



EQUAL JUSTICE AMERICA

Summer 2022 EJA Fellow:



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Update 1: Even though this is the first update, I find myself somehow already halfway through my internship! The past 4-5 weeks have been a blur of immigration law trainings in addition to hands-on experience with pressing policy issues related to immigration. I've struggled to learn (and still am learning) the legal jargon relevant to immigration, which has only emphasized the inaccessibility and complexity of our immigration system (which was the reason I became interested in immigration law in the first place). Additionally, I've already had the opportunity to take part in wide-ranging experiences, from helping craft a practice advisory on writs of mandamus claims in asylum settings to investigating anti-black bias in asylum proceedings. Meanwhile, I have also had the opportunity for some direct client interaction, which has involved following up with clients who participated in LSNYC's remote clinic for API domestic violence victims. This more on-the-ground experience has reinforced how language barriers make the already-complex immigration system even more opaque for those who do not speak English (which, of course, also happens to be those who are most affected by immigration law). Overall, my internship has been off to an incredible start and showed me the importance of approaching our immigration system from a variety of angles— both at the macro policy level and on the individual/client level.

Update 2: In the past 2 weeks, I have prioritized working on follow up with a client who was referred from LSNYC's remote API clinic. The client was referred to LSNYC as a potential human trafficking survivor, and thus potentially eligible for a T-visa. Given the highly technical definition of human trafficking, vetting clients for T-visa eligibility oftentimes involves (as one could probably imagine) pretty difficult conversations. Despite the serious nature of the call, my followup with the client started out very promising. However, after making some small talk, I began asking the client questions about her work history, and specifically about how she was treated by her bosses (as behavior such as supervisors confiscating immigration documents or threatening employees are signs of human trafficking). Although the client had seemed relaxed and open at the beginning of the call, she began to become more reticent; she spoke so softly that I could not hear her over the phone. The client eventually requested that we end the call there and pick back up the next day.

The follow up call was my first time speaking to a client on my own, and I could not help but feel as though I had failed to be considerate and asked questions that were too invasive. After meeting with the supervising attorney and some additional reflection, I struggle to grapple with my role, and the role of immigration



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attorneys in general. Although asking for private information might be considered ‘necessary’ in determining clients’ eligibility for certain types of visas, I feel as though attorneys are really asking clients to divulge information– incredibly personal stories and experiences– to which they have no real right. Although I had always thought of doing this kind of work as ‘helping clients,’ the follow up call made me realize that attorneys inevitably retraumatize their clients.

Update 3: This week, I’ve started researching and writing about the problem of implicit bias in asylum proceedings. I’ve learned that the system is set up in ways that render it particularly susceptible to implicit bias. Because asylum applicants are often people who have fled their home countries under incredibly dire circumstances, there are often very few documents or pieces of physical evidence involved in asylum hearings. As a result, the asylum process places greater weight on applicants’ testimonies and declarations; subsequently, the credibility assessment, where judges basically decide whether or not to believe the applicant, becomes critical. The 2005 Real ID Act instructs immigration judges to consider, among other things, factors such as an applicant’s demeanor. However, studies show that ‘demeanor’ is a highly subjective attribute that is influenced by cultural and linguistic barriers. For example, judges might think an applicant is lying if they refuse to make eye contact, even though in some cultures making eye contact is a sign of disrespect rather than disingenuity. Additionally, there is an especially worrisome body of evidence that shows non-white applicants are likely to be seen as less credible than their white counterparts.

I can’t help but feel incredibly frustrated as I attempt to research solutions. There are no motions attorneys can somehow file that can compel immigration judges to be fair. The case law reveals that appeals of negative asylum decisions based on implicit bias or due process violations are almost always unsuccessful. Increasingly, I have felt that the only long-term solution is to push for changes in the system- through reforms that either increase the accountability of immigration judges or make the criteria by which credibility is determined more objective.

Update 4: This past week was my last week at LSNYC. In addition to wrapping up logistics and other projects, I was also given the responsibility of conducting an initial U-Visa/Violence Against Women Act (VAWA) screening for a client. From what I have seen at LSNYC, clients who are screened for U-visa/VAWA eligibility have typically suffered some kind of domestic violence in the past. This particular client was referred to us by her previous attorney, who mentioned that the client had recently reached back out again after a period of radio silence. In her referral email, the attorney added that she had not been able to get in touch with the client for that period because the client’s abuser had gotten suspicious of her communications, forcing the client to lay low. When I emailed the client directly to set up a time for the intake, it became clear that the client was undertaking significant risk in speaking to me; she requested that I contact her via WhatsApp so that her calls could not be traced.

When it came time to do the intake, I called the client using WhatsApp. However, no one picked up. I was not able to get in touch with the client before the end of my internship, and on my last day I couldn’t help but wonder what had happened. Particularly in situations like this one, where the client’s safety is at constant risk, I wonder if attorneys can and/or should do more to help their client outside of a legal setting. This experience also once again highlighted the severe risks faced by those who simply seek status in the United States. It was frustrating to realize that the complex legal requirements that guard certain pathways to obtaining legal status



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necesitate procedures such as intakes and follow-ups, procedures that can end up taking weeks and even put clients experiencing domestic violence in danger.

Update 5: Now that I am at the end of my summer at Legal Services NYC, I find that the predominant emotion I feel is gratitude. I feel a deep appreciation for the opportunity that I have had this summer to complicate my understanding of what it means to work as an immigration attorney as I learn more about the complexities of the broken immigration system. My work this summer has included not just direct interaction with clients, but also more big-picture policy work with aims of changing the system as a whole.

As my internship was winding down, one of my main projects involved completing a memo that discussed the problem of anti-black bias in asylum proceedings, as well as potential solutions for minimizing bias. As I have covered in a previous update, the process of writing the memo involved no small amount of frustration. I realized over and over again that the immigrants of color are inherently at a disadvantage in so many ways, given the subjectivity of immigration adjudications and lack of judicial review. At the same time, all the solutions I wrote about in my memo seemed unrealistic and much too idealistic. For example, one of the solutions I was most interested in (discussed in the note “The Ring of Truth, written by Nicholas Narbutas and published in the Columbia Law Review) was the possibility of filing due process challenges in immigration appeals. In short, such challenges would argue that the way asylum decisions are currently made is so subjective that they become violations of asylum applicants’ rights to due process. However, as I combed through West Law and Lexis Nexis, it became evident that due process challenges were uncommon to begin with, and successful due process challenges even more so. Meanwhile, interactions with clients that I have detailed in previous updates— asking a client to describe extremely sensitive information while being unable to provide them with a clear answer as to whether they would be eligible for a visa, trying to set up an intake with a client despite knowing that every communication with the client would risk detection by their abuser— made me question whether I was really ‘helping’ anyone at all.

And yet, even as I stumbled in dealing with and internally reconciling these complexities, the environment around me at LSNYC encouraged me to keep up the fight. For example, in one of the last meetings I attended at LSNYC, my supervisor and I met with a group of attorneys from various nonprofits around the country to discuss the issue of increased ICE surveillance and possible motions that attorneys could file to address the problem. The unrelenting enthusiasm exuding from the attorneys at the meeting was palpable as they shared knowledge and offered advice on not just immigration but also existing tech and data privacy law. The solutions they brainstormed were creative, innovative— and idealistic. However, the idealism of these solutions did not feel discouraging; rather, I realized that the attorneys really believed in what they were doing because it was precisely idealism that drove their efforts. After all, nothing will change unless attorneys pursue solutions that have never been done before.

Overall, my time at LSNYC, despite my various frustrations and moments of disillusionment, made me feel so much more connected to a larger movement. I come away from my summer with the realization that I am not alone, and that there is a very powerful optimism involved in doing this work that will continue to motivate me— a faith that things will get better, if only we continue to fight for it. I cannot be more grateful for my internship this past summer, and of course for Equal Justice America in making this summer possible.