Professional Responsibility and Professional Development in a Crowdsourcing Model of Legal Assistance

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The MEG funds that I received supported student participation in pro bono legal assistance fieldwork at the South Texas Family Residential Center in Dilley, Texas, as well as student participation in an academic conference to present and discuss our research. The funds also supported teaching assistants who returned to Dilley after an initial experience to mentor their fellow students who were volunteering for the first time. The South Texas Family Residential Center is an immigration detention center with bed capacity for up to 2400 asylum-seeking women and their children. Under my supervision and that of my colleague Associate Dean Carolina Núñez, a total of nearly 50 law students provided front-line legal triage to vulnerable families over the course of five separate trips in February 2017, August 2017, October 2017, February 2018, and October 2018. The students volunteered primarily during their week-long placement breaks, sacrificing time that they might otherwise have used for job searches.

The law students educated detained migrant women about U.S. asylum law, assisted in the client intake process, and prepared clients for credible fear interviews (CFI) with an asylum officer, the interview that determines whether a woman is released from detention. When a woman received a negative decision on a CFI, or worse, when a woman got a second negative after an immigration judge affirmed a negative CFI, students worked tirelessly to prepare written factual declarations for an appeal or request for rehearing. Preparing a declaration required students to communicate with the client in their native language, write in English, then translate back into the native language. Students called clients’ home countries to speak with family and friends there to develop new facts and theories for their clients’ cases. They used social media and the Immigration and Customs Enforcement locator to find missing family members and contacts in the US. Students absorbed the traumatic life experiences of women and their children to help them obtain release from detention and build lives in safety, free from violence. While the majority of the clients were Spanish-speaking, law students used their other language skills – Haitian Creole, Portuguese, French, etc. – to assist clients from around the world. Law students were also highly resourceful in identifying interpretation/translation resources for speakers of indigenous languages.

The pro bono legal assistance the students engaged in fulfilled the anticipated learning outcomes set forth in my MEG proposal. The students:

- provided legal assistance to women and children jailed in immigration detention centers;
- developed and applied their professional knowledge of US immigration law as well as professional skills of counseling, witness preparation, fact gathering, and legal writing;
- applied and developed their Spanish [and other] language skills, particularly in the legal context;
- engaged with the unique questions that a crowd-sourcing model raises regarding a lawyer’s professional responsibility including client confidentiality, conflicts of interest, and the unauthorized practice of law.

Evidence for the fulfillment of the learning outcomes derives from the reflection paper each student was required to write regarding their volunteer week. The following quotes serve as examples of student learning and skill development, particularly regarding professional responsibility and spiritual development.
From a student who helped a client with a religious persecution claim: “Through the interpreter I expressed gratitude for N—’s inspiring example. She responded with a smile and with a noticeable change in demeanor. Clutching her heart, she told me that when she walked in the room, she could tell that I was also a believer. I was startled, humbled, and gratified. I try to live my life in a way that reflects my faith, but I was not expecting it to be evident in Baby Jail, wholly engaged in professional endeavors.”

From a student who served a Spanish-speaking mission: “My experience at the detention center left my emotions in a jumble that I still have not sorted out. It may take a long time for me to be able to, if ever. My time at the detention center reopened and enlarged a wound that I had first received on my mission. That wound had mostly healed and had become calloused. I do not think I should have let it heal. It was good to be reminded of the things that really matter. . . . I have been reminded of my conviction to make a meaningful life out of serving those whom my God has given me the tools to help.”

From another student: “Looking into the eyes of the women and children in Dilley, Texas, I (somewhat) saw myself. . . . My mother came to the United States in her twenties. . . . Had my family not emigrated would I have been casualty of an earthquake, tropical storm, or uprising from H—’s corrupt government? Would my family have been subject to persecution begging the United States for asylum?”

From a student who struggled to define professional boundaries: “I generally try to not care about other people too much—in my experience, I have trouble regulating my empathy. . . . I do not plan on practicing in highly emotional areas of the law. As a result, I do not foresee having to constantly deal with the moral quandaries inherent in coaching witnesses. However, if I am ever in a similar situation, I know that I have at least two specific strategies to avoid the temptation to engage in unethical behavior: find an ethical higher-ranking attorney and defer the responsibility of disobeying immoral mandates to her, and distinguish between taking personal and professional responsibility for a client’s cause.”

From a student whose personal views conflicted with the law: “As much as I enjoyed helping X—, it wasn’t always easy to meet with these women. All of the women had horrible stories, but not all of them had stories that the law would recognize as worthy of asylum. This was probably the most difficult part of the week for me. . . . I would estimate that somewhere between 15% of the time, I didn’t believe the woman had a much of a chance for asylum at the beginning of our interview. After some prodding, somewhere around 10% of the women I interviewed still didn’t have much of a claim for asylum under the current standard of law. Rather than invent facts, I would give the women the best advice I could, explain a bit of the law to them, tell them to keep thinking of more experiences, and send them on their way. . . . On the one hand, I fully believe that almost all of these women are afraid to return to their home countries. I wish that we could accept all of them! To me, even economic reasons would be enough to want to leave Central America and try to help my children have a better life. Yet on the other hand, I believe asylum is not something to simply give away. Problems with immigration law in our country cannot be solved with granting asylum to every woman and child from Central America.”

The Refugee and Immigration Initiative that this MEG supported has proved sufficiently meaningful and valuable to law students that the course is oversubscribed. The February 2019 trip has a waiting list of more than five students and, almost weekly, we receive an inquiry from another student who would like to participate. At present, we have maxed out faculty capacity to support the program.

Then-student Luisa Patoni-Rees participated as a panelist on the roundtable entitled “Crowdsourcing Legal Assistance: The Central American Refugee Crisis,” at the Law & Society Annual Meeting in Mexico City, in June 2017. Luisa also spoke with Julie Rose on BYU’s Top of the Mind regarding the Refugee and Immigration Initiative and her work at Dilley.

Katherine Rane has written and spoken extensively about her experiences at Dilley. Katherine also spent six weeks volunteering in Dilley during the summer of 2018, independent of the law school’s formal course. She has returned to Dilley as a teaching assistant.
Numerous students have given press interviews, had newspaper articles written about them and their Dilley service, or published a version of their reflection paper.

Additional off-shoots of the Refugee and Immigration Initiative (not directly supported by the MEG funds) include the Families Together: Colloquium on Immigration Law and Policy in June 2018 at the law school. Students and faculty from across campus, not just the law school, came together to learn about the Trump Administration’s family separation policy at the southern border and to engage in a remote-data entry service project for the CARA Pro Bono Project at the South Texas Family Residential Center. Approximately 75 people attended and engaged in some aspect of the service project.