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LUCHA, The Struggle for Life: Legal Services for Battered Immigrant Women

BY
VIRGINIA P. COTO*

I. INTRODUCTION

Every Wednesday I returned to my old neighborhood. At *Abriendo Puertas*,¹ I interviewed immigrant families of East Little Havana. East Little Havana is one of the poorest neighborhoods in the city of Miami and is mostly composed of Latino families. As a student intern I assisted in providing legal services to the large indigent immigrant population. One day, Dora walked in the door. Dora had visible signs of physical abuse. She was concerned because her husband, who was a lawful permanent resident, threatened to take her children away. Dora was undocumented and explained that her husband said that he was going to have her deported. According to Dora's husband, her children would then have to remain here in the United States with him. She knew that this was not merely a threat because he had beaten her, dragged her in the car, and driven her to the Immigration and Naturalization Service's ("INS") detention center. Once there, he told her he had changed his mind and was not going to turn her in to INS. Dora didn't know where to turn.

I began to see an increasing number of battered immigrant women come into *Abriendo Puertas* for legal assistance. With a scarcity of public interest organizations in Miami, it was extremely difficult for battered immigrant women to obtain legal representation. As a Latina, who was raised in this community, I knew I had to try to change that fact.

The state of Florida covers approximately 55,000 square miles and is a geographically diverse state, with urban, suburban, and rural areas. Poor immigrants in rural counties, particularly farm workers, have literally no access to direct legal services. South Florida's proximity to Central and South America and the Caribbean makes it the locus of immigrant access. With one of the largest refugee populations in the

* Echoing green fellow, LUCHA: A Women's Legal Project, Florida Immigrant Advocacy Center. I would like to thank those who contributed to the development of the Project, including former Co-Director Terri Gerstein, and all of the LUCHA members. Thanks to Idalis Perez for her invaluable research assistance.

1. "Abriendo Puertas" means "opening doors" in Spanish. This is a community center in Miami for Latinos and is funded by the Mental Health Initiative of the Anne Casey Foundation.

United States,² Florida is second only to Los Angeles as a port of entry for large numbers of immigrants and refugees from these countries. The national statistics on domestic violence are well known: six million women are battered in the United States each year with the numbers increasing steadily. The devastating effects of domestic violence affect our entire society indiscriminately.³ Domestic violence is blind to distinctions based on class, race, ethnic, religious, and economic lines.⁴ Florida is not immune to this disturbing trend. In 1995, the Florida Department of Law Enforcement reported over 130,000 domestic violence crimes. In 1996, according to the Florida Coalition Against Domestic Violence, domestic violence centers provided 20,302 days of emergency shelter to 19,212 women and children. They also provided counseling services to 58,103 women and 9,433 children; assessed 7,846 children for abuse and neglect; and answered 150,352 calls made to the Domestic Violence Legal Hotline. In particular, Miami Dade County reported over 19,000 domestic violence incidents to the police in 1996.

With a large immigrant population in the state of Florida, battered women are particularly vulnerable and isolated. *The Report of the Florida Governor's Task Force on Domestic Violence* noted that "battered immigrant women are in triple jeopardy" because of the battery itself, cultural factors, and immigration problems."⁵ Florida has the fourth largest immigrant population in the United States. Miami Dade County has one of the nation's largest immigrant populations, with fifty percent being foreign born.

This paper will discuss a response and approach to providing legal services to impoverished battered immigrant families. The first part will discuss the particular obstacles that battered immigrant women face in attempting to escape from their abusive homes. The next part discusses delivery of legal services to the poor, including traditional approaches as well as new and innovative models. The third part describes the response to providing legal services to victims of domestic violence in Miami. This model encompasses education, community outreach, and

2. FLORIDA HEALTH AND REHABILITATIVE SERVICES - REFUGEE PROGRAMS ADMINISTRATION REPORT: "Refugee, Amerasian, & Entrant Arrivals to Florida FY 1991-1993 by HRS Districts and Counties." Fifty-seven percent (57%) of those who have entered Florida since 1991 came through Miami-Dade, Broward, and Monroe counties at Florida's southern tip.

3. See Note, *Trapped in Domestic Violence: The Impact of United States Immigration Laws on Battered Immigrant Women*, 6 B.U. PUB. INT. L.J. 589 (1997).

4. See *id.*

5. Fear of deportation is the single largest concern for battered immigrant women seeking to leave an abusive relationship. For some women who have fled persecution in their home country, deportation means torture, jail, or death. For others, it means a return to a life of extreme poverty, disease, and few or no opportunities. *Id.* at 591.

legal representation. Finally, I will discuss the community and client's response to the LUCHA model.

II. OBSTACLES FACING BATTERED IMMIGRANT WOMEN

Many battered immigrant and migrant women face numerous obstacles in their attempts to seek relief from abuse. These barriers include language, a lack of domestic violence service providers, a legal system that lacks cultural sensitivity, and a lack of information about legal relief that is available. These women may be naturalized United States citizens, lawful permanent residents, or they may be undocumented immigrants. Those who are undocumented have not obtained permission from the Immigration and Naturalization Service (INS) to remain legally in the United States. Some may have entered without INS detection. Others may have overstayed their visas. Many may qualify for Legal Permanent Resident Status but may not know they qualify.⁶ Many immigrant women are simply unaware that there are legal avenues available to stop the violence, which will not affect their immigration status.⁷

This ignorance and unfamiliarity is largely due to incorrect information provided to battered women by their abusers.⁸ Large numbers of immigrant women are trapped in violent homes by abusive husbands who use the promise of legal status or the threat of deportation as a means to exert power and to maintain control over their wives' lives.⁹ Immigrant women often fear that any sort of contact with governmental authority will expose their presence in the country and result in deportation. As a result, many women choose to stay in abusive relationships rather than face deportation.

In general, immigrant women lack information about services available to them, and are often unable to communicate or access information because of language barriers.¹⁰ On the other hand, service prov-

6. Leslie E. Orloff & Rachel Rodriguez, *Barriers to Domestic Violence Relief and Full Faith and Credit for Immigrant and Migrant Battered Women*, MIGRANT CLINICIANS NETWORK, Sept. 1997, at 3.

7. In an effort to address this dilemma, Congress passed the Violence Against Women Act ("VAWA"). See Violent Crime Control and Law Enforcement Act, Pub. L. No. 103-322, 108 Stat. 1796, 1902 (1994). Congress intended VAWA to make prevention of violence against women "a major law enforcement priority," and included provisions specifically designed to protect battered immigrant women. VAWA contains provisions that grant battered immigrant women the ability to adjust their immigration status without the cooperation or participation of her abuser. The first form of relief is the battered immigrant woman's ability to self-petition for permanent resident status. The second is suspension of deportation. See Note, *cited above at supra* note 3, at 600-01.

8. See Note, *supra* note 3, at 591.

9. See *id.*

10. Orloff, *supra* note 6, at 10.

iders are often unwilling to help immigrant and migrant women because of misconceptions about their ability to serve immigrants or because they wrongly believe funding sources prevent them from doing so.¹¹ Others do not offer services for immigrant women because the cases are complicated, and the providers do not believe that immigrant women are a priority population in their service area.¹²

Isolation, and lack of knowledge, combined with cultural expectations and past experiences in home countries, compel immigrant women to tolerate inhumane and abusive treatment at home for the sake of the children, to preserve the marriage, or for the family. Moreover, an abuser's threats to alert INS heighten the hurdles that battered women already must overcome.

III. LEGAL SERVICES FOR THE POOR

An examination of most Legal Services¹³ programs demonstrate that they remain entrenched in a law practice that emphasizes traditional litigation strategies as a means of fighting poverty.¹⁴ Although some Legal Services providers have expanded their vision of the lawyer's role, such change has been slow.¹⁵ The everyday practice of Legal Services lawyers still consists primarily of high-volume representation of individual clients.¹⁶

As a result of this high volume of cases, attorneys have little time to spend with each client to strategize about options and to discuss the way in which the client could participate in the lawyering process.¹⁷ In order to handle large numbers of cases within the time constraints, staff attorneys are forced to respond to client concerns with stock answers and to guide client interviews with focused questions designed to elicit legally

11. *See id.*

12. *See id.* VAWA is not immune from this "racism of anti-immigrant sentiment." A battered immigrant remains first and foremost an immigrant, with all the assimilable, unacceptable traits historically imputed to her. From this perspective, VAWA requirements emerge as the final product of competing interests — the dedication to ending domestic violence competing with a desire to restrict immigration. The foreignness notion, however, is not operating alone. Societal and legal resistance to domestic violence furthers the marginalization of VAWA and its ability to assist battered immigrants. *See* Linda Kelly, *Stories From the Front: Seeking Refuge for Battered Immigrants in the Violence Against Women Act*, 92 Nw. U.L. REV. 665, 692 (1998).

13. The term "Legal Services" refers to programs funded, in whole or in part by the Legal Services Corporation, Pub.L.No. 93-355, 88 Stat.378 (1974) (codified as amended at 42 U.S.C. §2996 (1997)).

14. *See* Ingrid V. Eagly, *Community Education: Creating a New Vision of Legal Services Practice*, 4 CLINICAL L. REV. 433, 434 (1998).

15. *See id.*

16. *See id.*

17. *See id.* at 441.

relevant information.¹⁸ Little time is available for clients to voice their non-legal concerns, express their emotional reaction to the situation, or question the lawyer's judgment.¹⁹ With lawyers dominating their relationships with clients, the clients' role in the process is effectively silenced.²⁰

The Legal Services lawyer does not typically encourage clients to identify their problems. Furthermore, the lawyer often fails to suggest that the client work with peers to find solutions to these social problems.²¹ This model does not recognize the power and impact that lay individuals, armed with experience and information, can have on themselves and one another.²²

Traditional practice hurts poor people by isolating them from each other, and fails to meet their need for a lawyer by completely misunderstanding that need.²³ Poor people have few individual legal problems in the traditional sense; their problems are the product of poverty, and are common to all poor people.²⁴ The lawyer for poor individuals is likely, whether he wins cases or not, to leave his clients precisely where he found them, except that they will have developed a dependency on his skills to smooth out the roughest spots in their lives.²⁵

Unlike traditional litigation techniques, community education offers a significant opportunity for clients to participate in discussions, learn new information, and play an active role in solving problems that affect them.²⁶ Because clients are brought together through educational work, learning occurs in collaborative, dynamic ways that are not possible within the confines of the attorney's office.²⁷

Grassroots legal education and empowerment projects nonetheless offer an important means for expanding the boundaries of the traditional attorney-client relationship.²⁸ Attorneys can learn to effectively facilitate, educate, and organize, and can create an environment that empow-

18. *See id.* With fewer resources to meet the needs of an increasing number of poor people, Legal Services has become overwhelmed with demands for assistance. Case priorities are usually set according to a "triage model," similar to the system in place in hospital emergency rooms. Under this model, Legal Services programs decide which types of cases to undertake by using factors including degree of need, severity of poverty, and likelihood of success. *Id.* at 440.

19. *See id.* at 441.

20. *See id.*

21. *Id.*

22. *Id.*

23. *See* Stephen Wexler, *Practicing Law for Poor People*, 79 *YALE L.J.* 1049 (1970).

24. *See id.*

25. *Id.*

26. *See* Eagly, *supra* note 14, at 449.

27. *See id.*

28. Stacy Brustin, *Expanding Our Vision of Legal Services Representation - The Hermanas Unidas Project*, 1 *AM. U.J. GENDER & L.*, 39, 58 (1993).

ers members of historically marginalized communities.²⁹ Clients can begin to take a greater role in making decisions within their individual legal cases, and can work together to solve their own problems.³⁰ In addition, empowered clients can be more effective in building community organizations and coalitions dedicated to bringing about fundamental social change.³¹

One example is the *Hermanas Unidas*³² program at *Ayuda*,³³ Inc. located in Washington, D.C. *Ayuda* offers an additional route to its clients; a route that enables them to do for themselves what we as attorneys cannot and should not do.³⁴ *Hermanas Unidas* provides a vehicle for addressing many of the “non-legal” concerns confronting our clients.³⁵ The members not only improve their access to desperately needed social services, but also learn to advocate for one another.³⁶ The women gain independence, and avoid relying on professionals who are often not as effective as another *compañera*.³⁷

Those clients who believe that they are alone in their struggle against domestic violence discover that they are not alone.³⁸ With other women, they “share their stories” and offer emotional support to one another.³⁹ This support enables participants to build self-esteem and confidence.⁴⁰ They begin to exchange opinions, debate issues, and critically examine the world around them.⁴¹ With this increasing confidence, they turn outward and begin educating and organizing others in the community.⁴²

Another example is the Workplace Project located in Hempstead, New York. The Workplace Project is a community-based membership organization that organizes workers to fight widespread labor exploitation.⁴³ The Workplace Project works in the Latino community and its goal is to organize immigrant workers.⁴⁴ It is an active grassroots organ-

29. *See id.*

30. *Id.*

31. *Id.*

32. “*Hermanas Unidas*” means “*Sisters United*” in Spanish.

33. “*Ayuda*” means “help” in Spanish.

34. Brustin, *supra* note 28, at 54.

35. *Id.* at 55.

36. *See id.*

37. *Id.* “*Compañera*” means “companion” or “friend” in Spanish.

38. *See id.* at 55.

39. *Id.*

40. *See id.*

41. *See id.*

42. *See* Jennifer Gordon, *We make the Road by Walking: Immigrant Workers, the Project, and the Struggle for Social Change*, 30 HARV. C.R.-C.L. L. REV. 407, 428 (1995).

43. *See id.* at 429.

44. *See id.*

ization that is run democratically by low-income immigrant workers. The Workplace Project chose not to work with all workers, because the Project gains strength from having deep roots in a single community, creating the potential for effective alliances with other communities.⁴⁵ The Workplace Project also conducts outreach in the Latino community to provide information about workers' rights and a Worker Course designed to develop legal knowledge, organizing skills, and leadership ability in its participants.⁴⁶

IV. LUCHA: A WOMEN'S LEGAL PROJECT

In an effort to address the plight of battered immigrant women I felt I had to develop a model for delivery of legal services to serve this vulnerable population. *LUCHA*:⁴⁷ A Women's Legal Project was formed in 1997 as a grassroots membership organization that would address battered immigrant women's individual struggles of domestic violence, while providing the vehicle for them to become involved in the larger struggle on behalf of other women.⁴⁸ *LUCHA*'s approach requires the active involvement of battered immigrant women. Women become *LUCHA* members by taking a six-part course on women's rights, and committing their time to assisting other women. Members are then eligible to receive free legal representation in immigration matters. *LUCHA*'s main activities fall into three categories: education, legal services, and organizing.

A. Educational Course and Organizing:

LUCHA provides a six-part course on women's issues. The participative course covers topics selected by low-income immigrant women, such as immigration law, workers' rights, domestic violence, public benefits, victim's rights, community resources and how to be heard by your government. The class setting provides battered immigrant women with an emotional and social support system consisting of other women in the same situation as themselves, thus alleviating the isolation that they endured in their abusive relationship. Moreover, the course empowers

45. *See id.*

46. *See id.* at 433.

47. The word "Lucha" means "the struggle" in Spanish.

48. *LUCHA* is housed at the Florida Immigrant Advocacy Center. ("FIAC") FIAC is a not-for-profit legal services organization whose mission is to protect and promote the basic human rights of immigrants of all nationalities. FIAC was founded in 1995 because of pending restrictions and funding cuts to Legal Services Corporation (LSC) funded agencies, which eventually passed and prevented organizations, such as Legal Services of Greater Miami, Inc. (LSGMI) and Florida Rural Legal Services (FRLS), from serving the immigrant population. Sweeping changes in immigration law and welfare reform also increased the demand for services from FIAC.

the women by educating them about their rights and how to ensure that these rights are not infringed upon. Completion of the *LUCHA* course is a prerequisite for *LUCHA* membership.

We wanted the women to feel comfortable and encouraged them to attend classes. To allow for maximum participation, the classes are held in Spanish, and childcare is provided for them. Perhaps the most important element of the course was establishing a sense of community among participants. We tried to generate a group feeling by conducting some exercises to get to know one another and by initiating communication. As a result, the women were very active and interacted with each other as well as the class speaker. They took notes and used that resource to follow up on their individual legal cases as well as for areas of concern of their family and friends.

Informal and formal evaluations are conducted at the end of the course in the form of a group brainstorming session. The results indicated that the members wanted more than six classes and wanted them to be longer than the two hours scheduled. Also, the members felt that they wanted to implement what they learned through the formation of committees.

Upon completion of each *LUCHA* course, graduates join a women's organization which conducts outreach activities, examines public policy, and shares responsibility for *LUCHA*'s Spanish language radio show, "*La Voz de la Mujer*" (The Voice of Women). Class graduates have participated in *LUCHA* activities in various forms. Members' commitment to assisting other victims of domestic violence range from exchanging phone numbers, or assisting each other with transportation by car pooling to classes, or by attending a court hearing with a fellow member. Moreover, graduates have made presentations to incoming classes on the *LUCHA* support network, to church groups or at informal gatherings in their homes, and have assisted in formatting "*La Voz de la Mujer*." New members are encouraged to participate in *LUCHA* activities and commit to assisting other women who have survived domestic violence.

The commitment to helping other victims of domestic violence has resulted in the creation of committees. One such committee is the community education committee. Its purpose is to provide access to information to battered immigrant women so they too can escape the intolerable situation of violence in their homes. The committee's efforts focus on speaking out on domestic violence in the media including radio, television, and newspaper. As part of its goal, the committee will take over the radio show in its entirety and be responsible for its programming.

B. *Community Education and Legal Services*

In exchange for their participation, *LUCHA* members receive free legal services in immigration matters. However, in a world where free legal services are more and more restricted we felt that we wanted to develop a system for delivery of legal services. Although Miami has several nonprofit organizations dedicated to assisting poor immigrants in immigration matters there are none that specifically address the needs of this most vulnerable population, abused women and children. A significant portion of *LUCHA*'s educational work focused on training domestic violence service providers about battered immigrant women needs and the relief available under immigration law. Because domestic violence service providers work directly with the community, they are often the first contact for persons in domestic violence situations. It is therefore vital that these providers develop the ability to give basic problem-solving advice and to have a basic understanding of immigration law.

Soon after *LUCHA* opened its doors we found ourselves overwhelmed with the amount of clients that needed our legal representation. We realized that we lacked the resources to provide legal representation for all those who required our assistance. It became crucial to train pro bono lawyers and domestic violence advocates in assisting battered immigrant women. Trainings have been conducted in an attempt to reach this goal. Domestic violence advocates are given the tools necessary to assist battered immigrant women in accessing services and gathering evidence. One of the barriers that battered immigrant women face is the ability to establish their case under immigration law.⁴⁹ Thus, advocates become central in assisting attorneys representing battered women. The idea is that domestic violence advocates work together with attorneys thus facilitating successful legal representation.

One of the directions that the Project intends to take in its second year is that of broadening the availability of legal representation for battered immigrant women and children throughout the state. Although the state of Florida has one of the highest immigrant populations, there are few organizations throughout the state that provide legal representation in immigration matters. Most Legal Service organizations have restrictions on the types of immigrant clients they may serve. However, these restrictions permit representation of battered women regardless of their

49. A battered woman's undocumented status limits her access to the evidentiary resources required to document her immigration case. While a woman's undocumented status and fear of deportation may explain her public anonymity, the dynamics of her abusive relationship force her further underground. It is not unusual for a battered woman's name to be absent from leases, mortgages, bank accounts, car loans, and other valuable records, such as photo albums and wedding pictures. See Kelly, *supra* note 12, at 683, 684.

immigration status. Therefore, it is possible to train and develop a state-wide network of attorneys. We hope to bring our local efforts to a state-wide level.

V. CONCLUSION

In Miami, LUCHA was an innovative means of providing services to an under-served population while at the same time providing education and empowerment. However, *LUCHA* received much opposition in the community as to the way it provides legal services to clients. However, *LUCHA* received much opposition in the community as to the way it provides legal services to clients. The opposition felt that it was unreasonable to force battered women to participate in a six-part course and to request a commitment to help other domestic violence victims in order to receive legal services. Battered women already have so much on their plate and this was one more thing among several that was imposed on them. They have to deal with their social worker, participate in groups at the shelter, take parenting classes, and a long list of other potential obligations. This was not fair. Women need legal services and not education they said.

We adhered to the project's original design and explained that like other legal services organizations which ration out services this was just a different way to do it in this community. Legal services for the poor are rationed out in a variety of ways already, such as by geographic location, income eligibility, immigration status, and project funding levels. We felt that when legal service programs provide assistance to indigent clients without charging for those services, we are unwittingly transmitting a message: "Nothing you have and nothing you can provide is of any value to me, the poverty lawyer."⁵⁰ That is not only patronizing; it is wrong and it is self-defeating.⁵¹ It is a strategy more likely to generate frustration and a sense of powerlessness than progress.⁵² Helping the poor with legal representation will not work if it does not enable our clients to produce and to contribute.⁵³ If we are to be true to our commitment to the client community, we must understand that we need them at least as much as they need us.⁵⁴

The tide has turned and *LUCHA* is respected in the community. Community organizations and leaders seek our participation and those of our members. As the project is completing its second year *LUCHA*

50. Edgar S. Cahn, *Reinventing Poverty Law*, 103 *YALE L.J.* 2133, 2144 (1994).

51. *See id.*

52. *See id.*

53. *See id.*

54. *See id.*

members continue to participate in the program by giving of their time. Graduates attend the first meeting of each course to welcome new members and share their experiences. One member writes:

“After traveling a long journey of nightmares, terror, and darkness, today I have hope. There is a bright light in my future. LUCHA has changed my life. I am no longer alone in my journey of survival.”

LUCHA members make a difference in each other’s lives. LUCHA will continue to strive to be an environment for women to grow and to learn.