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María Rodriguez

Donna Coker

University of Miami School of Law, dcoker@law.miami.edu

Lis-Marie Alvarado

Beatrice Bianchi Fasani

Ramandeep Kaur Mahal

See next page for additional authors

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Panel on Immigrant Rights, Women, and Gender Violence: Structural Violence and Organizing Strategies (Transcript)

Authors

María Rodríguez, Donna Coker, Lis-Marie Alvarado, Beatrice Bianchi Fasani, Ramandeep Kaur Mahal, and Rebecca Sharpless

TRANSCRIPT[°]

CONVERGE! REIMAGINING THE MOVEMENT TO END
GENDER VIOLENCE SYMPOSIUM:

Panel on Immigrant Rights, Women, and Gender Violence: Structural Violence and Organizing Strategies

UNIVERSITY OF MIAMI SCHOOL OF LAW

Donna Coker (moderator)^{†}*

Lis-Marie Alvarado

Beatrice Bianchi Fasani

Ramandeep Kaur Mahal

María Rodriguez

Rebecca Sharpless[†]

MAHAL: “We all have our stories and I smile to hide my pain.”
These were the words of one of the women immigrant detainees

[°] This transcript has been edited from its original transcription for clarity.

^{*} Donna Coker is a Professor of Law at the University of Miami School of Law. Professor Coker is a nationally recognized expert in domestic violence law and policy. Professor Coker was one of the co-chairs of the CONVERGE! conference. Lis-Marie Alvarado is a community organizer who has worked for over six years in movements for the rights of immigrant low-wage agricultural workers, day laborers, and youth of color in Miami Dade County public schools. Beatrice Bianchi Fasani and Ramandeep Mahal are University of Miami School of Law graduates who participated in the University of Miami School of Law Immigration Clinic under the supervision of Professor Rebecca Sharpless. María Rodriguez is the Executive Director of FLIC (the Florida Immigrant Coalition). Rebecca Sharpless is a Professor of Law at the University of Miami School of Law. At Miami Law, Professor Sharpless teaches in-house clinics in the areas of immigration and human rights and is a former attorney at Americans for Immigrant Justice.

[†] Original remarks from the CONVERGE! conference omitted.

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currently detained by immigration officials at Glades County Jail, approximately a three-hour drive from Miami. Good morning. My colleague, Ms. Beatrice Bianchi Fasani, and I are law students working with the Immigration Clinic at University of Miami School of Law. Today we are going to highlight some concerns related to women who are survivors of domestic violence in immigration detention.

The Immigration Clinic is one of the many clinics at University of Miami School of Law. The clinic gives students an opportunity to work on complex litigation cases and projects that are aimed at reforming the law and advancing social justice for immigrants. One of the projects that the Immigration Clinic is currently pursuing is improving the treatment of immigrant detainees at Glades County Jail.

There has been a shift in immigration enforcement policy from catching and releasing immigrants to detaining them for long periods of time. The average daily number of detainees increased from 5,000 in 1994 to 33,000 in 2010.¹ In order to detain more immigrants, Immigration and Customs Enforcement (ICE) has entered into inter-governmental service agreements with local and county jails. Glades County Jail is one of the many local and county jails which have a service agreement with ICE. Currently, Glades County Jail is holding immigrant detainees with criminal convictions.

BIANCHI FASANI: The University of Miami School of Law Immigration Clinic not only works on immigration cases, but it also works on different projects. For three years, the clinic has been going to Glades Detention Center. We have been collecting information about the immigration status of the detainees as well as information on conditions in the detention center. After our first visit, we highlighted some of the major problems at the jail in a letter to the officer in charge at Glades. The following comes from his response: “The Glades County Sheriff Office is not required or obligated to provide assistance or responses to University staff and/or its students. Specific to the biased and unsupported allegations and concerns with regards to the standard of care for immigration detainees.” It was obvious that he was not willing to cooperate with us in solving issues at the jail. We decided to hold a press conference in which our goal was to make the public aware of the problems at the detention center. The DAILY BUSINESS REVIEW wrote an article about us, stating “they might not be lawyers yet but law students

¹ SEATTLE UNIV. SCHOOL OF LAW HUMAN RIGHTS CLINIC & ONEAMERICA, VOICES FROM DETENTION: A REPORT ON HUMAN RIGHTS VIOLATIONS AT THE NORTHWEST DETENTION CENTER IN TACOMA, WASHINGTON 14–15 (2008), <https://www.wereoneamerica.org/immigrant-detention-report>.

at the University of Miami have taken on a powerful adversary—Glades County Sheriff Stuart Whiddon.”²

After our first visit, we realized that many of the women were survivors of domestic violence. Specifically, sixteen out of twenty women told us that they had experienced domestic violence. We decided that our next trip would focus more on the issue and we asked the women more specific questions regarding their experiences as domestic violence survivors. We decided to focus on five areas.

First, we focused on the frequency of the abuse. We asked how many times the women had been abused and what kind of abuse they had endured—and also if it was both physical and psychological. Second, we asked about their income level because we found that there is a relationship between the income level of these women and the likelihood that they would be abused. The third focus was contact with the police. We asked them whether or not they contacted the police and, if they did, what happened. Fourth, we also asked them whether or not they had children and where their children were living since their mothers were detained. Finally, we asked the women questions about drug use because we also found a connection between the experiences of domestic violence survivors and drugs.

Sixty-five percent told us that they were survivors of domestic violence. Of the 65%, the majority of them (64%) told us that they had been abused more than ten times. Some of them told us that they had been abused at least once during the day on a daily basis.

The second category was income level. The majority of the women who experienced domestic violence had an earned income of between \$0 and \$5,000 per year. Because they had such a low income, they were completely dependent on their abuser. It was much harder for them to get out of the relationship.

The third category was the contact with the police. We found that the majority of the women did not report the abuse and that the main reasons the women did not report the abuse were either that they were afraid that by calling the police they would come to the attention of immigration officers (and therefore they would face the risk of being deported), or they were afraid that the police would not be helpful and therefore the abuser would become even more aggressive.

We also asked the women whether or not they had children. Almost half of the women had children. These children were living with the abuser or they had gone back to their home country or the mothers lost

² Julie Kay, *UM Law Students Protest Immigration Detainee Conditions*, DAILY BUSINESS REVIEW, Nov. 21, 2013, <http://www.dailybusinessreview.com/id=1202629103245/UM-Law-Students-Protest-Immigration-Detainee-Conditions>.

their parental rights and these children were either being adopted or given to child services. Detained women lose their parental rights easily in cases involving domestic abuse. In cases involving abuse in the home, the dependency judge requires the family to achieve certain goals in order for the parents to be deemed fit. If, for example, the father is accused of being an abuser and the mother is in prison, it is almost impossible for the woman to achieve the goals and is more likely that the judge will terminate her parental rights.

Finally, the last category was drug use. The majority of the women had been using drugs. They told us the primary reason they were using drugs was to cope with the pain from the abuse.

MAHAL: There are certain types of immigration relief that are available to survivors of domestic violence who are immigrants. Due to their being detained, these women face certain barriers in their efforts to obtain the relief. We have categorized these barriers into two groups: practical and legal. With regard to the practical barriers, the first barrier is retaining and communicating with an attorney. Only two out sixteen detained women had immigration attorneys currently working on their cases. The women reported either that it was very difficult for them to find an attorney or that it was very difficult for them to communicate with the previously hired attorneys. One of the stated reasons was high phone call rates. From the data from our visit in the fall of 2013, we know that the phone call rate was approximately \$11 for fifteen minutes, which is extremely high for the detained women.

The second practical barrier to getting immigration relief is conducting legal research. The women did not know what relief was available to them. There is a law library in the detention center. But the majority of the women reported that they had inadequate access to the library. Those that did have access did not have the skill to use the legal research software on the computers that are in the library.

The third practical barrier we identified is that the women were being held in a remote detention center. As we mentioned earlier, Glades County Jail is approximately a three-hour drive from Miami. The distance deters attorneys, friends, family, and other people who could help from visiting the women.

Regarding the legal barriers, the first one is what is called mandatory detention. Under Immigration and Nationality Act, if someone has a criminal record, they may be mandatorily held in detention.³ Even if the

³ See, e.g., Margaret W. Wong, *Challenges to Mandatory Detention Under U.S. Immigration Law*, THE FEDERAL LAWYER, Sept. 2010, available at <http://www.fedbar.org/Federal-Lawyer-Magazine/2010/The-Federal-Lawyer-September-2010/Features/Challenges-to-Mandatory-Detention-Under-US-Immigration-Law.aspx?FT=.pdf>.

women were given a bond in a criminal case, they are not able to get out of the immigration detention center.

The second legal barrier is another effect of the criminal record. Although there are many forms of relief that are available to survivors of domestic violence, certain relief is not eligible for to people who have criminal records.

The third legal barrier is delayed adjudication of relief related to domestic violence. This barrier is further divided into categories. The immigration judge who is presiding over the removal proceedings sometimes lacks the authority to adjudicate the relief that is available to a survivor of domestic violence. The detained immigrant women have to send in their domestic violence petitions to the United States Citizenship and Immigration Services (USCIS). This adjudication might take a long time, as there is no set time period within which USCIS must make a decision on the petition.

The last legal barrier relates to obtaining a law enforcement official's certification for what is called a U visa. A U visa is one of the forms of relief available to survivors of domestic violence. In order to get U visa, a certification from a law enforcement official is required. Many detainees are not aware of the certification requirement. Those that are aware lack the ability to communicate with the relevant law enforcement officials to request the certification.

We developed some recommendations to help immigrant women overcome these barriers. The first is that women should have access to bond. If these women were not detained, they would have access to attorneys and other avenues of help.

The second recommendation is to end remote detention. As we said earlier, Glades County Jail is a three-hour drive from Miami. Attorneys, family, and friends are deterred from going there.

The third recommendation is that the adjudication of domestic violence cases by USCIS should be made shorter. Quicker adjudications would not only help domestic violence survivors but it would reduce the number of detainees. In the alternative, immigration judges should be permitted to adjudicate forms of relief for domestic violence survivors.

Fourth, eligibility for domestic violence survivors should be expanded so that more people with criminal records are eligible for some form of immigration relief.

Our last recommendation is that women should be transported from the detention centers to family court so that they have a better chance to avoid the termination of their parental rights.

ALVARADO: Hello everyone, and good morning. My name is Lis-Marie and I am a community organizer. My focus has been mostly in agricultural communities and homes in particular, and most recently in

Immokalee. I just want to share with you a little bit about the groundbreaking work that is happening. Many times when people hear about agricultural communities, they think about sub-poverty wages. They think about exploitation. But somehow, they forget that these communities, where the conditions are most difficult, are sometimes the places in which the most creative and effective solutions come from, as well.

I am excited about this space because we do not get many chances to brainstorm in ways that are useful to actually eradicating gender violence. In my organizing experience, gender violence was never part of my work plan, but it is definitely a reality, and it affects everyone.

WeCount!,⁴ was able to incorporate gender justice into our agenda without having to jeopardize the work that we are doing for immigrant justice. The way that it came about was out of necessity. We have many members—male members—who were up for immigrant justice, who were tremendous leaders, but then back in their home, they beat up their wives, their partners. That is a difficult situation to deal with, because on the one hand these are the people that are moving forward the campaigns forward to improve the general conditions for the community, but at the same time in their personal lives, they are replicating some of the atrocities that we want to avoid in the workplace and in our communities.

So, what happened was that a lot of women would contact me to complain. “Look, this is the situation, Lis-Marie. What can we do?” As an organizer, we are not there to solve the problems of the community; we are there to work with the community and to figure out solutions together—because I am just a single person. I do not have any magic powers. I cannot empower people. We can only empower each other.

So, what we did was something very simple. We gathered everybody together. We got all the women together and had our own space to talk about what was going on. That is how the group *Las Comadres Para Las Americas*⁵ came to be. And there was a space and an opportunity for women to learn from our different perspectives, regardless of sexual orientation. It was important to be intentional about creating this space as part of the organization that advocates for immigrant rights and workers’ justice. Sometimes these issues were ignored because there is not enough money—that is always one of the major excuses—or because we have a campaign to and we have specific goals to meet. But, we cannot forget that it matters what was going on in the lives of our members because that is a reflection of what was going on in the community. Just something as simple as creating a space for women to meet and talk

⁴ WECount!, <http://www.we-count.org/> (last visited May 20, 2015).

⁵ LAS COMADRES, <http://lascomadres.com/lco/> (last visited May 20, 2015).

about our issues made a tremendous impact. Three concrete things occurred. There was a creation of a network of support among the women in the organization which was not true before. It created a sense of trust and support among the women. We were fighting against police brutality, against racial profiling, but at the same time, we also have our own issues as women. That was one thing—creating that community support, a network of support.

The second thing that happened was a commitment within the organization to have a gender agenda. We know that even some of our key leaders are struggling with violence. That has been the most challenging thing because there were intentions to create a main caucus in dealing with violence. Some of the men that volunteered to do that were some of the main abusers. Maybe that is great that they saw there was a need for them to change, but somehow that is very problematic. That is the second concrete thing—making sure there is a commitment for organizations to include gender justice in their agenda, just verbally, not just writing pretty things but actually doing it.

The third thing is community policing. If you are an immigrant, or have ever lived in an immigrant community, you know that you do not want the police there. You definitely want to avoid any kind of relations with the police as much as possible. We hear many cases of people who have reported abuse, especially in immigrant communities, which have backfired on them. There was a situation in which one of *Las Comadres* was being abused, but she did not want to involve the police because she did not want him to be deported and she was afraid that she would be deported. We know who he is, we know where he lives. We decided that a bunch of us would talk to him. I do not want to sound simplistic, but this is also a way of creating accountability in communities and organizations. We know what you are doing and you know what we stand for as an organization and that is not acceptable and we are here not only to point fingers at you, but we are going to let you know that it is not okay and we are watching. That she is worth it just as much as you are worth it. It is starting the process; creating that sense of commitment amongst each other, but without necessarily exposing ourselves more to the criminal justice system.

I do not want to sound apologetic for abusers, but we also have to remember that the economic system in which we live creates those kinds of scenarios. Exploitation in the fields, having sub-poverty wages, pesticides, and harassment creates and leads to situations that are like modern day slavery, and it also leads to gender violence. We also have to remember the root of the problem. That is one other thing about the community policing that I feel that is very important, especially in our

communities, because it works. I am from Nicaragua, and I can definitely tell you that yes, it works, because we use it a lot over there.

Another example of how organizations can include gender justice in their agenda is the great work that the Coalition of Immokalee Workers have been doing not only to increase the wages of workers and change the conditions in the field, but also being very intentional and explicit about the importance of including gender justice in the program. They have created something that is called the Fair Food Program,⁶ with an agenda that includes increasing wages, workers' rights protection, and zero tolerance for sexual harassment. Sexual harassment is predominant in agricultural communities, particularly when you are picking in the fields. This is really groundbreaking because once again, it is changing the environment around us. It is changing, and it also allows women—or anyone who is dealing with harassment—to report that a situation has been happening.

People have the power to solve their own problems, and these are concrete examples of how that can happen. The Fair Food Program is now looked at by the United Nations as an example of groundbreaking work. This was a program created by workers, for workers. This work is something that we have to remember as well, that sometimes when we talk about gender justice and gender violence, we can get stuck in the fear of just being victims, and think “what can we do?” But there are solutions, and there are solutions that are happening right now, that are changing the realities. There are solutions being led by people of color, by workers, and that is important to know as well, because our communities are not always losing—we are also winning, and we can change our realities, and we are doing it right now. Thank you.

RODRIGUEZ: I am Maria Rodriguez with the Florida Immigrant Coalition⁷ (FLIC) and I am going to briefly talk about stories, systems, and struggle. There are many stories but let me start with these that have come out publicly that I think exemplify criminalization or one aspect of experiences of criminalization. I do not think that our work at the Florida Immigrant Coalition is characterized by leading with gender analysis but I do clearly understand that when we are looking at these stories, we are looking at women, not just in their reproductive selves, but in their productive selves and as victims of criminalization and in need of reproductive justice efforts.

⁶ For more information about the Fair Food Program, please visit <http://www.fairfoodprogram.org/>.

⁷ FLORIDA IMMIGRANT COALITION, <http://floridaimmigrant.org/> (last visited May 20, 2015).

We will start with a story. Maria, a passenger in a car in Lee County, was coming from the doctor with her husband and newborn when the police stopped them for no apparent reason. We are seeing more and more people picked up for not having a driver's license. There are over three million immigrants in Florida⁸—almost one million of whom are undocumented⁹ and have been denied many things, including access to driver's licenses.¹⁰ In this case, Maria's husband ended up in detention. The second case is Rita Cote. A lot of the cases of driving without a license are catalyzed by racial profiling because people are being stopped pre-textually, often for no reason. Rita was the interpreter for her sister who was in a domestic violence situation and in Lake County when the police came to their home. Did they arrest the abuser? No. They took the interpreter who gave her bank card as identification. She ended up being detained without a charge over the weekend and for almost a week. She is married to a United States veteran, for whatever that is worth. The third case is Emmy. She lived in Orlando since the age of three. Her family was not able to adjust her immigration status. They are from Bangladesh. They are business owners, and they spent nearly two decades here in the United States. Emmy spent her birthday and Christmas at the Broward Transition Center and ended up just giving up after a year. She asked to be deported with her brothers. They sent her back in shackles to Bangladesh. The fourth case is the case of Melba from Nicaragua who would leave her twin boys at night while she worked the night shift at a gas station. One morning, when her son Jose Machado woke up his mom did not come home. They waited. When they came home from school she still was not there. It ended up that she was deported to Nicaragua and is now in Spain. Jose fell into the foster care system. He has now aged out of it and was recently able to travel to Spain to see his mother. That is a family unnecessarily and cruelly separated by the broken immigration system.

Let us look at the lack of driver's licenses, identifications, and social security cards. The driver's licenses were taken away through legislation

⁸ See IMMIGRATION POLICY CENTER, *New Americans in Florida* (2015), <http://www.immigrationpolicy.org/just-facts/new-americans-florida> ("Florida was home to 3.8 million immigrants in 2013 . . .").

⁹ See CTR. FOR MIGRATION STUDIES, *Estimates of the Unauthorized Population for States*, <http://data.cmsny.org/> (last visited May 26, 2015) (In 2012, the number of unauthorized immigrants in Florida was 725,621.); Jeffrey S. Passel & D'Vera Cohn, *Unauthorized Immigrant Totals Rise in 7 States, Fall in 14*, PEWRESEARCHCENTER Table 1 (Nov. 18, 2014), <http://www.pewhispanic.org/2014/11/18/unauthorized-immigrant-totals-rise-in-7-states-fall-in-14/> (In 2012, the number of unauthorized immigrants in Florida was 925,000.).

¹⁰ See FLA. STAT. § 322.08 (2014) (provisions regarding applications for license including requirements for license and identification card forms).

in 2003. Over a dozen states allow driving permits for undocumented people. Florida does not. Without an ID, mothers cannot go on field trips, or into hospitals. We have been seeing ICE raids where they started charging people criminally with identity theft for the fraudulent use of social security numbers.

There was a case in Southwest Florida where grandparents were in a supervised visitation program with their grandchild and the social worker called “the Sheriff” when she realized that the grandparents were undocumented.

When the police take on immigration enforcement that has huge repercussions for public safety with a disproportionate impact on women. The intermingling of the criminal justice system and immigration enforcement is very dangerous because we need to protect the integrity of public safety mission of law enforcement. And in terms of immigration enforcement, it has been \$18 billion in fiscal year 2012 used towards immigration enforcement.¹¹ That represents 24% more than all other federal enforcement combined.¹² Twenty-four percent more of our tax dollars going towards immigration enforcement than the FBI, DEA, Alcohol, Tobacco, Firearms combined.

For those of you who are lucky to have pensions or mutual funds, they are likely being invested in prisons too. FLIC is part of the national prison divestment campaign, both to cut the public money that goes towards the beds for immigration detention and the money in private prisons.

FLIC has adopted a racial justice analysis where we understand that xenophobia and racism are intertwined and that these are systems that seek to exclude and challenge the notion of defining “American” and asking what does “American” mean. We could get provocative with all those questions. We have also been very clear that the immigrant rights movement in Florida is not a Latina movement. Much of our leadership has been from the Haitian community and other communities of African descent. FLIC is a founding member of the Black Immigrant Network for example, but it is also been a worker rights movement. We have been very clear that farm workers are key and are not getting representation or labor protections, addressing wage theft, supporting the domestic worker organizing, etc. FLIC is a founding partner and convener of the Florida Wage Theft Task Force to address issues of low-wage workers.

¹¹ See DORIS MEISSNER ET AL., MIGRATION POLICY INSTITUTE, IMMIGRATION ENFORCEMENT IN THE UNITED STATES: THE RISE OF A FORMIDABLE MACHINERY 15 (2013), available at <http://www.migrationpolicy.org/research/immigration-enforcement-united-states-rise-formidable-machinery>.

¹² *Id.*

I think we have been really clear on race and class, but I have to be very honest, I do not think our organization has really adopted or led with a gender lens or analysis. This is true even though our rhetoric, our analysis, and our membership manual speaks on gender and even though we are led by feminists and the Board and staff are women. I think that is a shame. I am just going to end here and say that it has been a privilege to be here. I thank you for your invitation and I look forward to the ensuing conversation.