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Via HNMCP

“I write with the fundamental belief that the problems created by humanity can be solved by humanity.”

This note from my mother, at some point, became my mantra after a childhood laced with her stories of the Nigerian civil war, forced migration, and famine. There is a sort of ever-gnawing “it doesn’t have to be this way” ethos that has guided many of my life’s choices. And still, at some point before law school but after high school graduation, these words had hollowed. Penned so often and repeated with such frequency, it seemed they had shed their sincerity. I believed these words in theory but had no clue what they meant in practice. At the risk of sounding hyperbolic, HNMCP (and a Google search) gave these words a newfound meaning.

I appreciate that I am a bit of an anomaly amongst my peers in that the Negotiation Workshop was the reason I came to HLS. In fact, I remember the evening I decided not to forgo my acceptance after 3 years of deferring—I was skimming an article on peace-building and the Harvard Program on Negotiation was spotlighted. I, at the time wondering whether a three year postponement had made law school redundant, did a quick Google search for “Harvard Law Negotiation.” What I found, a simple website detailing the work of HNMCP, altered the trajectory of my academic career. It was not until I was sitting in the UK scrolling the HNMCP website that I realized that there was a community of people dedicated not only to the study but to the practice of conflict resolution. I realized that I was not alone in believing that it did not have to be this way—we could peaceably and elegantly resolve the conflicts we caused.

I came to HLS hoping to close the gap between dispute resolution theory and practice. The Spring 2014 Negotiation Workshop was my first step in narrowing this gap. It was here that I was pushed to not only hone my negotiating skills but to question the tacit assumptions that shaped me as a negotiator: What does it mean to “win”? Can one be both empathetic and assertive? What is the role of relationships in reaching an agreement? The Workshop proved to be more than a rigorous academic endeavor. It was here that I began to revisit my once hollow mantra. Conflict resolution morphed from a possibility to a process. Conflict resolution was, in fact, an art and there was a community of people seeking to master it.

After the Workshop, eager to fully engage with this community, I enrolled in The Lawyer as Facilitator (LAF) class and the Negotiation and Mediation Clinic in the Fall of 2014 and served as a Teaching Assistant for the Negotiation Workshop in the Spring of 2015. The clinic and LAF worked in tandem to buttress that which I had begun to explore in the Workshop. In LAF I was encouraged to both develop my facilitation skills and explore what made it difficult for me to employ said skills. As a member of the Clinic I worked on a fascinating curriculum design project, supervised by Professor Bordone, and began to re-engage with concepts that I had learned but not yet taught. Ultimately, delivering a negotiation and conflict resolution training for Seeds of Peace (the culmination of my work in the clinic) and serving as a Teaching Assistant for the Negotiation Workshop were professionally and personally transformative. It was in these moments that I came to appreciate the power of facilitation, the potentiality of collective brilliance, and the sheer joy of teaching.

HNMCP has created a unique space at HLS for which I am eternally grateful. It is, without question, a context in which skills are honed, assumptions are challenged, and rigorous academic work is done. And still, in a larger setting where all of that is commonplace, what makes HNMCP unique is its underbelly of hope. Underneath HNMCP’s work, is a hope that is neither idealistic nor naïve but grounded in study, process, and precision. In this paradigm, student and faculty are allowed to collectively re-imagine conflict, unearth well-designed solutions, and believe that the problems we create we can also solve. Thank goodness for that Google search.
Philip Torrey, Lecturer on Law and Clinical Instructor with the Harvard Immigration and Refugee Clinical Program (HIRC), has carved out a space in the Harvard Immigration and Refugee Clinic for a unique and evolving area of law called crimmigration.

"Crimmigration is a dynamic and growing field of law that concerns the intersection of criminal law and immigration law," explained Torrey. "It concerns the immigration consequences of criminal activity and the use of the state criminal law machinery (local law enforcement, detention, secure communities, etc.) for the purpose of immigration enforcement as well as the use of the deportation system as a method of crime control."

In addition to teaching a seminar on this subject, Torrey began a Crimmigration Clinic two years ago for students to gain hands-on experience. Students work on policy projects and impact litigation, and they provide consultation to criminal defense attorneys with noncitizen clients.

"It’s a really complicated area of law—combining state, federal, and administrative—so the day to day work is intellectually interesting," said crimmigration clinic student Emma Scott. "It’s also an exciting area because it’s still evolving—you can probably find something in the news related to crimmigration every day."

Last semester, the Crimmigration Clinic worked closely with the Harvard Criminal Justice Institute (CJI) to assist immigrant clients in obtaining the best results from the criminal law system. This collaboration ensured the presentation of plea deals that would not have unfortunate immigration consequences. Both HIRC and CJI are eager to continue this partnership in the future.

"Collaborating with Phil Torrey and the Crimmigration Clinic students has been one of the highlights of our year at CJI," said Dehlia Umunna, Deputy Director of CJI. "Our CJI clients are the beneficiaries of exceptional and incomparable expertise provided by Phil and his students. Phil has assisted us with identifying some of the most effective new approaches in advocating for clients facing immigration consequences, including crafting alternate dispositions that allow clients to avoid deportation and preserve eligibility to pursue available immigration relief. Our students and staff find Phil easy to work with; readily available, knowledgeable and extremely patient! It continues to be an honor to work with Phil and the Crimmigration Clinic, and we look forward to many more years of joint partnership as we emphasize a holistic approach to advocacy."

Torrey and his students also worked with other groups from the Boston area, including Black Lives Matter activists, and they filed amicus briefs in the First and Second Circuit Courts of Appeals concerning criminal bars to asylum.

The Clinic will take on similar projects next semester, once again working closely with CJI. It will also expand litigation and policy projects both to advance individual client cases and to impact the criminal justice system as a whole.
On Friday, August 28, 2015, attorneys and volunteers from the Legal Services Center participated in Massachusetts Stand Down 2015 and provided free legal assistance to scores of homeless and at-risk veterans.

Stand Down, organized by the New England Center for Homeless Vets, is a day-long event that provides an opportunity for veterans who are homeless or at risk of becoming homeless to connect with service providers. In addition to legal assistance, services included housing and job assistance, clothing provision, medical and dental care, haircuts, and free meals. The event was held in tents set up by the Massachusetts National Guard in the parking lot of the International Brotherhood of Electrical Workers (IBEW) Local 103 in Dorchester.

“I came away with an overriding sense of gratitude that we were given the chance to meet directly with veterans in need and provide immediate assistance,” said Julie McCormack, Director of the Disability Litigation & Benefits Advocacy Project at LSC. “Some veterans came to the tent in real crisis, and Stand Down created an opportunity for us to be there in the right place at the right time.”

LSC staffed the legal assistance tent for half the day, providing pro bono legal consultations to nearly 50 veterans. Ten attorneys from across LSC’s clinics and practice areas participated, advising veterans in the areas of VA and disability benefits, SNAP and other public benefits, tax controversies, housing law, family law, estate planning, and consumer law. LSC also recruited volunteer attorneys from the Fair Employment Project, the Northeast Justice Center, and Harvard’s Criminal Justice Institute to provide advice on employment law, family law, and criminal law matters.

Volunteering at Stand Down is just one example of outreach by LSC to meet the legal needs of our community. LSC also sponsors the People’s Law School, where attorneys and law students provide free legal education to community members. The next People’s Law School event will be held in November 2015 and will focus on the needs of veterans.
Two Alumni Testify to Department of Education

Two alumni of the Project on Predatory Student Lending testified to the Department of Education in support of the rights of borrowers treated unfairly by for-profit colleges to a fair, effective, and efficient process to get their federal student loans discharged. Over the past two weeks the department held hearings in Washington, D.C. and San Francisco to allow the public to comment on its upcoming rulemaking, and to propose new topics to add to the agenda.

Megumi Tsutsui was a student in the clinic in 2013, after working with the Project as a volunteer in 2012. She is currently an Equal Justice Works Fellow at Housing and Economic Rights Advocates (HERA) in Oakland, California, where she works to eliminate barriers to affordable credit. Megumi shared the story of a borrower deceived and ripped off by one of the Corinthian schools campuses in California, and urged the Department to create “a clear and transparent process that is easily accessible for students eligible to receive a discharge of their loans under defense to repayment.” She also highlighted the need for automatic relief for groups of borrowers who are affected by widespread misconduct within a given program, school, or group of schools, and encouraged the Department to investigate when it sees signs of widespread misconduct and to identify students who have been affected and are eligible for discharge.

Mike Firestone, a student in the clinic in 2012-13 and current Director of Strategic Initiatives and Assistant Attorney General in the office of Massachusetts Attorney General Maura Healey, delivered powerful testimony urging the Department “to establish simple processes for impacted students to seek the relief to which they are entitled by law and by contracts,” and asking the Department to “rely on conclusions and investigative findings reached by state Attorneys General regarding state law violations and provide discharges without requiring individual students to make a submission to the Department.” He described some of the impressive efforts that Attorney General Healey’s office has pursued to help borrowers harmed by for-profit schools, including lawsuits against several schools, as well as hundreds of hours of outreach to borrowers. He said, “Relief must not be limited just to those who can hire a lawyer, or those who know the magic words about placement rates to communicate in an attestation. . . . These students are counting on us to enforce the law and fight for them.”

We are incredibly proud of their advocacy on behalf of low-income people who have been harmed by widespread lawless, unfair, and deceptive conduct by for-profit schools, and gratified that they continue to work on behalf of their clinical clients’ interests years after each of them left the clinic.

CHLPI’s SWOT Analysis of the Updated National HIV/AIDS Strategy is Published

Robert Greenwald, Director of the Center for Health Law and Policy Innovation and Professor of Law at Harvard Law School, has co-authored an editorial with David Holtgrave, PhD, Professor and Chair of the Department of Health, Behavior & Society at Johns Hopkins Bloomberg School of Public Health, on the updated National HIV/AIDS Strategy (NHAS) from the federal government. “A SWOT Analysis of the Updated National HIV/AIDS Strategy for the U.S., 2015-2020” has been published by the AIDS and Behavior Journal and will be available in the pubmed database shortly.

The original NHAS was created in 2010 to guide the country’s response to the epidemic through 2015. Since its creation and release, the original NHAS has served as a useful guide to encourage better evidence-based prevention and care efforts. The updated strategy outlines recommendations and guiding practices to lead policy and care through 2020.

The editorial offers a strengths, weaknesses, opportunities and threats analysis with the aim of increasing discussion of ways to truly fulfill the promise of the updated NHAS and to address barriers that may thwart it from achieving its full potential. The authors highlight a small number of key factors under each element of the SWOT analysis, and conclude with overarching recommendations for next steps. They note that their purpose is not comprehensiveness, but rather to highlight a few factors seen as truly critical, and to hopefully spark further discussion and elaboration in the field.

Excerpts from the editorial praise that the NHAS “is clear that HIV care and treatment must be affordable, accessible, and very broadly defined to encompass the behavioral and ancillary services needed to address the social determinants of HIV…The updated strategy is clear that while we have effective treatments available, many people living with HIV are not able to access them.” The authors go on to highlight a major weakness of the strategy, saying that “it is essential for public health planning to estimate the scope of unmet needs, identify resources to meet those needs, and estimate…the public health and economic impact of such investments. These estimates are essential to develop so as to inform the federal action plan soon to be released.”

“Time is of the essence, for the epidemic marches on every hour of every day in the United States, and the human and economic consequences of the epidemic are enormous,” says Robert Greenwald. “Our hope is that this paper spurs conversation and updates to the strategy that further improve it.”
There is no marker in Aníbal Bruno prison that speaks to home. In some cells, there are only dozens of men, sleeping on floors stained with feces, eating out of plastic bottles cut in half. But when he stands at the bars, Fernando Ribeiro Delgado pauses, as he would at the doorstep of any stranger’s house.

He offers a handshake to every man inside. He looks them in the eye. He calls each prisoner “Sir.” And though Delgado already has official permission to enter, he asks, because asking matters: Would it be all right if I came in?

“I was really impressed to see him being so respectful, being so collaborative in his efforts, and not the Harvard professor who knows all,” said Colette van der Ven ’14. “He was a role model for so many of us.”

Any praise that comes his way, Delgado deflects to his mentors, in particular his clinical professor, James Cavallaro, former executive director of the HLS Human Rights Program and current vice chair of the Inter-American Commission on Human Rights. Over the years, Cavallaro has tracked Delgado’s career: Fearless, rigorous and dedicated are the words that come to his mind.

“Fernando’s work in detention centers in Brazil is unparalleled by anything being done by any clinic or NGO outside Brazil,” said Cavallaro. “He’s documented the most serious abuses in the most dangerous centers in the country.”

José de Jesus Filho, a Brazilian human rights lawyer, saw the potential when Delgado was an HLS student investigating the high-profile prison and police violence that hit São Paulo in May 2006. Delgado kept at it until 2011, when the HLS clinic released a joint report that exposed widespread police corruption and, according to de Jesus Filho, changed the way the Brazilian public viewed the sequence of events.

To de Jesus Filho, who monitored prisons for 20 years with Pastoral Carcerária (Catholic Prison Ministry), that kind of commitment stood out.

“When Fernando starts with something, he goes to the end,” he said.

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In the field of prison rights advocacy, litigation before the inter-American human rights system is a powerful tool. When the court orders emergency measures, it binds all levels of government to the promise of protecting the life, safety and health of the persons at that facility. This, in turn, triggers a system of monitoring and reporting.
One of the clinic’s closest partners, Justiça Global (Global Justice), was at the forefront of this litigation, helping to secure protective measures at Urso Branco, one of the country’s most notorious prisons, back in 2002. It’s a case Delgado worked on as a fellow with Justiça Global and is still litigating today.

The work on Aníbal Bruno began years later, when a group of Brazilian rights organizations looked at mass incarceration patterns across the country and found another focus: the state of Pernambuco, where a new policy provided bonuses to police for every arrest they made.

Soon enough, they honed in on Aníbal Bruno, one of the largest prisons in Latin America, and among the most abusive. Since then, the clinic has worked with Serviço Eucumenício de Militância nas Prisões (Ecumenical Service of Advocacy in Prisons), Justiça Global, and Pastoral Carcerária to secure precautionary measures for all persons at Aníbal Bruno—including prison staff and the families of prisoners.

“I like this word Fernando uses: coalition,” said Wilma Melo, of Serviço Eucumenício de Militância nas Prisões, a longtime advocate and the family member of a former prisoner. “Each step we take, we take it together, and I believe this is the strength of our work.”

Years of monitoring have led to clear wins: a camera ban lifted, a punishment cell dismantled, medical help for the critically ill. Hundreds of illegally detained prisoners have had their cases reviewed and then have been released—including a forgotten man who was kept incarcerated 10 years beyond his original sentence.

But for every individual violation reported and remedied, there are thousands more. In a prison designed for 1,819 men, the population recently hit 7,000. At best, there might be one officer on shift for every 100 prisoners.

With so few officers on duty, gangs of prisoners take on, or are given, the power of policing. Their leaders, known as “Chaveiros” or “locksmiths,” have keys to the cells and use them to govern an economy of beds, forcing payment from anyone who wants a designated space to sleep. On Delgado’s first visit to Aníbal Bruno, he met with a Chaveiro whose personal cell was furnished with a full-sized mattress and a meeting table. A cell-phone lay on the tabletop. A knife hung from his belt.

“It’s chaos,” said de Jesus Filho.

At the very least, advocates say, the monitoring has forced a kind of reckoning on prison officials. They’ve gone from denying the depth of the problems at Aníbal Bruno to acknowledging many of them, and working with others to address them. This may be why, at one public meeting, a representative from the prison officers’ union put the question to the clinic and its partners:

“Can we get precautionary measures for every other prison in the state?”

When Delgado, his students and his partners walk through the entrance to Aníbal Bruno, they hear the same thing every time.

First, the call goes out, from one cell to another: “Human rights!” Then come the arms, reaching out from behind the bars, too many to count: “Over here!” “Over here!” “Over here!”

Some days, the team will interview more than 100 people. The students will pair off with Delgado and then settle into a space the prisoners have cleared for them. In the presence of women, some prisoners will put on their shirts. They’ll offer what water they have on hand. And then the stories will start.

Months of picking through international law could not have prepared James Tager ’13 for the pressure. At one point, he took down all the details that made up one man’s story and then realized, as he was leaving the cell block: He had forgotten to ask for the man’s name and ID number.

“It’s not like you can call back next week and double-check the facts,” said Tager, who later got the man’s name. “I was literally shaking—this idea that after talking to someone, because I hadn’t gotten his name, he wouldn’t be helped.”

The learning for students is intense, said Clara Long ’12, who now visits detention centers as an immigration and border policy researcher with Human Rights Watch. She trained under Cavallaro and Delgado, working with them on the Urso Branco case.

“You have a very compressed time period to build trust with someone, figure out how to keep them safe while they’re talking, figure out the right questions and get the most accurate information possible,” said Long.

Nerve-racking is a good word for it. Before going through the metal detectors, van der Ven took a picture of a badly beaten man, only to hear a prison official’s warning about the camera ban inside. The ban had been in place for months, but there, in the moment, Delgado had an idea: Can anyone here draw? Van der Ven had taken a few art classes in high school. That was enough.

“Just draw what you see,” he told her.

As she sketched a warehouse where hundreds of men ate and slept, some of the prisoners organized themselves so she could better see the space. Others gathered around, looking over her shoulder.

“It was like a unifying moment,” said van der Ven, now an associate in trade litigation at Sidley Austin. “We were all working toward justice for them.”

Full story is available on Harvard Law Today.
The Office of Clinical and Pro Bono Programs extends a warm welcome to the new clinicians who have joined the Center for Health Law and Policy Innovation (CHLPI): Clinical Fellows, Emma Clippinger and Christina Rice (Food Law and Policy Clinic); Jamille Fields (Health Law and Policy Clinic); and Senior Associate Director and Litigation Manager Kevin Costello (Health Law and Policy Clinic).

Emma Clippinger received her J.D. in 2015 from NYU School of Law, where she was a Root-Tilden-Kern Scholar. During law school, she acquired a range of public interest experience—from representing low-income tenants in Brooklyn Housing Court to co-authoring a report on effective civil society engagement for the United Nations Development Programme (UNDP). Emma was a member of the International Organizations Clinic and the Criminal Defense and Reentry Clinic. She also co-founded NYU’s Food Law student group and served as an Articles Editor on the Journal of International Law and Politics.

Christina Rice attended the University of Arkansas School of Law Agricultural and Food Law LL.M. program. As a LL.M. candidate Christina explored a broad spectrum of food law and policy issues through a combination of academic study and project-based work. As a graduate and research assistant to Susan Schneider, Director of the LL.M. program, Christina researched various areas of food and agricultural law for scholarly articles, updated chapters in the Food, Farming, and Sustainability: Readings in Agricultural Law textbook and contributed to the American Agricultural Law Association annual food law updates. Christina is licensed to practice law in North Carolina. She received her J.D. from Charlotte School of Law in 2014.

Prior to joining the Health Law and Policy Clinic, Jamille Fields spent two years as the Law Students for Reproductive Justice Fellow placed at the National Health Law Program’s (NHeLP) Washington, D.C. office. At NHeLP, where Jamille also interned during law school, her work focused on increasing and defending access to reproductive health care, particularly for adolescents, and increasing access to care for women living with HIV. She also participated in monitoring ACA implementation and Medicaid defense advocacy. Jamille is a licensed bar member in the state of Missouri. She received her J.D. and Master of Public Health degrees from St. Louis University’s Schools of Law and of Public Health in 2013.

Kevin Costello is the Senior Associate Director of the Center for Health Law and Policy Innovation (CHLPI) and directs the Center’s litigation efforts. Prior to coming to CHLPI, Kevin was in private practice for eight years, most recently as a principal at Klein Kavanagh Costello, LLP. Kevin’s practice involved complex litigation in the fields of housing, health care, civil rights, antitrust and consumer law. He has been appointed by federal courts across the country to represent classes in Multi-District Litigation, as well as in nationwide class action litigation. Mr. Costello is an honors graduate of both Boston College and the University of Pennsylvania Law School. He served as law clerk to both the Hon. Joseph H. Rodriguez of the U.S. District Court for the District of New Jersey and the Hon. Francis X. Spina of the Massachusetts Supreme Judicial Court.
On September 16, 2015, the Office of Clinical and Pro Bono Programs together with Student Practice Organization Leaders hosted a panel discussion to introduce students to opportunities to practice law on a pro bono basis at HLS. Over 250 students attended the event.

Student representatives from the 11 Student Practice Organizations (SPOs) discussed the projects, culture, and structure of their organizations, many of them referring to the work they’ve done in SPOs as meaningful and life changing. SPOs, the students said, are an avenue for building new friendships with upperclassmen and creating a tight-knit community at HLS.

Every year, hundreds of students participate in SPOs, working on legal matters under the supervision of attorneys who are experts in their field of law. While they don’t receive academic credit, their work hours can count towards the HLS Pro Bono Graduation Requirement.