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# An Evolving Vision for Experiential Education: The Immigrant Rights Clinic at the University of California, Irvine School of Law

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## INTRODUCTION

A decade ago, the founding faculty and dean of the University of California, Irvine School of Law (“UCI Law” or the “Law School”) articulated as one of the Law School’s most important missions the preparation of students for the practice of law at the highest levels of the profession.<sup>1</sup> Core to the fulfillment of this mission has been the establishment of a robust program for experiential education. In 2011,

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\*Clinical Professor of Law and Co-Director, Immigrant Rights Clinic, University of California, Irvine School of Law. I am grateful to Sameer Ashar, Caitlin Bellis, Pilar Hernández Escontrías, Carrie Hempel, and Michael Robinson-Dorn for their ideas and feedback on earlier versions of this essay. The discussion of the *Puente* case in Part II.A. builds on a presentation I developed together with Carlos García of Puente Arizona for a paper session titled *Movements, Mobilization and (Il)Legality* at the Law and Society Annual Meeting in Seattle, Washington, in May 2015. This essay is dedicated to students of the Immigrant Rights Clinic—past and present—who put their trust in us as teachers and who impress and inspire us daily.

1. Carrie Hempel, *Writing on a Blank Slate: Creating a Blueprint for Experiential Learning at the University of California, Irvine School of Law*, 1 U.C. IRVINE L. REV. 146, 146 (2011).

the Law School's clinical program opened its doors.<sup>2</sup> Since then, the school's clinical offerings have grown from four in-house core clinics to ten core clinics and a handful of elective clinics.<sup>3</sup>

A significant feature of the Law School's clinical program has been establishment of a requirement (and a guarantee) that all students will have the opportunity to participate in a core clinic before they graduate.<sup>4</sup> This is one way in which our clinical program at UCI Law represents a break from status quo in legal education. At many law schools, clinics are a part of the curricular offerings, but rarely are they a central part of the curriculum. After all, the clinical movement began largely as a subversive one.<sup>5</sup> Many of the first clinics were started in the 1960s and 1970s by those who believed that law schools "supported and perpetuated an unjust status quo" and sought more opportunities for students to prepare to "engage as lawyers with issues of social justice."<sup>6</sup> In those early years, students handled cases on a volunteer basis and received no academic credit for their work. Though clinics are now part of the formal academic program at law schools today, their more activist roots (among other factors) mean that clinics still occupy a sidelong position at many institutions, serving as a refuge for public interest-oriented students and students from underrepresented groups who may feel alienated by other parts of the law school experience.<sup>7</sup>

There is a risk that, with the decision to make participation in clinics a universal part of the UCI Law experience, our program could lose some of the benefits of clinical legal education's outsider tradition. For example, there could be a temptation to overemphasize the potential for clinics to teach a "neutral" set of practical skills that students can use when they enter into practice, including at large private law firms.<sup>8</sup> While clinical courses no doubt provide students with substantial opportunities for the development of a wide range of lawyering skills, too great a focus on uncritical skills transfer can have the effect of diluting clinics' public service imperatives and the opportunities they offer to interrogate the relationship between law and social justice.<sup>9</sup> Relatedly, as clinics seek to expand their appeal to a broader cross-section of students, clinical teachers may gravitate towards less politicized or

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2. See *Immigrant Rights Clinic*, U.C. IRVINE SCH. L., <https://www.law.uci.edu/academics/real-life-learning/clinics/immigrant-rights.html> [<https://perma.cc/2PGX-ZXVP>] (last visited Sept. 22, 2019).

3. See *infra* Part I. For a discussion about the distinction between a core and elective clinic, see *infra* at 5–6.

4. *Curriculum Overview*, U.C. IRVINE SCH. L., <https://www.law.uci.edu/academics/curriculum> [<https://perma.cc/XY6R-UQ9G>] (last visited Sept. 22, 2019).

5. See Stephen Wizner, *Is Social Justice Still Relevant?*, 32 B.C. J.L. & SOC. JUST. 345, 347 (2012).

6. *Id.*

7. See, e.g., Michelle J. Anderson, *Legal Education Reform, Diversity, and Access to Justice*, 61 RUTGERS L. REV. 1011, 1022 (2009); Stacy L. Brustin & David F. Chavkin, *Testing the Grades: Evaluating Grading Models in Clinical Legal Education*, 3 CLINICAL L. REV. 299, 324 n.66 (1997).

8. Sameer M. Ashar, *Deep Critique and Democratic Lawyering in Clinical Practice*, 104 CALIF. L. REV. 201, 204 (2016).

9. *Id.*

visionary work. The satisfactory resolution of the legal problems of a limited set of clients may replace projects that necessitate broader critical systems analysis<sup>10</sup> or that are designed to disrupt or make an intervention in the landscape of legal practice or education. Finally, the mainstreaming of clinics can affect the degree to which they offer a respite from the hierarchies of law school for students who are struggling.<sup>11</sup>

The tensions associated with the decision to have a clinic requirement are real. Clinics do not necessarily change the culture of a law school simply because they are made ubiquitous; indeed, their ubiquity can create pressures on clinics that law schools may need to vigilantly protect against. I believe we at UCI Law have done a laudable job protecting against these pressures and ensuring that clinics retain their social justice orientation. Indeed, the Law School as a whole has embraced a commitment to public service. Nevertheless, some questions remain. What, beyond developing an appreciation of (and aptitude for) pro bono service, should students be gaining from their participation in clinical work at UCI Law? Is it just the development of a discrete set of transferrable practical skills? Do clinics have a broader, more constitutive role to play in preparing our students for the profession they are about to enter, regardless of the sector?

In this essay, I offer some of my own reflections on the questions above informed by my experience as co-director of the Immigrant Rights Clinic (“IRC” or the “Clinic”) over the past six and a half years.<sup>12</sup> I believe that it is our responsibility as members of the faculty to articulate a vision of clinical education that offers something beyond skills transfer to every student who matriculates at UCI Law. As the Law School enters its second decade, however, it is imperative that we do so in a way that continues to fully embrace the disruptive potential of clinical education. Faculty should continue to put the urgent social, political, and moral questions about law and legal practice that troubled the founders of clinical education before a broader audience of students. In addition (and at the same time), we must continue to strive to make our clinical program as inclusive as possible, both for social justice-oriented students as well as for those students, including students from under-represented groups, who don’t fit the public interest profile.

In Part I of this Essay, I describe the history and current form of the experiential learning program at UCI Law. In Part II, I introduce the Immigrant

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10. *Id.* at 227–29.

11. By categorizing these as “risks” of mainstreaming, I don’t mean to suggest that clinics at law schools that don’t have a clinical requirement are free of these pressures. They aren’t. *See id.* at 206–12 (describing various pressures that have affected law schools’ approaches to experiential education). It may hold equally true that clinics at many law schools have not actually equalized the playing field for students but have instead (due to limited slots or other factors) created a different kind of hierarchy, privileging a select few public interest-bound students who have the time, resources, and prior professional experience to participate in the demanding work of the clinic.

12. These are not views I developed on my own. My thinking has been heavily shaped by countless discussions with my co-teachers in the Clinic, including former Co-Director Sameer Ashar, and with current and former colleagues and mentors.

Rights Clinic and three paradigmatic projects from our student docket. Using the projects described in Part II, Part III identifies four competencies, or “ethoses,” that build on clinical legal education’s outsider tradition that can have benefits for students across our student body.<sup>13</sup> They complement conventional understandings of the skills and competencies law students gain from clinical work and, I believe, can help prepare students for the unique challenges we will face as a profession and as a society in the coming years and decades. I end with a brief conclusion.

#### I. THE EXPERIENTIAL LEARNING PROGRAM AT UCI LAW

Over the past decade, the experiential learning program has been a cornerstone of the curriculum at UCI Law. The founding faculty and dean, Erwin Chemerinsky, were committed to the idea that experiential learning, and in particular clinical coursework, should be a central focus of legal education.<sup>14</sup> That commitment has been reinforced under the leadership of the current dean, L. Song Richardson.<sup>15</sup>

The program at UCI Law as currently constituted offers a window into what it looks like to prioritize the preparation of students for the practice of law. Starting from the first year, students are exposed to actual legal work.<sup>16</sup> In their Lawyering Skills course, a year-long six-credit course, students are introduced not only to legal research and writing but to fact investigation, negotiations and other core lawyering skills.<sup>17</sup> They also have the opportunity to conduct interviews of live clients (or potential clients) in partnership with local legal services organizations.<sup>18</sup> Even in other first-year courses, such as the signature Legal Profession course and doctrinal courses, law is studied in its social context and the exploration of black-letter law is frequently combined with practice-based exercises.<sup>19</sup> In their second and third years,

13. These “ethoses” are, in order, (1) the willingness to forge new paths when necessary; (2) multiple consciousness; (3) the courage to take hard cases and lose; and (4) the ability to think broadly about the role of law and lawyers in society. *See infra* Part III.

14. Hempel, *supra* note 1, at 148. For a discussion of the definition of, and theory behind, experience-based learning in legal education more generally, see Kenneth R. Kreiling, *Clinical Education and Lawyer Competency: The Process of Learning to Learn from Experience Through Properly Structured Clinical Supervision*, 40 MD. L. REV. 284 (1981).

15. *Office of the Dean*, U.C. IRVINE SCH. L., <https://www.law.uci.edu/about/deans-office> [https://perma.cc/GB24-XSM9] (last visited Sept. 22, 2019).

16. *See, e.g.*, Steven D. Schwinn & Michael A. Millemann, *Why Add Real Clients and Actual Legal Work to the First-Year Curriculum?*, in *THE NEW 1L: FIRST-YEAR LAWYERING WITH CLIENTS* 15 (Eduardo R.C. Capulong et al. eds., 2015).

17. UCI LAW, *FIRST-YEAR CURRICULUM*, <https://www.law.uci.edu/admission/publications/pdfs/UCILawFirstYearCurriculum.pdf> [https://perma.cc/DN7R-BA6A] (last visited Sept. 22, 2019). For a more detailed discussion of the Lawyering Skills program, see Rachel Croskery-Roberts’s essay in this issue, titled *Ten Years In: A Critical View of the Past, Present, and Future of Skills Education at UC Irvine Law School*.

18. UCI LAW, *supra* note 17. Furthermore, the Legal Profession course exposes students to the variety of settings in which lawyers work and the social and ethical challenges lawyers face. *Id.*

19. *Id.*

students may enroll in a range of skills courses and practicums.<sup>20</sup> And throughout all three years, students are encouraged to participate in the popular Pro Bono Program,<sup>21</sup> where they see how the concepts they are learning about in the classroom play out in the everyday lives of people outside of the walls of the Law School.<sup>22</sup> In addition to the Pro Bono Program, students may participate in externships for academic credit.<sup>23</sup>

The heart of the experiential learning program has been the Law School's clinical program. All students participate in at least one core clinic (or an approved alternative field placement) before they graduate.<sup>24</sup> Though the U.S. News and World Report rankings are not without their limitations,<sup>25</sup> it is nevertheless remarkable that UCI's program for clinical training has managed to climb to seventh among clinical programs in just eight short years.<sup>26</sup> In 2011, when the inaugural class reached its third year, the Law School launched the first four in-house core clinics—the Appellate Litigation Clinic, the Community Economic Development Clinic, the Environmental Law Clinic, and the Immigrant Rights Clinic.<sup>27</sup> Today, with the addition of the Civil Rights Litigation Clinic; the Consumer Law Clinic; the Criminal Justice Clinic; the Domestic Violence Clinic; the Intellectual Property, Arts, and Technology Clinic; and the International Justice Clinic, there are a total of ten core clinics.<sup>28</sup> In addition to a guaranteed placement in one of the Law School's core clinics, students may enroll in one or more elective clinics.<sup>29</sup>

Several years into the program, the Law School was able to largely begin placing students in a core clinic by their second, rather than their third, year. This

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20. *Lanyering Skills Curriculum*, U.C. IRV. SCH. L., <https://www.law.uci.edu/academics/lanyering-skills/curriculum.html> [<https://perma.cc/L54F-WCAE>] (last visited Sept. 22, 2019).

21. *Pro Bono Program*, U.C. IRVINE SCH. L., <https://www.law.uci.edu/about/public-service/public-interest/probono/> [<https://perma.cc/7XMV-PN67>] (last visited Sept. 22, 2019).

22. According to Program Director Anna Davis, an impressive 90% of the Law School's current students have participated in the Pro Bono Program. Students performed a total of 14,860 hours of service just in the last year.

23. *Externships*, U.C. IRVINE SCH. L., <https://www.law.uci.edu/academics/real-life-learning/externships/> [<https://perma.cc/E463-5R26>] (last visited Sept. 22, 2019).

24. *Clinics*, U.C. IRVINE SCH. L., <https://www.law.uci.edu/academics/real-life-learning/clinics/> [<https://perma.cc/5XY2-S2PY>] (last visited Sept. 22, 2019). Only several other U.S. law schools have a clinic requirement. Among them are the City University of New York (CUNY) Law School and University of New Mexico School of Law. See *Clinical Program*, UNIV. N.M. SCH. L., <http://lawschool.unm.edu/clinic/index.html> [<https://perma.cc/8YQH-9RN9>] (last visited Sept. 22, 2019); *Frequently Asked Questions*, CUNY SCH. L., <https://www.law.cuny.edu/admissions/faq/> [<https://perma.cc/CVW2-3XQZ>] (last visited Sept. 22, 2019).

25. See, e.g., Scott Jaschik, *The 'U.S. News' Ranking's (Faux?) Embrace of Social Mobility*, INSIDE HIGHER ED (Sept. 10, 2018), <https://www.insidehighered.com/admissions/article/2018/09/10/us-news-says-it-has-shifted-rankings-focus-social-mobility-has-it> [<https://perma.cc/FY6D-PP5R>].

26. *Best Clinical Training Programs*, U.S. NEWS & WORLD REP., <https://www.usnews.com/best-graduate-schools/top-law-schools/clinical-training-rankings> [<https://perma.cc/SET3-AXFK>] (last visited Sept. 22, 2019).

27. Hempel, *supra* note 1, at 154 n.19.

28. *Clinics*, *supra* note 24.

29. Current elective clinic offerings include the Appellate Advocacy for Veterans Clinic, the Fair Employment and Housing Clinic, and the Startup and Small Business Clinic.

allowed students to begin their clinical training a year earlier and continue to participate in clinics as advanced students in their third year if desired.<sup>30</sup> It also meant that most students would receive clinical instruction in the year immediately following their first year, creating the opportunity for greater integration with their Lawyering Skills course and other first-year courses.

All of the core clinics focus on different substantive areas and types of legal work, but they share a few critical features. First, all of the clinics have an explicit public interest mission. They work with individuals or groups who would not be able to otherwise access legal assistance and present students with the opportunity to apply their newly acquired legal knowledge and skills to complex issues of pressing social concern.<sup>31</sup> Second, with the exception of one core clinic, students serve as the primary legal representatives for their clients, also known as the “first chair” role.<sup>32</sup> And third, students carry out their work under the close supervision of faculty and receive extensive feedback and time for critical reflection.<sup>33</sup>

One of the most important decisions the founders of UCI Law made was to invest sufficient resources into the hiring of full-time permanent faculty to teach in the core clinics and the first-year Lawyering Skills course, and to endow them with status equal in many respects to doctrinal faculty.<sup>34</sup> This has ensured that clinical faculty have the academic freedom and institutional heft to pursue cutting edge projects that align with the clinics’ public interest missions. It also has allowed faculty to continue to innovate and, through that innovation, offer students pedagogically rich opportunities for learning. Further, clinical faculty teach in other parts of the curriculum, and some engage in scholarship.<sup>35</sup> This has facilitated the type of intellectual exchange that helps make clinics more robust, ambitious, and ultimately, impactful.

## II. THE IMMIGRANT RIGHTS CLINIC: MISSION, PEDAGOGY AND SELECTED PROJECTS

The Immigrant Rights Clinic was founded in 2011 by Sameer Ashar<sup>36</sup> as one of the four original core clinics at UCI Law. I joined the Clinic as its co-director in

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30. *Clinics*, *supra* note 24.

31. Hempel, *supra* note 1, at 153–56.

32. *Id.* The exception is the International Justice Clinic, where students instead support the work of Clinic Director David Kaye in his role as the UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression.

33. *Id.* at 153.

34. *Id.*

35. Some recent works published by our clinical faculty include *THE POLITICIZATION OF SAFETY: CRITICAL PERSPECTIVES ON DOMESTIC VIOLENCE RESPONSES* (Jane K. Stoeber ed., 2019); Robert Solomon, *How to Increase Our Affordable Housing Stock*, in *LEGAL SCHOLARSHIP FOR THE URBAN CORE: FROM THE GROUND UP* (Peter D. Enrich & Rashmi Dyal-Chand eds., 2019).

36. Today, Professor Ashar serves as Vice Dean of Experiential Education and Professor of Law at UCLA School of Law. He taught at UCI School of Law until 2018.

2013.<sup>37</sup> The mission of IRC is to provide direct representation to low-income immigrants in the region on matters ranging from detention and deportation defense to the protection of civil and constitutional rights.<sup>38</sup> IRC also provides legal support to grassroots organizations working on critical issues affecting immigrants' rights and immigrant workers' rights.<sup>39</sup> Of course, IRC also has an inward-facing mission, which is to train law students to be thoughtful, creative, principled, and skilled legal advocates, committed to justice and dignity for immigrants.

The Clinic's docket reflects an exploration of different approaches to change-oriented lawyering.<sup>40</sup> Rather than focus on a specific area of law, the Clinic handles matters that often involve two or more areas of law. Students also gain exposure to different forms of litigation and non-litigation advocacy. In short, the work is multi-subject and multi-modal. In addition, IRC is the only clinic at UCI Law where students regularly represent clients who are confined in a custodial setting, *i.e.*, imprisoned.<sup>41</sup> We feel this is important work to expose students to from a moral and pedagogical perspective.<sup>42</sup> In all matters, the Clinic strives for and seeks to model transformative advocacy based on the principle that marginalized communities are best served when people within those communities are empowered to advocate and act for themselves.<sup>43</sup>

Students in IRC include first-semester clinical students and advanced students.<sup>44</sup> Each case or project is staffed by two to four students, and most students work on more than one matter at a time. The clinic seminar is organized along three "arcs" of learning, though any one session may feature a blend of two or more such arcs. The first arc focuses on practice area-specific knowledge. Early in the

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37. Other teaching faculty in the Clinic have included Visiting Professors Linda Tam and Mónica Ramírez Almadani, Fellow Caitlin Bellis, and a small group of public interest attorneys, including the National Day Laborer Organizing Network (NDLON), who have served as adjunct faculty. When I use the term "we" in this essay to describe the work of the Clinic, I am referring to the teaching faculty collectively and, in some places, the Clinic's students as well.

38. *Immigrant Rights Clinic*, *supra* note 2.

39. *Id.* The Clinic's close relationship with NDLON has been essential for this work.

40. See Lucie E. White, *Collaborative Lawyering in the Field? On Mapping the Paths from Rhetoric to Practice*, 1 CLINICAL L. REV. 157, 157–58 (1994) (discussing "three dimensions on which lawyering might be a catalyst for progressive social change," including (1) advocacy to make the law "more responsive to the . . . welfare . . . of socially disempowered groups"; (2) advocacy "which seeks to transform values in dominant culture so as to encourage greater sensitivity to the injustices poor people face"; and (3) advocacy "focused on poor people's own political consciousness" which enables them "to see themselves and their social situation in ways that enhance their world-changing powers").

41. See *infra* Part II.B.

42. See Ashar, *supra* note 8, at 212–14, 227–28.

43. See Sameer Ashar & Annie Lai, *Access to Power*, 148 DAEDALUS 82, 84 (2019) (noting that "[a]s legal educators, we [have] sought to help law students realize that that it is the responsibility of lawyers, advocates, and organizers to support the mobilization of subordinated people and to remain accountable to them so that they may exercise greater power").

44. All students receive certification by the State Bar of California's Practical Training of Law Students program to provide legal services (under the supervision of an attorney). *Practical Training of Law Students*, STATE BAR CAL., <http://www.calbar.ca.gov/Admissions/Special-Admissions/Practical-Training-of-Law-Students> [<https://perma.cc/A9YN-TF39>] (last visited Sept. 22, 2019).



semester, for example, we have classes that introduce students to the U.S. immigration system, immigration detention, the immigration consequences of criminal convictions, and forms of immigration relief.<sup>45</sup> A second arc focuses on skills. These may include core lawyering skills like client interviewing and counseling legal drafting, fact investigation, and trial advocacy, but they also include other skills we believe students need to be effective agents for social change, such as media advocacy, persuasive policy framing, collaboration, working across language and other forms of difference, and the representation of groups. The final arc, which we have referred to as our “justice arc,”<sup>46</sup> is comprised of classes that offer students space to reflect on systemic inequality and the potential and limits of law and the legal system for addressing social injustice. Classes may include legal services scarcity; multiple consciousness;<sup>47</sup> and race, power, and subordination in the justice system. Nearly all of the classes, and certainly all of the skills classes, are timed to coincide with developments in students’ fieldwork so that little, if anything, is discussed in the abstract.

In the remainder of this section, I discuss three IRC projects that illustrate how we have attempted to live up to our mission. As discussed in the Introduction, our goal is not simply to impart a set of practical skills, but to provide students an opportunity to grapple with complex social problems that necessitate broader, structural analysis.<sup>48</sup> With the full support of the Law School, we have not felt the need to shy away from the political—in fact, we have sought it out.<sup>49</sup> Students are forced to confront what it means to be lawyer in this context and how their actions can promote (or undermine) the long-term fight for justice.

#### *A. Puente v. Arpaio*

Before I joined the faculty at UCI Law, I had worked in the immigrants’ rights movement in Arizona.<sup>50</sup> Not long after I joined the faculty, the Clinic was approached by the Phoenix-based grassroots organization, Puente Arizona (Puente), about the possibility of filing a new lawsuit against then-Maricopa County Sheriff Joe Arpaio and County Attorney Bill Montgomery to challenge their campaign of workplace immigration raids. At that time, Arpaio’s deputies had

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45. The goal of these classes is not to try to convey everything that students will need to know to complete their fieldwork but to provide enough of a foundation that they will feel comfortable formulating research questions on their own and identifying where they can go to find the answers.

46. Annie Lai & Sameer Ashar, *Teaching Justice in the Context of Immigrants’ Rights*, CLINICAL LEGAL EDUC. ASS’N: TEACHING JUST. WEBINAR SERIES (Dec. 6, 2018).

47. See *infra* Part III.

48. See *supra* p. 2; see also Ashar, *supra* note 8, at 212.

49. See Sameer M. Ashar, *Fieldwork and the Political*, in TRANSFORMING THE EDUCATION OF LAWYERS: THE THEORY AND PRACTICE OF CLINICAL PEDAGOGY 288 (Sue Bryant et al. eds., 2014).

50. I was employed as a Racial Justice Fellow and then as a staff attorney at the ACLU of Arizona from 2008 to 2011.

already conducted around eighty raids and arrested approximately 790 workers.<sup>51</sup> Arpaio and Montgomery were relying on felony statutes enacted by the Arizona Legislature in 2007 and 2008 to charge and prosecute undocumented immigrants for identity theft for using a false name to work.<sup>52</sup> Lawmakers had essentially turned the local criminal legal system into an instrument for jailing and punishing community members who were working to support themselves and their families.<sup>53</sup>

One of the early groups to protest the raids was Puente. Comprised largely of immigrants and their families, Puente's mission is to develop, educate, and empower the migrant community and enhance their quality of life through English classes, media trainings, know-your-rights workshops, health and wellness training, educational programs for children, and cultural events.<sup>54</sup> The climate of fear caused by the raids began to affect the organization, especially after early 2013 when the uncle of one of Puente's organizers was arrested, and the organization felt compelled to respond.<sup>55</sup> At first, it tried to address the harm to community members through political organizing and individual case advocacy.<sup>56</sup> That did not stop the raids, however, and so Puente began to consider the possibility of a federal lawsuit.<sup>57</sup>

One of Puente's members, who ultimately became a plaintiff in the case, was Sara Cervantes Arreola. Sara worked fourteen-hour days at a grocery store on Phoenix's west side to support her young son.<sup>58</sup> On January 17, 2013, sheriff's deputies raided the store with a show of force, blocked the exits, gathered the workers together, and demanded that they produce their identity papers.<sup>59</sup> Sara was arrested and charged under one of the state laws for using a false identity to work.<sup>60</sup> She was detained at the county jail, denied a bail hearing pursuant to another harsh

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51. Press Advisory, Puente Arizona, Coalition Files New Suit to Halt Arpaio's Workplace Raids (June 18, 2014), <https://www.law.uci.edu/academics/real-life-learning/clinics/puente-v-arpaio-advisory-061814.pdf> [<https://perma.cc/Y78F-HAGW>] (last visited Sept. 22, 2019); see also Second Amended Complaint for Declaratory and Injunctive Relief ¶ 133, *Puente Arizona v. Arpaio*, No. 2:14-cv-01356-DGC, 2017 WL 1133012 (D. Ariz. 2017) [hereinafter *Puente Second Amended Complaint*].

52. House Bills 2779 and 2745, respectively, also known as the Legal Arizona Workers Act, were part of a comprehensive strategy championed by then-Representative Russell Pearce to make life so difficult for undocumented immigrants and their families that they would "deport themselves." See, e.g., Russell Pearce, Opinion, *Judge Just Made It Easier to Work Illegally*, ARIZ. REPUBLIC (Jan. 20, 2015), <https://www.azcentral.com/story/opinion/op-ed/2015/01/20/legal-status-work-law/22070029/> [<https://perma.cc/J68X-SQN2>] (describing laws as furthering "[a]ttention by enforcement").

53. See Puente Arizona, *Maricopa County and the "Legal Arizona Workers Act,"* PUENTE V. ARPAIO: STOP THE RAIDS!, <https://puenteaz.wordpress.com/maricopa-county-and-the-legal-arizona-workers-act/> [<https://perma.cc/GZF6-WRUJ>] (last visited Sept. 22, 2019).

54. Puente Second Amended Complaint, *supra* note 51, ¶ 153.

55. *Id.* ¶¶ 153–163.

56. Supplemental Declaration of Carlos Garcia ¶¶ 6–11, *Puente Arizona v. Arpaio*, 76 F. Supp. 3d 833 (D. Ariz. 2015) (No. 2:14-cv-01356-DGC).

57. *Id.*

58. Puente Second Amended Complaint, *supra* note 51, ¶¶ 11, 170.

59. *Id.* ¶ 171.

60. *Id.* ¶¶ 171–172.

Arizona immigration measure, Proposition 100, and incarcerated for several months.<sup>61</sup> Eventually, exhausted and unable to stay away from her son, Sara pled guilty to a Class 3 felony even though, as the Superior Court noted, the identity she was accused of using did not belong to any real person and “there [was] no victim in [the] case.”<sup>62</sup>

Sara’s case was not atypical. Hundreds of workers ended up with serious felony convictions for working as a result of Sheriff Arpaio’s raids.<sup>63</sup> Some were prevented from applying for residency due to their convictions or, like in the case of another Puente member, Noemi Romero, programs like Deferred Action for Childhood Arrivals (DACA).<sup>64</sup> Sara, Noemi, and other workers had good reasons to fear getting involved in a lawsuit against powerful men like Sheriff Arpaio and County Attorney Montgomery.<sup>65</sup> It was impossible to publicly participate in the lawsuit without also taking on some risk of harassment or retaliation.<sup>66</sup> But the immigrant community had been criminalized and terrorized for so long in Maricopa County. Puente members saw an opportunity to hold Arizona officials accountable and decided it was worth the risk.

Puente approached the Clinic because of our track record and commitment to litigating cases in a way that would support local organizing.<sup>67</sup> As some have observed, one risk with traditional impact litigation is that overreliance on courts can divert attention and effort from potentially more effective grassroots strategies to effect social change, ultimately disempowering the groups that lawyers seek to assist.<sup>68</sup> Ascanio Piomelli has also written that many lawyers’ practices are often

61. *Id.* ¶¶ 172–173. Proposition 100 has since been ruled unconstitutional by the Ninth Circuit Court of Appeals. *Lopez-Valenzuela v. Arpaio*, 770 F.3d 772 (9th Cir. 2014) (en banc).

62. *Id.* ¶¶ 173–174.

63. *Id.* ¶ 133.

64. Noemi Romero, *Immigrant Injustice: It Started As a Normal Day at Work . . .*, IMPACT FUND (June 8, 2016), <https://www.impactfund.org/social-justice-blog/immigration-raid-class-action-legal-justice> [<https://perma.cc/6KVG-TW4K>]. DACA is a form of prosecutorial discretion that provides two years of work authorization and protection from deportation to immigrants who came to the United States before they were sixteen years old. See *Consideration of Deferred Action for Childhood Arrivals (DACA)*, U.S. CITIZENSHIP AND IMMIGRATION SERVICES (Feb. 14, 2018), <https://www.uscis.gov/archive/consideration-deferred-action-childhood-arrivals-daca> [<https://perma.cc/2CGF-A4EE>].

65. Romero, *supra* note 64.

66. See, e.g., Fernanda Santos and Charlie Savage, *Lawsuit Says Sheriff Discriminated Against Latinos*, N.Y. TIMES (May 10, 2012), <https://www.nytimes.com/2012/05/11/us/justice-department-sues-arizona-sheriff-joe-arpaio.html> [<https://perma.cc/689U-4PZ7>] (describing Department of Justice lawsuit charging MCSO and county officials with retaliation against political opponents).

67. The support of the Dean and Associate Dean was also critical to our accepting a case that wasn’t local to California but was relatively proximate and that had been described as the “Selma of immigration rights.” See Andrew Stelzer, *The Selma of Immigration Rights*, IN THESE TIMES (Nov. 12, 2008), [http://inthesetimes.com/article/3973/the\\_selma\\_of\\_immigration\\_rights](http://inthesetimes.com/article/3973/the_selma_of_immigration_rights) [<https://perma.cc/K2WS-EJLC>].

68. Scott Cummings, *Public Interest Litigation: Insights from Theory and Practice*, RES. GATE (June 2009), [https://www.researchgate.net/publication/228189918\\_Public\\_Interest\\_Litigation\\_Insights\\_from\\_Theory\\_and\\_Practice](https://www.researchgate.net/publication/228189918_Public_Interest_Litigation_Insights_from_Theory_and_Practice) [<https://perma.cc/9W4X-ZLP9>].

“unwittingly grounded in, and perpetuate, pejorative conceptions of lower-income people as subordinate, dependent, and helpless. They . . . often see these clients in need of rescue, rather than potential partners in solving their own problems.”<sup>69</sup> Out of this critique has grown a form of lawyering that seeks to break the pattern of lawyer domination and vest client communities with the tools to meaningfully direct legal strategies, together with other organizing and advocacy strategies. Described by some as “community lawyering” or “movement lawyering,” this model of lawyering builds on the core tenets of client-centered lawyering, but instead of focusing on the autonomy of individual poor clients, it aims to build and nurture the collective power of impacted communities.<sup>70</sup>

We wanted to honor the courageous decision that Puente members made to file a lawsuit by agreeing early on to litigate the case in a way that would promote, protect, and prioritize the empowerment of workers. Together with co-counsel who likewise agreed to litigate the case under a movement lawyering model, we assembled and filed a complaint in the United States District Court for the District of Arizona in June 2014.<sup>71</sup> Over the several years that followed, we participated in countless discussions with members and organizers on legal strategy, traveled regularly to Arizona to report on the lawsuit at Puente membership meetings, and coordinated with Puente on communications and direct action strategies. We also identified events and procedural developments in the case that presented opportunities to engage members. Ultimately, Puente leveraged its legal fight to help immigrant community members use the very legal structure that had marginalized them<sup>72</sup> to contest their criminalization and re-assert their personhood.<sup>73</sup>

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69. Ascanio Piomelli, *Appreciating Collaborative Lawyering*, 6 CLINICAL L. REV. 427, 438–39 (2000); see also Sameer M. Ashar, *Movement Lawyers in the Fight for Immigrant Rights*, 64 UCLA L. REV. 1464, 1490 n.152 (2017) (summarizing literature).

70. ALAN K. CHEN & SCOTT CUMMINGS, *The Public Interest Lawyer-Client Relationship*, in PUBLIC INTEREST LAWYERING: A CONTEMPORARY PERSPECTIVE 273, 304–07 (2013); see also William P. Quigley, *Reflections of Community Organizers: Lawyering for Empowerment of Community Organizations*, 21 OHIO N.U. L. REV. 455 (1994).

71. Puente Second Amended Complaint, *supra* note 51. Our co-counsel included NDLO, the local affiliate of the ACLU in Arizona, and attorney Ray Ybarra Maldonado. Later, at the start of the discovery phase, our team expanded to include two law firms, Hadsell Stormer Renick & Dai LLP and Quarles & Brady LLP.

72. The particular type of legal marginalization that Puente was challenging in the case is discussed in greater detail in Annie Lai, *Confronting Proxy Criminalization*, 92 DENV. U. L. REV. 879 (2015). “Proxy criminalization” is a term I use to describe state and local officials’ use of lawmaking authority to criminalize conduct that immigrants must regularly engage in for social or economic survival. *Id.* at 882. By proscribing conduct immigrants must engage in to survive (e.g., working, driving, etc.), officials generally do not deter them from engaging in such conduct. Instead, the state simply forces immigrants to engage in activity that will risk their arrest or citation. *Id.* at 892. The mark of criminality then becomes a form of local community self-definition, cementing immigrants’ outsider status. *Id.* at 895–86.

73. Press Release, UC Irvine Sch. of Law, Federal Judge Grants Injunction in Lawsuit Filed by UCI Law Immigrant Rights Clinic and Others Against Workplace Raids (Jan. 9, 2015), <https://www.law.uci.edu/news/press-releases/01-06-15.html> [<https://perma.cc/55MK-KSPK>] (quoting

Because we conceived of, talked about, and litigated the *Puente* case with a goal of worker empowerment, the impact of the case extended beyond the legal gains in court. Indeed, in a strict legal sense, the case was not, on the whole, particularly successful.<sup>74</sup> But the public profile of the case and the additional scrutiny placed on the County defendants as a result of Puente's messaging discouraged them from pursuing their crack down with the intensity they once had.<sup>75</sup> Arpaio even disbanded the specialized unit in the Maricopa County Sheriff's Office (MCSO) responsible for the raids in an attempt to moot out the lawsuit.<sup>76</sup> Despite Arpaio claiming that he "look[ed] forward" to resuming the raids if the preliminary injunction was overturned,<sup>77</sup> he never did. And after 2016, he never had the chance. That year, thanks in large part to an organizing effort led by Puente and an unprecedented number of Latinx voters who turned out to the polls, Sheriff Arpaio lost his bid for re-election.<sup>78</sup>

The *Puente* litigation lasted for three and a half years. Multiple generations of IRC students worked on the case and, in the course of doing so, conducted careful, wide-ranging fact investigation;<sup>79</sup> developed a narrative for a complaint; engaged in pretrial motion practice; counseled individual plaintiffs and Puente members; responded to discovery requests;<sup>80</sup> helped take and defend depositions; argued a summary judgment motion; and contributed to an application for attorneys' fees

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Noemi Romero, who said, "When I was led away from my job in handcuffs, I never thought I would see the day that we took Arpaio and Montgomery to court instead of the other way around . . . . We lost our fear and made this lawsuit happen, and now others in our community won't have to suffer like we did."). Through the *Puente* case, immigrant workers were able to flip the narrative. Rather than being subjects of the law, they were now also agents, using the power of their personal stories to expose the contradictions of domestic immigration policy.

74. While we initially won a preliminary injunction, the Ninth Circuit Court of Appeals later overturned the injunction. *Puente Arizona v. Arpaio*, 821 F.3d 1098 (9th Cir. 2016). We later won part of our motion for summary judgment but were not ultimately able to secure a broader injunction, or any injunction against the County Attorney at all. *Puente Arizona v. Arpaio*, No. 2:14-cv-01356-DGC, 2017 WL 1133012 (D. Ariz. 2017).

75. Plaintiffs' Motion for Partial Summary Judgment at 8, *Puente Arizona v. Arpaio*, No. 2:14-cv-01356-DGC, 2017 WL 1133012 (D. Ariz. 2017), ECF No. 538 [hereinafter Plaintiffs' Summary Judgment Motion].

76. *Id.* at 24–25; Order Granting Permanent Injunction at 5–6, 16–17, *Puente v. Arpaio*, 76 F. Supp. 3d 833 (D. Ariz. 2015).

77. Plaintiffs' Summary Judgment Motion, *supra* note 75, at 25.

78. Fernanda Santos, *Sheriff Arpaio Loses Bid for 7th Term in Arizona*, N.Y. TIMES (Nov. 9, 2016), <https://www.nytimes.com/2016/11/09/us/joe-arpaio-arizona-sheriff.html> [https://perma.cc/QT8T-P7SB].

79. Students met not only with affected workers, but also with organizers, investigative journalists, documentary filmmakers, local attorneys, and a private investigator. This type of fact investigation, where lawyers seek to understand not only the legal issue but also the broader context in which it arises, is discussed in Gerald Lopez's *Reconceiving Civil Rights Practice: Seven Weeks in the Life of a Rebellious Collaboration*, 77 GEO. L.J. 1603, 1630–57 (1989).

80. We were forced to seek strong protections in response to the defendants' harassing discovery demands. *See, e.g.*, *Puente Arizona v. Arpaio*, No. CV14-1356 PHX DGC, 2016 WL 7743406 (D. Ariz. Jan. 22, 2016); *Puente Arizona v. Arpaio*, No. CV14-1356 PHX DGC, 2016 WL 722949 (D. Ariz. Feb. 24, 2016).

and costs.<sup>81</sup> Equally importantly, however, students grappled with how to do all of the above things in a way that lifted up the workers at the center of the case. Students learned what it meant to take on a complex case with no formula or template to fall back on and to “lose” in one sense but “win” in another.<sup>82</sup> They also learned what it meant to align themselves with those resisting state power in a very public way. In doing so, our students set an example for future practitioners and clinics to follow.<sup>83</sup>

### B. Bond Representation Project

Another commitment that the Clinic has made over the past five years has been to offer legal assistance to individuals imprisoned in immigration detention facilities in Southern California. In 2014, motivated in part by a desire to respond to the severe justice gap in the detention and deportation system, we restructured the Clinic so that nearly every student represents at least one low-income detained person during the semester.<sup>84</sup> At the time, few nonprofit immigration legal services organizations had the capacity or in-house expertise to serve detained immigrants, let alone do so in remote San Bernardino County, where one of the detention

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81. We eventually collectively recovered nearly \$1 million in fees and costs. *See Parties Reach Final Settlement in Lawsuit Challenging Workplace Raids*, ACLU ARIZONA (Feb. 1, 2018), <https://www.acluaz.org/en/press-releases/parties-reach-final-settlement-lawsuit-challenging-workplace-raids> [<https://perma.cc/46R5-N753>]. The Clinic’s share of the fee award has made it possible for us to fund a clinical fellow.

82. Though we had mixed success in court, the *Puente* litigation helped contribute to a shift in the balance of power in Maricopa County. In addition to Arpaio’s re-election loss in 2016, Carlos Garcia, who was director of Puente at the time of the case, was recently elected to the Phoenix City Council. Jessica Boehm, *With Guardado and Garcia Poised to Win, Expect a Phoenix City Council Shake-Up*, ARIZ. REPUBLIC (May 22, 2019), <https://www.azcentral.com/story/news/local/phoenix/2019/05/22/phoenix-city-hall-changes-coming-after-betty-guardado-and-carlos-garcia-win-council-seats/3769935002/> [<https://perma.cc/6YYR-CVKJ>].

83. The Clinic, together with Puente and co-counsel groups, were recently honored by the Impact Fund for having made an “important contribution to the field of public interest impact litigation” through their work on this case. *UCI Law Immigrant Rights Clinic to be Honored by Impact Fund*, U.C. IRVINE SCH. L. (Apr. 29, 2019), <https://www.law.uci.edu/news/in-the-news/2019/irc-impact-fund.html> [<https://perma.cc/P23J-KFLB>]; *see also* IMPACT FUND, <https://www.impactfund.org/public-interest-law-news/events> [<https://perma.cc/J328-TV8Y>] (last visited June 8, 2019).

84. We have made sure to retain an opt-out possibility for students who—whether due to personal concerns about entering a detention facility or professional reasons—decide they would rather focus their clinical work on other matters on the docket. Very few students have needed to avail themselves of this option.

facilities was located.<sup>85</sup> We also believed that representing detained persons provided significant pedagogical value.<sup>86</sup>

The immigration detention system in the United States has been steadily expanding over the past several decades.<sup>87</sup> In 2019, the U.S. government held an average of more than 49,000 adults daily in immigration custody.<sup>88</sup> One major contributor to the rise in adult immigration detention has been the 1996 enactment of a statutory scheme requiring the mandatory detention of noncitizens with nearly any type of criminal history.<sup>89</sup> Another driver of the expansion of immigration detention has been the private prison industry, which has lobbied for increasingly large federal budget allocations for detention beds.<sup>90</sup> Although this detention is formally designated as civil or administrative in nature, it is virtually indistinguishable from criminal custody.<sup>91</sup> Those who are detained frequently face conditions “reminiscent of the worst failures of penal facilities”; moreover, facilities are often located in remote locations, making it more difficult for people to access legal services or sustain connections with family or community networks.<sup>92</sup> Under these conditions, it is nearly impossible for individuals to receive basic information about their rights or to prepare their cases.<sup>93</sup> The overall impact of these policies, it seems, has been to strip immigrants of their humanity and ensure that their cases are resolved (often with banishment from the United States) with as few

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85. Notable exceptions included Esperanza Immigrant Rights Project and Public Counsel, who were running Legal Orientation Projects (LOPs) at the Adelanto and two Orange County facilities, respectively. For more information on LOPs, see *Legal Orientation Program*, U.S. DEP’T JUST., <https://www.justice.gov/eoir/legal-orientation-program> [<https://perma.cc/57D4-NMXS>] (last updated Apr. 25, 2018). Today, there are a greater number of legal services organizations able to serve detained immigrants, including the Immigrant Defenders Law Center, whose Director of Litigation and Advocacy, Meeth Soni, is a former adjunct lecturer in IRC, as well as the Public Law Center, whose Immigration Unit director, Monica Glicken, also used to serve as an adjunct lecturer.

86. See e.g., Timothy H. Everett, *On the Value of Prison Visits with Incarcerated Clients Represented on Appeal by a Law School Criminal Defense Clinic*, 75 MISS. L.J. 845 (2006).

87. Emily Kassie, *How Trump Inherited His Expanding Detention System*, MARSHALL PROJECT (Feb. 12, 2019), <https://www.themarshallproject.org/2019/02/12/how-trump-inherited-his-expanding-detention-system> [<https://perma.cc/C4AH-2EYT>].

88. Noah Lanard, *Congress Told ICE to Detain Fewer People. Instead It Keeps Adding Private Prisons, Mother Jones* (Aug. 22, 2019), <https://www.vox.com/2019/2/12/18220323/immigration-detention-beds-congress-cap> [<https://perma.cc/32NZ-WHD3>]. For a sense of the scale of immigration detention relative to the size of the mass incarceration system generally in the United States, see Wendy Sawyer & Peter Wagner, *Mass Incarceration: The Whole Pie 2019*, PRISON POLY INITIATIVE (Mar. 19, 2019), <https://www.prisonpolicy.org/reports/pie2019.html> [<https://perma.cc/M2L8-KAT4>].

89. César Cuauhtémoc García Hernández, *Abolishing Immigration Prisons*, 97 B.U. L. REV. 245, 282 (2017).

90. *Id.* at 285–86; see also Anita Sinha, *Arbitrary Detention? The Immigration Detention Bed Quota*, 12 DUKE J. CONST. L. & PUB. POL’Y 77 (2016).

91. García Hernández, *supra* note 89, at 252.

92. *Id.* at 256–57, 287.

93. The largest group of those confined are those who are waiting for their immigration cases to be resolved. Of those, the population in a detention center can run the gamut from individuals who sought asylum at the border to individuals who have lived in the United States for many years and who were detained following a brush—sometimes very minor—with the criminal justice system.

procedural hurdles as possible, while the spectacle of coercive confinement serves political ends.<sup>94</sup>

After a brief pilot in 2014, IRC students began traveling regularly to Adelanto and to several locations in Orange County where immigrants were detained to conduct intake.<sup>95</sup> Many individuals students met had been subject to prolonged detention and were eligible for a bond hearing pursuant to litigation undertaken by the ACLU in *Rodriguez v. Robbins*.<sup>96</sup> As the project continued, we also allocated some of our efforts to representing individuals who were eligible for bond hearings at the outset of their cases. Once the Clinic was retained, students took full ownership of each case, gathering evidence that their clients presented neither a flight risk nor a danger (two factors at issue in a bond hearing), working closely with clients to develop a compelling case narrative, drafting court filings, and preparing clients and other witnesses to testify. At the bond hearings themselves, students appeared on behalf of their clients, delivered opening and closing statements, put on witnesses, objected to the government's evidence, and in some cases, negotiated with government counsel. Eventually, we retooled clinic materials and the seminar component of the course to prepare students for the challenge of representing detained immigrants. And, importantly, we designed a class that offers students a framework for grappling with the very weighty moral and ethical considerations associated with trying to decide which cases to take on, and for each case, what the scope of representation would be.<sup>97</sup>

Our direct representation of bond clients has led to (or complemented) other advocacy work. For example, in 2017, one of our advanced students had the chance to help conceive of, draft, and submit an amicus brief on behalf of twenty-two legal services organizations, law clinics, and immigrants' rights groups to the Ninth Circuit Court of Appeals in *Hernandez v. Lynch*, a class action case that established a right for immigrant detainees to have immigration judges and ICE consider their financial circumstances when setting bond amounts. The brief contained the stories of many of our clients (as well as those of other service providers' clients) who languished in detention despite having been granted a bond, and it was cited by class counsel in oral argument and in the Ninth Circuit's eventual opinion issued in the case.<sup>98</sup> We have also helped to build local coalitions to meet the needs of the

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94. García Hernández, *supra* note 89, at 285–91.

95. See IMMIGRANT LEGAL RESOURCE CENTER ET AL., *State of Orange County: An Analysis of Orange County's Policies on Immigration and a Blueprint for an Immigrant Inclusive Future*, <https://resilienceoc.org/wp-content/uploads/2019/01/State-of-OC-Report.pdf> [<https://perma.cc/T5R6-J9NA>] (last visited Sept. 22, 2019). ICE no longer houses detainees at the Orange County facilities today and instead works with the private prison company GEO to expand the Adelanto facility.

96. *Rodriguez v. Robbins*, 715 F.3d 1127 (9th Cir. 2013). Unfortunately, it is unclear how much longer immigrants who are subject to mandatory detention will continue to receive bond hearings before an immigration judge after six months in custody. See *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018).

97. See, e.g., Paul R. Tremblay, *Acting "A Very Moral Type of God": Triage Among Poor Clients*, 67 FORDHAM L. REV. 2475 (1999).

98. See *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir. 2017).



detained immigrant population through the establishment of a community bond fund, development of infrastructure for deportation defense work in Orange County, and participation in systemic policy advocacy efforts with organizers.<sup>99</sup>

Students working on the bond project learn valuable courtroom advocacy and litigation skills. But more than that, through this work, students are forced to grapple with the fact that their representation does not change the system their clients are caught up in—a system that seems to treat their clients' deportation as inevitable. To be sure, the students were able to win some cases, but is their job simply to help clients exploit the cracks in the system for a positive result?<sup>100</sup> More perplexing still, does their presence provide a false sense of fairness and due process in a system severely lacking in both? Perhaps there is room, by continuing to show up and do the work, to slowly challenge the logic of over-detention? Students have struggled with this and with the physical and emotional toll of being present for and implicated in the suffering they see day after day. They are questions with no easy answers, but by stepping into the first-chair role, students must think about how they will answer these and similar questions for themselves, now and in the future.

### C. Post-Conviction Relief Project

With the legal landscape for detention and deportation growing increasingly dire, it has been important for the Clinic to enter into new practice areas where we can be part of opening up pathways for immigrants to remain in the United States. One way we have done this has been by focusing more of our resources and attention to assisting noncitizens with motions for post-conviction relief in criminal court.

Over the last century, and particularly in the last several decades since the mid-1980s, immigration law has grown increasingly harsh for immigrants with any criminal justice involvement, even minor.<sup>101</sup> Much of this is thanks to the construction and propagation of a paradigm of the “criminal alien” that is deeply racialized and seemingly resistant to all manner of empirical data showing that immigrants are not more prone to crime than any native-born residents.<sup>102</sup> One impact of these dynamics has been to trap immigrants in the past, not allowing them to escape the very dire immigration consequences of a conviction, even if they have rehabilitated and been able to have their convictions expunged or “erased” under

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99. These local networks include the Orange County Rapid Response Network, the Orange County Removal Defense Warriors Collaborative, and the Orange County Justice Fund.

100. See Jawziya F. Zaman, *Why I Left Immigration Law*, DISSENT MAG. (July 12, 2017), [https://www.dissentmagazine.org/online\\_articles/left-immigration-law](https://www.dissentmagazine.org/online_articles/left-immigration-law) [<https://perma.cc/XYC6-8CL6>].

101. See Juliet Stumpf, *The Crimmigration Crisis: Immigrants, Crime, and Sovereign Power*, 56 AM. U. L. REV. 367, 382–84 (2006); see also *Padilla v. Kentucky*, 559 U.S. 356, 360–64 (2010).

102. Annie Lai & Christopher N. Lasch, *Crimmigration Resistance and the Case of Sanctuary City Defunding*, 57 SANTA CLARA L. REV. 539, 565–67 (2018); see generally Angélica Cházaro, *Challenging the “Criminal Alien” Paradigm*, 63 UCLA L. REV. 594 (2016); Yolanda Vázquez, *Constructing Crimmigration: Latino Subordination in a “Post-Racial” World*, 76 OHIO ST. L.J. 599 (2015).

state law.<sup>103</sup> Once they are found to have a conviction, most immigrants are prevented from arguing to immigration officials that other equities (such as the circumstances giving rise to the conviction, length of residency in the country, or the impact of deportation on family members) should factor into whether or not they are granted relief.<sup>104</sup>

The conventional wisdom in the world of immigration law would have us believe that nothing could be done for these noncitizen clients. But immigrants often plead guilty to offenses with a limited understanding of the severe immigration consequences a conviction can carry. With little chance of reform of our country's immigration laws and policies at the federal level, many advocates have shifted to trying to make gains at the local level.<sup>105</sup> Thanks to the recent efforts of advocates here in California, immigrants may now challenge a plea or sentence after they are no longer in criminal custody if they can show "prejudicial error damaging [their] ability to meaningfully understand, defend against, or knowingly accept the actual or potential adverse immigration consequences of a plea."<sup>106</sup> Those who are still incarcerated or on probation can file habeas petitions or other motions arguing that the court did not give them the proper advisals or that their former defense attorneys did not adequately warn them of or mitigate the consequences.<sup>107</sup>

It is unusual for an immigration clinic (or any immigration nonprofit) to handle post-conviction relief applications for its clients with any regularity.<sup>108</sup> But

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103. In 1996, Congress enacted the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). IIRIRA established, for the first time in statute, a definition of "conviction" in federal immigration law that would come to be interpreted by the Board of Immigration Appeals (BIA) and federal courts as including a vast array of criminal dispositions. Most forms of rehabilitative relief, such as expungement and sealing, as well as many forms of diversion, are not recognized as having any ameliorative effect for purposes of determining immigration consequences. *See, e.g.*, *Matter of Pickering*, 23 I. & N. Dec. 621, 622, 625 (B.I.A. 2003).

104. *See, e.g.*, Nancy Morawetz, *Understanding the Impact of the 1996 Deportation Laws and the Limited Scope of Proposed Reforms*, 113 HARV. L. REV. 1936 (2000).

105. *See, e.g.*, Heather Gerken, David Bollier, Gary Gerstle & Gar Alperovitz, 'All Resistance Is Local': A Plan of Progressive Action for the Trump Years, NATION (Nov. 29, 2016), <https://www.thenation.com/article/all-resistance-is-local-a-plan-of-progressive-action-for-the-trump-years/> [<https://perma.cc/32KW-GUJT>].

106. CAL. PENAL CODE § 1473.7(a)(1) (West 2019).

107. *See* CAL. PENAL CODE § 1016.5 (West 2019); *Padilla v. Kentucky*, 559 U.S. 356 (2010). In California, courts have been holding for decades that defense counsel have the duty to advise on and defend against immigration consequences. *See, e.g.*, *People v. Bautista*, 115 Cal. App. 4th 229 (2004); *People v. Barocio*, 216 Cal. App. 3d 99 (1989); *People v. Soriano*, 194 Cal. App. 3d 1470 (1987). That obligation was recently codified into law, together with an obligation that prosecutors consider adverse immigration consequences in plea negotiations as one factor in the effort to reach a just resolution. CAL. PENAL CODE §§ 1016.2–3 (West 2016).

108. Some notable exceptions have included the UC Davis Immigration Law Clinic and the University of Denver Sturm College of Law Immigration Law and Policy Clinic. *See Immigration Law and Policy*, STURM C. L., <https://www.law.du.edu/academics/practical-experience/clinical-programs/immigration-law-and-policy> [<https://perma.cc/S7GW-NZWY>] (last visited Sept. 22, 2019); *Immigration Law Clinic*, U.C. DAVIS SCH. L., <https://law.ucdavis.edu/clinics/immigration-law-clinic.html> [<https://perma.cc/7GX7-ZFN3>] (last visited Sept. 22, 2019). There are certainly clinics that have handled a wide array of post-conviction relief matters in other contexts. *See, e.g.*, *Post-*

we met client after client who had criminal records, sometimes decades old, that were causing an immigration disaster. With the help of an attorney who now works at the Immigrant Legal Resource Center, a nonprofit that specializes in addressing the immigration consequences of convictions, we set up a post-conviction practice<sup>109</sup> and began to put into place the infrastructure and resources to do the work effectively. In 2016, the Law School hired Katie Tinto,<sup>110</sup> who launched a Criminal Justice Clinic. One of Professor Tinto's areas of expertise was the intersection between immigration and criminal law, and so our clinics began working together to each provide post-conviction relief services to noncitizen clients. Eventually, our clinics were selected by the State of California Department of Social Services to pilot a more formal collaboration that would serve as a model for nonprofit organizations seeking to provide post-conviction relief services to low-income immigrants in the future. In our first year of the grant, we have assisted dozens of community members with applications for post-conviction relief, paving the way for them to renew DACA, seek relief from removal, or to become U.S. citizens. We have also created intake and case consultation tools and training modules, shared sample motions with practitioners, and delivered continuing legal education (CLE) presentations in California and beyond.

Students working on post-conviction relief motions have gained experience conducting fact investigation, working with experts, drafting motions, appearing in court, and negotiating with prosecutors. They have also had to exercise a substantial degree of cultural humility, often working with clients who have had vastly different life experiences than they have. Beyond that, however, students have learned what it means to engage in fierce and creative legal advocacy, even if that means going against the grain of criminal and immigration court practice. The motions based on claims of ineffective assistance of counsel in particular have forced students to grapple with the content and application of professional standards, particularly for public defenders with heavy caseloads.<sup>111</sup> Students working on this project have had to put in more hours and navigate numerous bureaucratic hurdles, but they have consistently embraced the opportunity to learn about and build competency across two legal disciplines and areas of law.

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*Conviction Advocacy Project*, BERKELEY L., <https://www.law.berkeley.edu/experiential/pro-bono-program/slps/current-slps-projects/post-conviction-advocacy-project-p-cap/> [<https://perma.cc/CD24-88YT>] (last visited Sept. 22, 2019); *Post-Conviction Justice Project (PCJP)*, USC GOULD SCH. L., <https://gould.usc.edu/academics/experiential/clinics/pcjp/> [<https://perma.cc/DN4K-8GRV>] (last visited Sept. 22, 2019); *The Innocence Project*, CARDOZO L., <https://cardozo.yu.edu/clinics-professional-skills/clinics/innocence-project> [<https://perma.cc/6GFS-8H3D>] (last visited Sept. 22, 2019). But in general, those programs did not have the necessary immigration expertise to handle motions for noncitizens.

109. See *Rose Cahn*, IMMIGRANT LEGAL RESOURCE CTR., <https://www.ilrc.org/rose-cahn> [<https://perma.cc/9YSV-MYSG>] (last visited June 8, 2019).

110. See *Katharine Tinto*, U.C. IRVINE SCH. L., <https://www.law.uci.edu/faculty/full-time/tinto/> [<https://perma.cc/ZST3-QQ6S>] (last visited June 8, 2019).

111. Katie Tinto articulated this insight in one of many discussions we have had since 2016 about our joint practice.

## III. FOUR ETHOSSES FOR THE NEXT GENERATION OF LAWYER-ADVOCATES

As Fran Quigley has written, one of the most important things that clinical education can offer students is the opportunity for “perspective transformation.”<sup>112</sup> According to Quigley, this can happen when a learner’s prior conceptions of social reality cannot explain a client’s current situation, and, as a result, the learner experiences disorientation.<sup>113</sup> This disorientation can prompt a process of exploration, reflection, and finally reorientation, which can yield essential lessons about law and social justice.<sup>114</sup> Indeed, many movements for social justice in the areas that our clinics cover—from civil rights to community economic development to environmental law—themselves aim to be disruptive or transformative.<sup>115</sup>

Preserving the disruptive character of clinics at a school where clinics are a standard part of the curriculum is not a simple task. In this section, however, I attempt to chart out four competencies, or “ethoses,” that I believe reflect the disruptive potential of clinical education and have value for students across the student body. Each ethos embodies and is informed by work we have done in IRC. Based on discussions with my colleagues, they seem to be reflected in the work of some of our other core clinics as well.<sup>116</sup> Further, the “ethoses” build on work and writing others have done in clinical education, as set forth below.

*The willingness to forge new paths when necessary*

It is incredibly important as students are being introduced to the legal profession that they are encouraged to cultivate an entrepreneurial spirit. The legal profession is a notoriously hierarchical one, and a law school education that simply seeks to replicate existing legal practice and hierarchy can have the effect of signaling to students that their ideas don’t (yet) matter, that their instincts can’t be trusted, and that much of what they know must be relearned before they have something valuable to contribute.<sup>117</sup>

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112. Fran Quigley, *Seizing the Disorienting Moment: Adult Learning Theory and the Teaching of Social Justice in Law School Clinics*, 2 CLINICAL L. REV. 37, 51–52 (1995).

113. *Id.* at 46.

114. *Id.* at 52–56.

115. Thanks to my colleague Michael Robinson-Dorn for this insight.

116. See *infra* notes 121, 128, 134, 143 and accompanying text.

117. For students of color, women, LGBTQ students, first-generation students, undocumented students, parents, students living with disabilities, and others, law school can be a particularly alienating experience. It may leave them with the distinct feeling that their experience, the things they often notice in their assigned reading, or the “details of their own special knowledge” are extraneous to legal analysis. See, e.g., Mari J. Matsuda, *When the First Quail Calls: Multiple Consciousness as Jurisprudential Method*, 11 WOMEN’S RTS. L. REP. 7, 7–9 (1989). Former IRC visiting professor Linda Tam has also presented on law students’ struggles with “imposter syndrome.” Rosa Bay, Neha Sampat, Gail Silverstein & Linda Tam, *Concurrent Session Presentation: Drawing from Other Disciplines to Create a Pedagogy of Inclusion and Empowerment* (May 6, 2019) (presented at the AALS Conference on Clinical Legal Education).

The legal advocates of tomorrow must be willing to trust their instincts and forge new paths, to go where their clients' problems take them, even if that means learning a new area of law or writing a motion for which there is no template. They should be encouraged to not just go along with an unsatisfactory status quo but to be ready to build entirely new practices and institutions if necessary. They have to be nimble and ready to jump into action.

Robust and dynamic clinic dockets give students a window into what it looks (and feels) like to step into the unknown.<sup>118</sup> Perhaps more than with other projects, the post-conviction work has been an example of this. Students are not assimilating themselves into a field of practice. They are literally creating and shaping an emerging hybrid practice in real time. At the same time, they have had the chance to see their clinical professors stumble as they learn a new area of law and appear in fora where they had not practiced before.<sup>119</sup>

While students have had the chance to see their professors learn something new, they have also seen us exercise appropriate deference when doing so. Lawyer Bryan Stevenson has talked about the importance of “get[ting] proximate” to the most vulnerable and being guided in one’s work through such proximity.<sup>120</sup> The idea to start doing post-conviction work came from being proximate to clients who were directly impacted by the interaction between immigration and criminal laws and listening closely to their experience.<sup>121</sup> Additionally, we were honest with clients that this was a new area of work for us. During the pilot phase, we actively reached out to others to learn as much as we possibly could. And as our practice has grown, we have helped build an institutional infrastructure and a regular group of collaborators to help us tackle new challenges as they arise.

When we first began representing detained immigrants through the bond project, we followed a similar process. And to a large extent, the *Puente* case was a

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118. Alina Ball discusses similar benefits of selecting “richly-layered client matters.” Alina S. Ball, *Disruptive Pedagogy: Incorporating Critical Theory in Business Law Clinics*, 22 CLINICAL L. REV. 1, 43–46 (2015).

119. While this can result in some pushback from students, as a pedagogical method it has many benefits. See Quigley, *supra* note 112, at 47–51 (discussing adult learning theory’s focus on democratic teaching and fostering the learner’s ability to be an active, self-directed co-participant in the learning process, in essence, to learn *how to learn*). As learning theory scholar Edward C. Lindeman wrote nearly a century ago:

I am conceiving adult education in terms of a new technique for learning . . . In this process the teacher finds a new function. He is no longer the oracle who speaks from the platform of authority, but rather the guide, the pointer-out who also participates in learning in proportion to the vitality and relevance of his facts and experiences.

*Id.* (quoting EDUARD C. LINDEMAN, *THE DEMOCRATIC MAN: SELECTED WRITINGS OF EDUARD C. LINDEMAN* 160 (Robert Gessner ed., 1956)).

120. Matthew Heimer, “Do Some Uncomfortable and Inconvenient Things:” *A Civil Rights Champion’s Call to Action for CEOs*, FORTUNE (June 26, 2018), <https://fortune.com/2018/06/26/bryan-stevenson-ceo-initiative/> [https://perma.cc/CSJ9-V27P].

121. My colleague Jane Stoever describes a similar process of her students in the Domestic Violence Clinic being led to creative solutions, e.g., going on the local news, after working closely with a client whose infant had been abducted by her abusive ex-partner and been missing for months. E-mail from Jane Stoever (Oct. 1, 2019) (on file with author).

new undertaking for the Clinic as well. Through these projects, students learned that forging new paths did not necessarily mean going it alone; they could (and should) draw on the wisdom offered by those who had been doing the work longer or those in other disciplines, whether they be community organizers or expert consultants. It hasn't always been a smooth journey. However, it has meant a lot for students to be able to learn these lessons and have numerous opportunities over the years to break new ground.

*Multiple consciousness*

Multiple consciousness, according to Professor Mari Matsuda, refers to the bifurcated thinking that allows one to see the world from more than one perspective at a time.<sup>122</sup> In her 1988 talk to the Yale Law School Conference on Women of Color of Law, she used it to describe a strategy that an outsider, for example a woman of color, might adopt to survive in elite institutions not made for her.<sup>123</sup> Building on W.E.B. Du Bois's conception of double consciousness, which describes (and laments) the split existence of African-Americans who both see the world (and themselves) from their own point of view as well as the point of view of white Americans,<sup>124</sup> Matsuda's account is aimed at helping excluded people—and others—embrace multiple consciousness as a “jurisprudential method.”<sup>125</sup> The multiple consciousness she calls on us to adopt as lawyers and law students is an ability to be able to be at once “in” the system, speaking its language and operating according to its logic when necessary, and also “outside” of the system, able to see its problems and flaws.<sup>126</sup>

As law students are socialized into the world of law and jurisprudential discourse, they should strive to master it, certainly. Otherwise, they cannot put it to good use. But there is a tendency, when one spends a good deal of time talking, acting, and thinking within a certain system, to begin to internalize the logic of that system and treat it as the only logic that matters. Eventually, one is no longer able to question the system or see it from the “outside.” Clinical education is a place where students can develop a habit of reflective practice, so that they may always strive to see the system from an insider's *and* an outsider's perspective.

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122. Matsuda, *supra* note 117.

123. *Id.* at 7–8.

124. W.E.B. DU BOIS, *THE SOULS OF BLACK FOLK* 3–4, 16–17 (Henry Louis Gates Jr. & Terri Hume Oliver eds., 1903).

125. Matsuda, *supra* note 117, at 7.

126. *Id.* at 8–9. Matsuda explains that some multiple consciousness is, in a sense, built in to our understanding of what good lawyers do already. Law students who struggle are the ones still trying to understand law as totalizing, “logical, and co-extensive with reality,” while those who excel are the ones who can detach from the law “for purposes of critique, analysis and strategy.” *Id.* at 9. The multiple consciousness she urges for, though, is not a relativist or “random” ability to “see all points of view,” but an intentional choice to always maintain a view that allows one to “see the world from the standpoint of the oppressed.” *Id.*

We began assigning Matsuda's talk to IRC students to read several years ago after the election of Donald Trump as President.<sup>127</sup> We thought it might provide some comfort and utility to students who were apprehensive about having to argue cases before immigration judges who would be working for an administration that was so openly hostile to immigrants. Multiple consciousness has helped us in the bond work by reminding us to always see the system from our clients' eyes instead of only seeing our clients through the eyes of the system set up to cage and sort them. And the ability to simultaneously hold an insider's and outsider's perspective also allowed us to make better strategic decisions with the workers in *Puente*. Further, Jane Stoever has shared that in the Domestic Violence Clinic, students have learned their own kind of multiple consciousness too. By accompanying their clients (as outsiders) through the process of trying to seek help from the police, they are better able to see the problems of the criminal system and realize the privilege associated with their own expectations (as insiders) in receiving a predictable and effective response from law enforcement.<sup>128</sup>

As others have written, clinical practice is not a counterpoint to law students' education about theory.<sup>129</sup> It is the place where students can sharpen their critical thinking skills and develop the type of habits that can ensure a lifelong engagement with theory, in and through their everyday practice. The ability to maintain an outsider's perspective will be essential when students begin to assume positions of leadership in the profession. Ultimately, students will need to be able to discern, as Matsuda puts it, when it "is . . . time to sit and wait," and continue to make arguments from within the system, and when the circumstances call for "openly defy[ing]" established systems that do not (or no longer) serve the public good.<sup>130</sup>

*The courage to take hard cases, and lose*

In the legal profession, much stock is placed in "winning." Law school is no exception. Students are often congratulated for achieving a good result, rewarded for knowing the right answer, and recognized for ranking higher than their peers. Less emphasis is placed on taking the harder cases, the harder causes, or trying to answer the hardest questions. As a result, students can become risk adverse. And indeed, many lawyers are risk adverse.

Law school, however, is a formative time when students should be encouraged to take calculated risks, fail, and learn and grow from those failures.<sup>131</sup> In the Clinic,

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127. We are grateful to Jeena Shah for reminding us of Matsuda's work on this subject.

128. Email from Jane Stoever (Oct. 1, 2019) (on file with author).

129. See Ball, *supra* note 118, at 4–5; see also Phyllis Goldfarb, *Beyond Cut Flowers: Developing a Clinical Perspective on Critical Legal Theory*, 43 HASTINGS L.J. 717, 721 (1992).

130. Matsuda, *supra* note 117, at 10.

131. See, e.g., Carol Dweck, *What Having a "Growth Mindset" Actually Means*, HARV. BUS. REV. (Jan. 13, 2016), <https://hbr.org/2016/01/what-having-a-growth-mindset-actually-means> [<https://perma.cc/65M5-HXPK>].

we take some cases that are winnable, certainly—we have limited resources and feel a responsibility to deploy them where we can make an impact. But we have also taken a number of complex cases where the chances of success are slim, especially in the bond and post-conviction context. All in all, the Clinic has represented approximately sixty detainees in their bond cases, but it has only secured the release of about half that number.<sup>132</sup> As our experience in those projects has borne out, the tough cases are nevertheless important to take. Sometimes, no amount of advocacy will change the outcome. In that case, students still learn how to bear witness to the legal system’s violence, so that clients’ struggles are not entirely forgotten.<sup>133</sup> And once in a while, we do win the unwinnable case—and that teaches students something too.<sup>134</sup>

For law students, “losing” can be one of the fastest ways to develop resourcefulness, resiliency, and grit.<sup>135</sup> In the public interest context, it is particularly important for students to see that we should not turn away from the hard cases if resources permit it. “Losing” is often not a reflection of their personal performance but instead a reflection of the legal system’s hostility toward their clients. It may even be possible (and necessary) to redefine what winning and losing mean within that system, as our students did in the *Puente* case.

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132. *Immigrant Rights Clinic, supra* note 2. A clinician at Villanova Law School, Caitlin Barry, recently remarked that it is rare for clinics to publicly declare that they handle matters that don’t lead to a favorable outcome. We feel that these are important numbers to share publicly for at least two reasons. First, it’s important for members of the public to be aware of the rate at which immigrants are granted bond and how difficult it is, particularly when cases are not cherry-picked by a provider. Our students do not shy away from offering representation to detainees with harder cases because those immigrants are among the most vulnerable. Second, the public should be aware that judges who grant bonds to detainees routinely set the bonds at amounts that are too high for their families to afford, and as a result, clients are never released.

133. See Robert M. Cover, *Violence and the Word*, 95 YALE L.J. 1601, 1601 (1986); see also David Luban, *Taking out the Adversary: The Assault on Progressive Public-Interest Lawyers*, 91 CAL. L. REV. 209, 245–46 (2003) (explaining that while public interest lawyers may struggle at times with a sense of futility, “the alternative is not making a historical record, so that the very fact that they had a cause disappears without a trace”); Paul Farmer, Kolokotronis Univ. Professor, Harvard Med. Sch., Address at the Kennedy School of Government, Harvard University: Accompaniment as Policy (May 25, 2011) (transcript available at OFF. SECRETARY-GENERAL’S SPECIAL ADVISER: ON COMMUNITY-BASED MED. & LESSONS FROM HAITI, <https://www.lessonsfromhaiti.org/-and-media//as-policy/> [<https://perma.cc/A5TM-PGAP>] (last visited November 11, 2019)).

134. Katie Tinto describes one “unwinnable” case recently handled by the Criminal Justice Clinic in which a client serving a life sentence was granted compassionate release. Students persisted in the case through many twists and turns, including a denial from the Bureau of Prisons, before they were ultimately successful. Press Release, U.C. Irvine Sch. of Law, UCI Law Criminal Justice Clinic Client Granted Compassionate Release from Federal Prison (July 10, 2019), <https://www.law.uci.edu/news/in-the-news/2019/cjc-compassionate-release.html> [<https://perma.cc/EJ7K-6AQS>].

135. See, e.g., ANGELA DUCKWORTH, *GRIT: THE POWER OF PASSION AND PERSEVERANCE* (2016). Recognizing the emotional wear of this work for four semesters in a row now, we have dedicated at least one seminar session to the subject of developing resiliency as a part of personal professional identity, as well as trauma stewardship.



*An ability to think broadly about the role of law and lawyers in society*

The projects we have taken in the Clinic have challenged students' conception of a lawyer's role. The *Puente* case, for example, was litigated as a movement lawyering case. As Lucie White writes, a key focus of this type of lawyering, which she calls the third dimension of change-oriented lawyering, is on building the consciousness of both marginalized groups *and their lawyers*.<sup>136</sup> The idea here is

not to change . . . elite attitudes toward the poor . . . [but to] enable poor people to see themselves and their social situation in ways that enhance their world-changing powers. At that same time, lawyering in [this] dimension seeks to change the attitudes and self-concepts of lawyers themselves . . . . [L]awyering is no longer a unidirectional "professional service." Rather, it is a collaborative communicative practice. This practice demands strategic innovation and critical reflection—about the forces that condition poor people's subordination; as well as the ways they might resist and even redirect those forces to achieve justice.<sup>137</sup>

As our students quickly learned, a movement lawyering approach did not mean that the legal team took the craft of lawyering any less seriously.<sup>138</sup> On the contrary, our ability to deliver a sweeping preliminary injunction, even if only for a year, brought important temporary reprieve to workers and created space for Puente to grow its members into politically engaged and confident leaders.<sup>139</sup> Similarly, the lawsuit gave expression to (and enhanced the legitimacy of) the members' grievances, generating public support for their organizing work.

However, the movement lawyering frame also helped students see the value of non-legal work and the limits of what they could achieve through law for impacting the social arrangements that had led to the marginalization of immigrant workers. Over several years, students participated alongside Puente in generating numerous community education materials, building a website about the lawsuit,<sup>140</sup> helping coordinate press conferences, and engaging a broad cross-section of

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136. White, *supra* note 40, at 157–58.

137. *Id.*

138. As Betty Hung has written, the idea is not to dismiss law as having no utility in furthering social movements, but to more carefully examine how law and lawyers can add value to organizing efforts. Betty Hung, *Essay—Law and Organizing from the Perspective of Organizers: Finding a Shared Theory of Social Change*, 1 L.A. PUB. INT. L.J. 4, 8–12 (2009). As Muneer Ahmad has explained in the context of habeas litigation by Guantanamo detainees, law, though a reflection of power, can also be a source of countervailing power. Drawing on Rick Abel, he observes that because state power is divided among branches and different levels of government, "[s]uch heterogeneity creates opportunities for . . . nonstate actors to wield power, strategically and interstitially[.]" Muneer Ahmad, *Resisting Guantánamo: Rights at the Brink of Dehumanization*, 103 NW. U. L. REV. 1683, 1741 (2009).

139. See *supra* note 69; see also Press Release, Nat'l Day Laborer Org. Network, *Puente v. Arpaio* Press Statement from Plaintiffs (May 2, 2016), <https://ndlon.org/puente-v-arpaio-press-statement-from-plaintiffs/> [<https://perma.cc/ENT4-X8JN>].

140. See Puente Arizona, *Puente v. Arpaio: Immigrants Fighting Back Against Worksite Raids and Prosecution*, PUENTE V. ARPAIO: STOP RAIDS!, <https://puenteaz.wordpress.com/> [<https://perma.cc/2RDQ-WJH7>] (last visited June 8, 2019).

Puente's membership at its offices in Phoenix. It may be easy to dismiss those tasks as being beyond (or perhaps beneath) what lawyers do. Yet, those tasks made perfect sense when one considers that the legal team's ultimate objective was about not only to litigate a case but also to build power in the community.<sup>141</sup>

Now, we are dealing with the reactionary policies we faced in Maricopa County, Arizona on a national scale. The need for lawyers to think broadly and creatively about what they can do is more important than ever. Moreover, as the effects of climate change become unavoidable, technological change threatens to widen the gap between rich and poor, and as communities become more fragmented,<sup>142</sup> it will not be enough for the lawyers of tomorrow to be limited to their institutional roles.<sup>143</sup> As discussed above, in some of our other clinic matters, and in particular the bond cases, students are questioning their role in a system that purports to be governed by rules but is in reality a kind of sham justice.<sup>144</sup> This has led students to ask what the point of law is and what they can do to redeem the meaning of law—which is perhaps one of the most valuable ways we believe we can prepare them for the practice of law.<sup>145</sup>

#### CONCLUSION

I set out in this Essay to explore more intentionally what it means to prepare students for the practice of law, particularly at this moment for our profession, our country, and our changing world. Our students, more so than the generations of law students before them, will be forced to confront challenges of an existential nature. Law schools cannot afford to shy away from offering students a framework for thinking about these challenges, and about questions of professional role in this new environment. Students must be ready to be innovators, collaborators, and thought-leaders. Students will also need the tools to protect the institutions that are worth keeping and rethink (even reconfigure or replace) the ones that are not. Clinical education can be an important site for this type of learning and development. In this moment, clinical legal education's outsider tradition is something to be embraced, not feared.

Our program at UCI Law is aspirational—we have by no means figured out a magic formula. But consistent with our culture here, we are continuing to push, and we will push the boundaries of legal education for decades to come.

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141. See Ashar & Lai, *supra* note 43, at 84.

142. See, e.g., Peter K. Yu, *The Algorithmic Divide and Equality in the Age of Artificial Intelligence*, 72 FLORIDA L. REV. (forthcoming 2020).

143. Students in our Intellectual Property, Arts and Technology have had to puzzle through their role as part of an ongoing exploration of where the public interest lies in technology law and policy. Email from Jack Lerner (Aug. 12, 2019) (on file with author). International Justice Clinic students have long had to think outside the box about how to bring human rights standards to bear to influence policy on the global stage. Laurie R. Blank & David Kaye, *Direct Participation: Law School Clinics and International Humanitarian Law*, 96 INT'L REV. RED CROSS 943, 951 (2004).

144. See *supra* Part II.B.

145. Thanks goes to my colleague Caitlin Bellis for this important point.

