Seid works with high-tech companies that need scientific employees and often turn to China, India, and Russia. Under an H-1B visa, a limited number of foreigners can be hired for certain high-skilled positions for which no U.S. citizen is available. "These days, it's a long, drawn-out process," Seid points out. "There's a lot of bureaucracy. The

law is changing in so many ways and in so many areas. You're practicing in a gray area all of the time."

In 2007, events dubbed "Visagate" caused an uproar, Seid notes. After the 2007 H-1B quota of 65,000 was met in a single day in April, tens of thousands were rejected. The government later announced it would accept additional applications, sending lawyers and clients scrambling to meet a new deadline. Seid worked around the clock to prepare petitions, but when the filing deadline passed, the government declared the announcement was a mistake and no applications would be granted. Only after AILA threatened a lawsuit did the government agree to consider new petitions. "We're exhausted," Seid says. "I want to relax and not have huge heart attacks daily."

In Los Angeles, Cristina Perez Gonzalez concentrates on representing athletes, entertainers, and investors. "My clients say, 'Why is it so difficult?' And, in a way, it's true: Why is it so difficult for people who are contributing?" she says. Perez Gonzalez, also a television judge on the syndicated show *Cristina's Court*, is the daughter of Colombian immigrants. Her father became a doctor, but, she notes, experienced bias and humiliation along the way. As a result, she is ardent about her practice. "It's a difficult area of law, but the rewards you get out of it—there is nothing like the human element," she says. "When you help someone reach their American dream, it gives you chills. I can't even explain it."

In El Paso, Texas, Kathleen C. Walker, AILA president, heads a four-person immigration department in a 48-lawyer firm located in border territory. "We're right in the thick of it," Walker says. She has practiced immigration law for 21 years, extending from family-based immigration to international trade issues for cross-border businesses. She helped El Paso develop a "dedicated

commuter lane," by which individuals and businesses go through a pre-screening process, complete with fingerprinting, and then may commute across the border in a matter of minutes. "People cross a lot for business," Walker says. "This is a trade and security program. It's all being tried here."

Walker, who previously held an appointment from then-Governor George W. Bush, does trainings for sheriffs and has testified before Congress a half-dozen times. She's frustrated by nativism and negativism toward immigration. "You have a strident group who has turned

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immigration—instead of what has made this country strong—into a symbol for terrorism. We need a discussion on the facts, and not on emotion that plays well on television," Walker says.

In Chicago, Carlina Tapia-Ruano, immediate past president of AILA and its first Hispanic president, spends much of her time in litigation, representing individuals in immigration court defending their right to stay in the United States. Tapia-Ruano's firm, which includes one other lawyer, carries a caseload of 400 to 500. "It does not lend itself to a lot of free time," she explains. "But when I am fighting for an immigration benefit, I am seeking or defending a right for an individual to

obtain a better life. I am representing the individual who is seeking something good—it's not criminal, it's not divorce, it's not damages."

Tapia-Ruano, who taught immigration law for 12 years in Chicago area law schools, says many falsehoods continue to permeate public discourse—that immigrants come to the United States for public assistance and that immigrants don't pay taxes. To the contrary, she notes, immigrants cannot receive public assistance for five years after arrival, and immigrants do pay taxes, but may not be eligible for benefits such as Social Security.

Across the board, immigration lawyers describe an unworkable system in desperate need of reform.

In New York, Suzanne Goldberg, a law professor at Columbia University School of Law, took on immigration cases to address the legal concerns of gays and lesbians. Because the federal government refuses to recognize same-sex relationships, even when the partners are in a legal gay marriage, bination-al gay and lesbian couples face significant hurdles in sharing a life together. In 1994, Goldberg cofounded the Lesbian and Gay Immigration Rights Task Force, now called Immigration Equality.

Goldberg also has been instrumental in developing asylum claims for gay and lesbian immigrants. Asylum may be sought by people who flee or fear government persecution based on race, religion, nationality, political belief, or membership in a group. Last March, Goldberg's students in a sexuality

and gender law clinic won asylum for a lesbian from Turkmenistan, arguing that she faced persecution there because of her sexual orientation and political beliefs. "You know that you unquestionably made an enormous difference in a person's life—in some cases, it's a matter of life and *death*," Goldberg explains.

Kathleen Moccio, an adjunct professor at University of St. Thomas School of Law in St. Paul, Minnesota, became involved with another special group of immigrants: children. She worked with the National Center for Refugee and Immigrant Children to train volunteer lawyers to assist immigrant youth. "Each year 8,000 to 9,000 children arrive alone," Moccio says. "Some come to reunite with parents, some are smuggled for labor. When they are taken into detention, even though they are children, they aren't appointed counsel."

In a program sponsored by the Office of the United Nations High Commissioner of Refugees (UNHCR) and its Goodwill Ambassador, actress Angelina Jolie, Moccio recruited pro bono lawyers and paired them with children held in detention. "There are a number of ways to be rewarded for your work beyond compensation," Moccio says. "If anybody wants to do pro bono, there is a huge need in immigration."

In Miami, Florida, Virginia Coto applies her experience as an immigration lawyer to direct the Miami Office of Church World Service, a global voluntary relief and refugee resettlement organization established by Protestant churches. Among the nine direct service programs in her agency, a legal assistance project helps 5,000 people a year on matters related to immigration or work permits. "We see people straight from the boat or detention center, and we provide a gamut of services," Coto says. Because federally funded legal aid programs are largely prohibited from representing immigrants, nonprofit organizations try to fill the gap.

"Immigrants are very vulnerable people, especially in the climate we are in," says Coto, whose parents are from Cuba. "We can't keep people in the shadows. People are afraid." Since December 2006, several sweeps by federal agents have rounded up thousands of people at workplaces across the country, even detaining parents whose children end up being left alone.

In Pursuit of Reform

Across the board, the lawyers for immigrant populations describe a system that is unworkable, mired in troubles, and in desperate need of reform. To secure change, many women lawyers have been leaders in national policy debates.

Jeanne Butterfield, a former lawyer in Boston, is the executive director of AILA. The new bureaucracy created after 9/11 is a significant problem, she says. In March 2003, the former Immigration and Naturalization Service (INS) was folded into the new Department of Homeland Security (DHS). Butterfield notes that the immigrant-related matters were then divided into three disconnected divisions: U.S. Citizenship and Immigration Services (USCIS), which handles "benefits" or visas and green cards; Immigration and Customs Enforcement (ICE), which engages in worksite enforcement, detention, and deportation; and U.S. Customs and Border Protection (CBP), which oversees entry and security at borders and ports of call. "There is no central policymaker who makes the decisions and no unified chain of command," Butterfield says. "It's a system in disarray."

Butterfield has a list of concerns. For instance, a foreign-born worker who has a green card or permanent residency status can wait for seven to 10 years to get through quotas and backlogs to bring a spouse or child to the country. "What sense does that make?" Butterfield asks. Employers

who need people with special skills and qualify for the H-1B visa can wait three years, causing some hi-tech companies to relocate to Canada, she adds. For unskilled workers such as household employees, only 5,000 visas are available per year. "People think all you need to do is to sponsor someone. Those categories don't exist," Butterfield says. Instead, she adds, the waiting time for legal entry by unskilled domestic workers is more than 20 years.

"We're going backward in this country," Butterfield notes. "It's not in our long-term interests as a nation."

Proposed Legislation

Proposals for comprehensive immigration reform were pursued vigorously—and unsuccessfully—in Congress in 2007. Key elements in the major plans included increased border enforcement, enhanced employer verification, new limits on family-sponsorship, a visa program for temporary guest workers, and a new visa for the 11 million undocumented individuals living in the United States with a path to normalization of their status if they satisfied rigorous standards over eight years.

Priscilla Huang, policy program director at the National Asian Pacific American Women's Forum in Washington, D.C., worked with coalitions to monitor and respond to the many reform proposals, particularly focusing on issues of race and gender. "One of the hardest things in this job has been hearing conservatives who think that immigrants are a danger to this country," says Huang, whose parents emigrated from Taiwan in the 1970s. "They would deny food stamps to any immigrant, asylee, or refugee who has fallen out of status for even a day. It's infuriating."

Women lawyers inside the government also are seeking to implement or improve policy. Rosaline Cohen works on border security as chief counsel for the Committee on

Homeland Security and its majority staff. In that role, she helped to review whether additional countries should be eligible to qualify for the visa waiver program, which permits its passport holders to travel to the United States without applying for a separate permit.

But no one has been more involved in comprehensive immigration reform than Esther Olavarria, general counsel to Senator Edward M. Kennedy (D-Mass.), ranking member of the Immigration Subcommittee of the Judiciary Committee and a passionate advocate for immigration reform. Olavarria is widely regarded as a pivotal behind-the-scenes player on policy.

A child immigrant from Cuba, Olavarria came to Kennedy's office eight years ago. She began her legal career in Florida, where she worked as a staff lawyer at the Haitian Refugee Center and cofounded the Florida Immigrant Advocacy Center. Her sister, Cecilia, practices immigration law in the state. "Having been on the outside as an advocate, I came with a lot of ideas," Olavarria notes.

Through the years, some policies she championed have become law: adding protections for battered immigrant women to the Violence Against Women Act, and adjusting the asylum laws to eliminate extensive backlogs. But comprehensive reform slipped through her grasp, and its prospects seem dim until after the next election. "We'd start early in the morning, at 7 or 8 a.m., and sometimes go to 3, 4, or 5 in the morning, negotiating language with administration officials," Olavarria says.

Despite her efforts, the legislation stalled. "The last defeat—it was terrible," she notes. "But we had a good coalition, and the coalition will survive."

Holding Out Hope

More legal snarls are pending, according to the immigration experts. Despite likely preemption, local communities are passing harsh

measures such as prohibiting landlords from renting to undocumented immigrants. Federal enforcement sweeps are causing difficulties for employers and immigrant families, and upcoming "no match" letters will force businesses to verify thousands of Social Security numbers.

"It's getting to be of crisis proportion," AILA's Butterfield says. "I see a lot of hardship coming up—hardship to immigrants and hardship to businesses."

Olavarria is still holding out hope for smaller pieces of federal legislation, such as the Dream Act, that would provide permanent residency to undocumented youth who graduate from high school and enroll in college or join the military and receive an honorable discharge. She keeps both a map of the Caribbean and a photograph of the Statue of Liberty on her wall. "Ultimately, I'm an optimist," she says. "I think you have to be in this line of work." 🍷

Cynthia L. Cooper is an independent journalist in New York with a background as a lawyer.

Immigration Law and Pro Bono Resources

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