

LAWYERING OVER THE LINE:* TEACHING CRISIS LAWYERING WITH LAW STUDENTS SERVING ASYLUM SEEKERS IN MEXICO

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*For several years now, a humanitarian crisis has been building on the U.S. southern border, where northern-bound migrants—primarily family units and children—confront increasingly dire circumstances to seek safety in the United States. Restrictive and erratic asylum policy has resulted in ever-rising legal hurdles that families and individuals must surmount, even before they arrive in the United States. In response to this, American lawyers and law students have been “crossing the Line,” and going over the southern border and into Mexico to provide legal services. Though the exceptional setting presents difficult issues of substantive law, professional responsibility, and pedagogical method, it has received little to no academic attention as a practical educational experience. *Lawyering Over the Line* provides an overview of the current opportunity to conduct this work through U.S. law schools, and analyzes the value of this work to clients, law students, and law schools. This work shares much of the traditional pedagogical value found in service-learning work as developed in previous scholarship, along with many of the challenges and learning opportunities of experiential learning work performed in family detention centers. The stressors of the border experience described in this article highlight in new ways important aspects of more traditional service-learning work. Undertaking this work in Mexico is unique, however, because of the acute nature of the challenges encountered in work across international borders. The disorienting, liminal space students share with clients in*

* “The Line,” or “*la linea*” in Spanish, is a colloquial phrase commonly used by migrants to refer to the U.S.-Mexico border.

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transit, when thoughtfully combined with this form of service-learning has, the potential to be radically transformative for law students in their development as lifelong practitioners in public interest and other fields.

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I. INTRODUCTION

Since at least 2014, media reports have told the story of a “surge” of individuals—most from the Northern Triangle countries of El Salvador, Guatemala, and Honduras—arriving at the Southern border of the United States in search of refuge.¹

Many of those reports describe the situation at the border as a “crisis.”² While those trends have fluctuated in recent years, the narrative surrounding large numbers of arrivals has re-emerged,³ and is once again framed as a

1. See Alan Greenblatt, *What’s Causing The Latest Immigration Crisis? A Brief Explainer*, NPR (July 9, 2014), npr.org/2014/07/09/329848538/whats-causing-the-latest-immigration-crisis-a-brief-explainer; *Underage and On the Move: A Wave of Unaccompanied Children Swamps the Debate over Immigration*, ECONOMIST (June 26, 2014), <https://www.economist.com/briefing/2014/06/26/under-age-and-on-the-move>; Alan Gomez, *Children from Central America flood U.S. border—again*, USA TODAY, (Sept. 23, 2016), <https://www.usatoday.com/story/news/nation/2016/09/23/unaccompanied-minors-central-america-rushing-across-us-border/90911644/>; Julie Hirschfeld Davis & Michael D. Shear, *57,000 Reasons Immigration Overhaul May Be Stalled for Now*, N.Y. TIMES (July 16, 2014), <https://www.nytimes.com/2014/07/17/us/politics/border-crisis-casts-shadow-over-obamas-immigration-plan.html>; David Nakamura, *Flow of Central Americans to U.S. surging, expected to exceed 2014 numbers*, WASH. POST (Sept. 22, 2016), https://www.washingtonpost.com/politics/flow-of-central-americans-to-us-surging-expected-to-exceed-2014-numbers/2016/09/22/ee127578-80da-11e6-8327-f141a7beb626_story.html.

2. *Id.*

3. This article was drafted and accepted for publication prior to the global pandemic caused by the novel coronavirus identified as COVID-19. Since then, the Trump administration has virtually halted the entry of asylum seekers into the U.S. at the southern border by order of the Center for Disease Control, instead subjecting asylum seekers to a shadowy process of “expulsion” without analysis of their asylum claims. See Control of Communicable Diseases; Foreign Quarantine: Suspension of Introduction of Persons Into United States From Designated Foreign Countries or Places for Public Health Purposes, 85 Fed. Reg. 16559 (Mar. 24, 2020) (to be codified at 42 C.F.R. pt. 71). As a result, most of the legal processes as described in this article have been suspended entirely for the duration of the pandemic. For an excellent discussion of the CDC’s measures and their legality, please see the May 12, 2020 episode of Professor Alex Aleinikoff’s podcast, “Tempest Tossed.” Alex Aleinikoff, *The power of the President and the human rights of migrants in the midst of the pandemic: Two Conversations*, TEMPEST TOSSED (May 12, 2020), <https://tempesttossed.libsyn.com/the-power-of-the-president-and-the-human-rights-of-migrants-in-the-midst-of-the-pandemic-two-conversations>.

“crisis.”⁴ The large-scale migration of individuals seeking refuge in the United States has also been increasingly and insipently described as an “invasion.”⁵ Despite the direct contradiction between this narrative and the government’s own data,⁶ this “invasion” rhetoric has been used to justify growing restrictive and punitive immigration policy (and attempts at policy making) for would-be asylum seekers. Such policies include “zero tolerance” criminal prosecutions and the accompanying family separation,⁷ the “asylum bans,” 1.0⁸ and 2.0,⁹ mandatory detention of asylum seekers, and the Orwellian-ly named Migrant Protection Protocols (MPP)¹⁰—also known as the “Remain in Mexico” policy.¹¹

Regardless of the justification, what is clear from the data is a notable rise in the arrival of family units and unaccompanied children,¹² comprising a full two-thirds of apprehensions on the Southwest border in 2019,¹³ up from

4. See Meg Wagner, Elsie Hammond, & Mike Hayes, *The Crisis at the US-Mexico Border*, CNN (June 26, 2019), <https://www.cnn.com/us/live-news/immigration-us-mexico-border-june-2019/index.html>; Dara Lind, *The Border is in Crisis. Here's How it Got this Bad*, VOX (June 5, 2019), <https://www.vox.com/2019/4/11/18290677/border-immigration-illegal-asylum-central-america-mexico-trump>; *Is there a crisis on the border?*, BBC NEWS (July 11, 2019), <https://www.bbc.com/news/world-us-canada-44319094>.

5. See John Fritze, *Trump used words like 'invasion' and 'killer' at rallies more than 500 times: USA TODAY Analysis*, USA TODAY (Aug. 8, 2019, 10:18 AM), <https://www.usatoday.com/story/news/politics/elections/2019/08/08/trump-immigrants-rhetoric-criticized-el-paso-dayton-shootings/1936742001/>; Jason Lemon, *Trump Campaign Refuses to Stop Using "Invasion" to Describe Migrants, It's "Accurate,"* Newsweek (Aug. 7, 2019, 9:47 AM), <https://www.newsweek.com/trump-invasion-migrants-border-1453002>; Julia Carrie Wong, *Trump Referred to Immigrant "Invasion" in 2,000 Facebook ads, analysis reveals*, THE GUARDIAN (Aug. 5, 2019, 5:58 PM), <https://www.theguardian.com/us-news/2019/aug/05/trump-internet-facebook-ads-racism-immigrant-invasion>; *Is there a crisis on the border?*, BBC NEWS (July 11, 2019), <https://www.bbc.com/news/world-us-canada-44319094>.

6. Total apprehensions of unlawful entrants into the United States held relatively steady over the last 10 years and through 2018. While numbers began to rise notably in 2019, they still represent a historical low as compared to aggregate numbers in the early 2000’s that were two to three times higher. See U.S. BORDER PATROL, TOTAL ALIEN APREHENSIONS BY FISCAL YEAR, SOUTHWEST BORDER SECTORS (2019), <https://web.archive.org/web/20190807044302/https://www.cbp.gov/sites/default/files/assets/documents/2019-Mar/bp-southwest-border-sector-apps-fy1960-fy2018.pdf>.

7. See Q&A: *Trump Administration's "Zero-Tolerance" Immigration Policy*, HUMAN RIGHTS WATCH (Aug. 16, 2018), <https://www.hrw.org/news/2018/08/16/qa-trump-administrations-zero-tolerance-immigration-policy#>.

8. See *Federal Judge Blocks President Trump's Illegal Asylum Ban*, ACLU (Nov. 9, 2018), <https://www.aclu.org/blog/immigrants-rights/deportation-and-due-process/federal-judge-blocks-president-trumps-illegal>.

9. See HUMAN RIGHTS FIRST, TRUMP ADMINISTRATION’S THIRD-COUNTRY TRANSIT BAR IS AN ASYLUM BAN THAT WILL RETURN REFUGEES TO DANGER (2019), <https://www.humanrightsfirst.org/resource/trump-administration-s-third-country-transit-bar-asylum-ban-will-return-refugees-danger>; see also Camilo Montoya-Galvez, *Trump administration can enforce border asylum ban, Supreme Court rules*, CBS NEWS (Sept. 11, 2019), <https://www.cbsnews.com/news/trump-asylum-ban-supreme-court-rules-administration-can-enforce-controversial-immigration-regulation-2019-09-11/>.

10. Advocates working along the border have adopted the more apt moniker, “Migrant Persecution Protocols” for the MPP program.

11. See HUMAN RIGHTS FIRST, HRF REPORTS ESCALATING HUMAN RIGHTS ABUSES AGAINST ASYLUM SEEKERS RETURNED TO MEXICO (2019), <https://www.humanrightsfirst.org/press-release/hrf-reports-escalating-human-rights-abuses-against-asylum-seekers-returned-mexico>.

12. See Randy Capps, Doris Meissner, Ariel G. Ruiz Soto, Jessica Bolter, & Sarah Pierce, *From Control to Crisis: Changing Trends and Policies Reshaping U.S.-Mexico Border Enforcement*, MIGRATION POL’Y INST. (2019), <https://www.migrationpolicy.org/research/changing-trends-policies-reshaping-us-mexico-border-enforcement>.

13. US CUSTOMS AND BORDER PROT., SOUTHWEST BORDER MIGRATION FY 2019 (Sept. 6, 2019), available at <https://www.cbp.gov/newsroom/stats/sw-border-migration/fy-2019>.

forty¹⁴ and thirty-nine¹⁵ percent in the two previous years, when the trend first began.¹⁶ The crack-down policies employed by the current Administration, like deterrence-based immigration policies before them, have not stopped the flow of migrants north, and are unlikely to do so.¹⁷

One of the many results of the current Administration's inapposite policies has been the gathering of large populations of unaccompanied minors and family units in Mexican cities at ports of entry along the southern border,¹⁸ beginning with the policy of "metering"¹⁹ and made worse under the conditions of the Remain in Mexico policy.²⁰ This reality has created a vast and primarily unmet need for legal services among migrants seeking to enter the United States, who often struggle due to complex and oft-changing legal standards administered by an opaque and dynamic bureaucratic system.

It is against this background that law schools and private lawyers have mounted the vanguard of a counterattack and have begun to head south, over the border to Mexico, crossing the Line to serve clients where they are.²¹

This article results from awareness of that emerging practice, and examines the advantages, challenges, and lessons learned in bringing law students over the border and into Mexico to serve migrants seeking asylum in the U.S.

14. US CUSTOMS AND BORDER PROT., SOUTHWEST BORDER MIGRATION FY 2018 (Nov. 9, 2018), available at <https://www.cbp.gov/newsroom/stats/sw-border-migration/fy-2018>.

15. US CUSTOMS AND BORDER PROT., SOUTHWEST BORDER MIGRATION FY 2017 (Dec. 15, 2017), available at <https://www.cbp.gov/newsroom/stats/sw-border-migration-fy2017>. <https://www.cbp.gov/newsroom/stats/sw-border-migration-fy2017>.

16. See Adam Isacson, *The U.S. Government's 2018 Border Data Clearly Shows Why the Trump Administration is on the Wrong Track*, WOLA: ADVOCACY FOR HUMAN RIGHTS IN THE AMERICAS (Nov. 9, 2018), <https://www.wola.org/analysis/us-government-2018-border-data-trump-immigration-asylum-policy/>.

17. See Doris Meissner & Sarah Pierce, *Policy Solutions to Address Crisis at the Border Exist, but Require Will and Staying Power to Execute*, MIGRATION POL'Y INST. (Apr. 2019), <https://www.migrationpolicy.org/news/policy-solutions-address-crisis-border-exist-require-will-staying-power>.

18. See Dennis Romero, *Migrants Met with Fear, Disdain in Tijuana, Mexico*, NBC NEWS, (Nov. 17, 2018), <https://www.nbcnews.com/world/migrants-met-fear-disdain-tijuana-mexico-n937506>; Leyla Santiago, Miguel Marquez, & Catherine E. Shoichet, *A Sports Complex Is Housing Thousands of Migrants in Tijuana. It's at Least 3 Times Above its Capacity*, CNN (Nov. 28, 2018), <https://www.cnn.com/2018/11/27/americas/san-ysidro-border-migrants-police-clash/index.html>; Jason Kao & Denise Lu, *How Trump's Policies Are Leaving Thousands of Asylum Seekers Waiting in Mexico*, N.Y. TIMES (Aug. 18, 2019), <https://www.nytimes.com/interactive/2019/08/18/us/mexico-immigration-asylum.html>; Juliàn Aguilar, *"The Dam is Going to Overflow": In Mexico Pressure Builds as U.S. Immigration Policies Take Hold*, TEXAS TRIB. (May 16, 2019), <https://www.texastribune.org/2019/05/16/mexico-pressure-builds-us-immigration-policies-take-hold/>.

19. *Policies Affecting Asylum Seekers at the Border*, AM. IMMIGR. COUNCIL (Jan. 29, 2020), <https://www.americanimmigrationcouncil.org/research/policies-affecting-asylum-seekers-border>.

20. See Madeleine Wattenbarger, *Asylum Seekers Struggle to Navigate Trump's Broken Border Policy*, NEW REPUBLIC (June 13, 2019), <https://newrepublic.com/article/154181/asylum-broken-remain-mexico-policy>.

21. See Marnette Federis, *Law Students Head to Southern US Border to Help Asylum-Seekers*, PRI, (Jan. 22, 2019), <https://www.pri.org/stories/2019-01-21/law-students-head-us-southern-border-help-asylum-seekers>; Amín E. Fernández, *A Law Student's Firsthand Account of Working With Migrants at the US-Mexico Border*, LATINO REBELS (Apr. 9, 2019); Julia Neusner, *Stanford Law Students Helping Asylum Seekers at the US-Mexico Border*, STAN. LAW. (July 11, 2019), <https://law.stanford.edu/stanford-lawyer/articles/stanford-law-students-helping-asylum-seekers-at-the-us-mexico-border/>; Peter Jetton, *At Otro Lado: W&L Law Students Provide Legal Assistance at the Border*, COLUMNS (Dec. 21, 2018), <https://columns.wlu.edu/al-otro-lado/>.

This article demonstrates how the unique and extreme circumstances of the border offer law students the opportunity to enter into, and be transformed by, the border's liminal space. This transformation has enormous implications for student development as legal professionals and builds resilience and longevity in the field of public service.

The article analyzes the results of a survey conducted between July 2019 and February 2020. The survey of instructors and law students who have provided volunteer legal services to U.S.-bound migrants in Mexico is complimented by several one-on-one interviews with professors and students. Observations and lessons learned from these survey responses and conversations are interwoven throughout the article. Nearly all of the instructors who participated in this endeavor emphasized that they felt their participation in this work was still in a very nascent, developing form. We are still collectively figuring out what works, making this the ideal time to share our experiences within our profession and to draw on the lessons contained in the literature on similar experiential learning projects.

Part I of this article provides context on the situation at the southern border, including a very brief overview of the northern-bound migrants who are stuck in limbo there, as well as a broad-strokes look at the ever-more restrictive immigration policies that have created the humanitarian crisis at the border. Part II then dives into the results of the survey to look at what law students and law schools have been doing in response to that crisis. Part III mounts an argument for expanding and offering more institutional support for this work, examining both the radically transformative pedagogical value unique to border work as well as its similarities to service-learning projects, such as the fairly recent work of law schools in family detention centers. This section also contains an overview of some of the pedagogical challenges presented by work at the border. Part IV concludes by offering suggestions for pedagogical best practices to most thoroughly mine the deep value offered by the work and avoid some of its pitfalls.

II. WHAT IS HAPPENING ON THE OTHER SIDE OF THE LINE?

Bringing law students into Mexico to provide legal consultation with migrants is especially valuable at this moment of enhanced enforcement, and U.S. law students and U.S. law schools are uniquely well-suited to perform this sorely needed and currently under-provided work. This section will first provide a brief explanation of the individuals in need of services, their living conditions, and the changes that have made legal services an urgent necessity on the other side of the Line. This section will then provide an overview of the work law students have conducted within Mexico.

A. *Who Are the Clients, and Why Are They on the Other Side of the Line?*

The Migration Policy Institute provides a succinct summary of who the intended migrants are:

Beginning in 2012, the numbers of unaccompanied minors and families with children from the Northern Triangle countries of El Salvador, Guatemala, and Honduras jumped sharply. By FY 2014, apprehensions of non-Mexican migrants outnumbered those from Mexico for the first time. From FY 2016 through FY 2019 to date, Central American flows have overwhelmingly been families and unaccompanied children seeking safety from widespread violence and gang activity, as well as from joblessness and poverty. These families and unaccompanied children do not generally attempt to evade Border Patrol agents, but instead actively seek them out to turn themselves in.²²

In addition to self-surrender after unauthorized border crossing, individuals with a fear of returning to their countries of origin may surrender at an authorized port of entry to express that fear; unaccompanied children and family units have been doing so in increasing numbers.²³

Regardless of whether a family or individual self-surrenders to, or is apprehended by Border Patrol (BP) after crossing outside of a port of entry, or whether they undertake the long wait to be processed through an official port of entry, adults and family units are placed into a process called expedited removal at the point of contact with BP or Customs and Border Protection (CBP).²⁴ The only way to avoid expedited removal is to pass a preliminary screening interview, known as a Credible Fear Interview (CFI). Dramatic legal changes under the Trump administration have put severe strictures on this process, making it harder to pass—especially without legal assistance.²⁵ Failure to pass closes the door to the asylum process before a person has even entered the country.²⁶

22. Randy Capps, Doris Meissner, Ariel G. Ruiz Soto, Jessica Bolter, & Sarah Pierce, *supra* note 12, at 8.

23. SOUTHWEST BORDER MIGRATION FY 2019, *supra* note 13; U.S. CUSTOMS AND BORDER PROT., SOUTHWEST BORDER MIGRATION FY 2018 (Nov. 9, 2018), <https://www.cbp.gov/newsroom/stats/sw-border-migration/fy-2018>; U.S. CUSTOMS AND BORDER PROT., SOUTHWEST BORDER MIGRATION FY 2017 (Dec. 15, 2017), <https://www.cbp.gov/newsroom/stats/sw-border-migration-fy2017>.

24. See generally Dree K. Collopy, *Crisis at the Border, Part II: Demonstrating a Credible Fear of Persecution or Torture*, 16-04 IMM. BRIEFINGS 1 (2016).

25. For an overview of the changes to the expedited removal process and its practical application, see Lindsay Harris, *Withholding Protection*, 50.3 COLUM. HUM. RTS. L. REV. 1 (2019).

26. In addition to the strictures as described here, on June 15, 2020, the Executive Office for Immigration Review, the Department of Justice, U.S. Citizenship and Immigration Services, and the Department of Homeland Security jointly published a proposed rule that would radically alter the scope and process of asylum protection in the United States. Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review, 85 Fed. Reg. 36,264 (June 15, 2020) (to be codified at 8 C.F.R. pt. 208). Timing of publication prevents thorough analysis of the new rules, but briefly stated they are largely an attempt to write into the regulations the most draconian of the anti-asylum measures that have previously been implemented by other means. Chief among the changes that would affect the

The vast majority of preliminary screening interviews are conducted without any preparation for the asylum seeker—much less legal representation. The process moves quickly and takes place in the immediate aftermath of an often chaotic and frightening process at the border while in government custody.

There are several exacerbating factors that make migrant legal needs particularly acute in the current political moment. These factors have created legal needs that are most optimally addressed before migrants cross the Southern border of the United States and enter into the removal system.²⁷ These factors include, but are not limited to 1) the rise in migrant caravans contributing to higher volumes of asylum seekers at the southern border;²⁸ 2) the wildly shifting²⁹ and on-going risk³⁰ of family separation;³¹ 3) the Trump administration's effort to create a policy of universal detention of all asylum seekers;³² 4) the radical narrowing and re-writing of the scope of protections within asylum law³³ through *Matter of A-B*;³⁴ and *Matter of L-E-A*;³⁵ 5) the creation of months-long backlogs of asylum seekers waiting in ports

asylum process as it is described here are the heightening of the standard of proof in credible fear interviews, and the narrowing of protected grounds on which asylum may be sought, the analysis of certain bars to asylum at the credible fear stage, and the tightening of the discretionary component standard. It is widely anticipated that when the proposed regulations take effect, they will immediately be subject to litigation by immigrants' rights organizations.

While I do not undertake a detailed analysis here, it suffices to say that these proposed regulations underscore even more dramatically the need for legal counsel prior to the point of entry into the expedited removal process.

27. See Harris, *supra* note 25, at 56–57. Harris discusses the need for cross-border engagement organizations such as Al Otro Lado, who operate out of Tijuana, Mexico, in order to promote access to counsel.

28. Kate Linthicum, *Pueblo Sin Fronteras usa las caravanas para dar a conocer la situación de los migrantes, pero ha sido contraproducente?*, L. A. TIMES (Dec. 6, 2018), <https://www.latimes.com/espanol/eeuu/la-es-pueblo-sin-fronteras-usa-las-caravanas-para-dar-a-conocer-la-situacion-de-los-migrantes-pero-ha-sido-20181206-story.html>. See also *Key facts about the migrant and refugee caravans making their way to the USA*, AMNESTY INT'L (Nov. 16, 2018), <https://www.amnesty.org/en/latest/news/2018/11/key-facts-about-the-migrant-and-refugee-caravans-making-their-way-to-the-usa/>; *Migrant caravan: What is it and why does it matter?* BBC NEWS (Nov. 26, 2019), <https://www.bbc.com/news/world-latin-america-45951782>; Dara Lind, *The migrant caravan, explained*, VOX (Oct. 25, 2018), <https://www.vox.com/2018/10/24/18010340/caravan-trump-border-honduras-mexico>.

29. U.S. DEP'T OF JUSTICE, *Attorney General Announces Zero-Tolerance Policy for Criminal Illegal Entry* (Apr. 6, 2018), <https://www.justice.gov/opa/pr/attorney-general-announces-zero-tolerance-policy-criminal-illegal-entry>

30. Miriam Jordan, *No More Family Separations, Except These 900*, N.Y. TIMES (July 30, 2019), <https://www.nytimes.com/2019/07/30/us/migrant-family-separations.html>; Jesse Franzblau, *Family Separation Policy Continues, New Documents Show*, NAT'L IMMIGR. JUST. CTR. (June 22, 2019), <https://www.immigrantjustice.org/staff/blog/family-separation-policy-continues-new-documents-show>; Miriam Jordan & Caitlin Dickerson, *U.S. Continues to Separate Migrant Families Despite Rollback of Policy*, N. Y. TIMES (March 9, 2019), <https://www.nytimes.com/2019/03/09/us/migrant-family-separations-border.html>.

31. Cora Currier, *Prosecuting Parents – and Separating Families – was Meant to Deter Migration, Signed Memo Confirms*, INTERCEPT (Sept. 25, 2018), <https://theintercept.com/2018/09/25/family-separation-border-crossings-zero-tolerance/>.

32. *Matter of M-S* was challenged in federal court and ultimately enjoined by a federal district court. *Federal Court Requires Immigration Courts to Continue to Provide Bond Hearings, Despite Matter of M-S*, AM. IMMIGR. COUNCIL (Aug. 30, 2019), https://www.americanimmigrationcouncil.org/sites/default/files/practice_advisory/federal_court_requires_immigration_courts_to_continue_to_provide_bond_hearings_despite_matter_of_m-s-.pdf.

33. For a concise and comprehensive timeline of these policies, see NAT'L IMMIGR. JUSTICE CTR., A TIMELINE OF THE TRUMP ADMINISTRATION'S EFFORTS TO END ASYLUM, IMMIGRANT JUSTICE CAMPAIGN

of entry from Mexico through expanded use of an informal process known as “metering;”³⁶ 6) categorical restrictions on access to the asylum process through “Asylum Bans” I³⁷ and II,³⁸ as well as cooperative agreements³⁹ with third countries to send U.S. bound asylum seekers outside of the country, and finally, 7) the Migrant Protection Protocols. At the time of publication, the Migrant Protection Protocols (MPP) or “Remain in Mexico” program can be characterized as the single policy most affecting the provision of legal services to northern-bound migrants, with the exception of the extraordinary, and hopefully circumstantial, limits imposed by the so-called “public health” orders dramatically curtailing entry into the country by asylum seekers.⁴⁰ However, this may change as the legal landscape shifts quickly.

Under the MPP, vulnerable asylum seekers—including legally adult teenagers separated from their family units⁴¹—have been summarily dumped on the Southern side of the border after lawfully requesting asylum at the port of entry. They are not affirmatively screened for or protected against any persecution they may face in Mexico; many have faced violence and kidnapping

(2019), available at https://immigrantjustice.org/sites/default/files/uploaded-files/no-content-type/2019-08/Asylum_Timeline_August2019.pdf

34. *Matter of A-B-*, 27 I&N Dec. 316 (A.G. 2018). For an analysis of the doctrinal background and impacts of the decision in *Matter of A-B-*, see Fatma Marouf, *Becoming Unconventional: Restricting the Particular Social Group Ground for Asylum*, 44 N.C. J. INT’L L. 487 (2019).

35. *Matter of L-E-A-*, 27 I&N Dec. 581 (A.G. 2019). This was a particularly bitter pill to swallow for advocates, many of whom had suggested an attempt to re-frame domestic violence cases as family-based cases in the wake of *Matter of A-B-*. IMMIGR. LEGAL RESOURCE CTR., MATTER OF A-B- CONSIDERATIONS 3 (2018), https://www.ilrc.org/sites/default/files/resources/matter_a_b_considerations-20180927.pdf; NAT’L IMMIGRANT JUSTICE CTR., PRACTICE ADVISORY: APPLYING FOR ASYLUM AFTER MATTER OF A-B- 20 (2019), <https://immigrantjustice.org/media/173/download>. See also *Matter of L-E-A-*, *Attorney General Overrules Finding of Family as a Social Group*, 133 HARV. L. REV. 1500 (2020).

36. HUMAN RIGHTS FIRST, BARRED AT THE BORDER (2019), available at https://www.humanrightsfirst.org/sites/default/files/BARRED_AT_THE_BORDER.pdf.

37. Proclamation No. 9822, 83 Fed. Reg. 57,661 (Nov. 15, 2018). See also Molly Hennessy-Fiske, *Addressing Mass Migration Through the Southern Border of the United States: Asylum claims increase at U.S. southern border*, L. A. TIMES (Dec. 10, 2018), <https://www.latimes.com/nation/la-na-border-patrol-asylum-cases-20181210-story.html>; Dara Lind, *The US has made migrants at the border wait months to apply for asylum. Now the dam is breaking*, VOX (Nov. 28, 2018), <https://www.vox.com/2018/11/28/18089048/border-asylum-trump-metering-legally-ports>; Savitri Arvey, *Thousands of asylum-seekers left waiting at the US-Mexico border*, PUBLIC RADIO INT’L (June 17, 2019), <https://www.pri.org/stories/2019-06-17/thousands-asylum-seekers-left-waiting-us-mexico-borderStates>; *Aliens Subject to a Bar on Entry Under Certain Presidential Proclamations; Procedures for Protection Claims*, 83 Fed. Reg. 55,934 (Nov. 8, 2018) (codified at 8 CFR Pts. 1003 and 1208).

38. Executive Office for Immigration Review, Department of Justice; U.S. Citizenship and Immigration Services, Department of Homeland Security, Asylum Eligibility and Procedural Modifications, 84 Fed. Reg. 33,829 (July 16, 2019) (codified at 8 CFR pt. 208).

39. See, e.g., Executive Office for Immigration Review, Department of Justice; U.S. Citizenship and Immigration Services, Department of Homeland Security; Implementing Bilateral and Multilateral Asylum Cooperative Agreements Under the Immigration and Nationality Act, 84 Fed. Reg. 63,994 (Nov. 19, 2019) (codified at 8 CFR Pt. 208).

40. See *supra* note 3.

41. Reade Levinson, Mica Rosenberg, & Kristina Cooke, *Exclusive: Asylum Seekers Returned to Mexico Rarely Win Bids to Wait in U.S.*, REUTERS (Jun. 12, 2019, 6:09 AM), <https://www.reuters.com/article/us-usa-immigration-returns-exclusive/exclusive-asylum-seekers-returned-to-mexico-rarely-win-bids-to-wait-in-us-idUSKCN1TD13Z>.

as they await their day in court.⁴² Critically, from a legal services perspective, their access to counsel is around four percent,⁴³ as a natural result of the fact that U.S.-licensed attorneys and law students trained in asylum law generally reside on the northern side of the border. Thousands of asylum seekers are forced to prepare their asylum claims from outside the United States, making it difficult for them to access counsel and other urgent legal services.⁴⁴ The ultimate fate of the MPP program is currently subject to federal litigation and is in flux,⁴⁵ leaving service providers at the border scrambling to mount massive direct service responses to policies that can change overnight.

All policies listed here are constantly mutating, and the legal ground shifts beneath our feet even as we engage in or examine this work. As a result, it is not so much the specific policies themselves, but rather their cumulative effects, demonstrating the need for lawyering over the Line. The cumulative effect of these policies, along with responsive litigation, injunctions, and appeals, have created a rapidly shifting legal landscape that fundamentally alters an asylum seeker's odds of passing a CFI and succeeding on the merits of his or her claim. These shifts also fundamentally alter the individual cost-benefit analysis each person must perform when weighing the risks and likelihood of success when attempting to enter the United States. These vital, life-altering decisions simply cannot be made without the aid of Know Your Rights presentations and individualized legal consultation.

B. *What Law Students Are Doing Over the Line*

This section outlines what law students are doing in response to the urgent need for legal services at the border. Principally, this article relies on data sourced from a survey of educators, non-profit service providers in Mexico, and law students.⁴⁶ In doing so, this article draws heavily on the methodology used by Lindsay Harris in her piece addressing pedagogical challenges and best practices for working with students in family detention centers.⁴⁷

42. Molly O'Toole, *Asylum Policy on Shaky Ground*, L. A. TIMES (Aug. 29, 2019), https://newspaper.latimes.com/infinity/article_share.aspx?guid=4451c711-f803-4861-ada0-9558eff71923.

43. *Contrasting Experiences: MPP vs. Non-MPP Immigration Court Cases*, TRAC IMMIGRATION (Dec. 19, 2019), <https://trac.syr.edu/immigration/reports/587/>.

44. Joel Rose, *Trump Administration's 'Remain in Mexico' Policy Leaves Migrants Confused, Scared*, NPR (Jun. 28, 2019, 4:28 PM), <https://www.npr.org/2019/06/27/736716101/trump-administrations-remain-in-mexico-policy-leaves-migrants-confused-scared>.

45. See *Innovation Law Lab v. Wolf*, 951 F.3d 1073 (9th Cir. 2020) (granting an injunction of the MPP policy, later stayed in part by the same court, pending appeal); see also *E.O.H.C. v. Sec'y United States Dep't of Homeland Sec.*, 950 F.3d 177 (3d Cir. 2020).

46. See Appendix A for a list of law schools that have undertaken these trips to date.

47. See generally Lindsay M. Harris, *Learning in "Baby Jail": Lessons from Law Students Engaging in Family Detention Centers*, 25 CLINICAL L. REV. 155 (2018).

For educators contemplating engaging in this work, it may be useful to offer a general overview of the work currently being done to provide migrants with legal services before they attempt to enter the United States. The primary activities undertaken were individual legal consults and Know Your Rights trainings provided to groups. The below table provides a complete list of the activities students reportedly engaged in, as well as the percentage of instructors and students who reported that these activities had been performed during their time in Mexico.

Activity	% of students who reported personally engaging in the activity	% of instructors reporting that at least one of their students engaged in the activity
Conducting charlas or Know Your Rights presentations	56%	80%
Providing a legal consult for asylum/ withholding/CAT	80%	80%
Providing a legal consult for another form of relief	32%	46%
Credible/reasonable fear interview preparation	84%	93%
I-589 preparation for persons subject to the MPP	32%	0%
Drafting motions or other court documents	4%	0%
Drafting declarations	16%	33%
Accompanying clients to the border for surrender	16%	20%
Accompanying clients to have his or her name added to “the list,” (per the metering policy)	12%	40%
Legal outreach	32%	46%
Data entry/document scanning	44%	40%

CONTINUED

Activity	% of students who reported personally engaging in the activity	% of instructors reporting that at least one of their students engaged in the activity
Registration of clients/checking in	36%	33%
Other ⁴⁸	12%	13%

In addition to these areas of activity, some survey respondents also reported bringing students to Mexico to undertake work with deportees. Both the Immigrant Justice Clinic⁴⁹ at Loyola Law School (LIJC) and the Immigrant Rights Clinic at the University of California at Irvine (UC Irvine) have conducted individualized legal consultation on “crimmigration” issues and motions to reopen on behalf of recent deportees. Loyola conducted this work in Guadalajara with on-the-ground partner Guadalajara Sur, an organization that specifically provides support and services to deported gang members from the United States. UC Irvine conducts this work in cooperation with Al Otro Lado’s Deportee Program.

All students and instructors reported working with at least one on-the-ground organization during their time in Mexico. With the exception of three⁵⁰ of the reported trips to Mexico, all of these groups partnered with Al Otro Lado (AOL).⁵¹ Al Otro Lado is a bi-national 501(c)(3) organization incorporated in Los Angeles that provides legal services in Tijuana, Mexico.⁵² Because the vast majority of student work is taking place through

48. “We did whatever was needed—cleaning bathrooms, running errands, handing out food, setting up chairs. We spent several nights visiting people who were living in hiding and talking to them about their experiences.”

“Purchasing supplies and distributing to the community. When they went out to the camps, students would do outreach and try to direct people to [Al Otro Lado] for the afternoon clinic.”

“At the main [Al Otro Lado] office (Enclave Caracol), students participated in childcare, cooking/cleaning, and other activities as needed by the organization.”

“We also prepared food for clients and their children, offered opportunities for the young children to play with toys and read picture books. I also assisted with accompanying several clients to the hospital.”

Student and Instructor survey responses to author’s survey (on file with author).

49. This work was conducted by Loyola Immigrant Justice Clinic Co-Director H. Marissa Montes.

50. One of the Loyola Law School groups worked in the interior of Mexico at several different sites.

51. Survey responses, *supra* note 48.

52. See generally *Our Story*, AL OTRO LADO (2020), <https://alotrolado.org/who-we-are/>.

AOL, much of the analysis here will focus on the experiences at that organization.

Ever since stories of crisis at the border and migrant caravans began filling the news, Al Otro Lado has been inundated with volunteers—legal and otherwise. In the past year, the organization, which until recently had a staff of five, had over 3,000 volunteers sign up to provide services.⁵³ This, combined with the increased volume of intended migrants seeking services,⁵⁴ has meant large-scale changes to the operational model at Al Otro Lado, and consequently the experience of volunteers. At least two instructors supervised students volunteering with Al Otro Lado both before and after this spike in volume, and both observed that since the surge in volunteers, the organization has begun to develop a rhythm and a method for utilizing its volunteers. While, as in all aspects of this work, this is subject to change, reports from students, instructors, and the experiences of our own institution show that volunteer days at Al Otro Lado have assumed the following pattern, as described below.⁵⁵

To participate in CFI preparation and legal consultation, Al Otro Lado requires volunteers to attend a Monday morning orientation regarding Al Otro Lado's work, and has a strong preference that volunteers stay through Friday.⁵⁶ Attorneys and law students can also sign up to participate in the organization's weekend I-589 workshop program, which serves asylum seekers who are currently in removal proceedings but have been sent back to Mexico to await their hearing date.⁵⁷ I-589 workshops require teams to arrive Friday afternoon for training and then commit to working from 8:00 am to 6:00 pm both Saturday and Sunday. However, during a recent LIJC trip to staff an I-589 workshop, the hours extended much later into the evening due to high volume and demand for services. Because many of the migrants travel from outside the Tijuana area to attend the workshops, AOL strongly prefers not to turn individuals away until they have had a chance to see an attorney

53. Email from Erin Anderson, Pro Bono Coordinator, Al Otro Lado, to Kayleen Hartmann (Sept. 5, 2019, 1:59 PM) (on file with author).

54. A description of this increase and its causes is provided in Part II.

55. The below description refers to the process as it existed at the beginning of 2020. As noted *supra* note 3, a series of CDC orders that began in March 2020 have almost entirely cut off the flow of asylum seekers into the U.S. Additionally on March 23, 2020, the Department of Homeland Security suspended hearings under the MPP program, later issuing a series of orders extending that suspension, before issuing an order indefinitely suspending hearings until certain state government benchmarks were met in Texas, Arizona, and California. See Press Release, Dep't of Homeland Sec., Joint DHS/EOIR Statement on MPP Rescheduling (Mar. 23, 2020), available at <https://www.dhs.gov/news/2020/03/23/joint-statement-mpp-rescheduling>; Press Release, Dep't of Justice, Department of Justice and Department of Homeland Security Announce Plan to Restart MPP Hearings (July 17, 2020), <https://www.justice.gov/opa/pr/departments-justice-and-department-homeland-security-announce-plan-restart-mpp-hearings>. Volunteer opportunities for lawyers and law students still exist; however, Al Otro Lado at present is operating under an entirely remote service provision model. This article assumes that this service provision model is temporary due to the global pandemic, and does not analyze the opportunities and challenges presented by working with law students under the remote service provision model.

56. Anderson, *supra* note 53.

57. *Id.*

and prepare their application. It cannot be emphasized enough: flexibility is key.

On a typical day⁵⁸ of Credible Fear Interview preparation at Al Otro Lado, as described by survey participants, volunteers arrive in the morning and attend a morning meeting at AOL local headquarters.⁵⁹ Generally, staff members and volunteers triage the required tasks, identify and pair volunteer translators based on capacity and need, and assign groups and individuals to specific tasks. Tasks are usually divided up into some assortment of the following:

- 1) Client registration/check-in upon arrival;
- 2) Know Your Rights presentations to intended migrants at El Caracol;
- 3) Know Your Rights presentations and individualized consults at shelters around Tijuana and its suburbs;⁶⁰
- 4) Provision and/or supervision of individualized legal consults at El Caracol;
- 5) Various tasks at El Chaparral⁶¹ including: legal outreach, gathering information about the daily number of asylum seekers allowed over the border, and on-the-spot last-minute CFI preparation and risk assessment for individuals whose number has been called and who will surrender at the border that day.⁶²

After the day's work has been completed, legal and non-legal volunteers regroup at El Caracol for an evening debrief session. This is usually a large-scale event of roughly thirty to fifty volunteers, which serves the dual function of reviewing practical developments and strategizing on how to expand services to meet client needs while also providing emotional support to help process the day's events and challenges. Attendance is not mandatory but highly encouraged.

The two-day I-589 workshops are structurally distinct. Training takes place at 4:00 pm on the Friday before the workshop begins and resumes at 8:00 am on Saturday. Volunteers are sorted into two groups: 1) non-legal volunteers who are tasked with completing "Part A" of the I-589 application, which contains primarily biographic information, and 2) attorneys and law students with asylum and client-interviewing experience, who are tasked

58. This pattern has changed even over the course of drafting this article and is likely to continue to do so in the near future. AOL is a dynamic, evolving organization that continually adapts to balance volunteer availability with client demand.

59. As of February 2020, AOL anticipates moving to new offices located not far from El Caracol.

60. Recent practice has seen a slowing, or even a halt, to this particular work, though, of course, this is subject to change.

61. El Chaparral is the plaza on the Mexico side of the San Ysidro border point and the locus of the *ad hoc*, asylum-seeker run waitlist that controls the unlawful metering plan.

62. Note: the El Chaparral outreach often happens even before the morning meeting, so individuals may be assigned for the following day or may be assigned at the nightly meeting.

with completing “Part B” of the application. To be available for client work, volunteers must speak Spanish or come with their own interpreter. There may be volunteers on-site who speak Spanish and can be paired with someone with legal training, but this is subject to availability.⁶³

In whatever capacity they are used, students reported feeling busy, exhausted, and engaged throughout their time in Mexico.⁶⁴ The work is varied, the hours are long, and the students are right on the front lines of serving an extremely vulnerable population whose access to counsel is otherwise almost completely curtailed.

III. WHY TAKE LAW STUDENTS OVER THE LINE?

As discussed, *supra*, in Section II(A), the need for competent legal services on the southern side of our border with Mexico is clear. The question remains: why law students, specifically?

First and foremost, law students should travel over the Line because this work presents an opportunity to radically re-shape the practice and pedagogy of direct services. This section develops the arguments for and advantages of bringing students into Mexico to serve migrants in transit. It begins with an in-depth exploration of how the border’s liminal space creates unique possibilities for students’ transformation, providing them space to 1) fundamentally alter their understanding of migration and asylum, 2) re-make their relationships to their clients in a way that has a life-long impact, 3) confront their own suffering as a result of what they witness and to allow it to transform them, and 4) learn how to cross back and forth into and out of their own lives in a way that allows them to re-visit the liminal space of presence with their clients again and again, over the course of a lifetime.

This section then moves on to explore how the work of lawyering over the Line also shares many of the pedagogical values and benefits previously established by scholars who have studied service-learning, and in particular, scholars who have written about service-learning in the course of family detention. It concludes by considering some of the potential pedagogical challenges or disadvantages to this form of work, arguing that many of them are addressed through the implementation of best pedagogical practices and thoughtful trip design.

A. *The Transformative Value of Crossing into, Inhabiting, and Returning from the Liminal Space of the Line*

This section argues that bringing students into Mexico presents an opportunity for radical transformation of law students at a formative moment in their legal careers, and explains why more schools should consider engaging in

63. Anderson, *supra* note 53.

64. Survey responses, *supra* note 48.

and providing support for this work. There are compelling pedagogical opportunities at each stage of the trip: in the act of moving into this space, the experience of inhabiting it, and again at the moment of return.

When we cross the Line with our students, we bring them into a liminal physical space that they share with the clients they serve. The space itself, and the experience of sharing that space with migrants hoping to move beyond it, can be powerfully instructive and radically transformative.

In exploring the unique circumstances and opportunities presented by the border's liminal space, this section establishes that 1) the physicality of the border presents specific pedagogical opportunities that are impossible to replicate in any other geographical context; 2) the experience of counseling clients with little prospect of relief under U.S. law can catalyze a seismic shift in thinking about both the students' identities as lawyers and advocates, and the experience of the United States on the global stage as a beacon of safety and rule of law, and 3) the intensity of these collective experiences may allow—or even require—students to develop a different working framework for their own resilience that will be invaluable in a life-long career in public interest work.

This section explores two elements unique to border work that generate the opportunity for rich, transformative learning. First, this section examines the physical experience of the border itself: crossing it, witnessing its concrete reality, and experiencing its liminality right alongside the clients they serve. Second, this section explores the experience of counseling clients whose prospects for humane, just treatment within the U.S. immigration system are slim, while they are still physically outside the system itself. The article then explains how these two factors, when harnessed thoughtfully through pedagogical best practices,⁶⁵ open students up to important and otherwise elusive insights into 1) the global nature of migration and the understanding of where U.S. domestic policy is situated within the larger scale of the issue; 2) their identity as lawyers and their relationship with their clients; 3) secondary trauma and the lessons learned through experiencing that trauma, and 4) what it means to return to their own U.S.-based context and how to navigate the transition.

1. *The Physical Experience of the Border's Liminal Space*

The process begins with the physical experience of the border. It is impossible to bring students from a U.S. law school into Mexico without physically experiencing the border. Almost all student trips into Juarez and Tijuana involved physically crossing the border on foot, which is preferred for both pedagogical and practical reasons.⁶⁶

65. See *infra* Part IV on Pedagogical Best Practices.

66. See *infra* Part IV.C on Logistical Best Practices.

Traversing the Line between the United States and Mexico is a powerful experience that allows students to absorb the impact of the physical reality of the border.

Crossing the border is a jarring experience. The border control edifice seems designed to disorient. You're forced to walk a considerable distance down hallways which abruptly change direction—making it nearly impossible for the first-time crosser to know where the actual border is. The multiple turns, ramps and bends you're forced to navigate reminded me of Temple Grandin's design for a "humane" slaughterhouse. Crossers are unable to see the CBP officers until reaching the end of the labyrinthine complex. The whole effect is profoundly alienating.⁶⁷

Working at and alongside the border also has the effect of allowing students and instructors alike to experience the border as a construct—a man-made creation of choice. On a joint Loyola-Southwestern Law School trip into Tijuana, a reflection exercise was held at a park where the border fence stretches out into the ocean and then ends. Students reported being profoundly affected by the sight, and commented that from their vantage point, the border seemed simultaneously small and yet loomed so large in terms of its impact on so many lives—including on the lives of some students who were children of immigrants themselves.

Tijuana, Juarez, and border towns in general have become vast waiting rooms under the systems of metering and MPP where migrants are neither at home nor safe in a new place—neither in transit nor arrived. In these spaces their claims are neither approved nor denied, their hopes neither realized nor definitely dashed. Teaching students to lawyer over the Line allows them to step into this liminal space alongside their clients and experience it firsthand. Students overwhelmingly reported this as one of the most impactful experiences of law school.

I was prepared for the interviews. I was prepared to hear people tell difficult stories. I was prepared to ask the questions that needed to be asked, and offer the words of comfort. I was not prepared to see the desperation at the border itself, or to see the lines, or to hear the woman say she was running for her life because her husband had been murdered and she had her kids with her. The environment itself I was not prepared for.⁶⁸

Students reported being profoundly impacted by co-experiencing a sense of displacement, however brief, alongside the clients they served.⁶⁹ They

67. Letter from Sam Schlegel, Loyola Law Student, to Kayleen Hartmann (on file with author).

68. Law Student Survey Response Number 23 (on file with author).

69. Law Student Survey Response Number 24 (on file with author).

described the feeling of being in Tijuana or Juarez, as being momentarily “in [the] shoes” of their clients, which allowed them to feel, rather than to simply be aware of something important about the experiences of the clients they served back home in their clinics.⁷⁰ One Villanova student commented that since her experience, when she hears stories of asylum seekers fleeing: “I feel like I can see it now. I just envision it on a whole different level, and it’s because of this experience.”⁷¹ Another student reported that this firsthand experience of moving into a “different world” had the capacity to “change one’s vision for life.”⁷²

A student also reported that at the border, more than in any other work they had done, they had to make “careful efforts each day to ensure the physical safety of clients in imminent danger. I have not previously been involved in such intense efforts to ensure clients’ safety from imminent harm and death.”⁷³ This experience of understanding physical safety not as an abstract threat in the past, but as a real and present issue, allowed students to absorb their clients’ experiences in a different way. Even instructors who have worked on asylum and immigration for years reported being similarly moved to understand their clients’ stories in a new light. One commented, “I learned that the journey for my clients begins way before they get to [our city].”⁷⁴

2. *Counseling Clients with Little Relief Who are Still on the Other Side of the Line*

Because the experience of the border, by definition, takes place before clients have entered into the U.S. system, everything is still possible for many clients—detention, separation, denial, the hieleras,⁷⁵ and CBP abuses. As a result, students often find themselves providing counsel in a way that accounts for the full scope of injustices inherent in the immigration system.

I grew up in a coal-mining town in Pennsylvania. I’ve been to Mexico before and I’ve lived abroad, and the border experience was unique . . . I think the border really magnifies a lot of the injustices that I’ve seen in other places. It seems like all of the injustices of detention, barriers in the asylum system, racial inequality, class and social structural inequality are magnified at the border.⁷⁶

70. See Law Student Survey Response from Amanda Tso, Villanova Law Student (on file with author).

71. *Id.*

72. Law Student Survey Response Number 3 (on file with author).

73. Memorandum from Immigrants’ Rights Clinic – January 2019 Tijuana Team to Carol Lieberman & Immigrants’ Rights Clinic, “Colombia Law School Immigrants’ Rights Clinic (Jan. 11, 2019) (on file with author) (Student identified as EM).

74. Instructor Survey Response 10 (on file with author).

75. Translated as “iceboxes,” *hieleras* is the term commonly used to describe the holding cells maintained by the United States Customs and Border Protection, where asylum seekers and other intended migrants are held for days in frigid conditions.

76. Law Student Survey Response Number 14 (on file with author).

This is especially true because students often work with clients who have little to no chance of success on the merits of their claims. Like twin grips on a vise, the horrors and deprivations that push people to flee the place they call home crush up against the new policies—narrowing the legal definition of asylum, the MPP, universal detention, and continued family separation. This leaves many would-be asylum seekers in Mexico, squeezed into an untenable position with no way forward and no safe way back.

This wrenching reality is extremely challenging for students, who must navigate how to counsel someone about the depravities of our immigration system while outside the physical space of the United States. One student remarked, “[b]efore the trip, I envisioned us essentially diagnosing people’s claims for them. We did that, but we also had to present them with the option of not crossing the border.”⁷⁷

All law students who responded to a survey question about counseling clients with little chance of success on their claims identified this as something they personally experienced while in Mexico.⁷⁸ Nearly all commented that they felt the practice of this task required them to go beyond the skills they possessed when they arrived in Mexico.⁷⁹ Instructors likewise overwhelmingly identified this as an area of skill development.⁸⁰ The development of this skill is unlikely to take place in such an acute way in a traditional clinical setting, where cases are often hand-selected to allow students to work on a viable client claim. It is also a skill that is vital to the practice of public interest law more broadly, with far-reaching applications in the fields of poverty law, domestic violence law, landlord-tenant law, and other social-justice centered forms of lawyering. This is undoubtedly an enormous human challenge, as well as a learning moment. One student recalled, “I learned about having difficult conversations and practiced developing the ability to tell clients what they do not want to hear in a way that is most productive and kind.”⁸¹

Lawyering over the Line also allows students to enter into the high-level legal practice of framing their counsel within the current bounds of an unjust law—with an eye to and an understanding of the larger fight to push for a more just legal framework. Providing legal advice to individuals in the background of constantly shifting asylum law and policy, as well as the unrelenting responsive litigation by advocates, helps students understand the distinct roles and values of direct services. In turn, this allows students to see how they feed into and inform opportunities for impact litigation that re-shapes the boundaries of what is possible for the individual client.⁸²

77. Memorandum from Immigrants’ Rights, *supra* note 73 (student identified as AKC)

78. Survey responses, *supra* note 48.

79. *Id.*

80. *Id.*

81. Memorandum from Immigrants’ Rights, *supra* note 73 (student identified as MLG).

82. Lauren Gilbert, *A Justice School: Teaching Forced Migration Through Experiential Learning*, 14 INTERCULTURAL HUM. RTS. L. REV. 129, 156–59 (2019). In her section titled, “Lesson on Judicial Review,” Gilbert recounts in detail the unfolding of ground-breaking federal litigation on the subjects of

One instructor observed:

I thought that it created an interesting opportunity, particularly for the students, because it's one of those scenarios where you're teaching them the current state of the law, but then you say, but, we don't believe that, we think that someone's going to successfully enjoin that. The law says this, justice says this. Let's just forge ahead because they're there, in these starving situations of injustice.⁸³

Students found the practice of counseling clients with little prospect of legal relief enormously challenging and faced the difficulty of describing not just the scant chance of success on the claim but also the risks of and deprivations waiting on the other side of the border, at a moment when their clients still had the opportunity to avoid them altogether.

I found it really hard to counsel refugees taking medications about the terrible conditions in las hieleras. I had to explain to multiple individuals and families that they needed to think carefully about what would happen to them if they were detained for days in very cold conditions without their medications and without sufficient food and water. I had to emphasize that their medications would be taken away from them, likely inaccessible for days and possibly for weeks, and that they would not have access to medical care. I had to explain that they could become extremely ill or die in las hieleras, and that they should think about this before deciding to cross.⁸⁴

As immigration practitioners in clinics, we almost universally provide counsel to clients with the primary goal of remaining in the U.S. This reality makes reorientation to working with clients who are not yet inside the United States highly disorienting and requires students to work through what that means about their role within the system. One student remarked,

For so many people, asylum had become a symbol of hope. And telling them that they had weak claims felt like minimizing their traumas and experiences . . . Knowing the dilemmas that many of them were facing and how much they had been through to reach Tijuana, I found this part of our role especially challenging.⁸⁵

family separation and judicial review of the expedited removal process as applied to children separated from their parents. The section provides rich detail recounting the pedagogical value of teaching students to navigate a current crisis while keeping an eye to the ways that judicial review can be utilized in strategic and novel ways to recraft the rules at play in the crisis and create new rights or protective procedures for individuals.

83. Instructor survey responses from David Baluarte, Assoc. Clinical Professor, Wash. & Lee Univ. (on file with author).

84. Memorandum from Immigrants' Rights Clinic, *supra* note 73, at 9 (student labeled "EM").

85. Memorandum from Immigrants' Rights Clinic, *supra* note 77, at 9, 11 (student labeled "AKC").

Students were particularly challenged by the feeling that because they were explaining the hopelessness of the system, they were perhaps perceived as complicit in it.⁸⁶

Providing the news that many of these asylum-seekers, if they even have the chance to present for asylum (which is increasingly called into question by this Administration), will likely be detained in various CBP and ICE detention facilities, without access to their family or social networks, money, etc., was grueling in its own way. Preparing people for that process takes a lot of emotional intelligence on how to describe a system without also defending it.⁸⁷

3. *The Global Perspective on Migration Made Available Over the Line*

The challenges of these experiences—both that of the physical reality of the border, and counseling clients with only grim prospects of surmounting it—are enormous, and should not be undertaken lightly. But perhaps because of the enormity of the challenge, the weight of the work pushes students and stretches them beyond their ordinary capacities and modes of thinking. This is the classic “disorienting moment,” as described by Fran Quigley:

The learner’s clinical experience of representing victims of injustice often includes a ‘disorienting moment’ for the learner, in which her prior conceptions of social reality and justice are unable to explain the clients’ situations, thus providing what adult learning theory holds is the beginning stage of real perspective transformation.⁸⁸

For one thing, by crossing the Line, students move outside of the internal context of the United States, in which immigration is a domestic issue, and into the lived experience of the reality of migration as a global issue.

It makes [the students] more conscious of movement across borders and the fact that people have transnational lives, transnational histories, transnational identity. . . I think in a lot of legal services work, our brains focus on the context in which we meet our clients and we forget that they have a whole identity outside of that . . . Being so proximate to the act of moving across borders I think really crystalizes that.⁸⁹

Another instructor noted that as compared to conducting immigration-related legal work domestically, working in Mexico provoked questions such

86. Telephone Interview with Annie Lai, Co-Dir. of the UC Irvine Immigrants Rts. Clinic by Kayleen Hartman (Feb. 20, 2020) (on file with author).

87. Law Student Survey Response Number 16 (on file with author).

88. Fran Quigley, *Seizing the Disorienting Moment: Adult Learning Theory and the Teaching of Social Justice in Law School Clinics*, 2 CLINICAL L. REV. 37 (1995).

89. Lai, *supra* note 86.

as, “How is refugee protection in Mexico, how does that work? What are the prospects for people?” He noted that this generated the opportunity for students to see as a global issue, and that “[W]hen you just work with people in the U.S. who are in the backlogged court system . . . you can lose perspective on the global scope of the problem we’re facing.”⁹⁰

One instructor compared the work in Mexico to the work in her immigration clinic, noting that in the clinic the conversation focuses on, “‘OK, you crossed, what do we do from here,’ but neglects to incorporate how much their transit is part of the story.”⁹¹ She further noted that working from within Mexico exposes students to other issues, such as the extent to which organized crime is involved in human smuggling.⁹² She went on to describe a rich litany of insights and considerations exposed through this firsthand experience, including conversations with students about the precautions shelters have to take to avoid being infiltrated by coyotes and smugglers: “[y]ou realize that this is a much bigger issue than just the United States, and that it’s a hot mess.”⁹³ She continued:

And seeing the diversity of migrants, you start seeing people from literally all over the world . . . [Y]ou see Chinese people, Haitians, Africans, Venezuelans, not just Hondurans and people from El Salvador . . . We saw 15 Pakistanis get rounded up by Mexican immigration officials . . . It changed the way you think about migration as an international issue as opposed to a domestic policy question.⁹⁴

Students are often able to observe, and thus query, the role and policy choices of a different country’s government to this set of circumstances and witness firsthand the hostility of Mexican immigration officials.⁹⁵ To add nuance to this question, many students often began to seek out more information about how Mexico might offer an alternative immigration process with broader migrant protection. One instructor noted that the experience raised questions for him and for his students.

How is refugee protection in Mexico, how does that work? What are the prospects for people? We were thinking about migration as a global issue. When you just work with people in the U.S who are in the

90. Baluarte, *supra* note 83.

91. Interview with H. Marissa Montes, Co-Director, Loyola Immigrant Just. Clinic (Sept. 6, 2019) (on file with author).

92. *Id.*

93. *Id.*

94. *Id.*

95. “I found the Mexican government’s refusal to allow attorneys into the camp most surprising. In one of my visits, despite having provided our names and received approval to enter prior to the trip, the woman at the counter that worked for the Mexican government would not allow us to enter as a group. It was absolutely upsetting and made me realize that the people we were helping did not only have to encounter injustices from the US, but also from Mexico.” Law Student Survey Response Number 5, *Law Student Legal Service Trips to the Southern Side of the Border* (Aug. 19, 2019).

backlogged court system, I think you can lose perspective on the global scope of the problem we're facing.⁹⁶

The question of how refugee protection works in Mexico is quite interesting. Mexico is a signatory to the Cartagena Declaration on Refugees,⁹⁷ which explicitly expands the definition of refugee beyond the five classic "nexus" categories of race, religion, nationality, political opinion, and membership in a particular social group to include, "persons who have fled their country because their lives, safety or freedom have been threatened by generalised violence, foreign aggression, internal conflicts, massive violations of human rights or other circumstances which have seriously disturbed public order."⁹⁸ These broader protections mean that many of the migrants fleeing desperate and deadly circumstances in their home country, who would not be protected by U.S. law, might be protected by Mexican law. Many schools reported that students and instructors alike were challenged by the prospect of counseling clients to consider options for refuge outside of the U.S. Students and instructors both reported they felt a tension between desiring the immediate safety and well-being of individual clients and feeling as if they were "giving up," or playing into the hands of a hostile and anti-immigrant government whose actions were having exactly their desired effect.⁹⁹ They described this moment of tension as deeply thought-provoking.¹⁰⁰ One student noted, "[t]his illusion that the U.S. is a safe haven has been shattered for a lot of people, and that's purposeful."¹⁰¹

One student reported being moved through a complex process of reflection from 1) realizing that without being conscious of it, he had held the belief that making it to the United States was inherently tied to enjoying a whole host of privileges and advantages, 2) internally problematizing that belief, and 3) realizing that there might be a moral imperative to disseminate more broadly a message that the U.S.'s asylum and border policies are "alienating and dehumanizing," and in conflict with the expectations and hope that many invest in the U.S. as an idea. This final step was counterintuitive to his initial impulses and assumptions and represented a distinct shift in perspective that took the student by surprise.¹⁰²

This experience is absolutely disorienting for both law students and long-time immigration practitioners, and the resulting discomfort moves them into a place from which they are compelled to question at a higher-level the global

96. Baluarte, *supra* note 83.

97. *Cartagena Declaration on Refugees*, UN REFUGEE AGENCY (Nov. 22, 1984), <https://www.unhcr.org/en-us/about-us/background/45dc19084/cartagena-declaration-refugees-adopted-colloquium-international-protection.html>.

98. *Id.*

99. Law Student Survey Responses, *supra* note 48.

100. *Id.*

101. Survey response from Nestor Almieda (notes on file with author).

102. *Id.*

and domestic system that creates the dissonance of these circumstances. “When people are actively engaged in helping change the world and improving peoples’ lives, they are more open to embracing the analytical and doctrinal context of their actions.”¹⁰³

The demand of the moment for systems-level critique provides an opportunity to address one of the tensions in teaching and practicing asylum law head-on: how to pursue clients’ best interests while at the same time endeavoring to “avoid stereotypes and eschew the ‘victimhood/agency dichotomy’ the legal system calls upon us to provide.”¹⁰⁴ The solution, as suggested by recent work urging the use of critical theory in the teaching of human rights practice, is “a rethinking of our pedagogical strategies to include the political-economic and historical sources of human rights crises at the same time we seek to remedy their consequences.”¹⁰⁵ The cognitive dissonance, and the dissatisfaction of an absence of solutions at the border, quite literally drive students and instructors toward these questions. One student said, “As great as it felt to be out there helping folks on the ground, I couldn’t help but feel as if our work was just triage and we were never addressing the actual disease.”¹⁰⁶ For some students, this systems-level critique was one of the most important learning experiences of the border, “that this is decades and years and centuries of oppression on a lot of levels.”¹⁰⁷

For others, attendant with this high-level critique was the emergence of a lived and felt, rather than a taught or known, experience of the randomness of their own position and privilege vis-à-vis their clients’ vulnerability. One student recalled, “I was reminded of what we all know. The allocation of opportunities in life is so tied to the location of one’s birth, and the world is so unfair.”¹⁰⁸ Students expressed deeply felt injustice while acting within a system that would “allow something so egregious and wrong to happen to people because they were not born on the ‘right’ side of the border.”¹⁰⁹ These realizations appeared to be part of a shift that included a more general grappling with their relationship to the clients they served. One student noted that the most important advice they had to offer for future students doing this work was to “[t]ry to shift your frame of reference and try not only to sympathize but also empathize.”¹¹⁰

103. Laurie Morin & Susan Waysdorf, *The Service-Learning Model in the Law School Curriculum*, 56 N.Y.L. SCH. L. REV. 561, 590 (2011/12).

104. Caroline Bettinger-Lopez, Davida Finger, Meetali Jain, JoNel Newman, Sarah Paoletti & Deborah M. Weissman, *Redefining Human Rights Lawyering Through the Lens of Critical Theory: Lessons for Pedagogy and Practice*, 18 GEO. J. ON POVERTY L. & POL’Y 337, 358 (2011).

105. *Id.* at 381.

106. Survey response from Law Student Number 9 (on file with author).

107. Student 14, *supra* note 76.

108. Memorandum from Immigrants’ Rights Clinic, *supra* note 73, at 3.

109. Survey Response from Law Student Number 5, *supra* note 95.

110. Survey Response from Law Student Number 8 (on file with author).

4. *Crossing the Line into a New Identity as Lawyer*

This leads us to the second important lesson made available by the challenges of the border: a shift in students' understanding of their identity and role as a lawyer in relationship to their client. Entering into a physical experience of the border with clients, and counseling clients through a system in which there often is no real solution explicitly requires an unburdening of the notion of lawyer as "savior." In her recent piece on her own lessons learned at the border, Jane Aiken observed that the border works as a disorienting experience even when the entire news cycle has itself become disorienting.¹¹¹ She notes the border attorneys' emphasis on:

[T]he importance of having experiences that humanize the Border; they encourage visitors to think of accompanying (rather than "saving") the migrants we encountered, and they invited us to intentionally complicate the story so that the experience would be more nuanced and thoughtful.¹¹²

This has huge potential returns in shaping students into attorneys who possess not only excellent traditional legal skills, such as the ones described above, but who also possess a complex, nuanced, and humbled understanding of their role as an advocate and attorney, and how that role relates to their humanity, and that of the clients they hope to serve.

Another instructor further observed that as both she and her students grappled with the question of whether or not they were performing a problematic role of dissuading people from coming to the United States,¹¹³ she found particular pedagogical value in guiding students through that tension point and helping them develop their identities as counselors, whose job is not to make decisions but to inform and empower clients to make their own choices.¹¹⁴ The experience of learning to inhabit the role of lawyer as counselor who empowers by providing access to information was described over and over by students as one of the most valuable and transformative experiences of their time in Tijuana. Many students described experiencing this as a shift, after first having experienced despair that they couldn't "fix" the problem of an inhumane and unjust legal system, they subsequently started to understand the power of information to empower clients to make decisions for themselves. This, students learned, "requires empathy and compassion on top of the knowledge necessary to adequately lay out all of a client's options and allowing them the agency to make their own choice."¹¹⁵ It also requires students to come to an understanding of the humility of the lawyer's role in

111. Jane H. Aiken, *Beyond the Disorienting Moment*, 1 CLINICAL L. REV. 27, 47 (2019).

112. *Id.*

113. Instructor survey response from H. Marissa Montes, Co-Director, Loy. Immigrant Just. Clinic (on file with author).

114. *See id.*

115. Memorandum from Immigrants' Rights Clinic, *supra* note 73, at 5 (student identified as NDA).

this context, and to remember above all, as one student noted “it’s about my client. Not me.”¹¹⁶ The process of discovering a new identity through lawyering over the Line was eye-opening for many students from many different schools.¹¹⁷

Experiencing these issues at this stage in a public interest law student’s formation is in immediate service of a long-standing but largely unrealized goal of poverty lawyering: the development of “an attorney-client relationship premised on a mutual respect and responsibility between attorney and client. This . . . requires attorneys to develop and maintain viewpoints on lawyering that may deviate from mainstream ideas about the lawyer’s traditional role.”¹¹⁸ It is precisely this deviation that students discovered on the other side of the Line:

[S]o often, our depictions of being a lawyer involve individuals, in suits, preparing well-versed and astutely edited legal arguments for a tribunal in a formal setting—when being an individual’s advocate just as well can involve listening to a client in a much less formal setting, providing them with information, taking the notes necessary to develop their case, and helping them form a plan. While law schools often paint the picture differently, working in Mexico reified to me that there’s no one right way to be a lawyer.¹¹⁹

Students not only develop this approach to their relationships with clients, but also develop self-awareness about their internal identity and its evolution from “elites within the legal system,” into lawyers who will “develop a client-centered, non-hierarchical approach in their work in order to accomplish a ‘redistribution of power’ within their own relationships as they simultaneously seek such a goal for their clients.”¹²⁰ One student explicitly observed this in his own experiences over the Line:

Having that shift in the arc of my development, maybe I had a bit of a ‘savior complex.’ Going into it, I was very passionate and optimistic about the power that I had as a lawyer to kind of help and fix a lot of the issues that I was going to see. But seeing how little I could actually do, it definitely forced me to put on a different hat of more of a counselor and educator, and I saw the power that I could have in giving people a lot more confidence in what they were doing and giving them the tools to ‘save’ themselves and trusting them to use them. It had a profound impact on my understanding of myself as an advocate and that shifting power to where it should be—into the client’s hands.¹²¹

116. Student 9, *supra* note 106.

117. Student responses, *supra* note 48.

118. Bettinger-Lopez, *supra* note 104, at 362.

119. Student 16, *supra* note 87.

120. Bettinger-Lopez, *supra* note 104, at 356.

121. Almieda, *supra* note 101.

5. *Crossing the Line Over to the Other Side of Suffering and Secondary Trauma*

These shifts experienced by students and instructors, the re-working of identity, the altering empathy that emerges from co-experiencing the disorienting liminal border space alongside their clients, may also allow students to enter into a different kind of experience with their own suffering as a result of what they witness over the Line—traditionally described as “secondary trauma.” Over and over, students expressed the emotional weight of their experiences as being one of the greatest challenges they encountered in Mexico.¹²² Many expressed surprise at how this went beyond what they experienced in clinic, and beyond their own sense of being prepared for the intensity of the impact.¹²³

And yet, it appears that many students experienced the quality of this suffering as instructive. Pushed beyond their capacity to go into “work mode,”¹²⁴ and move feelings to one side, many students were left with no alternative but to allow the despair to shape them. It seems that there is something desperately human in the despair of these experiences at the border that cannot be avoided, which, as a result, becomes transformative.

It definitely [] felt like it stripped me of kind of the protections that I had layered on to myself throughout my life . . . and in a lot of ways the moments that I felt the most helpless were the moments that allowed me to resonate with people the most and I felt like I was able to be in that moment with them, as a human being . . . A huge part of value of this work is reintroducing a little bit of humanity into a system that’s built on de-humanization.¹²⁵

Instructors have the opportunity at the border to help guide students into encountering their “trauma” as a teacher, and to ask what that trauma can show them about themselves, their clients, and the accident of birth that separates the two and determines their relative positions at the consult table. The boundaries in the liminal space of the border are by nature blurred. The challenge for educators at the border is teaching students to, in the words of Rainer Maria Rilke, “go to the limits of [their] longing.”¹²⁶ Teaching students to let that longing shape them, and allow their heartbreak to illuminate their place in the ecosystem of this suffering, pushes beyond the constructs of “the served and the serving,” “here and there,” and “us and them.”

It is vital here, at the edge of the pedagogical, the legal, ethical, and the human, to state clearly that this kind of encounter is only possible once

122. See Student responses, *supra* note 48.

123. See, e.g., Almieda, *supra* note 101.

124. See, e.g., Tso, *supra* note 70; see also Student responses, *supra* note 48.

125. Almieda, *supra* note 101.

126. RAINER MARIA RILKE, ANITA BARROWS & JOANNA MACY, RILKE’S BOOK OF HOURS: LOVE POEMS TO GOD 83 (1996).

students have learned about the necessity of establishing boundaries in their relationships with their clients, the demands of professionalism, and the traditional nature of the attorney/client relationship. Those are a prerequisite for entering this blurred space. This pedagogical experience does not demand that students eradicate or abandon those boundaries. Instead, it instills them with the capacity to see them for what they are: social constructs. Relational boundaries, like borders, allow us to operate and provide order, but if we cannot see them for what they are or understand their place, we can create a false sense of separation that corrodes rather than fortifies.

It is perhaps unsurprising then that so many students who have gone over the Line report deeply affirming experiences of hope, joy, and gratitude that are co-extant with the very real emotional suffering. One student reflected, “I think as much as I felt terrible and sad and depressed, I felt so much joy and hope and gratitude, and I wasn’t really expecting to feel those two polar opposite emotions so extremely.”¹²⁷ A great deal of this, for student after student who was surveyed, as seen below, is attributable to experiences of solidarity with both fellow volunteers and the clients they served. For many students who were surveyed, the act of being present to and with each other in circumstances of despair was, conversely, powerfully generative of hope.

Seeing everyone, both volunteers and clients alike, come together in the building—the tragedy is real, and the devastation is insurmountable. However, the work that the organization does is living proof that progress is being made, even if it’s at a glacial pace. It shows that there are many people who will not accept the way things are and will do what they can to help . . . In sum, it was proof of all the kindness and humanity that still exists in the world.¹²⁸

I learned a lot about hope and about strength. Many of the people we met had been through the most awful experiences and traveled for months seeking safety only to be paused at the last moment and forced to wait their turn while living in dangerous and challenging conditions. Despite all of this, however, many of the people I met were still hopeful that good things were ahead for them, and they showed such admirable perseverance in the face of adversity.¹²⁹

I believe strongly in the human capacity for strength in overcoming challenges, and I saw this belief reinforced. The challenges asylum seekers relayed to me were ones they should not have had to face, but I saw how resilient and hopeful people can be despite having suffered injustices some of us cannot even imagine.¹³⁰

127. Student 23, *supra* note 68.

128. Law Student Survey Response Number 15 (on file with author).

129. Memorandum from Immigrants’ Rights Clinic, *supra* note 73, at 4 (student identified as EDS).

130. Memorandum from Immigrants’ Rights Clinic, *supra* note 73.

It made my experience what it was, which was nothing short of amazing and incredible. There were so many amazing people volunteering their time and putting themselves at risk for a cause we all believe in. It gave me the hope, courage, and emotional strength that is absolutely necessary when dealing with this kind of devastating work.¹³¹

This is one of the most powerful lessons of crossing the Line: the re-ordering of the disorientation of despair into the fuel of hope.¹³² The Line has the power to transform, a force that is sorely needed in an age where immigration advocates have become weary from the relentless barrage of policies that grow bleaker by the day.

6. *What Returning from the Border's Liminal Space Has to Teach About Crossing the Line*

One final observation on the pedagogical value of crossing the Line into Mexico with law students: it lets us as educators and future and present practitioners see those who we can't see any other way—those who, due to the combined forces of circumstance and increasingly restrictive asylum policies, will never make it over the Line. There is an encounter between them and us, and what that encounter means is perhaps made most clear at the moment of our return.

If it is true that the border is a liminal space co-experienced by students and clients, we must grapple with what it means to leave that space and to separate from the individuals we encountered there. Students felt the effect of their privilege powerfully¹³³ when crossing back over the Line. Annie Lai described students as often experiencing that privilege of “being able to cross back across the border after sitting the whole day with people who desperately want to cross the border but cannot. I think they know before they go that they have that privilege, but to feel it in a visceral way impacts them.”¹³⁴ This return, rather than being experienced as a relief, is a struggle for students, many of whom reported being overwhelmed by the feeling that, “when I went back home I would revert to my regular life and forget the crisis.”¹³⁵ There are two dynamics that were most common on return: 1) being driven by grief to throw themselves so deeply into the work that they neglect their own lives and risk burn-out¹³⁶ and 2) entirely compartmentalizing the

131. Student 15, *supra* note 128.

132. Professor Jane Aiken describes feeling exactly that when confronted by the disorienting moment of the border: “My established schema—that the system is fundamentally fair and works as it should; that a lawyer would make a difference; that decision-makers are concerned with facts—were ill-fitting. What had become clear for me, though, was that my previously generalized concern for the migrants who sought entry into this country had become specific and personal. I wanted to do something.” Aiken, *supra* note 111, at 46–47.

133. Law Student Survey Response Number 18 (on file with author).

134. Lai, *supra* note 86.

135. Student 9, *supra* note 106.

136. Lai, *supra* note 86.

experience, returning to and being consumed by the intense pace of law school, and shutting down emotionally to their encounter at the border.¹³⁷

It was strange walking back into the ultra-professional environs of a legal institution, where everyone was primarily concerned with bar prep and summer plans after having just been in an environment where that kind of stress felt so foreign. I believe it took me at least a few weeks to properly adjust back, at which point, it was the Tijuana trip that was feeling foreign to me.¹³⁸

This dichotomy illustrates a larger trend in the long-term choices of lawyers who contemplate undertaking public interest work. Some either shut down to this work, learn that this is “not for me,” and close the door to the intensity of the experience, while others throw themselves so fully into the work that they charge headlong toward burn-out—sacrificing many important aspects of their personal lives along the way. There is a third way, of course. This third way is practiced by those who learn how to open themselves up to the intensity of the encounter while they are experiencing it, but who also know how to let the boundaries fall back into place. That is, how to come back from the liminal space and re-order so that they can continue to work, serve, and experience their own lives. At the border, students have the opportunity to physically practice this act, of being fully present to their clients, the systemic despair, their own humanity, and to then come back from it.

Educators are presented with this challenge: can we teach students how to move into the liminal space where they surrender to the urgency of the moment and then come back from it? The border is an opportunity to physically practice consciously choosing a middle path, in which practitioners remain present to the urgency and then also allow themselves—through conscious choice—the space to have lives that are their own and do not belong wholly and without boundaries, to those they want to serve. If we can teach students to consciously enter into and emerge from these spaces, and the conscious process of making a choice to enter in and out of those spaces again and again, while becoming comfortable with the discomfort of that process, then we prepare them for a successful life-long career in public interest. This skill-building work is the work of a lifetime.

B. *The Traditional Pedagogical Value of Working Over the Line*

In addition to the unique opportunities detailed above, working over the Line is also, for reasons explored here, practically valuable in terms of the

137. *Id.* See also Student responses, *supra* note 48.

138. Student 16, *supra* note 87.

unique resources and deploy-ability of law students, the nature of the work, and the opportunities to build specific student skills.

1. *Unique Value of Law Students*

The need for legal services over the Line is far-reaching, and while legal service organizations working on the U.S.-Mexico border make valiant use of scant resources, demand far outstrips supply.¹³⁹ U.S. law schools and law students are well suited to plug into and enhance these efforts, at enormous pedagogical gain for our students. In examining the pedagogical value of bringing law students to Mexico to serve migrants, we would do well to call upon the collective wisdom of those engaged in law student service-learning in the detained context, as there are many contextual similarities.

It is important to acknowledge that lawyering over the Line builds on—and goes beyond—much of the foundation laid by the work being done by law schools in family detention centers. These two contexts share many similarities: the short, intense service-learning trips; the discrete legal issues; the high emotional stakes in challenging physical environments, and the constantly shifting nature of the governing law. In her article unpacking the pedagogy of bringing law students into family detention centers to serve asylum seekers, Lindsay Harris notes, “[I]aw schools and law students are uniquely situated to respond to crisis, having the strategic advantages of resources, eager and comparatively flexible students and professors, typically strong public interest goals, and a good deal of expertise.”¹⁴⁰ This perspective is in lockstep with retired immigration judge Paul Schmidt’s clamor for a “New Due Process Army” in the face of these attacks on asylum seekers and other immigration populations,¹⁴¹ and emphasizes that we should do this because it must be done—and because we can—perhaps more broadly than solely with immigration attorneys within the U.S. who are already struggling to meet the demand for their services.

2. *“Bite-Sized” Nature and Subject Matter of Casework*

The legal work available to students lawyering over the Line is logistically discrete while also variable and challenging. While the nature of the work is narrow in scope and does not generally require vast substantive legal knowledge, student volunteers must come prepared with a solid knowledge of asylum, withholding, and protection under the Convention Against Torture. A functional understanding of the law and policy of immigration detention is also critical to student success. It does not necessitate broad knowledge of all

139. Telephone Interview with Emem DuPuis Olson Maurus, former Staff Attorney, Al Otro Lado (Sept. 10, 2019).

140. Harris, *supra* note 47, at 158.

141. See, e.g., Paul Wickham Schmidt, U.S. Immigration Judge (retired), Luncheon Address at Frankel Lecture Series (July 19, 2017), available at <https://immigrationcourtside.com/join-the-new-due-process-army-fight-for-due-process-in-the-united-states-immigration-courts/>.

areas of immigration law but rather focuses on a narrow concept, and within that concept provides the ability to develop specific lawyering skills.

The kinds of legal work most in demand, such as Credible Fear Interview preparation, legal consults, and I-589 Application for Asylum workshops (for those subject to the MPP) are also short-term in scope and lend themselves to teams of law-student volunteers plugging into the process at short intervals, rather than longer-term commitments to traditional asylum cases which can take years to litigate and can be challenging to coordinate with the academic calendar.

Conversely, the subject matter, while discrete, is anything but limited or stagnant. The constant shifting of the rules and need to parse messy, and often unclear or partially implemented developments, provides a golden opportunity to give students a strong foundation. From there, students can be tasked with tackling a complex, fluctuating problem in a way that is pedagogically rewarding for law students and professors.

3. *Skills Development: Client Skills*

From a pedagogical perspective, this work also provides an excellent opportunity for law students to rapidly gain intensive exposure to a variety of client-based skills under demanding circumstances. These skills include, but are not limited to, time-pressured intake interviews and interviews with clients who have recently experienced trauma.

Many of the necessary skills are similar to those used in the legal work already undertaken to great pedagogical benefit in the family detention centers at Berks, Karnes,¹⁴² and Dilley. Professor Lauren Gilbert at the St. Thomas University School of Law recounts that while providing legal services to asylum seekers at Karnes:

[S]tudents' on-the-ground experience gave them skills and knowledge about the asylum process that they could use in other settings. Lessons learned included: (a) the intake process in a high-volume setting; (b) client counseling in the context of trauma and conflicts of interest; (c) the complex relationship among the asylum and withholding statutes, case law, and regulatory law; (d) the impact of the centralization of power over immigration in the U.S. Attorney General's office; (e) the root causes of the "surge" in Central America, and (f) the value of impact litigation when direct services are not enough.

Work with intended migrants in Mexico provides an opportunity for intensive practice of several client-based legal skills, which are broadly applicable

142. Karnes briefly stopped holding families in 2019, but reports indicate that it is set to resume the practice of family detention. See Maria Sacchetti, *ICE to Resume Detaining Migrant Families at South Texas Facility*, TEX. TRIB. (Sept. 22, 2019, 10:00 AM), <https://www.texastribune.org/2019/09/22/ice-karnes-migrant-detention-facility/>.

to the wide range of public interest work. For example, conducting interviews of this nature under tight time constraints provides an opportunity for intensive skill development in creating trust with the client in a short period of time, a practice that several law students who have participated in this work noted was both challenging and rewarding,¹⁴³ and among the most important they had developed during the trip.

I . . . learned how better to conduct intake interviews. There was a lot of pressure on us to move quickly so that we could serve as many people as possible. And sometimes, we had to rush before people were whisked away by border officials. I learned (through many mistakes) the importance of being thorough, and I practiced asking good questions quickly and efficiently.¹⁴⁴

Another critical client skill practiced by law students performing legal services in Mexico is conducting interviews with people who have very recently experienced trauma. In the context of migrants in Mexico, many of those seeking legal consultation are still actively experiencing traumatic events. In this context, the duty of competence requires lawyers and law students to understand how to meet clients where they are, to recognize and identify both the signs of trauma and their effects, and to incorporate some basic knowledge of psychology and the human experience into their interview techniques.¹⁴⁵ Lynette M. Parker explains the delicacy of this skill, as well as some of its component parts:

Your sensitivity to the client, ability to steer them through the difficult parts that must be done, all the while not pushing too hard, cannot be easy. The relevant skills needed to do this would be patience, focus, and compassion. Also important is the ability to do the least damage—to get the information needed in the least traumatic way, and not make them unnecessarily repeat the story.¹⁴⁶

For students who may have read about trauma-informed lawyering or even practiced the skill in a clinical setting, the short-term, rapid-fire nature of legal practice in this context, when combined with the on-going traumatic circumstances many intended migrants currently face, creates a uniquely challenging setting for this skill's expression and development. Like all of the client-based skills discussed here, this skill is broadly applicable for nearly all direct-service careers in the various sectors of public interest.

143. Student responses, *supra* note 48.

144. Memorandum from Immigrants' Rights Clinic, *supra* note 73, at 3.

145. Lynette M. Parker, *Increasing Law Students' Effectiveness When Representing Traumatized Clients: A Case Study of the Katharine & George Alexander Community Law Center*, 21 GEO. IMMIGR. L. J. 163, 196–198 (2007).

146. *Id.* at 175.

4. *Skills Development: General Practice Skills*

In addition to the client-based skills discussed above, crossing the Line into Mexico provides law students with the opportunity to develop several important general practice skills, such as flexibility, adaptability, problem-solving, and the ability to recognize and address secondary trauma, which will serve them well in a career in public interest.

Providing legal services to north-bound migrants in Mexico provides a contrast and counterbalance to the calm, methodically planned clinical experience. Unlike that experience, the lawyering being done over the Line is very much “triage” lawyering¹⁴⁷—a term that came up repeatedly in student survey responses.¹⁴⁸

In many ways, these skills, like the client-based skills discussed above, mirror those honed and developed in the context of family detention centers. As Lauren Gilbert of the St. Thomas University School of law observes, “[s]tudents grappled with issues of professional responsibility in a high-volume, fast-moving, emotionally-draining setting, where not everyone’s interests were aligned and not everyone was seeking or qualified for relief.”¹⁴⁹ This can greatly enhance the traditional “slow learning,” commonly done in the traditional clinical setting.¹⁵⁰

All of the conditions mentioned by Gilbert apply in this context. Flexibility, adaptability, and problem-solving were key skills identified by instructors who have led teams of students working over the Line. Flexibility in particular was stressed, as legal services are provided in an environment where both the law and client population can change rapidly. One instructor urged, “[y]ou have to be flexible, you don’t know what each shelter wants, one day you might have five [people who need consultations], one day you might have 50.”¹⁵¹

The shifting policy provides excellent pedagogical fodder as well, with instructors describing it as a perfect opportunity to learn the practice of immigration law as it exists today: responsive, dynamic, and shifting.¹⁵² The answers law students and instructors provide to the individuals they counsel are not stagnant, canned answers. They can and do change.

One instructor described the issue of how shifting policy affects the educational process as “the million-dollar question,” stating,

I realized when we got there that I was not prepared to counsel people on family separation and spent some time trying to catch up. There

147. Lindsay Harris refers to a similar kind of lawyering as “crisis lawyering,” which she defines as “emergent situations, whether man-made or natural disasters, that require a rapid and large-scale response by lawyers.” Harris, *supra* note 47, at 159.

148. Student responses, *supra* note 48.

149. Gilbert, *supra* note 82, at 139–40.

150. See Harris, *supra* note 47, at 189.

151. Montes, *supra* note 113.

152. Survey responses, *supra* note 48.

were so many questions that came up where the answer was unclear or would change day to day. I was able to get most of the answers from [Al Otro Lado]¹⁵³ staff, but this is the practice of immigration law now, you have to be ready for constant uncertainty.¹⁵⁴

These educational opportunities are in many ways similar to other kinds of service-learning, as both are conducted in environments where both the legal issues and the client populations are distinct. One example can be found in the “Disaster Law” course on responses to Hurricane Katrina and the BP oil spill undertaken by Laurie Morin and Susan Waysdorf at the University of DC Law School. In writing about the lessons imparted during that course, they provide a detailed discussion of the pedagogical value of learning how to adapt and react in environments that are challenging and changing.¹⁵⁵ These skills of flexibility, adaptability, and creative problem solving apply broadly throughout careers in public interest.

The pedagogical opportunities here hew closely to those discussed at length by Professors Morin and Waysdorf in their work on service-learning. They describe:

[A]n authentic learning experience—positive, meaningful, and real to the participants—with specific “learning and developmental outcomes.” It . . . promotes skills associated with the value set of teamwork, friendship, collegiality, citizenship, and community involvement. Service-learning addresses complex problems in complex settings, rather than simplified problems in isolation. It offers an opportunity to engage in critical thinking, that is, the ability to identify important questions or issues within a real-world situation.¹⁵⁶

Lawyers planning to make a career performing direct services in social justice disciplines must also become robustly proficient in the realities and effects of secondary trauma on the legal service provider.¹⁵⁷

The grave circumstances and personal narratives of the migrants in Mexico demand that students develop this skill. Student survey responses also seem to indicate that the intensity of the circumstance and the nature of the experience provide students the opportunity not only to learn about secondary trauma and how to address it but also to gain a real-time

153. Al Otro Lado (AOL) is a bi-national non-profit organization that serves migrants in Tijuana. See discussion *supra* Part II.B.

154. Survey responses, *supra* note 48.

155. See Morin & Waysdorf, *supra* note 103, at 611.

156. *Id.* at 592.

157. See, e.g., Ronald Tyler, *The First Thing We Do, Let's Heal All the Law Students: Incorporating Self-Care into a Criminal Defense Clinic*, BERKELEY J. CRIM. L. 1, 4–5 (2016) (describing integrating training on self-care in a criminal defense clinical setting to address a “deficit of education in self-care, and proposing that teaching the cultivation of self-care skills will reduce stress and vicarious trauma in public defender offices and other high-stress, high-touch practice settings.”).

understanding of why this is an important skill for a lawyer. In reflecting on what she found most surprising about her experience, one student replied, “[t]he emotions that come with it. I didn’t think I would feel that emotional. I thought I’d just show up, do my work and call it a day, but I was wrong. It takes a lot of strength to hear the people’s stories and calmly try to help them.”¹⁵⁸ Another student wrote that she was surprised by how long it took her to process the experience and to come to terms with the injustice she had witnessed.¹⁵⁹

All law schools should be training students to identify and respond to their own secondary trauma, particularly through practical opportunities to develop those skills.¹⁶⁰ Lawyers across a variety of disciplines will eventually counsel an individual who needs assistance regarding a traumatic event or circumstance of legal import, and law schools must be engaged in preparing their students to perform competently and ethically¹⁶¹ under these challenging circumstances.¹⁶² While this skill has traditionally been discussed as an important learning outcome for service-learning work with students, in the context of lawyering over the Line, it may be possible to go even farther and utilize the context of service-learning in Mexico to help students re-think their own relationship to resilience.

C. *Challenges and Pedagogical Disadvantages to Crossing the Line*

There are significant benefits to both intended migrants and law students in bringing law students to the southern border to undertake this work. However, educators interested in undertaking such a project should also be aware that the work is not without significant challenges, some of which are highlighted and explored here. Notably, many of these challenges are simply the converse of the same factors that make the experience pedagogically valuable: secondary trauma, the inability to create a curated learning experience, the physical environment, the nature of international travel for both United States citizens and non-citizens, government hostility, and the limited nature of services that law students can provide in these environments.

158. Law Student Survey Response 4 (on file with author).

159. Law Student Survey Response 5 (on file with author).

160. Parker, *supra* note 145, at 196–197.

161. Hannah C. Cartwright, Lindsay M. Harris, Liana Montecinos, & Anam Rahman, *Vicarious Trauma and Ethical Obligations for Attorneys Representing Immigrant Clients: A Call to Build Resilience Among the Immigration Bar*, 2 AILA L. J. 23, 33 (2020).

162. Parker, *supra* note 145, at 196–197. (“[W]hile not every attorney will represent individuals, let alone traumatized clients, many will interact with multi-dimensional clients with various emotions in their daily practice. While it is not possible to provide law students with a course in every area of law, nor is it possible to train law students on methods to respond to every situation and every type of client, law schools and clinical instructors should recognize that lawyers are experiencing high levels of vicarious trauma. In light of the large number of clients who have experienced a traumatic event that becomes the focus of a legal matter, it behooves law schools and clinical instructors to incorporate this training into their schools’ and/or their clinics’ curricula to assist law students and future lawyers to meet their professional responsibility to these clients.”).

Effectively training law students on humanitarian forms of relief and understanding their application in practice covers only the legal portion of the preparation. As discussed above, equally important is effective training for interviewing and working with individuals who have experienced past trauma and who may be currently living in and experiencing traumatic conditions. Concomitant with that challenge is the responsibility to provide students with the tools necessary to manage their own secondary trauma to prepare them for longevity in a career of service-oriented work.

Just as dealing with trauma can have significant pedagogical value, it also presents a challenge. The skills necessary to deal with trauma are not easy to develop and may not come naturally to many students. Interviewing clients who have experienced trauma is particularly difficult to do in a short time-frame,¹⁶³ and many students struggled explicitly with that challenge during their time in Mexico.¹⁶⁴ On the issue of secondary trauma, the situation can exacerbate existing tendencies in law students to play through pain, to prioritize the client's pain over their own.¹⁶⁵ Requiring students to develop these challenging emotional intelligence skills in such a short time-frame under such challenging circumstances can have a huge educational pay-off if successful, but it can create serious ethical and educational issues if it is not.¹⁶⁶

And just as the environment of crisis-based lawyering can provide valuable skills in flexibility, as noted above, it too provides challenges, chief among them the inability of educators to curate the content law students will experience. Instructors observed that there is no control over the cases that students will encounter and what legal issues they will raise. While many focus on the central issues of humanitarian immigration relief, the process of expedited removal, and the risks of detention, many novel cases and unusually challenging clients can, and do, land in front of students.¹⁶⁷ It is impossible to create the carefully cultivated experience of a clinic, and to allow students to focus on a particular skill or legal problem by limiting complicating factors.¹⁶⁸ In the majority of the reported experiences in Mexico, instructors did not specifically direct which tasks their students performed, instead deferring to the on-the-ground needs as identified by local partners who

163. Parker, *supra* note 145, at 171. ("Clients who have experienced trauma also have difficulty during trial preparation, exhibiting patterns of forgetfulness and avoidance. For example, the client may have difficulty remembering specific facts or incidents, either because he has blocked the events or because discussing the events forces him to re-live the traumatic experiences, which the client wants to avoid. For those clients who become emotional, the process of interviewing and later testifying becomes painful not only for the client but also for the law student, the interpreter, and others who are involved. Emotional clients can take much longer to testify than other clients do, as they often need to take a break from recounting the traumatic event, or, in some cases, reschedule the meeting entirely.").

164. See, e.g., Law Student Survey Response 4, *supra* note 158.

165. Parker, *supra* note 145, at 173. ("Similarly law students are trained to stay focused on their clients and the legal matters at hand. Thus, many law students forge ahead with cases while silently dealing (or not) with their own pain.").

166. *Id.* at 175.

167. See, e.g., Law Student Survey Response 4, *supra* note 158.

168. See Survey responses, *supra* note 48.

assigned and distributed tasks, including non-legal tasks. This can and has led to¹⁶⁹ disparate experiences for law students based on their ability to speak Spanish or another in-demand language. This is not a curated environment.

The physical nature of the environment itself presents yet another challenge. There are no well-ordered, climate-controlled offices with individualized consult rooms available to intended migrants and those providing them legal services. The physical spaces vary widely and are often a combination of indoor and outdoor spaces, where sun exposure, weather, crowding, and noise are persistent challenges. One group set up shop in a space more commonly used as a mechanic's shop.¹⁷⁰ Unsurprisingly, several survey participants described concerns about client confidentiality. In one particularly difficult example of this, an instructor described interviewing a woman who had been the victim of sexual assault in an enclosed, windowless space in which all of the other clients present were men, noting the woman's visible discomfort.¹⁷¹

The nature of international travel provides its own set of challenges as well. During a period of time when Al Otro Lado in Tijuana was sending teams into shelters, several teams described traveling to diverse locations in Tijuana to provide legal services. Without access to normal modes of transportation, teams were forced to split up to travel in smaller groups—all in an unfamiliar urban setting and in a foreign language. Coordinating in such a shifting and physically demanding environment can be challenging in any event. Additional challenges may arise, such as access to cell phones in a foreign service zone, the possibility that not everyone on the trip speaks the local language, and cultural differences regarding expectations for punctuality and facilitation of processes. These challenges combined create a series of obstacles that teams working in Mexico must continuously surmount. Both instructors and law students alike reported extensively about the existence of each challenge mentioned here.¹⁷²

Another important consideration from a pedagogical perspective is the challenge of incorporating interested student participants who are not U.S. citizens. When these situations arise, as they did for more than one instructor, there are two challenges: 1) whether and how to play the role of assisting students with analyzing what, if any, risk exists when they leave the country and attempt to re-enter and 2) how to incorporate and include students in the work who are legally restricted from leaving and re-entering the country.

On top of this, a climate of government hostility¹⁷³ toward legal service providers serving migrants in Mexico,¹⁷⁴ as well as increased privacy

169. See, e.g., Law Student Survey Response 15, *supra* note 158.

170. Montes, *supra* note 113.

171. *Id.*

172. See Survey responses, *supra* note 48.

173. *US Harassing Journalists, Lawyers, Activists at Border*, HUMAN RIGHTS WATCH (Mar. 8, 2019, 11:00 AM), <https://www.hrw.org/news/2019/03/08/us-harassing-journalists-lawyers-activists-border>.

174. See Law Student Survey Response Number 6 (on file with author).

violations and invasive searches by CBP officials at the point of border crossing, pose two additional challenges.¹⁷⁵ While none of the survey participants identified this as a significant issue at this time, like so many aspects of this work, this is subject to change. Hostility from local law enforcement, while never a safety concern, was also identified as an obstacle in several student and instructor survey responses.

There may also be aspects to this form of experiential learning that can, in some circumstances, be pedagogically disadvantageous to students. Mary Helen McNeal identifies at least some of them in her work exploring the then-emerging practice of “unbundling” law school clinics and involving law students in the provision of discrete services, such as the staffing of a self-help desk at a courthouse or participating in single-day legal workshop experiences.¹⁷⁶ Professor McNeal identifies two chief concerns that are likely to factor into the experience of bringing law students over the Line.

First, students do not have the opportunity to develop the full range of legal skills they will need to become excellent immigration practitioners or public interest lawyers. Law students engage in a relatively narrow set of tasks during their work in Mexico. The work students have undertaken primarily consists of either assisting clients in a two-day pro se asylum workshop or providing Know Your Rights presentations to groups of intended migrants and conducting individualized legal consultations. This work is undertaken with the goal of advising clients about the process ahead and any incumbent risks, as well as preparing them to narrate their story effectively throughout the credible fear process.¹⁷⁷ Three instructors and one student reported that a student was given the opportunity to prepare a declaration for a client to be used during the CFI process. No one reported students being given the opportunity to prepare client declarations, briefs, or motions for submission to a court.¹⁷⁸

With limited skills-based opportunities, students are not able to develop the full range of lawyering skills,¹⁷⁹ including litigation skills, oral argument, and persuasive legal writing.¹⁸⁰ This may mean that this opportunity, or others like it, are not ideal as the sole form of live-client experiential learning. As discussed in Section IV(B)(1), *infra*, it is therefore critical to undertake this work in the larger context of live-client experiential learning.

175. See AM. IMMIGRATION LAWYERS ASS'N, BORDER SEARCHES OF ELECTRONIC DEVICES: LEGAL AND ETHICAL IMPLICATIONS AND SOLUTIONS, (2018), available at <https://www.aiala.org/File/DownloadEmbeddedFile/73031>; Seth Harp, *I'm A Journalist but I Didn't Fully Realize the Terrible Power of U.S. Border Officials Until They Violated My Rights and Privacy*, The Intercept (June 22, 2019, 8:00 AM), https://theintercept.com/2019/06/22/cbp-border-searches-journalists/?fbclid=IwAR3og-Q0HiMnEW-SipJ_qox5PT8D_Abv7KD9-qwbRQmU3sO5C5sgaXiKR8M.

176. See generally Mary H. McNeal, *Unbundling and Law School Clinics: Where's the Pedagogy?*, 7 CLINICAL L. REV. 341 (2001).

177. See Law Student Survey Response Number 9, *supra* note 106.

178. Survey responses, *supra* note 48.

179. See McNeal, *supra* note 176, at 361–62.

180. *Id.* at 362–63.

There is another pedagogical concern—one connected to the systemic critique goals articulated in Section III(A)(3), *supra*: students taking part in this work participate in a system of legal counsel that is woefully inadequate to meet the demands of the situation. A system free of resource constraints would equip each of these families with counsel to form an attorney-client relationship, enter an appearance (albeit in most cases telephonic) at the Credible Fear Interview, pursue bond if appropriate, and to represent them on the merits of their claim in asylum court. In an adversarial justice system, this is the minimum that justice requires in cases that are often a matter of life or death. This is only made more important by the asylum-hostile policies discussed in detail in Section II(A) above. And yet, available statistics on representation in immigration proceedings show us that those protections are far from the reality¹⁸¹ and far exceed those that pro se assistance, Know Your Rights presentations, and brief advice sessions given in a volunteer-only capacity afford.

The work being done by attorneys and law students with migrants in Mexico is analogous to the work of a battlefield medic—when people actually need intensive long-term medical care, skilled surgeons, and diplomats determined to bring an end to the war. When handled with care, this disparity in access to justice can itself be of pedagogical value, as noted above; however, some have noted that bringing students to participate in this kind of piecemeal triage work within an overwhelmed system can have a negative pedagogical effect:

[T]hey run the risk that students will come to accept dual standards of representation for rich and poor clients. Once students accept the proposition that it is acceptable for poor people to have less than full representation, there is little incentive for a student to evaluate the quality of the outcome from the . . . client's perspective and to confront the scarcity problem.¹⁸²

McNeal's concern is that in the face of overwhelming need, students will all too easily make peace with the piecemeal provision of limited legal services and persuade themselves that "something is better than nothing."¹⁸³ She also acknowledges, however, that this same exposure, when handled thoughtfully and deliberately, can lead students to an appreciation for problems of resource distribution and how it affects the client population.¹⁸⁴ Instructors

181. See generally *Who is Represented in Immigration Court*, TRAC IMMIGRATION (Oct. 16, 2017), <https://trac.syr.edu/immigration/reports/485/>; *Asylum Representation Rates have Fallen Amid Rising Denial Rates*, TRAC IMMIGRATION (Nov. 28, 2017), <https://trac.syr.edu/immigration/reports/491/>; *Individuals in Immigration Court by their Address: Pending Cases With and Without Attorneys*, TRAC IMMIGRATION (Feb. 2019), <https://trac.syr.edu/phptools/immigration/addressrep/>.

182. McNeal, *supra* note 176, at 361–62.

183. *Id.* at 373.

184. *Id.* at 374.

would be well advised to take care with the way the students' role and its context are presented and processed.

IV. BEST PRACTICES FOR GOING OVER THE LINE

Considering the goals as articulated above and the challenges presented in achieving them, it follows that it is vitally important not just that the work is done, but also how it is undertaken.

One of the goals of this article is to create a document with a practical application that will inform and encourage legal educators planning to undertake similar work on the southern border in the future. Another goal is to propose the possibility of understanding the radical potential of lawyering over the Line to fundamentally transform law students and create a shift in their perspective and practice that will accompany them into their legal careers for years to come. The development of recommendations for best practices is critical to both of these goals. Such best practices should be based on the reported experiences of those who have begun to undertake this work, as well as existing literature on similar models of clinical legal education. This section explores the question of how to structure this work so that it is mutually beneficial for both clients and law students, and so its radical potential for a transformational shift is revealed.

As examined, *supra*, in Section III's discussion of pedagogical value and goals, there is much similarity here between the best practices recommended for bringing law students over the Line and bringing them into family detention centers. This section will briefly draw conclusions about pedagogical best practices that are similar to the work in family detention centers, and then develop in more depth those areas where this work departs from them. Chiefly, lawyering over the Line requires a distinct model of training and student preparation, reflection during the trip, and work with the students after return to absorb the lessons made available in the border's liminal space.¹⁸⁵

A. *The Service-Learning Model*

In *Learning in Baby Jail*, Professor Lindsay Harris discusses the implementation of the service-learning model as described in detail by Laurie Morin and Susan Waysdorf in their piece on the subject.¹⁸⁶ Harris concludes that in the context of family detention centers, this model has many advantages.¹⁸⁷ Because of the many pedagogical and logistical ways in which lawyering over the Line mirrors trips into detention centers, service-learning is likely the ideal model for bringing law students over the Line. In making this recommendation, this article adopts Professor Harris's definition of service-learning as "any effort by law schools to situate the . . . volunteer experience

185. See *supra* Part III.A.

186. See Harris, *supra* note 47, at 191 (citing Morin & Waysdorf, *supra* note 103, at 574).

187. *Id.*

within a non-clinical, for-credit course or seminar.”¹⁸⁸ This model, which has not yet been put into general practice at the border, allows law schools to train and guide students through the experience well enough to actualize all of the rich pedagogical potential discussed above. As Morin and Waysdorf note,

Service-learning is intended to be an authentic learning experience—positive, meaningful, and real to the participants—with specific “learning and developmental outcomes.” . . . Service-learning addresses complex problems in complex settings, rather than simplified problems in isolation. It offers an opportunity to engage in critical thinking, that is, the ability to identify important questions or issues within a real-world situation.¹⁸⁹

There are a few other practical reasons for adopting this model, as well as some limitations and challenges. These are all well-developed by Professor Harris in her comments on the subject,¹⁹⁰ and need not be further developed here.

The service-learning model, however, requires a significant amount of time, planning, and effort—all of which may pose challenges for educators interested in providing this opportunity to their students. This may be why law schools have not yet undertaken it. An alternative model is a low credit-hour-unit experiential opportunity offered to students with current or previous experience in an immigration clinic, as several schools suggested they plan to implement.¹⁹¹ Offering the opportunity with this model does not require the full course offering of the service-learning model and addresses some of the challenges extant in a model that foregoes credit, structure, and in-depth student training and experience.¹⁹²

B. *Student Selection*

Both the academic literature and reported experiences of students and educators indicate that if lawyering over the Line is attempted without tying the on-the-ground experience to an in-depth and structured pedagogical experience, student selection must be undertaken with some care. The best outcomes were reported with highly experienced students who are already trained and undertook the experience as an extension of their existing professional skills development.¹⁹³

This was not only true for students engaged in border work in Mexico, but has proven to be true in a variety of intense “crisis lawyering” experiences, including work in family detention centers,¹⁹⁴ as well as among students

188. *Id.*

189. Morin & Waysdorf, *supra* note 103, at 592.

190. See Harris, *supra* note 47, at 191 (citing Morin & Waysdorf, *supra* note 103, at 574).

191. Survey Responses, *supra* note 48.

192. McNeal, *supra* note 176, at 395.

193. See Survey Response from Annie Lai (on file with author).

performing legal services to victims of Hurricane Katrina.¹⁹⁵ “Experience, we were repeatedly told, is the best teacher.”¹⁹⁶ Performing challenging legal tasks in intense, short-term settings simply requires a higher level of skill to do so successfully.¹⁹⁷ Under the service-learning model, this work builds on prior clinical work, and acts as a kind of “a law school finale or capstone program, that brings the student to the cusp of being a lawyer-in-training, rather than just a law student.”¹⁹⁸

This is not to say that first-year students, for example, ought never to undertake this work. Such students have been incorporated successfully in the family detention context, and both Gilbert and Harris note that there may be some advantages to early exposure for students to this kind of work.¹⁹⁹ However, if students are not highly experienced and previously trained, the preparation component becomes all the more essential.²⁰⁰ Student preparation will optimally be extensive rather than cursory, as discussed below.

C. *Student Preparation*

In order to sufficiently prepare students for their experiences lawyering over the Line, it is vital to 1) engage with relevant entities to develop an understanding of the realities on the ground; 2) provide students with the necessary legal training; 3) contextualize the events at the border in terms of their historical, social, and economic causes, and 4) give students the tools they need to engage in effective one-on-one work, particularly with clients who have experienced trauma and those with little chance of relief.

Students reported a strong desire to have known more about the practical realities on the ground before going into the work.²⁰¹ For most groups, this was not possible since the trips were a first or second foray into the work for the instructors themselves. In one case, the instructor did provide extensive practical and logistical background information, which appeared to go a long way toward preparing students for their experiences and allowing them to focus on the provision of legal services.²⁰²

Establishing an on-going relationship with a partner on the ground allows law schools to “ground students in the contextual setting for their service work, without concentrating on the technicalities of specific legal issues.”²⁰³ This suggests that one feature of the best pedagogical practice here is that the

194. Harris, *supra* note 47, at 195.

195. See Morin & Waysdorf, *supra* note 103, at 602.

196. *Id.*

197. McNeal, *supra* note 176, at 385–86.

198. Morin & Waysdorf, *supra* note 103, at 604.

199. See Gilbert, *supra* note 82, at 164; see also Harris, *supra* note 47, at 172, 181, 184, 192.

200. *Id.* at 138 (citing STU Karnes Pro Bono Project: Orientation for Trip to Karnes City, Texas (July 26, 2018)).

201. Survey Responses, *supra* note 48.

202. See Survey Response from Instructor Number 10, Amy Martin (on file with author).

203. Morin & Waysdorf, *supra* note 103, at 609.

relationship is on-going and allows law schools to develop their own institutional knowledge of on-the-ground realities so that their work can be responsive to the needs of partner organizations.²⁰⁴

Over time, this also allows students the opportunity to hear from students who have previously undertaken the work and to provide direct feedback on their experience—something law students and professors surveyed explicitly desired.²⁰⁵ In the meantime, another alternative is reaching out to other institutions to connect with them about their experiences.²⁰⁶ If possible, it would also be powerful to identify immigrants within the law school's local client community who have worked with *Al Otro Lado*, or a similar program, to understand how the system operates from the client's perspective.²⁰⁷ While creating significantly more logistical challenges, this option is perhaps even more pedagogically valuable, as it offers a perspective rarely experienced by most law students and their instructors.

Beyond on-the-ground logistics, it is, of course, imperative that students receive sufficient legal training in asylum law, withholding of removal, and protection under the Convention Against Torture. This must include updated information regarding relevant case law and any newly created or altered border policies. As detailed in Section II(A) *supra*, the legal ground is constantly shifting beneath our feet, and students must have a grasp of the current state of the law.

To take advantage of the opportunity to inculcate a perspective of migration as a globalized issue, as discussed above, this legal training should also provide some context of international refugee law and an understanding of where the United States sits on the spectrum of legal regimes. Mexico's refugee and asylum policies will be most relevant to the provision of this training. At a minimum, such training should provide a brief introduction to the international law that undergirds it, including the Cartagena Declaration,²⁰⁸ as well as a broad overview of the current implementation of that law,²⁰⁹ including an introduction to the Mexican Commission for Refugee Assistance (COMAR) and a look at some of the challenges that system has faced over the last several years.²¹⁰ While students will not be providing legal advice on options in Mexico, many students and instructors expressed that they felt very limited by a lack of generalized information about asylum in Mexico.

204. Lai, *supra* note 86.

205. Survey Response from Student Number 5, *supra* note 95; Student surveys, *supra* note 48.

206. An appendix to this article contains a list of all the institutions known to the author that have undertaken the work, the names of the instructors, and the dates of travel.

207. Baluarte, *supra* note 83.

208. See generally Cartagena Declaration on Refugees, *supra* note 97.

209. UNITED NATIONS HIGH COMM'R FOR REFUGEES, MEXICO FACT SHEET (2019), <http://reporting.unhcr.org/sites/default/files/UNHCR%20Factsheet%20Mexico%20-%20April%202019.pdf>.

210. Lizbeth Diaz & Delphine Schrank, *Mexico's Refugee Agency Turns to U.N. Amid Asylum Surge, Funding Cuts*, REUTERS (May 21, 2019), <https://www.reuters.com/article/us-usa-immigration-mexico/mexico-tiny-refugee-agency-turns-to-un-amid-asylum-surge-funding-cuts-idUSKCN1SS06N>; see also Dan Kosten, *Mexico's Asylum System is Inadequate*, NAT'L IMMIGRATION FORUM (Oct. 28, 2019), <https://immigrationforum.org/article/mexicos-asylum-system-is-inadequate/>.

Doing some advanced learning on the subject undoubtedly allows students to look at the issue in a more nuanced light.

An excellent program, however, will go beyond the legal realities of the moment and invest some time in contextualizing what is actually happening at the border in terms of historical, social, and economic causes. This is necessary to combat assumptions of U.S. exceptionalism inherent in the safe/unsafe country, savior/victim dichotomies that the practice of asylum law is susceptible to advancing.²¹¹ While this form of pedagogy is rare in border work at present, this will likely be featured in future, more formalized versions of the work in Mexico as it develops. Law students expressed a desire for this deeper understanding,²¹² and instructors expressed a hope of incorporating it into a more formalized course in the future.²¹³

In addition to training on the logistical, legal, and political realities in Mexico, it is also important to prepare students for the one-on-one work they will do with clients. To start, experience and training in interviewing clients who have experienced trauma are essential. Students explicitly expressed that they would have preferred to be better trained on this work.²¹⁴ Additionally, without training, certain legal duties of competence could be compromised.²¹⁵

Insufficient training can also make the experience a net negative in terms of its pedagogical value and decrease the likelihood that students will want to serve traumatized clients in the future.²¹⁶ The urgency of the process is so immediate that the interviews require an enormous level of skill. This may mean that, at times, a more directive approach is appropriate to this kind of lawyering because the luxury of time is removed. The need for adequate supervision may require a law student to observe an interview, or observe a supervisor coming in for part of an interview. Modeling trauma-informed lawyering can be very effective.²¹⁷ Several articles have been written on the subject developing these themes in greater detail,²¹⁸ but suffice to say that training on trauma should meet three goals: “(1) to teach law students to identify clients who have been victims of trauma; (2) to provide students with techniques for effectively representing these clients, and (3) to teach students the concept of vicarious trauma and techniques for self-care.”²¹⁹

211. See Bettinger-Lopez, *supra* note 104, at 358.

212. Schlegel, *supra* note 67.

213. Survey Response of Caitlin Barry, Assoc. Professor, Villanova University Charles Widger School of Law (on file with the author).

214. Schlegel, *supra* note 67.

215. Cartwright et al., *supra* note 163; see also Parker, *supra* note 145, at 177–178.

216. Parker, *supra* note 145, at 179–80. (“Law students’ reluctance to represent traumatized clients can create an even greater shortage of legal advocates in certain fields, and impact access to justice for persons who have experienced a traumatic event.”).

217. See *id.* at 187.

218. See, e.g., Harris, *supra* note 47, at 205.

219. Parker, *supra* note 145, at 181.

One approach to addressing trauma that is suggested by many is the incorporation of graduate students in the mental health fields into the work.²²⁰ Another approach utilizes group sessions with experienced psychotherapists.²²¹ Other trips in similar settings have brought along mental health professionals. At the family detention center in Karnes, “[t]he director of our University’s Graduate Family Counseling Program, Professor Judith Bachay, also accompanied [the group], as did three trauma specialists from the Trauma Resolution Center.”²²²

To lawyer over the Line, students must not only be trained on traditional client interviewing in these crisis contexts; they must also be provided with very specific training that addresses the practice of counseling clients who have little or no chance of relief. Many students surveyed expressed that they felt unprepared for these conversations and were caught off guard by the experience. Others stated that they simply preferred to hand the conversation off to an attorney because the conversation was so uncomfortable for them. For many, this was the most difficult legal and emotional challenge of the trip.²²³ As discussed above, it is also one of the places with the greatest opportunity for learning. Training on this subject should include some reflection on the role of an attorney in these situations, as well as simulation and role-playing,²²⁴ to allow students to actually walk through the experience prior to being confronted by it on the ground.

D. *Structured Reflection*

Reflection is vital to having a successful pedagogical experience over the Line. In designing effective reflection, the shared knowledge and experience of other forms of service-learning projects, along with the insights from surveyed students and instructors who have lawyered over the Line, make clear that it is helpful to consider the timing, means, and place of reflection.

An excellent program will begin the reflective process prior to leaving for Mexico. By reflecting on intentions and expectations for the trip, students will have the opportunity to be conscious of the transformation they will experience at the border. This also gives students the space to begin concretely thinking about the risks of secondary trauma and the work of resilience before they are experiencing a crisis moment. Some potential questions for reflection prior to departure:

- What, on paper, are the goals of the asylum system?
What is the historical context of those goals?
Are they enough?

220. *Id.* at 190.

221. Parker, *supra* note 145, at 191.

222. Gilbert, *supra* note 82, at 139.

223. Survey responses, *supra* note 48.

224. Martin, *supra* note 202.

What would you expect to see reflected in the reality on the ground?

- What are your professional and personal goals for yourself on this trip? What do you hope to be able to do?
- List some ways that you will be able to recharge and recover while we are on the ground, and make a concrete plan for doing them.
- Is there anything about the trip that makes you apprehensive? If so, what is it, and what would help you feel supported around this?
- What are you curious about regarding your future experiences or observations in Mexico?

Reflection opportunities during the trip are absolutely crucial. Most students and instructors explicitly expressed a desire for more structured reflection within their own groups. Not only is debriefing vital to processing secondary trauma,²²⁵ it is imperative that instructors “seize the disorienting moment”²²⁶ in the liminal space of the Line, and channel the experiences of the student into transformative pedagogical moments by asking them to reflect not just on what they have seen, but how they have been changed by what they have learned.²²⁷ Herein lies the transformative potential of service-learning.²²⁸ “The lawyer’s ability to actively reflect on the dynamics of the profession in the world order, and vis-à-vis social justice goals must be part of a process that frees the lawyer from relationships driven by power and privilege.”²²⁹

Several schools reported using mornings as a time to collect thoughts and become present to the day’s work and intentions. This method has been used previously in the family detention context, where structured questions were employed successfully.²³⁰ Morning reflection can help set the tone for the day and engage students when they are rested and (hopefully) recharged. Evening reflections were also generally a positive experience because they allowed students to download from the day and share their experiences and process their immediate effect. It might be most successful to employ morning reflections for topics requiring higher-level critical thinking and reserve evening reflections for open sharing of simple “highs and lows” style reflection, without requiring students to engage critically from a place of emotional and physical exhaustion.

Some suggested questions for reflection while on the ground:

- What is surprising to you about what you are witnessing here?
- What is it like to be in this physical, geographic space?

225. Parker, *supra* note 145, at 187.

226. See Morin & Waysdorf, *supra* note 103, at 587–88 (citing Quigley, *supra* note 88, at 38).

227. See *id.* at 602–03.

228. *Id.* at 591.

229. Bettinger-Lopez, *supra* note 104, at 386.

230. Morin & Waysdorf, *supra* note 103, at 615.

- Having learned about the political and historical context of northern migration, how can you see that reflected in the stories you are hearing?
- What are the goals of this system? Are the stated goals reflected in the system's design?
- What did your clients teach you today about what brought us all to this moment, and why they, and we, are here?
- (Morning) What is your goal for yourself today as a legal professional? As a human being? Are those in conflict or mutually supportive?
 - (Evening) What were your goals for yourself today, and how do you feel about those goal now?
- What unanticipated realities are you adjusting to, and what does that process of adjustment look like?
- What kind of attorney/client relationship is this, if any?
- Do you see the clients differently here than you do at home? Why or why not? Is that perspective useful?
- How, if at all, is your relationship to your clients different than what you experience in your work at home?
- What suffering have you witnessed today? What suffering are you experiencing right now?
 - What does that tell you about your clients?
 - About yourself?
 - About the legal and political context you are working in?
- Did you meet any clients who you believe will not enter the U.S.? Why? What might they do?
- Is this a viable model for the provision of legal services?²³¹
- How does the border look different from here than it does from home?

And finally, reflection upon return is strongly encouraged. While it is very tempting to fall immediately back into the intense pace of academic life, students often find the process of return to be especially challenging. Students reported a tendency to either become lost in feeling overwhelmed or overcome, or to otherwise want to push the experience out of their minds entirely. Reflection on return is vital to helping students assimilate, process their experiences, and re-orient themselves to a new, integrated perspective and way of being.

Some suggested questions for reflection on return:

- Looking back on your goals for yourself prior to going on the trip, how have those goals changed?

231. See McNeal, *supra* note 176, at 398–400.

- What, if anything, was surprising to you about the work you found yourself doing?
- How do you continue to experience what you learned on the trip?
- What did you learn about yourself as a lawyer? As a human being? Are those two in tension or complimentary?
- Does the legal system you saw reflect the stated goals of the system?
 - What would a system that reflects those stated goals look like?
 - Would that system be a just system? What would a just system look like?
 - Do the historical, social, and economic realities that contribute to northern migration have a place in shaping the concept of “justice” in this context?
- What emotions do you continue to experience since your return? What is at the root of those feelings?
 - How are they helpful?
 - How might they be unhelpful?
 - What do you hope for yourself, and for your colleagues, with regard to these emotions?
- What is the goal of legal services provided in this context? Is it necessary? Is it sufficient?

Throughout the process of reflection, it is important to think about the means of reflection. Oral processing in a reflection circle²³² is highly effective for some, and at least some element of sharing will be valuable. However, it is important to remember that some students are more comfortable with spontaneous response than others. For this reason, incorporating journaling or other written means of reflection can be valuable. It is also important to consider providing opportunities for reflection in smaller groups. Al Otro Lado frequently conducts an end of the day large-group reflection session. While many students reported this experience as highly useful, and especially useful in cultivating the sense of solidarity that contributed to their resilience, others felt limited in their ability to participate because of their dislike for speaking about emotionally intimate subjects in a large group setting.²³³

As is traditional in service-learning pedagogy,²³⁴ instructors are encouraged to consider various media and forums for reflection. Service-learning pedagogy encourages journaling, video recording, and blogging about the experience.²³⁵ Previous work in family detention centers has included

232. See Laurie A. Morin & Susan L. Waysdorf, *Teaching the Reflective Approach Within the Service-Learning Model*, 62 J. LEGAL EDUC. 600, 604–05 (2013).

233. Compare Law Student Survey Response Number 23 (on file with author) (“... I felt that having time to talk about it with the other law students on our way back was very helpful to sharing our reflections and experiences.”).

234. See Morin & Waysdorf, *supra* note 103, at 600.

235. See *id.* at 599–600, 610.

traditional reflection as well as blogging.²³⁶ One student surveyed shared that she had committed herself to writing a short Instagram post each day, reflecting on what she had seen, felt, and experienced.²³⁷ This had the compound effect of helping her process what she had seen, broadcasting the signal to a larger audience, and serving as a tool for processing secondary trauma since she felt that it minimized the flurry of “how was your trip,” questions upon her return. Most of her close friends and family already had some window into what she had been experiencing, so she didn’t experience the alienation of having to start a momentous explanation from scratch.

As discussed extensively above, place is a powerful tool in this context. Many decisions about where to conduct reflection exercises will be made out of necessity or on-the-fly. However, instructors are encouraged to incorporate reflection opportunities that bring students directly into contact with the border whenever possible. A joint Loyola/Southwestern trip in 2018 included a reflection exercise held at Friendship Park,²³⁸ a bi-national meeting spot for separated families and friends that sits right where the border fence runs into the Pacific Ocean. This site, about a 20-minute Uber ride from Al Otro Lado’s current offices, provides a powerful physical experience of the border, and the reflection exercise conducted there was especially meaningful to students who participated in it.²³⁹

Above all, understanding that this work is exhausting and the hours are long, effective reflection plans will allow the opportunity for reflection in flexible and informal contexts. As observed by one student, “I would say that the best of our reflection and debriefing activities included: 1) eating tacos; 2) going to the beach, and 3) cooking together.”²⁴⁰

E. *Best Practices on Return*

In addition to reflection practices, there are a few important practices to incorporate into return from the Line, in order to affirm the pedagogical values articulated above.

First and foremost, instructors should affirm the need for rest. Many students reported balancing the immediate demands of law school and academic life, work, and families with their need to process what they had experienced. Reflection is a powerful piece of this, but so too, is the opportunity to rest and have a space of quiet. This can be in tension with the practiced patterns of law school. As one Villanova student said,

I don’t think law school has any margin or space for reflection, and saying no to things is not rewarded or applauded or affirmed. I think I’m

236. Gilbert, *supra* note 82, at 139.

237. Law Student Survey Response Number 14 (on file with author).

238. To locate the park on the ground, go to: <https://goo.gl/maps/f8PTym953ZXxd4P3G6>.

239. Law Student Survey Response Number 4 (on file with author).

240. Law Student Survey Response Number 16 (on file with author).

really lucky to have a mentor and a professor like Caitlyn [Barry] who does affirm and applaud those spaces and times to rest, . . . but law school is a space of people who generally don't affirm both things or encourage or create space for that.”²⁴¹

Many of the students who are drawn to this work, like many law students generally, are high-achievers who may need to be reminded of and taught the actual value of rest along with its import in their transition back over the Line.

Two other practices that have traditionally been fruitful in service-learning work are also worth mentioning here: creating spaces for students to reflect and report back to their communities, as well as creating opportunities for students to continue to engage in work with migrants in Mexico²⁴² even after their return. Several groups, including one group of law students working on their own, reported holding events in their communities to share what they had learned. Doing so provides students with the opportunity to synthesize for themselves the value of what they experienced and also extends the reach of their work by sharing the experience with others who may be motivated to become involved.

Remaining engaged with the served community is also tremendously successful, as it has been in the context of service-learning in family detention centers.²⁴³ Several students reported feelings of deep satisfaction by remaining involved. Al Otro Lado has on-going and evolving needs for remote volunteers to engage in a wide spectrum of volunteer activities—from translations to brief writing and other forms of work.²⁴⁴ Volunteer opportunities that seek to engage in the transformative aspect of lawyering over the Line may also wish to consider activities and projects that address some of the underlying, systemic inequities and social structures that contribute to the reality that so many clients personally encounter in this moment of crisis at the border.²⁴⁵

V. CONCLUSION

The legal and physical climate on the southern side of our border with Mexico is in a constant state of flux and turmoil, but there is a clear trend: the demand for legal services constantly outstrips supply, and U.S. policy choices continue to create ever-escalating crises and human suffering. Our government and our institutions are failing in their duty to honor our commitments under international and domestic law to protect the most vulnerable

241. Law Student Survey Response Number 14, *supra* note 76.

242. See Morin & Waysdorf, *supra* note 103, at 602.

243. See *id.* at 600.

244. To get involved, AOL asks individuals to fill out their application here: <https://alotrolado.org/take-action/volunteer/>.

245. Bettinger-Lopez, *supra* note 104, at 382–383.

among us. This is the front line of the war for the moral identity of our country's government and for our claim to be a "shining city on the hill" whose resilience and prosperity derives directly from the strength of the tired, poor, and tempest-tossed origins we share.

By marching directly into the simmering chaos of this battle, law schools, their professors, and students take up a charge that they are uniquely positioned to fill. The experience, while challenging, has the potential to be deeply impactful for both students, legal educators, and, most importantly, the people we hope to serve. The liminal space of the border offers itself as a shared space of radically transformative learning about the systemic inequalities of our nation's immigration laws and the global forces that compel excruciating acts of migration; about the role and identity of lawyers as counselors who elucidate and empower; about larger lessons regarding how to hold that role in tension with the demands of the shared humanity of lawyers and clients alike, and yes, also as a place where students develop and refine many of the traditional client-based and general practice skills that they will carry with them into a life of public service.

These lessons, however, are not automatic—many are subtle and not necessarily inherent in the experience. It is imperative, then, that legal educators tasked with guiding this work are careful and think critically when building the pedagogy of the program, with a heavy emphasis on student selection, appropriate training, and facilitated reflection before, during, and after. It is important to tread carefully when crossing the Line.

This article was written with the hope and intention that more law schools will heed the call to head south, to meet asylum seekers and northern-bound migrants exactly where they are, and to open up opportunities for an experience of disorienting solidarity. Those who embark on this journey will not return unchanged.

APPENDIX A: LAW SCHOOL LIST

The following is a list of law schools that have made trips into Mexico to provide legal services.

A “Clinic trip” was organized officially through a specific clinic and trip members were primarily comprised of clinic students and professors.

A “School trip” was organized officially through the law school but not restricted exclusively to students enrolled in the clinic or professors.

A “Professor trip” involved a professor traveling independently.

A “Student trip” involved students independently organizing their trip, with or without some institutional support.

School	Dates	Location/partner org.	Kind of trip
American University Law School – International Human Rights Clinic	December 2018	Matamoros, Mexico	Clinic trip
Boston University Law School ²⁴⁶	March 2020	Tijuana, Al Otro Lado	School trip
Columbia Law School – Immigrants’ Rights Clinic	January 2019 January 2020 March 2019	Tijuana, Al Otro Lado, Juarez, Estamos Unidos Asylum Project of CLINIC Tijuana, Al Otro Lado	Clinic trip Clinic trip Student trip
Cornell Law School – Asylum and Convention Against Torture Appellate Clinic	January 2019 March 2019 March 2020	Tijuana, Al Otro Lado Tijuana, Al Otro Lado Tijuana, Al Otro Lado	School trip

246. Julie Dahlstrom, Karen Pita Loor & Sarah Sherman-Stokes, *There’s A Legal Crisis On Our Southern Border — And It Was Caused By Our Government*, WBUR (Feb. 7, 2019), <https://www.wbur.org/cognoscenti/2019/02/07/trump-immigration-policy-julie-dahlstrom-karen-pita-loor-sarah-sherman-stokes>.

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School	Dates	Location/partner org.	Kind of trip
Loyola Law School	October 2018 December 2018 February 2019 July 2019 February 2020	Tijuana, Al Otro Lado Tijuana, Al Otro Lado Tijuana, Al Otro Lado Guadalajara and Tapachulas, Mexico Tijuana, Al Otro Lado	School trip
New York Law School – Asylum Clinic ²⁴⁷	March 2019 July 2019 March 2020	Tijuana, Al Otro Lado Guadalajara Tijuana, Al Otro Lado	Clinic trip Professor trip Clinic trip
Northeastern University Law School	2019	Tijuana, Al Otro Lado	School trip ²⁴⁸
Northwestern University Law School ²⁴⁹	January 2019 January 2020	Tijuana, Al Otro Lado Tijuana, Al Otro Lado	School trip School trip
Santa Clara University School of Law – Immigration Appellate Practice Clinic	December 2018	Tijuana, Al Otro Lado	Professor trip

247. See *A First-Hand Account from the Border*, IMMIGR. COURTSIDE (Mar. 23, 2019), <https://immigrationcourtside.com/2019/03/24/amin-e-fernandez-ny-law-school-a-first-hand-account-from-the-border-as-i-would-inform-families-of-the-future-that-awaited-them-i-felt-embarrassed-of-my-country-i-felt-anger-at-the-fact-that/>; see also *Washington Forum*, VOICE OF AM. (July 12, 2019), <https://www.voaafrigue.com/a/4997384.html>.

248. Northeastern uses a “co-op” system of legal education during the 2L and 3L years in which students alternate between spending a three-month term in classes and a three-month term at a full-time placement. The “school trips” noted here are more accurately described as three-month full-time placement of individual Northeastern law students at Al Oro Lado’s office in Tijuana.

249. *CFJC Immigration Attorneys and Students Help Asylum-Seekers at the Border*, NW. PRITZKER SCH. OF L. NEWS (Feb. 20, 2019), <http://www.law.northwestern.edu/about/news/newsdisplay.cfm?ID=940>.

CONTINUED

School	Dates	Location/partner org.	Kind of trip
Southwestern Law School	October 2018 February 2019	Tijuana, Al Otro Lado Tijuana, Al Otro Lado	School trip Professor trip
Stanford Law School ²⁵⁰	May 2019	Tijuana, Al Otro Lado	Student trip
University of California Irvine School of Law – Immigrant Rights Clinic ²⁵¹	April 2017 February 2018 October 2018 November 2018 September 2019 October 2019 November 2019	Tijuana, Al Otro Lado	School trip
University of California at Los Angeles Law School	December 2018 January 2019 November 2019 January 2019	Tijuana, Al Otro Lado Tijuana, Al Otro Lado Tijuana, Al Otro Lado Tijuana, Al Otro Lado	Professor trip Clinic trip School trip Clinic trip

250. Julia Neusner, *Stanford Law Students Helping Asylum Seekers at the US-Mexico Border*, STAN. LAW. (July 11, 2019), <https://law.stanford.edu/stanford-lawyer/articles/stanford-law-students-helping-asylum-seekers-at-the-us-mexico-border/>.

251. Marnette Federis, *Law Students Head to Southern US Border to Help Asylum-Seekers*, WORLD (Jan. 22, 2019), <https://www.pri.org/stories/2019-01-21/law-students-head-us-southern-border-help-asylum-seekers>.

CONTINUED

School	Dates	Location/partner org.	Kind of trip
University of the District of Columbia Law School – Immigration and Human Rights Clinic	March 2020	Tijuana, Al Otro Lado	Clinic trip
University of Maryland Carey School of Law	March 2020	Tijuana, Al Otro Lado	Student trip
University of Pennsylvania Law School ²⁵²	October 2018 May 2019 January 2019	Mexico City Honduras, several locations Tijuana, Al Otro Lado	School trip Clinic trip
Washington and Lee School of Law ²⁵³	December 2018	Tijuana, Al Otro Lado	School trip
Western State College of Law	December 2019	Tijuana, Al Otro Lado	Clinic trip
Vanderbilt Law School – Immigration Practice Clinic ²⁵⁴	December 2018	Tijuana, Al Otro Lado Juarez, Mexico	Clinic trip
Villanova University Charles Widger School of Law	January 2019 May 2019	Tijuana, Al Otro Lado	Professor trip/ Student trip

252. Fernando Chang-Muy & Adam Garnick, *Why Trump's Cruelty Doesn't Deter Migrants*, N.Y. Times (July 29, 2019), <https://www.nytimes.com/2019/07/29/opinion/asylum-trump-guatemala-honduras.html>.

253. Peter Jetton, *Al Otro Lado: W&L Law Students Provide Legal Assistance at the Border*, THE COLUMNS (Dec. 21, 2018), <https://columns.wlu.edu/al-otro-lado/>.

254. *Beyond Walls and Policies, Crisis at the Border*, VAND. U. CTR. FOR TEACHING, <https://cft.vanderbilt.edu/beyond-walls-and-policies-crisis-at-the-u-s-border/> (last visited Sep. 28, 2020).

APPENDIX B: LOGISTICAL BEST PRACTICES

Once educators understand why to cross the Line, and what to do while there and on return, a final question remains: How? The logistics of organizing a trip with law students into another country are important to the success of both the client outcomes and the students' development. This appendix lays out some of the common logistical considerations before, during, and after such a trip with the goal of ensuring as smooth a process as practicable. Note, however, that all participants in all trips studied for the purposes of this article emphasized that a key ingredient of the trip's success was expecting the unexpected, and approaching the trip with a sense of flexibility and preparedness. Because the bulk of the survey and interview participants, as well as the Loyola Immigrant Justice Clinic, traveled to Tijuana, the majority of location-specific advice focuses on that city.

A. Before the Trip

Even prior to departure, there are several actions to take in preparation for the trip. As an initial step, one can consult institutions or persons that have taken a similar trip. Many law professors interviewed for this article described that conversations they had with other professors and practitioners who had previously undertaken similar trips were enormously helpful in knowing what to expect and how to prepare. Those conversations are often generative of questions and responses that the planning practitioner may not have otherwise considered. In hopes of facilitating the sharing of our experiences, a list of institutions that have undertaken trips into Mexico, the dates of those trips, and their location and nature, is available, *supra*, in Appendix A.

It is also critical to have a conversation with host or partner organizations prior to leaving the U.S. While the vast majority of trips over the southern border have taken place in collaboration with Al Otro Lado in Tijuana, several law schools reported trips to Juarez, Guadalajara, and in various locations throughout Honduras. Because of their extensive experience facilitating volunteer experiences of all stripes, Al Otro Lado has well-developed (though constantly evolving) practices and procedures, and thus can provide incoming volunteers with information about logistical best practices and safety protocols.

For other trips, much of the legal work took place in migrant shelters in cities throughout Mexico, where the policies and protocol may be less well established. Prior to undertaking this work, then, it is essential to communicate with facilitators at the shelters where students will serve regarding the shelters' own safety protocols. This ensures that both clients and students are able to operate within an environment where their physical safety will not be at immediate risk.²⁵⁵

255. Montes, *supra* note 113.

Safety protocols, however, are not the sole province of host-country facilitators. For example, Columbia Law School engaged students in the development of safety and emergency protocols prior to departure. These protocols involved contingency plans in case of certain events, contact protocols for checking-in regularly, and consensus about moving in pairs and returning to lodging by a certain hour.²⁵⁶ Having students participate in safety protocol development may elicit more student buy-in to the wisdom of the guidelines, and help students develop awareness of the environment in which they will operate.

It is also important to think about whether to will bring volunteer interpreters on the trip. As noted, *supra*, in Section IV(B)(II), the choice about creating language requirements for students attending the trip is an important one. Students who reported having the best experiences were those who were able to engage in one-on-one client conversations, which is simply not possible in the vast majority of cases without the assistance of an interpreter for mono-lingual English-speaking students on these trips.²⁵⁷ Nor is it desirable or feasible to have other law students acting as an interpreter. One solution to this is to recruit volunteer interpreters to accompany the team. Undergraduate students, particularly those interested in immigration or human rights, have been an ideal fit for this work on trips undertaken by the Loyola Immigrant Justice Clinic. UC Irvine has also had success with paying volunteers and/or staff at Al Otro Lado to act as interpreters for non-Spanish-speaking students who want to participate.²⁵⁸ By doing this, organizers are able to save the money that would have been spent on an interpreter's costs of travel and invest that money back into Al Otro Lado to support their work.

When recruiting Spanish speakers who have no professional interpretation background, those volunteers should be provided with basic training on a few of the best practices of interpretation,²⁵⁹ among them: 1) fidelity to the speaker's words without personal interjection, 2) assuming the speaker's "voice" by using the first-person rather than the third-person, 3) avoidance of side conversations, and 4) breaking the conversation up into short statements that are interpreted fully and completely, rather than summarizing the content of a long statement. The Legal Interviewing and Language Access Film Project created by Professors Laila L. Hlass of Tulane University Law School, and Lindsay M. Harris of UDC David A. Clarke School of Law, has an excellent

256. Alemida, *supra* note 101.

257. Note however, that students with non-Spanish language skills may be able to use them. Survey respondents reported a need for Arabic, French, Kreyól, Mandarin, Portuguese, Russian, and various African languages. Indigenous Latin American languages are also often in demand. Language needs depend entirely on on-the-ground fluctuations in migration patterns.

258. Lai, *supra* note 86.

259. For a discussion of the broader implications of how an interpreter impacts the attorney/client relationship, *see generally*, Muneer I. Ahmad, *Interpreting Communities: Lawyering Across Language Difference*, 54 UCLA L. REV. 999 (2007).

video series entitled “Josefina: Using an Interpreter” that may be useful for this training.²⁶⁰

B. *During the Trip*

One of the first logistical hurdles in Mexico is crossing the border itself. All individuals in possession of U.S. passports may enter Mexico without a visa, so long as their intended stay is less than 180 days.²⁶¹ They must possess a valid, unexpired passport. When coordinating the trip, it is important to remember that students or instructors with passports from different countries may be subject to different visa requirements.

Nearly all survey participants who mentioned border crossing in their responses reported crossing the border on foot, rather than by car or by flying into an international airport.²⁶² Generally speaking, crossing the border on foot can be done in less than 15 minutes when headed south, and less than 30 minutes when headed north, though wait times can vary during times of high volume. Crossing the border on foot after flying into San Diego or El Paso is often more cost-effective than an international flight, and has the added effect of creating a physical experience of the border for students—different from the routine trip through customs in an international airport.²⁶³

Some schools surveyed found the process of crossing the border so convenient that they chose to have groups spend their nights in a hotel on the U.S.-side of the border and cross over for work each day. This may be a good option for allaying any security concerns that may arise with a school’s administration, as occurred with at least one school.²⁶⁴ In that case, staying on the U.S. side of the border did not prove overly burdensome or time consuming, and was necessary to obtain the administration’s approval of the travel. However, most schools interviewed or surveyed reported deciding to stay in Tijuana as a way of exposing students to the environment and culture there. This is likely the most convenient choice logistically, and almost no instructors or students reported security concerns with accommodations in Tijuana.²⁶⁵ However, at least one instructor felt that given the demands of the day’s activities, opportunities for cultural or environmental exposure were limited even while staying in Tijuana,²⁶⁶ so the choice may not prove to be

260. Laila Hlass & Lindsay Harris, *The Legal Interviewing and Language Access Film Project*, TUL. U. L. SCH., <https://law.tulane.edu/content/legal-interviewing-and-language-access-film-project> (last accessed Feb. 13, 2020).

261. *International Travel, Country Information, Mexico*, UNITED STATES DEPARTMENT OF STATE, <https://travel.state.gov/content/travel/en/international-travel/International-Travel-Country-Information-Pages/Mexico.html> (last accessed Sept. 28, 2020).

262. See Survey responses, *supra* note 48.

263. See *supra* Part III.A.

264. *Instructor and Professor Responses*, *supra* note 48.

265. See Survey responses, *supra* note 48. (“Just some concern about students crossing the border alone at night. We were able to address these concerns by having the student spend the night on the US side and cross the next morning”).

266. Instructor Survey Response Number 3 (on file with author).

critical. One important note: driving a car over the border is not advised. While driving south is easy, the return, northern-bound trip by car is often plagued by an hours-long wait and should be avoided at all costs.

In Tijuana, schools have chosen to stay in various accommodations from hotels, to hostels, to Airbnbs and shared apartments with long-term AOL volunteers.²⁶⁷ Many chose to stay in Zona Rio, which is one of the more upscale, touristy areas in Tijuana. At least one other school chose to stay in the “Playas” area, and another chose to stay very close to the Al Otro Lado offices.²⁶⁸ Survey respondents also discussed the pros and cons of hotels versus Airbnb, and no respondents reported regretting the choice they had made in either case. Airbnb accommodations often offered better access to communal space for reflection exercises, while hotels offered reliability, predictability, and ease of accommodation for larger groups. All respondents emphasized the importance of choosing comfortable and clean accommodations. Due to the intensity of the work, the demands of the physical environment, and the long hours, survey respondents felt it was worthwhile to budget for accommodations where there would be no question of comfort, safety, and convenience. One can generally obtain such accommodations in Tijuana for between \$75-\$125 per room per night.

One cost-saving measure is to have students share rooms, rather than rooming individually. Some students reported that because of the intense nature of the external output during long days of work, they would have benefited from the opportunity for rejuvenating solitude at night. Others reported the opposite, and expressed that sharing their rooms with one or more other persons gave them extended time at the end of the day to process the feelings and emotions that arose. For those students, solitude would have felt isolating. Schools planning a trip would do well to consider the specific personalities and preferences of students, and approach the question of balancing cost and comfort carefully.

The issue of covering expenses also requires trip organizers to consider the question of currency. In both Juarez and Tijuana, because of their proximity to the U.S. border, many business establishments accept cash payment in both dollars and pesos. While some businesses do require payment in pesos, others prefer payment in dollars. However, be aware that payment in dollars often subjects buyers to a less favorable exchange rate. For small, occasional purchases, this will likely be perfectly acceptable. It is unlikely that cash will be needed for large purchases. Lodging can almost certainly be paid for by credit card, and most large restaurants also accept a credit card, as do Oxxo and 7-11, where coffee, water, and snacks are sold. Transportation can also be covered this way if using Uber (see the paragraph on on-the-ground transportation, *infra*, in this section). If using an institutional “p-card” for the

267. See Survey responses, *supra* note 48.

268. *Id.*

purchases, however, be sure to confirm that the card is appropriate for international use before departure. In any case, however, you will likely need or want at least a small amount of currency in Mexico pesos for incidentals that emerge. Most local ATMs can process U.S.-bank cards, so there should not be any trouble withdrawing a small number of Mexican pesos for this purpose. Be sure to check with your bank to determine any foreign transaction or currency conversion fees that apply. If you plan to undertake these or other trips to Mexico frequently, or for some reason you anticipate making large cash withdrawals, you may want to consider opening a checking account with Santander bank. The U.S.-based Santander is a distinct entity from the Mexico-based entity; however, no foreign transaction or currency conversion is charged for withdrawals from U.S. Santander accounts when made at a Mexican Santander ATM. There are several Santander locations throughout both Juarez and Tijuana.

Survey responses on logistics revealed a universal consensus on the physical demands of the work. The hours can be long, and mealtimes somewhat unpredictable—if they happen at all. Participants will be well served by bringing ample healthy, filling snacks that travel easily, and can be distributed amongst the team. Host organizations often do have food on-site, but due to limited resources, that food is best left to the enjoyment of the individuals who are being served by the organization. The convenience store chains Oxxo and 7-11 are ubiquitous throughout Mexico, and are good places to stock up on both snacks and bottled water. Opportunities to refill re-usable bottles are generally few and far between, so it is important to purchase enough water to consume throughout the day. The weather around the border can also be unpredictable, and because of the dry climate, the temperature can vary drastically from morning to evening. While many will wish to pack light for convenience, it is important to pack layers of clothing to stay warm, especially if tasked with doing outreach early in the morning in the plaza near the border.

Illness is a real concern. Project participants will be in the close contact with many people whose immune systems may be weakened by months of travel under grueling conditions and are forced to live in cramped quarters with varying levels of sanitation and inadequate access to medical care. Several schools reported being in shelters experiencing outbreaks of chicken pox during their time in Tijuana.²⁶⁹ Hand sanitizer and anti-bacterial hand wipes are useful items to minimize the risk of spreading germs. Project participants are encouraged to eat well and get ample rest at night to help support their immune systems' ability to rise to the challenge. Maintaining personal health is an important part of not getting others sick. Physical health should be taken with the utmost seriousness in all circumstances, particularly if working with clients who are preparing to have their number called at the

269. Almieda, *supra* note 101.

border. It is vital to remember that they are entering into several very difficult days in the “icebox,” under appalling physical conditions; a well-meaning handshake from a volunteer who has recently caught a cold could increase discomfort and suffering in the challenging days ahead.

While many project participants expressed some level of curiosity or concern over whether or not safety would be an issue when performing this work in Mexico, almost no participants reported experiencing events that made them feel directly unsafe.²⁷⁰ While many project participants reported feeling very safe at all times, many reported feeling safe, but emphasized the necessity to be alert, be thoughtful about one’s surroundings, and take certain precautions to promote safety.²⁷¹ Almost every school that discussed safety internally had a protocol of traveling in groups or pairs, and sticking within the confines of the well-lit, well-traversed zones of the city. One important logistical point when thinking about group size is that many schools expressed greater comfort when ensuring that at least one instructor was with students at all times, including in transit. Traveling by car will affect the student-teacher ratio; however, at least one school that instituted this policy found it also limited their ability to be responsive and flexible to on-the-ground needs. That school’s instructor wasn’t sure whether the policy was truly necessary to ensure student safety or whether they would reconsider the policy for future trips.²⁷² Whether or not an instructor is present at all times, one element that several schools reported as being very important to logistical success was ensuring that at least one Spanish-speaker is in a group of people at any given time, especially when in transit. This will allow the group to navigate any unexpected hurdles that arise and will enable the process to go more smoothly.²⁷³ The protocols that an individual school will develop will likely be defined by the specific make-up of the team, and the individual capacities and comfort levels of the participants. However, it is important to think through a set of policies and protocols that are comfortable for the team prior to departure in order to help inject a sense of predictability into the process.

In contrast to their own personal safety, some participants reported experiencing concern for the on-going safety of their clients during their time in Mexico.²⁷⁴ Many northern-bound families and individuals are in active flight and some report well-founded fear that they are being pursued by their persecutors, in both domestic violence cases as well as in cartel or gang-related cases. Some may have spotted their persecutors as they were moving through Mexico, and some rarely leave the shelters where they stay for fear of being spotted by individuals actively trying to harm them. For these reasons it is

270. Survey responses, *supra* note 48.

271. *See id.*

272. *Instructor and Professor Responses*, *supra* note 48.

273. Tso, *supra* note 70.

274. Survey responses, *supra* note 48.

important that trip participants familiarize themselves with the safety protocols of their on-the-ground partner organizations, whether AOL, an individual shelter, or other on-the-ground community partner. Students and instructors should be prepared to respond to a situation in which an individual's immediate safety is at issue, and be familiar with any protocols that are in place.

It is also worth giving advanced thought to the logistics of moving around the city where services will be performed. There are several options for ground transportation, including taxis and rental cars in Mexico. However, project participants unanimously reported that the most convenient form of local, on-the-ground transportation was the use of Uber.²⁷⁵ Uber is easy to use and very active in both Juarez and Tijuana. Using the Uber app eliminates the need to deal with local currency or to explain directions to an unfamiliar location. It also has the advantage of creating an electronic record of the expense for documentation purposes. Note though, that Uber XL is not a popular option in either city, and teams larger than four will need to split up for transportation purposes. It is worth reiterating the point made above to make sure that at least one Spanish-speaker rides in each car and to consider whether or not to impose a similar rule about having an instructor with each group of students. As an aside, Uber Eats is also active in Tijuana, and can be a convenient option for food when working long hours on an irregular schedule.

Communication within each group is crucial to a successful trip. Many groups reported success with creating a group-wide WhatsApp, Signal, or Slack chat to send messages to all team members at one time.²⁷⁶ These apps can be useful for coordinating departure and meal times, as well as for reaching students or instructors who are not working in the same area. Note, however, that Al Otro Lado has a policy of asking volunteers not to use their phones when working with clients. While internet connectivity will likely make communications easy at both the organization's offices and the team's lodging, it is important to remember that internet will not be available when working in a shelter or directly at the border itself. That said, it is still important to have at least some connectivity during those times and while groups are in transit. Make sure that all group participants review their wireless providers' policies on connectivity in Mexico. Many major wireless providers offer free data, texts, and calls in Mexico, but require users to opt into the service before use. At least one school group successfully implemented a policy of always making sure at least one person with wireless connectivity was part of any group that split-off.²⁷⁷

275. *Id.*

276. *Id.*

277. Baluarte, *supra* note 83.

C. *Returning from Mexico*

Finally, crossing back into the United States from Mexico is likely to be the final hurdle a law school team will negotiate. Some law schools reported facing challenges including navigating the individual screening and review process without issue and getting all travelers cleared to return to the United States without delay.

Many law schools reported some trepidation in dealing with questions raised by Customs and Border Protection (CBP) on what they had been doing during their time in Mexico. Their concerns were based, at least in part, on the revelation that CBP has maintained a secret database of journalists, lawyers (including *Al Otro Lado* lawyers), and activists who are working with migrants at the southern border.²⁷⁸ Instructors and students reported navigating this interaction with relative ease, despite their trepidation.²⁷⁹ All emphasized the importance of providing a truthful response to CBP officers and reminding students that general responses often serve the dual benefit of answering truthfully while avoiding undue suspicion. Several instructors found it useful to have an instructor approach the passport checkpoint first, provide a general answer in response to this question, and indicate that the group was traveling together. This often facilitated easier processing for the rest of the group.

Some schools were prompted to develop best practices relating to the digital security of travelers after hearing reports about a CBP practice of using the border as a kind of “digital dragnet”²⁸⁰ where agents conduct random and warrantless searches of digital devices. Although the American Civil Liberties Union recently obtained an injunction against the CBP practice of arbitrarily searching devices,²⁸¹ several schools felt it prudent not to allow law students to bring any laptops that stored client work across the border. Others required students to move client work onto a cloud-based server, and then delete access to apps or saved browser credentials that would allow

278. See Tom Jones, Mari Payton, & Bill Feather, *Source: Leaked Documents Show the U.S. Government Tracking Journalists and Immigration Advocates Through a Secret Database*, NBC SAN DIEGO (Mar. 6, 2019), <https://www.nbcsandiego.com/news/local/source-leaked-documents-show-the-us-government-tracking-journalists-and-advocates-through-a-secret-database/3438/>; see also Wendy Fry, *U.S. Database on Immigrant-Rights Advocates, Lawyers and Journalists Sparks outrage*, L.A. TIMES (Mar. 7, 2019), <https://www.latimes.com/nation/la-me-border-officials-list-20190307-story.html>.

279. Survey responses, *supra* note 48. See, e.g., Survey response from Instructor 10 (on file with author) (“[CBP did not pose a problem to the professors and students] but we would likely discuss this and adopt some precautionary measures if we travel again this year.”).

280. See Hugh Handeyside, Nathan Freed Wessler, & Esha Bhandari, *We Got U.S. Border Officials to Testify Under Oath. Here's What We Found Out*, ACLU (Apr. 30, 2019, 1:45 PM), <https://www.aclu.org/blog/privacy-technology/privacy-borders-and-checkpoints/we-got-us-border-officials-testify-under>; see also Shera S. Avi-Yonah, & Delano R. Franklin, *Incoming Harvard Freshman Deported After Visa Revoked*, HARV. CRIMSON (Aug. 27, 2019, 10:11 AM), <https://www.thecrimson.com/article/2019/8/27/incoming-freshman-deported/#.XWTG5epzJI0.twitter>.

281. See Hugh Handeyside, Nathan Freed Wessler, & Esha Bhandari, *Federal Court Rules That Border Officers Can't Arbitrarily Search Our Electronic Devices*, ACLU (Nov. 13, 2019), <https://www.aclu.org/news/immigrants-rights/federal-court-rules-that-border-patrol-cant-arbitrarily-search-our-electronic-devices/>.

access to those documents. Other schools required students to disable fingerprint ID and use a digital password on their phones prior to crossing the border. While recent litigation may have significantly reduced the need for any of these measures, such measures are minimally inconvenient and should be considered when crossing back into the United States.

In all parts of the surveys and interviews discussing logistical issues, project participants reiterated that, above all, adaptability and flexibility were key to their travel. Those considering creating their own projects would do well to prepare thoroughly and understand that even the best preparation may be derailed by unpredictable circumstances. Those who entered the experience understanding and anticipating this reality expressed the most enjoyment and the least frustration with their experiences.²⁸² And it is perhaps most important to note that out of all instructors and students surveyed, one hundred percent of participants reported genuine satisfaction with their choice to participate in this work.

282. See, e.g., Law Student Survey Response Number 24 (on file with author).