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Recently, **Tabitha Cohen JD '18** argued the appeal of a lawsuit, Crowell v. Massachusetts Parole Board, filed by the Harvard Prison Legal Assistance Project (PLAP) in the Massachusetts State Supreme Court, formally known as the Supreme Judicial Court (SJC). The suit was originally brought in the state Superior Court, but was dismissed on the motion of the defendant, the state Parole Board.

The plaintiff, PLAP client Richard Crowell, is a septuagenarian prisoner who, in 1987, suffered a disabling traumatic brain injury. He was originally arrested in 1962 as a teenager for a convenience store robbery in East Boston. He was recruited by several older men to drive a getaway car. During the robbery, one of the older co-defendants shot and killed the storekeeper and as a result, Crowell and his co-defendants were charged with first degree murder under the felony murder theory of culpability. To avoid the death penalty, which Massachusetts had at that time, Crowell pled guilty to second degree murder and received a life sentence in prison. In 1974, his sentence was commuted from life to 36 years to life. He was then paroled and spent several years successfully living in the community, with the exception of some minor parole violations that were not serious enough to prevent re-parole. However, after he was attacked and suffered his brain injury in 1987, his behavior worsened. Since 1990 he has remained in prison, except for a few brief weeks while out on parole and then returned to custody, and has otherwise been repeatedly denied parole.

PLAP’s Mike Horrell, JD ’14 represented the plaintiff in his 2012 parole hearing that led to PLAP’s later lawsuit. During that hearing the Board strongly suggested it considered the plaintiff impossible to parole because of his disability, a decision which would effectively consign Crowell to prison for the remainder of his life. After the client was again denied parole, Horrell helped to draft a complaint filed in the Superior Court seeking to reverse the Board’s decision and obtain a new hearing for Crowell. The central claim in PLAP’s Complaint was that the Parole Board had discriminated against the plaintiff because of his disability. In addition, PLAP argued the plaintiff was entitled to annual parole reviews, rather than reviews every five years as contended by the Parole Board.

After Horrell’s graduation, another PLAP student attorney, Tucker DeVoe, JD ’15, briefed and argued the case in the Superior Court, but PLAP’s lawsuit was subsequently dismissed. After DeVoe’s graduation, Erin DeGrand, JD ’16 worked on PLAP’s appeal to the state Appeals Court, including coordinating the drafting of the appellate and reply briefs while working with **Keke Wu, JD ’18, Beini Chen, JD ’18 and Ethan Stevenson, JD ’17**. After the briefing was concluded in the Appeals Court but before the case was scheduled for oral argument, the SJC took the case for direct review and solicited amicus briefing on the disability rights issue raised by PLAP. In response, civil rights and advocacy rights groups including the Massachusetts chapter of the ACLU, Massachusetts Prisoners’ Legal Services, the Center for Public Representation and the National Disability Rights Network filed a consolidated amicus brief in support of PLAP.

After DeGrand’s graduation in June 2016, Tabitha Cohen, JD ’18 picked up the baton of PLAP representation and argued the case before the Supreme Judicial Court on January 6, 2017.

“Tabitha was superb.” said John Fitzpatrick, JD ’87, one of PLAP’s two supervising attorneys in attendance that day along with Joel Thompson, JD ’97. Fitzpatrick added that “Her poise and the content of her argument, along with her ability to comprehensively answer every of the many questions put to her by the SJC justices, was equal to or even better than many experienced appellate attorneys arguing before the court.”

Tabitha said that “It was a tremendous honor and privilege to represent Mr. Richard Crowell in his prisoners’ rights and disability rights appeal before the Massachusetts Supreme Judicial Court. Thanks to the tireless work of my amazing supervising attorney, John Fitzpatrick, and all of my predecessors at the Harvard Prison Legal Assistance Project who worked so diligently on Mr. Crowell’s case, Mr. Crowell was able to make his voice heard in the state’s highest court. Arguing before the justices as a 2L has unquestionably been the highlight of my law school experience, and I cannot thank PLAP and everyone who worked so hard on this case, especially John, enough for this opportunity, and for entrusting me with this profound responsibility.”

Fitzpatrick said the oral arguments “went very well. Though that never predicts the eventual outcome of an appellate case, it is certainly better than the alternative.” He added that the SJC could issue its decision in the case during the next several months.
Harvard Legal Aid Bureau takes foreclosure fight to Massachusetts Supreme Judicial Court

On the morning of January 9, 2017, Harvard Law School student Dayne Lee ’17 slipped into a suit after three sleepless nights, punctured with dreams about his major oral argument. Later that day, he would argue before the Massachusetts Supreme Judicial Court (SJC) in a case pitting federally controlled mortgage giant Fannie Mae against Lynn, Massachusetts homeowner Elvitria Marroquin, who has been fighting foreclosure on her home since 2008.

The question before the court was whether Fannie Mae and large financial institutions should be immunized from their failure to send a proper notice of default because the foreclosure took place within a grace period purportedly set in a prior SJC decision.

The decision, expected in a few months’ time, will set a precedent potentially impacting scores of foreclosed homeowners.

“Fannie Mae was created by the federal government during the New Deal to help homeowners, not to hurt them,” Lee said. “The banks should be held accountable for their own mistakes and held to the law. Millions of working class, middle class, immigrant, and families of color continue struggling with the ongoing impact of the foreclosure crisis.”

Lee represented Marroquin under Massachusetts Supreme Judicial Court Rule 3:03, which allows student attorneys to serve as counsel to indigent clients across the state. He worked alongside a team of students and licensed attorneys from the Harvard Legal Aid Bureau, the largest and oldest student-run legal aid organization in the country, and second-largest provider of legal aid in the Greater Boston area.

Marroquin, who immigrated to the U.S. from Guatemala, bought her first home in Lynn in the early 2000s with a toxic mortgage during the housing bubble. She fell behind on mortgage payments and Fannie Mae foreclosed on her home instead of working out a sustainable loan modification.

Thanks to outreach from community organizers in Lynn, Marroquin was aware of the possibility of continuing the fight for her home after the foreclosure. “Proactive outreach is critical,” notes Isaac Simon Hodes, director of the Lynn United for Change Empowerment Project, a local housing justice group. “Without a grassroots organization to support them, most families in foreclosed homes pack up and leave and never realize they could have fought back.”

Marroquin stayed in the home with her two sons and kept working, trying to save up enough to buy their house back. Fannie Mae eventually sought to evict the family, but HLAB fought the eviction and underlying foreclosure in court on a Limited Assistance Representation basis.

“A foreclosure is a very serious thing because a family is losing its home,” Lee said. “The banks and lenders caused the financial crisis, and then they cut corners and foreclosed on thousands of homes in Massachusetts and millions of homes across the country. They started breaking the law and taking shortcuts, hurting people like Ms. Marroquin, and that’s never okay.”

Taking Up the Case

Marroquin’s four-year litigation began in 2012, but the groundwork for HLAB’s involvement was laid years before. The late David Grossman, the HLAB faculty director from 2006-2015, and Eloise Lawrence, clinical instructor in Community Lawyering (then-HLAB staff attorney under a generous grant from the OAK Foundation) had teamed up with City Life / Vida Urbana — a community organization promoting tenant rights and preventing housing displacement — to develop a unique strategy of challenging foreclosures on a large scale through defense against post-foreclosure evictions.

“The key to keeping Ms. Marroquin in her home for all these years and to ensuring she had the faith and energy to continue to fight against very powerful forces has been Lynn United,” Lawrence said. “Without their extraordinary organizer, Isaac Hodes, and all the residents of Lynn who have repeatedly stood in court with Ms. Marroquin or marched to City Hall in solidarity, we at HLAB would never have had the privilege to represent her in court because she would have left her home like the millions of other homeowners, without a fight, because they didn’t know their rights or have the means to make these rights a reality.”

The collective strategy was to use eviction proceedings to fight specific individual foreclosures and inform people of their rights. HLAB went to court and offered to help every single person being evicted from his or her home due to foreclosure, not just those who had reached out for legal help.

In 2015, HLAB took on Marroquin as a client for full representation, after previously representing her on a limited basis in the original post-foreclosure eviction case. In April 2016, Lee joined to help write the direct appellate review petition to advocate for Marroquin’s right to stay in her home.

Full story is available on Harvard Law Today
HIRC files amicus curiae brief in NY case against Trump’s executive orders on immigration

Via Harvard Law Today

Two students who have been working with the Harvard Immigration and Refugee Clinical Program following the Trump administration’s executive orders on immigration recently wrote about their work and the impact of their collaborations with other students, faculty and attorneys.

Nathan MacKenzie ’17 via HIRC — The Harvard Immigration and Refugee Clinical Program (HIRC) filed an amicus curiae brief today in the Eastern District of New York case against President Trump’s Muslim Ban, one of several cases currently challenging the president’s actions on immigration.

The case, Darweesh v. Trump, focuses on the President’s authority to ban entry into the United States on the basis of national origin. The lead plaintiffs, Hameed Khalid Darweesh, an interpreter for U.S. troops in Iraq, and Haider Sameer Abdulkhleq Alshawi, whose wife worked as an accountant for an American contract security firm, were en route to the United States when President Trump signed the Executive Order that established the ban. Immigration officials detained both men at John F. Kennedy International Airport. The ACLU later filed suit against the President on behalf of these men and other similarly situated individuals.

HIRC’s brief makes three distinct arguments for why the ban should not stand.

First, the brief contends that the President has overstepped the discretion afforded him under the Immigration and Nationality Act (INA) in a manner that runs afoul of the Constitution, violating the Establishment Clause of the First Amendment and the Equal Protection and Due Process Clauses of the Fifth Amendment.

Second, HIRC argues that a nondiscrimination clause in the INA prohibits the president from instituting a ban on the basis of national origin. That nondiscrimination clause, within the section of the INA that deals with immigrant visas, prohibits discrimination on the basis of “race, sex, nationality, place of birth, or place of residence.” While the INA allows the President some discretion in suspending entry to the United States, HIRC’s brief argues that, given well-established principles of statutory construction, specific language should override general language.

Third, HIRC articulates how the Muslim Ban directly violates asylum law and other protections afforded to refugees and torture victims. Under both domestic and international law, anyone who arrives at the border or is physically present in the United States can apply for asylum if she fears persecution on account of her race, religion, nationality, political opinions, or membership in a particular social group. The government is also prohibited from removing that individual to a country where she is likely to face persecution and/or to a country where she is likely to be tortured or subjected to cruel and unusual punishment.

Over the past two weeks, ten students from Harvard Law School, worked with attorneys from Skadden, Arps, Slate, Meagher & Flom to research and formulate these arguments concerning statutory interpretation. The students are: Mana Azarmi ’17, Zoe Egelman ’18, Carys Golesworthy ’17, Andrew Hanson ’17, Nathan MacKenzie ’17, Isabel Macquarrie ’19, Nadia Sayed ’17, Leora Smith ’17, and Amy Volz ’18. They were supervised by Clinical Professor Deborah Anker and Senior Clinical Instructors Phil Torrey and Sabi Ardalan.
Making the case for an asylum seeker

By Nathan Mackenzie, J.D. ’17

While most immigration cases drag on for months, my most challenging and rewarding case in the Harvard Immigration & Refugee Clinic lasted only one frantic week.

It started with a desperate phone call from one of the clinic’s former clients. Her younger sister, “Sarah”, had been detained at the border while trying to enter the U.S. She was due to be “removed” back to El Salvador within the week (“removed” is the term used in place of “deported” for people who have not been lawfully admitted into the U.S.). The former client told my supervising attorney, Maggie Morgan, that Sarah was running from MS13, one of the violent street gangs that has been terrorizing El Salvador. The gang had threatened Sarah before she fled and she feared that they would kill her if she went back. Maggie said she would do what she could. I signed on to assist.

Sarah had been in the U.S. for fewer than 2 weeks and was caught near the border, which made her subject to what is known as Expedited Removal. That meant that she could be removed without a formal hearing unless she passed a Credible Fear Screening. These brief, preliminary screenings are designed to ensure that the U.S. does not deport people who may have a viable asylum claim, as doing so would violate both international (the 1951 Refugee Convention) and domestic (the Immigration and Naturalization Act) refugee law. Unfortunately, Sarah had already had her Credible Fear interview and she had failed.

Sarah’s failure did not make sense to us. She has family members in the U.S. who have received asylum based on very similar harms. These claims involved persecution for membership in her family, for being a woman in El Salvador without male relatives to protect her, and for political opinions expressed against gangs. Despite all of terrible circumstances she had fled, the government determined that Sarah’s fear was not sufficient to form the basis of a potential asylum claim.

Sarah’s failure highlights a major issue with Credible Fear Screenings. They are brief and completed under less-than-ideal conditions. Often the questions asked do not elicit the right information from the applicant. Applicants rarely understand the contours of U.S. asylum law and almost none speak with an attorney before their interview. As a result, many applicants only tell the interviewing officer about the most pressing reason they fled. For many, those reasons are gang threats and violence, but some officials are very reluctant to approve gang claims. Asylum requires that a person fear persecution on account of their race, religion, nationality, political opinion, or membership in a particular social group. Many officials do not recognize gang claims as fitting within this definition, even though a lot of these claims are eventually successful in immigration court once they have been further developed. Additionally, these same applicants may also face other threats in their home countries that, though less concerning to them at the moment of their interviews, greatly increase the strength of their asylum claim. Without proper counsel, applicants often fail to raise these claims.

Unfortunately, Sarah encountered all of these issues in her original screening. It happened quickly and she did not have the opportunity to speak with a lawyer beforehand. She told the officer about the most pressing fear: the threats the gangs had made against her. Since these gang-related claims are not well understood, denials are common. The interviewing official did not find that the threats were connected to a protected ground. However, we had additional information, both from our own discussion with her and from speaking with her sisters, and we felt we could make a good argument for asylum based on her trouble with the gang. Additionally, we knew she had several other potential claims relating to other circumstances she faced back in El Salvador. As such, we decided to request a second Credible Fear Screening and file additional information to explain the dangers Sarah would face if she were removed back to her home country.

It was a solid plan, but we were fighting against the clock. The government could have removed Sarah at any moment. We needed more time to prepare the case, but Sarah could be removed at any moment, so Maggie called the local asylum office near the detention center where Sarah was being held. After hearing the details of the case, an asylum officer agreed to speak with Immigration and Customs Enforcement (ICE) and request that they delay Sarah’s removal until we had the chance to file our request for a second Credible Fear Screening.

Next, I met with two of Sarah’s sisters to get background and context for their family’s situation in El Salvador. They provided amplifying information on the threats Sarah faced and highlighted details that went back to before Sarah was born. I used this information to draft an affidavit that the sisters signed and that we included with our request to the asylum office. The other pieces of the request included a legal letter detailing Sarah’s several potential claims, signed forms authorizing Maggie to represent her, proof of her sisters’ grants of asylum, and other documents that supported her claims.

Finally, we needed to make sure Sarah fully understood all of requirements for asylum and the background information we had collected on her case. Even if the asylum office granted our request, Sarah would still need to assert her potential asylum claims in the second interview. To give Sarah the best chance of success, we got her on the phone along with her sisters. I outlined the requirements for asylum and the potential claims we saw in her case. Her sisters then discussed the family situation and other background information with her, stressing the importance of telling the interviewing officer everything. It was a difficult conversation, detailing all of the worst things that had happened in this woman’s life. Her sisters who had been through it before, comforted her and kept stressing the need for her to be strong so she could stay in the U.S.

Full story available on Clinical and Pro Bono Programs blog.
EMMETT ENVIRONMENTAL LAW AND POLICY CLINIC

Clinic Files Amicus Brief in the D.C. Circuit in Support of Mercury and Air Toxics Rule

Via Emmett Environmental Law and Policy Clinic


This case involves challenges to the Environmental Protection Agency’s regulations limiting emissions of mercury and other hazardous air pollutants from power plants. After the Supreme Court remanded the Rule to EPA in Michigan v. EPA, 135 S. Ct. 2699 (2015), EPA completed a supplemental consideration of the costs associated with the regulation. In this brief, the Clinic argued that 1) mercury is a dangerous toxic metal and that power plants are the largest domestic source of mercury emissions; and 2) that the scientific literature confirms EPA’s conclusion that there are significant benefits to regulating power plant mercury emissions.

Clinic student Joshua Lee (JD’18) wrote the brief with Senior Clinical Instructor Shaun Goho.

CYBERLAW CLINIC

Clinic Files Amicus Brief Supporting Family’s Right to Access Dead Relative’s Emails

Via Cyberlaw Clinic

On February 21, 2017, the Cyberlaw Clinic filed an amicus brief on behalf of several trusts and estates law scholars and practitioners in Ajemian v. Yahoo!, Inc., Mass. Supreme Judicial Court No. SJC-11917. The brief supports the plaintiffs-appellants in the case. The Ajemian case arises out of a dispute between Yahoo and the family of John Ajemian, who died unexpectedly in 2006. After Mr. Ajemian’s death, the administrators of his estate contacted Yahoo about gaining access to his email account. Yahoo refused, claiming that the Stored Communications Act (SCA), 18 U.S.C. § 2701 et seq., prevented it from doing so.

Among other things, Yahoo argued that the “lawful consent” exception found in § 2702(b)(3)—authorizing providers to disclose stored communications “with the lawful consent of the originator or an addressee or [the] intended recipient”—requires the express consent of the user. Since Mr. Ajemian died intestate and did not otherwise authorize the post-mortem disclosure of his email, Yahoo contends his estate is forever barred from accessing it. This appeal focuses solely on the question of how to interpret the SCA’s lawful consent provision, and we believe that it is a case of first impression in the United States.

The amicus brief argues that Yahoo’s proposed interpretation of the SCA would frustrate the efficient administration of estates and prevent families from accessing troves of data with financial and sentimental value that are increasingly stored only on the servers of private companies like Yahoo. While acknowledging that the SCA protects important privacy interests, the brief suggests that the court need not read the SCA as dogmatically as Yahoo suggests, especially since the statute was written over 30 years ago and is silent on this particular issue. Yahoo’s reading would create a default rule that anyone who dies “digitally intestate”—that is, without leaving express instructions about what to do with their electronic accounts—wishes their data to forever remain beyond the reach of their relatives. But given the tremendous value of the data we now store with companies like Yahoo, and the fact that all of our other property automatically becomes part of our estate even if it contains sensitive personal information, amici invite the court to hold that the power to “lawfully consent” in life should be entrusted to the decedent’s personal representative after their death. This analysis is based on the legislative history of the SCA and statutory construction of the term “consent,” and it supports the public policy goal of preserving the value of an estate for a decedent’s heirs.

The amicus brief also addresses Yahoo’s alternative argument that its Terms of Service give the company sole discretion to deny access to user accounts or delete content. Given the undeveloped record on this point and the potentially significant ramifications of such a finding, amici urge the court to leave this question for another day.

Special thanks go to HLS Cyberlaw Clinic students Danielle Kehl (HLS JD ’18), Vinitra Rangan (HLS JD ’18), and Xinshui (Sylvia) Sui (HLS JD ’18), who worked closely with Clinical Fellow Mason Kortz and the amici to prepare and file the brief.
When human rights clinical instructor Anna Crowe first began doc-umenting the legal challenges faced by Syrian refugees in Jordan, she found a tangled system that put their lives on hold. Thousands of refugees, stuck in legal limbo, were vulnerable to risks ranging from statelessness to relocation to refugee camps.

In Jordan, Syrian refugees must register with the interior ministry to obtain identity cards, which allow them access to health care, education, work permits, and humanitarian assistance. But to obtain the cards, the refugees need to show their original Syrian identity documents, which many lost in transit. They are caught in a catch-22.

“In theory, everyone or most people should be able to get the card,” said Crowe. “But there are practical challenges refugees face, which means that tens of thousands don’t actually have those cards.”

Lack of documentation is an aspect of the Syrian refugee crisis that doesn’t grab the same headlines as the harrowing scenes of people rescued from the rubble of a bombed city or drowned in the Mediterranean while fleeing to Europe. But the consequences for stranded refugees can be crippling.

Without legal status in Jordan, some refugees live in fear on the fringes of society, risking poverty and exploitation, or even deportation back to their war-torn country. If they don’t have documents that authorize them to leave a refugee camp, they’re stuck there. If they do leave camp without authorization, they cannot obtain work permits or access public health services or move freely. Especially vulnerable are Syrian refugee children who lack birth certificates, and are at risk of becoming stateless.

“Documentation is the gateway to a variety of human rights, rights to health, education, nationality, and so on,” said Crowe, who teaches at the Human Rights Program at Harvard Law School (HLS). “But by and large, documents give refugees a feeling of safety, a recognition that they’re allowed to stay there, and a proof of who they are.”

Crowe, LL.M. ’12, traveled to Jordan with HLS students in 2015 and 2016 to document the situation for two reports done in collabora-tion with the Norwegian Refugee Council, a major humanitarian organization. Launched last November in Amman, the second report urged the Jordanian government and the United Nations High Commissioner for Refugees (UNHCR) to come up with new policies to regularize the legal status of the undocumented Syrians. Of 515,000 Syrian refugees registered with UNHCR as living outside refugee camps, more than 370,000 have obtained identity cards from the interior ministry, but around 145,000 who should have the cards do not. An additional 17,000 refugees who have left the camps without authorization cannot be eligible to obtain identity cards.

There are too many obstacles for refugees to prove their legal status and not enough pathways to mitigate their plight, said Crowe.

While working on the report, Crowe listened to refugees’ stories. One family was stopped by the police and separated when the father was sent back to a refugee camp because he lacked documents. A pregnant woman used her sister-in-law’s documents to give birth in a hospital and received a birth notice under her relative’s name, placing the mother in a precarious legal situation. And if refugees are exploited or are victims of a crime, they may not contact the police because that could lead to deportation or being sent back to the camps.

Alexandra Jumper, J.D. ’18, one of the students who traveled with Crowe, said that working on the report gave her a close-up look at real-world problems. The report’s main contributions, Jumper said, involve mapping out the complex process for the refugees to obtain documents, offering recommendations, and putting human faces on the problem.

“The voices of refugees helped us explain the problem and the emotional and psychological toll that takes on people when you are in a country that is not your own, as a refugee, and you don’t have documentation,” said Jumper. “Maybe with this report, people might pay more attention to the refugee crisis and the way national policies can affect people’s lives.”
Reflections on the Review Conference as a Newcomer to CCW

The Fifth Review Conference of the Convention on Conventional Weapons (CCW) was a great success for advocates of a ban on fully autonomous weapons. Held at the United Nations in Geneva in December 2016, the Conference was also an opportunity for me to discover and reflect on the processes and challenges of the CCW, to which I was a newcomer.

I became involved when I attended the Conference as part of Harvard Law School’s International Human Rights Clinic (IHRC). I also contributed to a report that IHRC co-published with Human Rights Watch the week before the Review Conference. Making the Case: The Dangers of Killer Robots and the Need for a Preemptive Ban rebuts the major arguments against a prohibition on the development and use of fully autonomous weapons. These weapons, also known as killer robots and lethal autonomous weapons systems, would be able to select and engage targets without human intervention.

The Review Conference was a key step toward a ban because states parties agreed to formalise talks on killer robots by establishing a Group of Government Experts (GGE), which will meet for 10 days in 2017. This GGE creates the expectation of an outcome as past GGEs have led to negotiation of new or stronger CCW protocols. It provides a forum for states and experts to discuss the parameters of a possible protocol which hopefully will take the form of a ban. The Review Conference also showed that support a ban is gaining traction around the world. Argentina, Panama, Peru and Venezuela joined the call for the first time at the Conference, bringing to 19 the number of states in favour of a ban.

The establishment of a GGE was the news I eagerly waited for the entire week. When the Review Conference opened on December 12, this result did not seem guaranteed. Decisions under the CCW are adopted on the basis of the consensus. This means that any state can block progress and the Russian delegation, from the beginning of the week, forcefully opposed the move to set up a GGE. All other countries that addressed killer robots during the Review Conference explicitly supported establishing such a group. There was something strange about the risk of a single state blocking efforts openly promoted by numerous countries, and I wondered whether, faced with the threat of isolation, it would actually do so. Ultimately, this opposition appears to have been overcome by overwhelming support for more formal discussions.

I first heard about fully autonomous weapons when I joined IHRC in September. At the Review Conference, I realized how invested I had become in this issue and how relieved I was when, on Friday, it became clear that Russia was not going to block a GGE. Fully autonomous weapons are still only under development. Yet, because they have the potential to dramatically change the way that wars are fought, it is incumbent upon us to address the dangers they pose before they find their way to military arsenals and the battlefield. Several other points caught my attention throughout the week.

Firstly, I joined the Review Conference as part of the Campaign to Stop Killer Robots, an international coalition of non-governmental organisations (NGOs) working towards a preemptive ban on these weapons. In this capacity, I found it interesting and encouraging to observe the role played by civil society at the Review Conference, including doing advocacy, releasing research publications and making statements during the sessions. In their public remarks, state representatives often explicitly acknowledged the work of specific NGOs and experts and the importance of civil society engagement in the dialogue. Many diplomats also attended side events, organised by the Campaign, such as one on the need to adopt a ban rather than a regulatory approach to deal with the dangers associated with killer robots. In the never-ending discussions about the correct balance to strike between military interests and humanitarian concerns, civil society has a vital role to play in emphasising the importance of humanitarian protection and pushing states to adopt ambitious goals. Civil society’s efforts are all the more important when it comes to killer robots which have the potential to revolutionise warfare and raise deep ethical questions.

Secondly, I was surprised and concerned by the limited media coverage of the Review Conference, especially given the fact that a Review Conference happens only once every five years and addresses matters of global concern. Discussions about killer robots should take into account the views of the public at large because delegating decisions about the use of lethal force to machines raises fundamental moral and ethical questions and international law prohibits weapons that run counter to the dictates of the public conscience. Media coverage is important to raise the public’s awareness and facilitate its involvement in the debate. Civil society can contribute by engaging with the media and disseminating information about emerging weapons technologies that have the potential to affect societies and the world we live in. In so doing, civil society can promote media scrutiny and public participation and thereby put greater pressure on states to be ambitious and adopt encompassing solutions.

Finally, much of the debate at the Conference concentrated on the issue of finances. Financial constraints forced some discussions to take place in an informal setting without the use of official translators. Dozens of countries throughout the week noted their concerns at the financial difficulties facing the CCW. Given the fact that the Conference lasted only five days, it was regrettable that financial discussions took time away from the substantive issues. If this pattern continues, there is a risk that it will undermine the effectiveness and impact of the GGE in 2017 and the CCW as a whole. States parties should therefore take steps to resolve the situation by making their financial contributions as soon as possible.
It may be difficult to believe that a simple piece of paper can carry so much weight. But for Syrian refugees living in host communities in Jordan, marriage certificates, birth certificates, and government-issued identity cards are essential to securing basic human rights.

Several months ago, I traveled with a team from the International Human Rights Clinic to interview dozens of Syrian refugee families about their experiences with obtaining these documents in Jordan. Like the vast majority of Syrian refugees in Jordan, these families lived outside of refugee camps, their legal status dependent on whether they had new government-issued identity cards, otherwise known as “MoI cards.” Without the cards, refugees lived in situations of legal uncertainty, without access to essential services, and at risk of arrest, detention, forced relocation to refugee camps, and possible refoulement.

The families we interviewed described a variety of experiences, but one theme was common throughout: lacking proper documentation can have cascading consequences for Syrians who already occupy a marginalized and vulnerable position.

For one Syrian mother, getting a new MoI card for her infant son, who was born in Jordan, seemed nearly impossible. In order to get the card, she needed proof of identity for her son, in the form of a birth certificate issued by Jordanian authorities. But she couldn’t get the birth certificate until she got a marriage certificate. And she couldn’t get the marriage certificate because the woman and her husband, who wed in Syria two years prior, could not provide sufficient proof that they had been married in Syria.

As is common practice in some parts of Syria, their marriage had been officiated outside the Shari’a court.

The couple could have legalized and registered their marriage in Jordan by obtaining a marriage ratification certificate. But that process can be long and complicated. And in this particular family’s case, they faced an extra challenge: the husband had recently returned to Syria. All these obstacles meant the mother wasn’t able to secure the new MoI card for her child.

Proving identity can be a problem for adults as well. Because of the conflict, Syrian adults may not possess the official identity documents required to obtain a new MoI card, a Syrian ID card, or a passport. In addition to proving identity, refugees also have to produce a variety of other documents to obtain a new MoI card, including an official health certificate (for those aged over 12) and proof of where they live.

As several families described, the effects of not having the new MoI card can be dire. In one case, a family said the local hospital that had been providing asthma treatment to their six-year-old child stopped care because the girl did not have the card. In another case, a husband said that he and his pregnant wife traveled to six health centers in order to receive a prenatal check-up, but she was denied entry because she did not have the card, or a related piece of documentation issued by UNHCR, the United Nations Refugee Agency.

For the small group of refugees who are ineligible for the cards, the situation is compounded; these refugees are at particular risk of being forced to relocate to one of Jordan’s refugee camps. One mother of four said she was reluctant to even go to the market for fear of encountering authorities. Another man said that without the card, his son-in-law was afraid to leave the house.

“It’s like he’s in jail,” the man said.

Without documentation, Syrian refugees face additional longer-term risks; for example, Syrian children without birth certificates or other proof of identity, like the young son mentioned above, could be at risk of statelessness. One father said he often thought about how “one day Syria will calm down, and we will want to go back,” but the authorities “will ask me for proof [that my child] is my son, and then we may not be able to get him back to Syria.”

For these families, official documents aren’t just a means to receiving critical services. They’re proof of so much more.
Forging a path to debt cancellation for former ITT Tech students

On Jan. 3, the Project on Predatory Student Lending of the Legal Services Center of Harvard Law School filed a 7.3 billion dollar class action lawsuit in the bankruptcy proceedings of ITT Tech, one of the country’s largest for-profit college chains, on behalf of a proposed class of hundreds of thousands of former ITT Tech students in all 37 states in which the now defunct college had operated.

The lawsuit has received major media attention—in the New York Times the Huffington Post and the Washington Post. We spoke to Toby Merrill ’11, the director of the Project on Predatory Student Lending—which she started in 2012 to fight for borrowers who have experienced unfair, deceptive, and illegal conduct at the hands of for-profit colleges—and Eileen Connor, its director of litigation, about the background and significance of the suit and about the HLS project’s involvement.

Why did the HLS Project on Predatory Student Lending get involved with this case?

CONNOR: We didn’t want one of the biggest and most predatory for-profit colleges to disappear through the liquidation process without students getting debt relief. An inaccurate narrative developed around this particular bankruptcy: ITT was a good business that was financially distressed due to regulatory overreach by the Department of Education. In fact, this business cratered because it failed and defrauded students. While in operation, ITT used aggressive tactics to silence whistleblowers and students about its illegal practices. Yet a trove of testimony had been submitted to the Department of Education by former ITT students—over 2,000. We wanted to bring these stories, and the work of student debt resisters like Debt Collective, into the public dialogue about ITT and for-profit colleges more generally.

What are the former students from ITT Tech asking for?

MERRILL: Students are seeking to establish the liability of ITT for consumer protection act and contract violations against a class of students who attended ITT over the past ten years. If successful, this Complaint will establish ITT students as creditors of the ITT bankruptcy estate. The students are also asking for a legal finding from the bankruptcy court that ITT engaged in widespread consumer protection violations against students. This finding could create a path to debt cancellation for students’ federal student loans. Under the terms of those loans, borrowers may assert state law violations including consumer protection act violations and contract violations by the school as a defense against repayment of their federal student loans. Students also seek an injunction against the continued collection of certain other debts, including debts allegedly owed to ITT and to private lenders who are functionally alter-egos of ITT.

What do you think the next steps will be for the ITT Tech suit and how will your project be involved?

MERRILL: We have asked the bankruptcy judge to recognize the former students as a class of claimants, so that their claims in the bankruptcy case would be considered as a group and all students would be represented. So the first step will probably be an adjudication of that motion. We will continue to represent former students as they litigate the adversary proceeding against ITT’s estate. How does this case fit into the kind of problems the project on Predatory Student Lending was formed to address?

MERRILL: The project was formed to help low-income student loan borrowers who were ripped off by for-profit colleges, and ITT was one of the country’s largest for-profit chains. Over the past decade alone, ITT took in over $11 billion in revenue, about 75 percent of which came from federal student aid. Former students of ITT experienced extensive, widespread, and systematic deceit. ITT relentlessly pitched itself to students as a sound investment with a healthy return in the form of guaranteed or near-guaranteed entry-level employment in a lifelong career. In reality, ITT deliberately and severely underinvested in resources needed to deliver on these promises, leaving students with an expensive but valueless credential. So this case fits squarely within the project’s mission.

Why is this suit significant?

CONNOR: ITT generated over 7 billion dollars in student loan debt over the past decade, and yet its graduates earn the same or less than workers with only a high school diploma. We need to reckon with this debt and recommit to the kind of oversight that will stop bad actors from accessing government loan programs. How does this situation compare to what happened after the for-profit Corinthian Colleges closed its doors? Did students holding loans get any debt relief?

MERRILL: Less than 4 percent of students who were defrauded by Corinthian have gotten relief on their federal student loans, even though it has been more than a year since Corinthian filed for bankruptcy and the Department of Education promised debt relief and declared a sub-group of Corinthian students presumptively eligible for that relief. The situation is worse for ITT students—none of them have gotten any debt relief from the Department of Education yet, and the department has not acknowledged that ITT has done anything wrong or that any students will be eligible for debt relief. This despite suits by several state, investigations by more than a dozen more, and suits by the CFPB [The Consumer Financial Protection Bureau] and SEC.

Full story is available on Harvard Law Today
FOOD LAW AND POLICY CLINIC

FLPC Releases “Moving Food Waste Forward: Policy Recommendations for Next Steps in Massachusetts”

Via Food Law and Policy Clinic

On February 6, 2017, the Food Law and Policy Clinic of Harvard Law School released Moving Food Waste Forward: Policy Recommendations for Next Steps in Massachusetts. The report follows FLPC's October 2016 report, Keeping Food Out of the Landfill: Policy Ideas for States and Localities, a resource that provides detailed information on how states and local governments can contribute to local food waste reduction. Moving Food Waste Forward provides information and recommendations specific to Massachusetts stakeholders. In addition to information from other states, it also references ideas and recommendations that emerged from conversations with food waste experts and stakeholders from around the state of Massachusetts. The report covers tax incentives, liability protections, date labels, food safety, school food waste, the Massachusetts organic waste ban, and government support for food waste reduction.

Massachusetts stakeholders can use the information in this report in order to determine key priorities for next steps in policy change to further reduce the amount of food wasted in the state. The recommendations in this report could be implemented individually or in tandem, or could be combined together into comprehensive state food waste legislation.

INDEPENDENT CLINICAL PROGRAM

Students travel worldwide to do clinical work

This winter term, over a hundred students are travelling to 54 cities across the world to pursue clinical projects with a wide range of governmental agencies, non-profits and other organizations. Within the United States, students will be engaging in clinical work with placements such as the Attorney General Offices in California, Iowa and Virginia; organizations such as the Texas Defender Service (Houston, TX), World Bank (Washington, DC), American Civil Liberties Union (Los Angeles, CA), and private entities such as the Brooklyn Nets and the National Football League.

Students can engage in clinical work with outside organizations through two avenues. Students are given the opportunity to design custom and individualized clinical placements, in collaboration with their HLS faculty sponsor and on-site supervisors, through the Independent Clinical Program. This semester, these independent clinical students have designed a broad range of projects focusing on issues ranging from international human rights to community economic development. Through Externship Clinics, students can also participate in on-site clinical work at organizations across the United States, an experience which is further enriched in the classroom through discussions and reflections.
INDEPENDENT CLINICAL PROGRAM

My three weeks on Capitol Hill

By Michael Perloff, J.D. ’17

The Capitol Building and its surrounding structures carry the regal magnificence of a European castle. Marble stairs and floors grace the entryways; ceilings vault endless upwards; and stone arches greet entrants passing from one corridor of power to the next. In some ways this majesty is surprising: America came into existence to break free of aristocratic trappings and leaders throughout the country’s history have made homage to the salt of the earth. Yet, despite its elegance, the Capitol does not fully belie national claims of humility; for the building’s sheer grandeur imposes a sense of solemnity on those who walk its hallowed halls.

Or at least it did for me. Before my J-Term internship, I never spent time on Capitol Hill—no prior internships, no family vacations, not even a class trip. This omission was striking because politics fascinates me. As a kid, I remember watching SNL’s Gore-Bush debates with my dad and developing a (bad) knock-off version of Darrell Hammond’s Al Gore. In high school and into college, I followed Barack Obama’s rise with excitement and admiration; and just this past fall, I volunteered to knock doors for Hillary Clinton. The experience of finally approaching the doors of the Capitol was thrilling; it felt like arriving at the set of a movie, only a lot nerdier.

Somewhat overawed, I walked into Congressman Bobby Scott’s office and met with David Dailey, my supervising attorney and the congressman’s legislative director. From the start, David made me feel part of the team. He included me in the weekly conference call and asked me to come with him and another staffer to grab lunch. He also invited me to join the rest of the staff as we introduced ourselves to the new members of the Virginia congressional delegation—an aspect of Southern hospitality that won bipartisan plaudits. Over the week, other staffers opened up, too. Paige Schwartz, a legislative assistant from Virginia turned to me after every inside joke to give context; Evan Chapman, a more senior legislative assistant, made sure to stop by my desk to talk about his law.

My second project was to analyze and reorganize the SAFE Justice Act. Rep. Scott’s most ambitious legislative effort, the SAFE Justice Act is an omnibus bill that would, among other things, eliminate a slew of mandatory minimums, increase prosecutorial accountability, and create new mental health programs. The bill is over 100 pages long and Rep. Scott introduced it in 2015 only to have it pushed aside by a less progressive reform bill. Rep. Scott plans to put it forward again in the new session of Congress. My task was to revise the bill to ensure the provisions followed a logically cohesive structure. As I worked on the bill, I joined David in several meetings with its key supporters, including one of the leaders of a national advocacy organization, a staffer for a Democratic co-sponsor, and a staffer for a potential Republican ally. After these meetings, David took me aside to explain some of the concerns about the original version of the bill and the obstacles that lay ahead for this draft. These conversations taught me about the battle for committee positions, how Nancy Pelosi has lead the Democratic caucus, the influence of advocacy groups, and the way a centrist bill can harm a more progressive one. Taken together, the conversations helped me better understand the interests that move major players in congressional advocacy.

The following week, my work turned to criminal justice reform. While I had enjoyed the previous week’s work, criminal justice was the issue area I planned to target by interning with Rep. Scott. My interest in that issue area had grown during law school, to the point that I plan on devoting myself to criminal justice reform after graduation. When I met with David Harris, managing director of the Charles Hamilton Houston Institute for Race and Justice, to discuss this passion, he suggested I work with Bobby Scott, whom David described as one of Congress’ most aggressive advocates for eliminating the draconian aspects of federal criminal law. I collaborated with David to secure an internship with Rep. Scott not only to learn about politics generally but also to study the battles for criminal justice reform at the highest levels.

I explored this issue through three projects. First, I reviewed several criminal justice bills that Rep. Scott planned to introduce during the upcoming legislative cycle. My job was to ensure that the bills, as drafted, achieved their policy goals and, if they did, write letters encouraging other legislators to support them. In completing this assignment, I analyzed six bills and wrote a 5-page memo analyzing the loopholes in one of them. I also wrote six letters advocating for the bills. This experience honed my legal writing skills, allowing me to make strong rhetorical cases for legislation while explaining legal provisions in ways non-lawyers could understand. More importantly, though, the assignment introduced me to federal sentencing law and helped me appreciate the consequences of several disturbing statutes. One of the most jarring parts of the code is 18 U.S.C. 924(c), a provision that, among other things, imposes a 25-year mandatory minimum on anyone who possesses a firearm in multiple incidents of drug dealing. Reading about the implications of this provision was chilling and helped me appreciate the stakes in reforming federal criminal law.

Full story available on Clinical and Pro Bono Programs blog.
Legal assistance for refugees in Israel  

By Hannah Belitz, J.D. ’17

I spent this January term interning at HIAS in Israel. HIAS is an international nonprofit that assists and protects refugees; it was founded in 1881 to assist Jews fleeing pogroms in Russia and Eastern Europe, and in the 2000s it expanded its resettlement work to include assistance to non-Jewish refugees throughout the world. The HIAS office in Israel assists refugees – primarily those from Eritrea and Sudan – in obtaining asylum and works to improve the asylum system in the country so that it adheres to international and domestic legal standards. Over the course of my three weeks at HIAS, I conducted legal research to support the asylum applications of HIAS clients, traveled to the Eritrean Women’s Community Center in South Tel Aviv to assist with interviews, and had the opportunity to attend a refugee status hearing.

The situation for refugees in Israel is particularly dire. Approximately 55,000 asylum-seekers currently live in Israel: roughly 36,000 from Eritrea, 15,000 from Sudan, and 4,000 from other African countries. Although the vast majority of them arrived primarily between the years 2005 and 2012, the Ministry of Interior (MOI) did not allow Sudanese and Eritreans to file individual asylum claims until 2013 – the reasoning being that they were protected under the “temporary group protection” afforded to Sudanese, Eritrean, and Congolese asylum seekers. Since 2013, when MOI began adjudicating asylum claims, asylum officers have assessed approximately 5,000 to 12,000 claims submitted by Eritrean and Sudanese asylum-seekers. Of those, only seven Eritreans and one Sudanese have been granted refugee status. The overall rate of granting asylum is less than 1%. Internationally, Eritreans and Sudanese are granted asylum at a rate of approximately 80% and 30%, respectively.

In addition to filing asylum requests for clients in Israel, HIAS also works to resettle refugees in the United States. During my final week, lawyers from the HIAS office in Vienna came to conduct intakes with refugees who may be eligible to come to the United States under the U.S. refugee resettlement program. The resettlement program offers a final hope to refugees who face little chance of being granted asylum in Israel. However, now that President Trump has issued an executive order severely restricting the entry of refugees, the future of the resettlement program remains unclear. What is clear is that the need for both immigration attorneys and humane asylum policies – in the United States and in Israel – has never been more pressing.

Remedying segregation at historically black colleges and universities in Maryland  

By Peter Im, J.D. ’18

I spent J-term at the Lawyers’ Committee for Civil Rights Under Law at a federal bench trial about remedying unconstitutional segregation at historically black colleges and universities (HBCUs) in Maryland. During the first week of J-term, I was at the Lawyers’ Committee’s DC office preparing for trial, which started on January 9th. I spent the next two weeks in Baltimore with the trial team. The case was filed in 2006, and litigation has dragged on for the last decade. In 2013, after the first trial, the judge found that the state’s perpetuating segregation at HBCUs violated the Constitution. This trial focused on the issue of remedies.

During the Jim Crow era, Maryland and many Southern states established public HBCUs as the black part of a de jure segregated system. Even after the end of de jure segregation, many states made some efforts to desegregate their white institutions but continued to shortchange their public HBCUs. Several federal lawsuits have addressed these practices, but the Maryland litigation is the first to do so in twenty years. As with desegregation cases and cases that address other systemic inequities in access to educational opportunity, crafting a successful remedy here is daunting. The Supreme Court has held consistently that the remedy must match the scope of the Constitutional violation, but what does this mean when the violation is a century of denying students and schools educational opportunities? And what does integration look like in the higher education setting, given that educating black leaders is a core part of HBCUs’ missions?

To address these thorny questions, the parties presented experts who relied on competing, often irreconcilable social science research. My task at the Lawyers’ Committee was to help prepare our experts to testify about the remedial proposal that they had prepared. Like in any complex litigation, the questions I worked on sometimes seemed distant from the main issues in the case. The experts had to defend their methods, so we discussed the relative merits of different social science methodologies. We explored how research, case studies, and data could be used to craft an “educationally sound and practicable” remedy. This work made me think about the larger question of how empirical research should affect court actions and how education litigation will evolve as we move into the era of “Big Data.” In decades past, courts could trust the expertise of experts who made qualitative claims. Moving into the future, empirical claims about remedies will increasingly need to rely on quantitative analysis. But what do we lose when courts of law privilege numerical data over the lived experiences of students?

It occasionally seemed a bit absurd that on the plaintiffs’ side alone, a dozen people were cooped up in hotel rooms away from their families for six weeks putting together slide decks, filing documents, preparing exhibits, and conducting meetings. But then I would remember that this case will have a huge impact: at stake is the fate of four universities. The outcome of the case will also reflect how Maryland, and ultimately other states, deal with the legacy of segregation.
A wonderful clinical experience with the National Health Law Program

By Amanda Brown-Inz, J.D. ’17

This January, I interned at the National Health Law Program, a public interest organization in Los Angeles (with offices in D.C. and North Carolina) that focuses on access to health care for low-income and underserved populations, as well as more specialized issues such as reproductive rights and opioid addiction. With the Affordable Care Act potentially on the Congressional chopping block, it was, to say the least, a fascinating time to be at a health law organization – each day, I participated in meetings, conference calls, and even traveled to a Congressman’s office to talk about the future of the ACA and, more generally, health care law.

I assisted NHeLP staff in exploring all of the potential risks of ACA repeal, reflecting on its reverberation throughout society. Participating in these advocacy efforts highlighted for me the deep symbiosis between legal and grassroots advocacy – as we learned from grassroots organizers about state-level efforts to protect and defend health rights, we were able to provide guidance on navigating the complex legal and regulatory aspects of the ACA and Medicaid, as well as the legislative process in Washington D.C. It was invigorating to be a part of this collaboration at such a crucial time in the history of healthcare law. Further, as I drafted several fact sheets about the likely impact of ACA repeal on Americans’ health rights, I honed my skills in communicating complex legal concepts in a manner that will resonate with the public. Overall, it was a wonderful experience and an amazing opportunity to witness firsthand (and participate in) the groundbreaking work of this organization.

My winter term working on criminal appeals

By Isaac Gelbfish, J.D. ’17

During J-term 2017 I interned at the Criminal Appeals Bureau (CAB) of the Legal Aid Society, New York City’s largest public defender office. I was fortunate to have amazing supervisors and had the opportunity to work on a number of criminal appeals. With closed and relatively short records – it was kind of like second-semester LRW, but with real cases.

I had the opportunity to work, from start to finish, on various appeals because the Appeals Bureau works on all cases – big and small alike. Sure, a 3-week intern wouldn’t bear responsibility to lead a murder conviction appeal, but, it turned out, a very large percentage of the CAB is not actually flashy murder appeals. The appeals docket, rather, consists mostly of smaller misdemeanor convictions, like disorderly conduct or public lewdness, where defendants risk losing public benefits or housing, or being deported, or simply risk attaching further addenda to an existing criminal record.

Such misdemeanor convictions come quick and dirty, by hasty trials with very short records. A person charged with disorderly conduct, i.e., a penis, rather than an administrative offense, for playing his music too loud can be convicted in a matter of minutes – one appeal I worked on regarded a seven and half minute trial. The officer testifies, and, boom, before you know it, there’s a conviction. On appeal, then, enter the lawyers, asking all sorts of legally nuanced questions. What are the legal standards for determining whether conduct was “disorderly?” are they objective or subjective; and were those standards met in the current case?

The lawyers at the CAB approached these questions seriously and methodically. I was continuously impressed at how committed the lawyers were to each and every case. Appeals were carefully considered, and, in weekly team meetings that I would attend, attorneys would discuss and deliberate about their arguments. The legal questions were always interesting, even if relating to all too common behavior. In one case I worked on, for example, a defendant/client peeped three times under a dressing room stall, and was then convicted for harassment. In quite a lawyerly fashion—conceding and bracketing that the defendant was up to no good—the CAB lawyers in our weekly team meetings started discussing: what did the harassment statute say, and was the three-times peeping considered a “course of conduct” as required by the harassment statute? If not, the defendant’s conviction must be reversed.

Much of criminal appeals work is indeed quite abstract – lawyers sitting in a room, researching, writing, and defending clients they never met. That said, I’d be remiss if I didn’t mention quite a different type of appellate lawyering that I saw at CAB—one that was quite inspiring. A CAB senior attorney described to me the relationship she would form with her clients. Whereas some appellate attorneys wrote briefs and focused exclusively on the legal and often abstruse defenses for the client, she would aim to explain to the client the arguments she intended to make. So often, she explained, the clients were quite astute, even pushing back and actively shaping the arguments on appeal. In some instances clients’ insistence on certain arguments might—in the lawyers’ view—be harmful or not productive, and in those cases she would sit down with the client, engage with him or her, and best explain the reasons behind the argument. Through the months and years of the appellate process, the senior attorney was able to form a relationship with the client that trial lawyers often could not; the clients came to trust her meticulousness and respect her dedication. And while the vast majority of appeals are lost, she concluded in response to my final question, the appellate process was a way to “be there for her client,” to provide him with the feeling that somebody had his back, in a system where he had likely bounced around from person to person. For me, the idea of losing the vast majority of cases was initially disheartening. But I was happy to hear what, to me, was an inspiring answer. I came to value her dedication.
My Independent Clinical in Sarasota

During winter term, I worked for three weeks at Legal Aid of Manasota in Sarasota, Florida. The experience was invaluable, and I would strongly encourage other Harvard Law students to take advantage of independent clinical opportunities.

Several of my cases involved domestic violence clients, and I was deeply moved by the stories they shared. Sadly, the theme of violence weaved through many of the cases, including those not explicitly about domestic violence. I worked on landlord-tenant cases, which, on the surface level, involved technical legal issues within tenant leases. However, a common underlying issue was that male landlords were threatening female tenants when they made a complaint about the condition of their homes, and thus the women could not safely advocate for themselves.

I was impressed with the commitment of the Legal Aid attorneys in the office, most of whom were retired attorneys working as volunteers. I noticed that clients were frequently relieved to have a safe space to share their stories, and they were often seeking emotional support in addition legal advice. Many clients suffered from a mix of chronic health issues, unstable home environments, and limited emotional support networks. I watched as the Legal Aid attorneys expertly balanced listening respectfully to their clients’ stories and directing the conversation to elicit necessary information about their case.

Previously, I had performed legal work in federal offices in DC and NYC (at the Consumer Financial Protection Bureau and U.S. Attorney’s Office), and I did not know what to expect at this small Legal Aid office in southern Florida. Fortunately, I learned that the substance and complexity of legal issues at the state level are no less interesting or challenging than at the federal level. At Harvard Law, our curriculum is often focused on federal law and federal courts, and students frequently seek clerkships with federal judges. Nonetheless, there is a clear need for motivated young lawyers to work at the state level and clerk for state judges, which I am now considering pursuing in my legal career.

Helping to advance the rights of baseball players

By Jonathan Weinberg, J.D. ’17

My continuing clinical placement through the Sports Law Clinic at the Major League Baseball Players Association was an exciting opportunity to gain valuable labor law practice at a vibrant union. I was able to build upon my work and experience last year and help advance the rights of baseball players pursuant to their collective bargaining agreement, while also having fun. I first participated in the Sports Law Clinic because, as a sports fan, I savored the opportunity to work in the industry. But I now further appreciate that baseball is more than a game!

Like last year, I primarily worked on grievance arbitrations (disputes between players and clubs) at the MLBPA; however, unlike last year, I worked on several similar player grievances in lieu of one relatively-unique situation. The series of grievances all arose under the same provision of baseball’s Basic Agreement (collective bargaining agreement.) First, I was tasked with reading and summarizing a series of previous panel arbitrations which served as the relevant legal precedent. Once I developed sufficient background, I reviewed the relevant discovery, files and facts surrounding each of the grievances and developed work product which provided MLBPA attorneys with all of the relevant information they needed to properly represent and advise the player-clients.

For a few of the grievances, I was even able to observe attorney/player-client meetings where attorneys updated player-clients on their grievances based upon my work product. Finally, I authored a comprehensive legal memorandum analyzing the panel precedent and applying it to one of the player-grievances, evaluating the player’s case and making recommendations for next steps. In addition to this work, I was asked to research and summarize case-law developments potentially impacting the union for attorneys, and afforded shadowing opportunities whenever available.

My time at the MLBPA taught me that baseball players have disparate needs and interests, and that even all-stars require zealous representation to protect fundamental interests. While a baseball player union does not typically engender the visual of labor activism, I found that the union labor lawyers treated their role just as that of any other union labor relations attorney, advancing rights for workers who happen to play baseball for a living – though they certainly are fans of the game.

I am excited to apply what I’ve learned through the Sports Law Clinic as a labor and employment attorney. And as a fan, I’ll definitely watch baseball differently.
Reflecting on my Independent Clinical in Zimbabwe

By Mila Owen, J.D. ’18

“My goals for my winter term independent clinical were fairly straightforward – to do legal work in Zimbabwe, to get a sense of what being a lawyer is like in my home country, and to contribute to meaningful public interest work. I am grateful that the lawyers at ZLHR enabled me to accomplish much more. Even though the frenetic pace of work and high caseload of ZLHR staff meant that there was a significant amount of casework I am passing on to other interns, my last week fortuitously brought a number of satisfying project conclusions. A case challenging the criminal code provision that penalizes insulting the President was heard before the Constitutional Court – the very first case heard this term. It was a thrilling and educational experience to listen to oral arguments with a full understanding of the case, and in particular for a case I had contributed to briefing. I also finished scoping for potential work pursuing conjugal visitation rights for Zimbabwean prisoners, an extremely ambitious and progressive project that entailed fascinating research about the rights to marry and form a family, sex in prisons and programs to reduce prison violence and recidivism. Finally, an article I co-wrote on State obligations in the face of the current typhoid epidemic in Zimbabwe was published in a national newspaper on Tuesday.

I have also been able while I was there to discuss opportunities for ongoing collaboration between ZLHR and HLS. There is enormous scope for collaborative projects, ranging from future student placements to advocacy campaigns, and even contributing to writing new constitutional law and international human rights casebooks for the University of Zimbabwe. I hope to play a role in the collaborative work and also encouraging and facilitating other student involvement. It is very rewarding to feel that HLS gives me the opportunity to meaningfully contribute to such important work in my home country.”

Mila Owen spent the 2017 winter term at Zimbabwe Lawyers for Human Rights. At ZLHR, she was able to engage in a wide range of challenging and meaningful work and looks forward to continuing her working relationship with the organization, and furthering as much as possible the relationship between HLS and ZLHR.