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CLINICS AND EMERGENCIES

SABRINA BALGAMWALLA AND ELIZABETH KEYES*

Clinical programs—and the clinicians who run them—are regularly called upon to respond to emergency situations. These engagements can be rewarding, personally and professionally. But, as we know from our own work as immigration clinicians, emergency lawyering also presents pressure points for clinicians. Our hope in writing this article is to surface and critique the dynamics that arise when clinicians are called upon to engage in emergency work. Specifically, we aim to expand on the literature of clinics and emergency responses by reflecting on the ways in which emergency responses have drawn significant energy and time from clinicians, including ourselves. As a path forward, we offer a framework to evaluate whether and how to undertake an emergency response, allowing clinicians to more comprehensively evaluate the impact of such work on ourselves as well as our programs, institutions, clients, students, and communities.

INTRODUCTION

Across the many fields of law practiced by clinics, emergency situations arise and call out for our attention, time, and energy: an impending foreclosure crisis, conditions in prisons at the height of COVID, devastation following a natural disaster, the need for large-scale deportation defense. Law schools generally,¹ and clinicians in particular, have sound reasons to engage students in crisis work, from satisfying pressing community needs, to engaging students in work responsive to issues in news headlines.² Increasingly, clinicians have documented their experiences and reflections to share knowledge with other clinicians on designs and processes for crisis response, and developed increasingly

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¹ See Latisha Nixon-Jones, *Beyond Response: Reimagining the Legal Academy's Role in Disaster Recovery and Preparedness*, 71 CLEV. ST. L. REV. 571 (2023).

² We address even more benefits and opportunities in Part II.A, *infra*.

robust pedagogies to support doing so.³ We acknowledge and embrace these contributions as we reflect on the clinic responses to emergencies.

In this article, we want to introduce two strands to the cloth being collectively woven. The first is largely uncontroversial. We offer our own experiences as immigration clinicians to expand the conversation beyond discrete natural disasters, allowing us to consider responses to “manufactured” emergencies that emerge from systemic breakdowns or ruptures.⁴ Some has been written about the experience, for example, of leading alternative spring break trips to the border or to detention facilities.⁵ Less has been written about how, within existing clinics, clinicians have diverted—or simply added—attention to unrelenting emergencies, from the “surge” of unaccompanied migrant children in 2014, to the Afghan parole crisis of 2021. This article folds such issues in to the conversation.

More controversially, we also offer a framework for considering *whether* clinics should undertake such work. While earlier work has done an excellent job of considering *how* clinics can capably engage in this work, the question of whether to respond has been largely unexplored. Our institutions—and we, as professionals and as human beings—face limited capacity. As such, a choice to place our energy in one form of legal work necessarily limits the energy we can devote to other matters. A choice to engage in crisis lawyering can be sound on any number of levels, but as know from our own work, there are also significant pressures to do the work; some are clear, while others are more

³ See, e.g. Elora Mukherjee, *The End of Asylum Redux and the Role of Law School Clinics*, YALE L. J. FORUM (Dec. 4, 2023), <https://www.yalelawjournal.org/forum/the-end-of-asylum-redux-and-the-role-of-law-school-clinics>, Jeffrey R. Baker, Christine E. Cerniglia, Davida Finger, Luz Herrera & JoNel Newman, *In Times of Chaos: Creating Blueprints for Law School Responses to Natural Disasters*, 80 LA. L. REV. 421 (2020); Lindsay M. Harris, *Learning in Baby Jail: Lessons in Law Student Engagement in Family Detention Centers*, 25 CLINICAL L. REV. 155 (2018); Davida Finger, Laila Hlass, Anne S. Hornsby, Susan S. Kuo & Rachel A. Van Cleave, *Engaging the Legal Academy in Disaster Response*, 10 SEATTLE J. SOC. JUST. 211 (2011). When we expand the lens to include COVID-response clinics, we see an even broader scope of emergency response pedagogy. See, e.g. Natalie Netzel, Ana Pottratz Acosta, Joanna Woolman, Katherine Kruse & Jonathan Geffen, *Mitchell Hamline School of Law Summer 2020 Covid-19 Legal Response Clinic*, 28 CLINICAL L. REV. 301 (2021); Rachel Kohl & Nancy Vettorello, *How Serving Jobless Workers During the Pandemic's Economic Recession Grounded Students: A Reflection from Michigan's Worker's Right Clinic*, 28 CLINICAL L. REV. 169 (2021). The Clinical Legal Education Association (CLEA) and the American Association of Law Schools (AALS) Section on Clinical Legal Education (the two main associations of clinical law professors) also addressed some of the challenges of the COVID era in their 2023 joint report. AALS Policy Committee & CLEA Committee for Equity and Inclusion, *Clinicians Reflect on Covid-19: Lessons Learned and Looking Beyond*, 28 CLINICAL L. REV. 15 (2021).

⁴ Both “natural disaster,” “crisis,” and “emergency” are contentious terms, as we explain in Part I.A, *infra*. Nonetheless, for clarity of reading and for lack of a less awkward description, we will use the term “crisis” throughout the article.

⁵ Harris, *supra* note 3, at 155.

subtle and easy to miss. Our hope in writing this article is to recognize and critique the pressures upon clinics and clinicians to engage in crisis work, to make the tradeoffs more transparent, and to offer a framework for deciding when to do such work.

We do this for two interconnected reasons. First, in recognition of the many incentives to do crisis work, it is possible for clinics to leap from one emergency to another, in ways that deplete us over time. Second, the fact of ongoing “emergency” framework thinly masks the reality we all know so well: that emergencies are just one manifestation of the deep structural injustices that our clinics work to address every day.⁶ For many immigration clinicians, this never-ending story of acute need has been abundantly clear in the cascading series of migration crises from 2014 through the present. But we are also aware that climate change has produced its own series of emergencies in terms of disaster response, and the housing crisis has contributed to astronomical need for eviction defense.

In this article, we proceed as follows. Part I clarifies what we mean by crisis legal response and describes the places it happens within the law school, particularly (but not exclusively) in clinics. Part II contrasts the tremendous opportunities inherent in doing crisis work with the framework of scarcity. Crisis response within law schools is exciting, engaging, and important, but it also comes with significant, often under-recognized costs. To extend a familiar aphorism, if we think about our clinics as boats in a mighty storm, it is true that from institution to institution we are in different boats in the same storm. But even the sturdiest boat has its *own* limits as to what it can weather.

Part III is the heart of the article. Here, we share a framework for accounting for the tensions between the opportunities and the scarcity of capacity. The first, crucial step in that framework is understanding our own tendencies when it comes to responding to acute needs. Here we lean on insights from psychology, legal ethics, and clinical pedagogy itself, to insist upon an individual-level reckoning with our own instincts before we enter into difficult choices regarding emergency response. This section continues with an expansive checklist that then helps us

⁶ See generally 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) (describing the encounters with deeply broken systems which students experience in law school clinics). Professor Rob Robinson sharply criticizes the crisis-framing of those broken systems: “As far as civil litigation is concerned, this has been called ‘crisis’ for so long that the ‘crisis’ appears to be never-ending. This, in fact, means it is not a crisis at all because a ‘crisis’ is ‘an unstable or crucial time or state of affairs in which a decisive change is impending.’” Robert Robinson, *There Is No Such Thing As Litigation: Access to Justice and the Realities of Adjudication*, 18 J. GENDER RACE & JUST. 185, 197–98 (2015) (quoting MERRIAM-WEBSTER’S COLLEGIATE DICTIONARY 296 (11th ed. 2004)).

engage in that problem-solving, including assessments related to competence, capacity, fit, and design.

Our project is not intended to dissuade clinics from providing legal services in times of acute legal need. On the contrary, we hope this critical perspective and decision-making framework will lead some clinicians to more confidently identify and structure responses that are beneficial to their programs, their students, and the community. But we also hope that naming the problematic framing of emergencies and the expectations for lawyers' responses will serve as a supportive counterweight to the enormous pressures—both internal and external—that clinicians face when confronted with the question of engaging in such a response. To clinicians who may ultimately conclude that an emergency response is not appropriate or that the scope should be limited, we hope this piece will reassure them that their work on the whole has enormous value, even if they decided after careful consideration that they are not positioned to respond to the crisis of the day.

I. DEFINING (AND CRITIQUING) EMERGENCIES

A. *Acute Needs with Long-Term Roots*

When we say “emergency,” the situations in the immigration context likely jump into mind for our readers: the large number of unaccompanied children arriving at the U.S. border (2014); the “Muslim ban” (2017); separation of families at the border (2018); the remain-in-Mexico policy with attendant humanitarian horrors at the Southern border (2019); the use of COVID to close down the border for asylum-seekers under Title 42 (2020); and the need to protect Afghans in the wake of a disorderly U.S. departure (2021). The list is both exhausting and incomplete. It makes clear that there is no one moment of crisis—it is possible to do nothing *but* emergency work in the field of immigration, which truly exposes how problematic the word “emergency” is.⁷

Indeed, the word “emergency” masks a fundamental feature true of each of these events: while the needs and pain were overwhelming in discrete moments of history, they arose from well-understood,

⁷ This phenomenon is not in any way unique to immigration law. Just as there has been an unending litany of immigration crises, so too have we seen, for but one example, foreclosure and eviction crises in various waves over the past 15 years. See, e.g. Karen Tokarz et. al., *Addressing the Eviction Crisis and Housing Instability Through Mediation*, 63 WASH. U. J.L. & POL'Y 243 (2020); Nathalie Martin & Max Weinstein, *Addressing the Foreclosure Crisis Through Law School Clinics*, 20 GEO. J. ON POVERTY L. & POL'Y 531 (2013); Robin S. Golden & Sameera Fazili, *Raising the Roof: Addressing the Mortgage Foreclosure Crisis Through a Collaboration Between City Government and A Law School Clinic*, 2 ALB. GOV'T L. REV. 29 (2009).

predictable systems, policies, and forces.⁸ What is labelled a “crisis” or “emergency” is really a very raw exposure to longstanding, structural inequality.⁹ They are the tip of the proverbial iceberg, which captured notice and attention, but each crisis stretches in time and cause well below that obvious surface. Professor Jaya Ramji-Nogales has critiqued this phenomenon particularly effectively with a metaphor:

A crisis is like the whistle of a boiling kettle. The terrible high-pitched shriek demands immediate attention. The instinctual response is to yank the kettle off the stove to quell the wailing. Crisis averted. But we could stop it from happening again by removing the whistle and using a timer, buying an electric kettle, or using the microwave to heat the water. Yet once the noise has died down, we forget about the other options and return to the path of least resistance. Crises and their symptoms tend to overshadow formative processes, which are largely systemic in nature. An urgent short-term problem obscures a larger and deeper-rooted systemic problem, and suggests myopic solutions that avoid examining core causes.¹⁰

Professor Stephen Lee has also urged a rethinking of the timeframe over which crises occur. In *Family Separation as Slow Death*, Lee draws from humanitarian and social science literature to ask us to consider the harms that occur outside the window of any given crisis moment.¹¹ Furthermore, the “crisis” of any given moment has an unfortunate habit, precisely because of the systemic roots of crises, of reappearing like the prodigal bad penny.

Both Ramji-Nogales and Lee’s critiques resonate with our experience as immigration clinicians. Each of the attention-grabbing events listed above wrought profound hardships on large numbers of people. Yet the hardships were worse because they occurred in the context of the deeply broken immigration system—broken from the borders to the courts—as well as larger global phenomena such as overseas wars, failed policies toward Central America stretching back decades, labor exploitation schemes, and more. The longstanding humanitarian issues produced within this history and these systems, along with the

⁸ Jaya Ramji-Nogales, *Migration Emergencies*, 68 HASTINGS L.J. 609, 612-13 (2017) (“The migration flows that result in mass influx are foreseeable responses to cycles and structures of violence as well as cyclical labor migration flows. In the former case, the migration stream grows steadily over time with ample warning, but at some point, is transformed into a “crisis” that grabs public attention. In the latter case, these migration cycles have often occurred for many years and meet predictable labor needs within destination countries.”)

⁹ Finger et. al., *supra* note 2, at 212 (“Whether the disaster is a flood, hurricane, fire, tornado, or riot, preexisting social inequality and vulnerability will affect how severe and how lasting the damage will be.”).

¹⁰ Ramji-Nogales, *supra* note 8, at 623.

¹¹ Stephen Lee, *Family Separation as Slow Death*, 119 COLUM. L. REV. 2319 (2019).

exclusionary dynamics of immigration law, already make it challenging for many immigration attorneys to effectively represent their clients. Political developments may unleash a crisis in the public's perception, but the slow-onset horror story of these systems themselves are neglected. Poverty lawyers who engage with bureaucratic institutions like the Social Security Administration, Veteran's Affairs, and Housing Authority will recognize these struggles: the real crisis is the dysfunctional system that makes it necessary to have lawyers for even the most basic human needs. Any of these longstanding issues is as worthy of attention as the crisis that hits the headlines, and all of them are connected to broken pieces that causes tremendous human suffering. As we move through this article questioning where clinics can respond to emergencies, we are therefore mindful of the complementary value of the slower, less visible, important work of fixing (or abolishing) the broken system itself.¹²

We are also cautious about using the terms "crisis" and "emergency" because historically such framing has justified state intervention, sometimes in aggressive and questionable ways,¹³ including violence.¹⁴ The rationale of emergency in the aftermath of 9/11 enabled infamous encroachment on civil and human rights, including indefinite detention of enemy combatants at Guantanamo,¹⁵ torture and extraordinary rendition,¹⁶ and government surveillance.¹⁷ Indeed, our immigration policies

¹² The choice between reform and abolition is well beyond the scope of our article, and we believe our critique helps creates space for *either* approach as clinics design their structures and dockets. For an excellent overview, see Laila L. Hlass, *Lawyering from a Deportation Abolition Ethic*, 110 CALIF. L. REV. 1597 (2022), which itself credits the conceptual groundwork laid by Angélica Cházaro, *The End of Deportation*, 68 UCLA L. REV. 1040, 1113-16 (2021). For an examination of the choice to do abolition work in the clinical space, see Nicole Smith Futrell, *The Practice and Pedagogy of Carceral Abolition in a Criminal Defense Clinic*, 45 NYU REV. L. & SOC. CHANGE 159 (2019) (offering a complex view of the necessity of teaching and practicing abolition alongside client representation).

¹³ See, e.g. NAOMI KLEIN, *THE SHOCK DOCTRINE: THE RISE OF DISASTER CAPITALISM* (2007) (critiquing neoliberal responses that exploit crises moments in pursuing policies that would ordinarily be met with opposition); REBECCA SOLNIT, *A PARADISE BUILT IN HELL: THE EXTRAORDINARY COMMUNITIES THAT ARISE IN DISASTER* (2009) (challenging the narrative of chaos and panic that is often used to justify controversial state responses to emergencies).

¹⁴ See Noa Ben-Asher, *The Emergency Next Time*, 18 STAN. J. C.R. & C.L. 51, 57-58 (2022) (introducing the concept of "Emergency Violence," in which the state justifies extraordinary measures that "amend[], suspend[], or cast aside" everyday rules, practices, and standards).

¹⁵ See, e.g. Baher Azmy, *Twenty Years Later, Guantánamo Is Everywhere*, BOSTON REV. (Jan. 11, 2022), <https://www.bostonreview.net/articles/twenty-years-later-guantanamo-is-everywhere/> (last visited July 30, 2024).

¹⁶ See, e.g. Memorandum from Office of Legal Counsel, U.S. Department of Justice, to Alberto R. Gonzalez, Counsel to the President, Re: Standards of Conduct for Interrogation Under 18 U.S.C. §§ 2340-2340A (Aug. 1, 2002); Leila Nadya Sadat, *Ghost Prisoners and Black Sites: Extraordinary Rendition Under International Law*, 37 CASE W. RES. J. INTL. L. 309 (2006).

¹⁷ See, e.g. Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act, Pub. L. No. 107-56 (2001) (with

still reflect the state's emergency response to the "war on terror."¹⁸ As we move through this article questioning where clinics can respond to emergencies, we are therefore mindful of the complementary value of the slower, less visible, urgently-important work of fixing (or abolishing) the broken system itself.

Finally, as we move through our article, we will strive to avoid another aspect of this work we find problematic: using natural disaster terminology to describe these situations. We have seen migrants described in terms of tsunamis, surges, and floods. From the longstanding failure to reconcile immigration policy and humanitarian imperatives and historical flows of migrants and the political science and political economy of migration, these are not natural disasters. Consistent with our view that there is nothing natural or unexpected about these events, we reject terminology—however easy and familiar—that takes the structural causes and policy origins of these hardships out of the discourse.

B. *Where the Work is Happening in Law Schools*

Examples of experiential education programs' response to urgent immigration developments are abundant. Immigration clinicians were among those providing emergency assistance at airports during the Muslim ban,¹⁹ and accompanying law students to the border²⁰ or detention centers²¹ to assist with the mass representation of asylum-seekers. Crisis response has come in the form of clinic cases and projects, alternative spring and winter breaks, summer and remote internships, and long-term volunteer work with ad hoc networks or with pro bono projects.²²

provisions expanding domestic and international wiretapping, creating expanding the reach of Foreign Intelligence Surveillance Act, and expanding government access to information personal financial information, student information, and information from internet search providers); Amna Akbar, *National Security's Broken Windows*, 62 UCLA L. REV. 834 (2015) (describing the FBI's use of the countering violent extremism (CVE) program to gather intelligence on Muslim communities).

¹⁸ See, e.g. Ben-Asher, *supra* note 14, at 68 (connecting Trump's Muslim ban to post-9/11 policies targeting nationals of Arab and Muslim countries).

¹⁹ Muneer I. Ahmad & Michael J. Wishnie, *Call Air Traffic Control!: Confronting Crisis as Lawyers and Teachers*, in CRISIS LAWYERING (Ray Brescia and & Eric K. Stern, eds., 2021).

²⁰ Al Otro Lado—an immigrant rights organization that assists asylum-seekers, refugees, and deportees on both sides of the border in Tijuana, Mexico and San Ysidro, California—was among the organizations hosting law student volunteers. See AL OTRO LADO BORDER RIGHTS PROJECT, <https://alotrolado.org/border-rights-project/> (last visited July 30, 2024).

²¹ See generally Harris, *supra* note 3.

²² SIFI, a program of the Southern Poverty Law Center, was created to address the representation gap for immigrant detainees held in the large detention facilities located in rural Georgia, Louisiana, and Mississippi—jurisdictions known for their high rates of deportation. The program was disbanded in June 2024. See Emily Wu Pearson, *Immigrants in Georgia Detention Centers Lose Access to Sole Local Pro Bono Law Clinic*, WABE (Jul. 3, 2024), <https://www.wabe.org/immigrants-in-georgia-detention-centers-lose-access-to-sole-local-pro-bono-law-clinic/> (last visited July 30, 2024).

In this section, we organize moments like these into formal curricular offerings (through clinics and externships), co-curricular initiatives, and personal service by faculty, staff, and students alike. As the above examples highlight, many clinicians may feel compelled to respond to a local or national emergency out of personal conviction. But there is the potential for institutional pressure as well. We have both experienced requests from colleagues for help with individual cases, and have been urged to respond to national developments in immigration law. This raises important questions, particularly for pre-tenure or contract clinicians, about professional expectations and how we allocate our time. On an institutional level, public law schools may similarly encounter a special presumption of availability and willingness to assist, particularly in a local emergency, as we discuss in the following section.

1. The Experiential Curriculum: Clinics and Externships

Interest in immigration law caused a boom in the existence of immigration-focused law school clinics and externship placements. The number of schools offering such clinics increased roughly 50% between AY 2013-14 and AY 2019-2020,²³ and existing clinics have frequently expanded their offerings and capacity through increased internal and external funding, or through voluntarily-increased supervision loads (bringing on the maximum number of advanced clinic students, for example).²⁴ Within existing clinics, many have made efforts to respond to crises in an ongoing way. For example, Professor Lindsay Harris estimates that, as of 2018, seven of 40 clinics involved with family detention emergencies had incorporated that work into the clinics' long-term structure, instead of seeing the issue as a one-off opportunity.

While immigration clinics rallied in interventions responding to the Trump Administration's policies, clinicians have also regularly responded to urgent issues facing local immigrant communities, many of which fail to garner widespread media attention. JoNel Newman and Melissa Gibson Swain, for example, documented the University of Miami's mass assistance—both short-term and long-term—to Haitians

²³ Center for the Study of Applied Legal Education, CSALE 2019-20 SURVEY RESULTS, <https://www.csale.org/#results> (last visited July 30, 2024) ("CSALE").

²⁴ We have been unable to locate similar data for externships, but surmise that externship placements likewise reflected this increased interest and need. As Professor Jeff Baker and his co-authors point out, externships offer a nimbleness like no other in connecting students with legal service organizations desperate for effective assistance, so we assume externship placements offered at least comparable opportunities. Baker et al., *supra* note 3, at 483 ("[A]n externship program that is nimble to respond to disaster needs allows eager students to engage in the response while also increasing the capacity of the field office."),

seeking temporary protected status following the January 2010 earthquake.²⁵ Rebecca Sharpless, also at the University of Miami School of Law, worked quickly alongside her students to halt the deportation of shackled and abused asylum-seekers to Somalia.²⁶ Albany Law School clinician Sarah Rogerson helped mobilize and coordinate representation and supportive services to more than 300 asylum-seekers after an unexpected mass transfer to the Albany County Correction Facility.²⁷ In 2021, six clinicians at five law schools collaborated to file a class action lawsuit on behalf of the many immigrant women sexually assaulted at Georgia's Irwin County Detention Center.²⁸ While these crises may receive little attention in the national media, clinicians have played a critical role in meeting urgent community need.

2. *Service-Learning and Co-Curricular Offerings*

Beyond formal curricular offerings, law schools are also increasingly offering spring break trips focused on immigration, from Penn State or Maryland Law students spending spring break doing detained work in Pennsylvania and Georgia, respectively, to multiple schools sending students to family detention centers or to Tijuana to handle border issues.²⁹ The first of these immigration-focused initiatives that we are aware of was the roving clinics in Florida aimed at registering Haitians who were eligible for Temporary Protected Status³⁰ after the 2010 Haitian earthquake.³¹ Professor Harris's work documents the exceptional efforts she and many others have undertaken in response to family immigration detention, including ensuring that such co-curricular offerings are pedagogically and ethically rich. Closer to home, as individual asylum-seekers gained release to have their cases heard at immigration courts, clinics, immigration law associations, and other service organizations began

²⁵ Melissa Gibson Swain & JoNel Newman, *Helping Haiti in the Wake of Disaster: Law Students as First Responders*, 6 INTERCULTURAL HUM. RTS. L. REV. 133 (2011).

²⁶ Rebecca Sharpless, SHACKLED: 92 REFUGEES IMPRISONED ON ICE AIR (2024).

²⁷ See generally Sarah Rogerson, *Preparation, Crisis, Struggle, Ideas*, in CRISIS LAWYERING (Ray Brescia and Eric K. Stern, eds., 2021).

²⁸ D'lorah Hughes, *Announcing the Recipients of the 2021 CLEA Awards*, CLINICAL LAW PROF BLOG (Apr. 22, 2021), https://lawprofessors.typepad.com/clinic_prof/2021/04/announcing-the-recipients-of-the-2021-clea-awards.html (last visited July 30, 2024).

²⁹ Professor Harris states that "[t]he scale of law student involvement in family detention centers, particularly in Texas, has been massive, with approximately 40 schools engaging in some way in the first three years [since 2014] alone." Harris, *supra* note 3, at 158.

³⁰ Temporary Protected Status offers work authorization and a time-limited reprieve from deportation. For an analysis of its strengths and weaknesses, see Elizabeth Keyes, *Unconventional Refugees*, 67 AM. U. L. REV. 89 (2017).

³¹ Swain & Newman, *supra* note 25. We are confident that other clinics have done similar response in prior eras, and warmly seek feedback on our intentional omissions. Swain & Newman themselves offer useful history on such initiatives in other contexts, including the formation of the Law Students Civil Rights Research Council in 1963. *Id.* at 137.

supplementing overwhelmed nonprofit staff-power with on-site intake and counseling. Liz and her students at the University of Baltimore undertook such projects first with Esperanza Center (the local Catholic Charities), and later at Johns Hopkins Hospital, the Kennedy Krieger Institute, and other local service providers overwhelmed with client and patient legal needs.

Since the burst of activity flowing from mass family detention of migrants in the mid-2010s, the Trump Administration brought a slew of further assaults on due process that led to even greater bursts of activity. One of the most well-known interventions was the 2017 airport response, which heavily featured the work of Yale Law School's Immigrant Rights Clinic. In an example that beautifully illustrates the point made above about the necessity of pre-existing relationships, that clinic was able to respond in stunning speed to the Muslim ban in collaboration with, among others, an alumna and colleagues at civil rights organizations to respond with one of the first habeas petitions challenging the ban.³² Clinics soon began turning to the acute needs at the border, echoing the earlier responses to family detention, as various policies attempted to restrict people's access to the ability to file for asylum at all.³³

3. *Personal Service by Faculty and Students*

When all these official law school-affiliated offerings made but a tiny dent on situations of overwhelming need, many faculty and students felt an inescapable pull to personally do more. Outside of official institutional opportunities and service projects, many students involved themselves in national efforts, including the airport legal clinics established immediately during the Muslim ban of 2017, detention abolition work, and Afghan parole applications. Unlike the extraordinary legal organizing done by students in the wake of Hurricane Katrina, who created the Student Hurricane Network to coordinate across many law schools,³⁴ the responses to the various immigration moments of the past decade have led to more personalized and *ad hoc* volunteer work for organizations like the International Refugee Assistance Project (critical to the travel bans and Afghan parole), Al Otro Lado (helping

³² See Yale Law School, *How Yale Law Students, Faculty, and Alumni Mobilized to Fight the Executive Order on Immigration* (Feb. 1, 2017), <https://law.yale.edu/yls-today/news/challenging-refugee-and-travel-ban>.

³³ See generally, Mukherjee, *supra* note 3 (examining models of immigration clinic involvement during the Trump and Biden administrations).

³⁴ See Finger et al., *supra* note 3, at 223 (2011) (Part III: The Student Hurricane Network). The now-archived site for the organization says that an average of 170 law student volunteers per month gave time to the diverse legal-work needed post-Katrina. https://www.probono.net/shn_old/. See also Laurie Morin & Susan Waysdorf, *The Service-Learning Model in the Law School Curriculum*, 56 N.Y.L. SCH. L. REV. 561, 586 (2012).

asylum-seekers stuck in Tijuana with preparing their asylum applications), and local nonprofits whose scope of work expanded in volume.

When emergencies conflate with the deep gap in access to justice, *pro bono* work inevitably beckons. Three University of Baltimore Law students who began their service with Esperanza Center as clinic students in 2014 continued to try to meet legal needs with such passion and energy that they won the Maryland State Bar Association Young Lawyer Section Award in 2018.³⁵ Each of us took on many *pro bono* matters³⁶ during this period, separate from anything we ever assigned to clinic students; it was not unusual during the Trump Administration to have as many as 20-30 *pro bono* hours *monthly* (the aspiration for annual *pro bono* being 50 hours for lawyers).³⁷ We also observed colleagues spending precious days and weeks organizing community workshops, traveling to the border, and training *pro bono* lawyers alongside running their clinics. Any conversation with an immigration clinician during these times—and there were many, as we are an inherently and necessarily collaborative community—began with moments of connecting over our communal exhaustion. And yet, no matter how creatively we used our time and resources, no matter how many excited students we engaged to leverage our efforts, we grew only more aware of the excruciating levels of unmet need.³⁸

4. *Our Stories*

We offer moments from our own experiences to provide specificity for the framework that follows in Part III. We do so knowing that ours are only two of any number of comparable experiences shared by our fellow clinicians over the years. Our personal stories lay bare the choices that we made in the midst of navigating the ongoing state of emergency for migrants in the U.S. over the past decade.

Liz starts her emergency clock in 2014, when Central American children began crossing into the United States in large enough numbers that their situation captured the public's attention. She was ten years

³⁵ Maryland Pro Bono Resource Center, *Maryland Pro Bono Service Award Recipients, 1991 to Present*, <https://probonomd.org/wp-content/uploads/2024/06/Maryland-Pro-Bono-Service-Award-recipients-1991-to-present.pdf> (last visited July 30, 2024).

³⁶ Individual cases; leading trainings; organizing workshops to involve volunteers; leading community-based talks to share high-quality information with nervous migrants; and so forth.

³⁷ The Model Rules of Professional Conduct, which largely mirror state rules, make this *pro bono* standard aspirational. MODEL RULES OF PROF'L CONDUCT R6.1 (Am. Bar Ass'n, 2019).

³⁸ Sometimes, the need was placed directly in front of us by colleagues or alumni of our institutions, which can feel extremely precarious for people within the academy of lower status, as clinicians often are, and as pre-tenure clinicians are even when clinicians *generally* have status at an institution.

into asylum practice, and had been increasingly working on the special visas available to migrant children who had experienced abuse, abandonment, or neglect by one or both of their parents.³⁹ These skills were at the crosshairs of the needs of the community in 2014, and she organized a large gathering of government officials, Baltimore nonprofits, and funders, to consider a holistic response. Within the clinic, she added a project for students to do a weekly intake at a local legal services organization, in addition to their asylum casework. The project met an acute need, and offered students the opportunity to rapidly improve their interviewing, counseling, and legal analysis skills, while feeling like they were responding to an issue in the news.⁴⁰ This evolved over time to doing similar work at a hospital that had immigrant-specific programming. Despite being extra work, the model worked well because it complemented existing work, did not add many new cases to our already-full docket, and allowed for solid clinical pedagogy throughout. This, with occasional screening workshops run through University of Baltimore's tireless Immigration Law Association, was sustainable and exciting. Liz complemented this by serving on the executive committee of the Maryland State Bar Association's immigration committee, and taking on leadership—and eventually the presidency—of the Maryland Immigrant Rights Coalition. Law school service and scholarship continued throughout, as she was pre-tenure for this period.

The balance shifted in November 2016, with the election of the most explicitly anti-immigrant president any of us had ever seen.⁴¹ The day after the election, when many were understandably struck by devastation, Liz organized a call with other clinicians to start brainstorming our response, and organized neighbors to think through local responses. This quickly yielded countless urgent invitations to come speak to terrified groups of immigrant parents at schools and churches, explaining the new reality, offering screenings for immigration relief, and urging preparation for all that we knew about then President-elect Trump's plans. These meetings, on nights and weekends, happened too

³⁹ The eligibility requirements for this special immigrant juvenile visa can be found at 8 U.S.C. § 1101(a)(27)(J) (2023).

⁴⁰ Three of the students continued with the work after clinic, and won a pro bono award years later for their sustained efforts.

⁴¹ One historian confirms our impression: "As a historian who specializes in the study of anti-immigrant sentiment, I know that Trump is not the first president to denigrate newcomers to the country. But Trump has attacked and scapegoated immigrants in ways that previous presidents never have — and in the process, he has spread more fear, resentment and hatred of immigrants than any American in history." Tyler Anbinder, *Trump Has Spread More Hatred of Immigrants Than Any American in History*, WASH. POST (Nov. 7, 2019), https://www.washingtonpost.com/outlook/trump-has-spread-more-hatred-of-immigrants-than-any-american-in-history/2019/11/07/7e253236-ff54-11e9-8bab-0fc209e065a8_story.html (last visited July 30, 2024).

quickly and required too much sensitivity to involve students, and Liz did almost of all these solo in the early months.⁴²

Meanwhile, we realized families needed powers of attorney, so Liz worked with other service providers to come up with draft documents, and design and hold pro se workshops, first for the powers of attorney, and later—controversially at the time—for asylum applications. This was all happening in the first weeks of the new semester—not an ideal time to involve students. Along with other clinicians in ad hoc support groups, Liz wondered about how to balance the desire to engage highly-motivated students with the ferociously short timeline of community need. In retrospect, it would have been worth slowing down for two weeks to create the model for involving students, but slowing down did not feel like an option at the time. When the Muslim ban happened in late January, students had airport protests and pop-up legal clinics as an outlet, and Liz left those efforts to the newly-enraged and kept plugging away at the community education piece.

All of this happened, unfortunately, in the context of a very full existing docket of asylum cases, many of which had been bounced around the court calendar for years before settling on 2017 for trial dates. In the fall 2017 semester, the Baltimore immigrant rights clinic had *ten* individual hearings, with only ten students. That meant Liz and Nickole Miller (the superb new clinical teaching fellow in the clinic) had to take on more work individually, supervise the maximum number of advanced clinic students we were permitted, and even supervise a research assistant to prepare the litigation (even if she was not allowed to argue in court). This maelstrom is a classic example of the kind of emergency that occurs in a broken system—these cases had been shuttled around for so long, through no fault of ours or our clients—that planning a reasonable docket was not something within our control. Liz also happened to be on the appointments committee that fall, and an ad hoc committee to find a career office director, service she did not think to say no to (hindsight, as a former boss once said, both incorrectly and absolutely truly, is fifty-fifty). Despite this being objectively a *lot* of work, at the time Liz was comparing herself to admired colleagues who seemed to be—and were—doing even more, pioneering new ways of working with law students at the border, engaging in impact litigation, showing up in the news as experts, and so on. The vibrancy and power of the clinical community was astonishing, and it also had the effect of skewing her sense of what was enough, what was possible.

⁴² While it was lot, the opportunity to make nervous people smile, and sometimes laugh, while leaving with solid information gave her enormous professional and personal satisfaction.

In January 2017, Liz received troubling results from a routine mammogram. When the radiologist and her primary care doctor could not seem to share records, she tried to fix the problem, but figured it was less important than everything else happening—and dwelling in both a broken health-care system *and* a broken immigration system was too much. So she neglected that, and by October, it was obvious that she had a serious issue, which she eventually learned was inflammatory breast cancer in November. She had to step back, and only worked part-time in the spring 2018 semester. She had to offload her pro bono cases, say no to community education work, and cut everything back to bare essentials as she went through intense cancer treatment. That moment of stepping back is the true genesis of her interest in this article—because when she stepped back, others stepped forward. She realized in a profound way that while she was important, she was not indispensable, and that other ways of working were possible. Thanks to letters from former students, she also realized that her *teaching* was a contribution she had seriously undervalued, and she began to trust that “only” teaching students to be effective, compassionate, creative lawyers, was enough impact for a lifetime.

Sabrina traces her own involvement in emergency response back to 2017. She had been directing an immigration clinic at the University of North Dakota, and felt isolated from the immigrant rights advocacy happening throughout the country once President Trump was elected. She made a sudden but welcome move to Detroit in July 2017, and hit the ground running as the incoming director of the Asylum & Immigration Law Clinic (AILC) at Wayne State University Law School. The sizeable Arab-American community in Detroit was in turmoil over Trump Administration’s policies, including the Department of State’s negotiations to resume deportations to Iraq. The ACLU of Michigan filed suit to halt the removal of 1400 Iraqi nationals with removal orders, many of whom had initially entered the United States as refugees and feared persecution and torture upon their return.⁴³ Eager to connect to community efforts and supplement the limited nonprofit legal assistance available for people in removal proceedings in Michigan, Sabrina agreed on behalf of the clinic to take on representation of two class members who were being detained in Youngstown, Ohio, and continued to pick up additional cases when pro bono counsel could no longer handle them.⁴⁴ Navigating practices in a new court, working with clients detained more than three hours away, and getting students up to

⁴³ For background on this case, see ACLU of Michigan, *Hamama v. Adducci*, <https://www.aclumich.org/en/cases/hamama-v-adducci>.

⁴⁴ The timeline of immigration proceedings being what they are, the clinic still represents three former *Hamama* class members, including one of the original clients from 2017.

speed with the evolving strategies for these cases was challenging, but Sabrina was proud of the work her students were doing and glad to be in a position where she could be helpful. As the litigation wore on, however, some of it began to feel very personal—she acutely felt the ways in which Muslims and Arabs were targeted by the Trump Administration, with her own family members wary of becoming victims of hate crimes. This emotional toll was compounded as her clients remained detained when others received bond; later her clients were participants in a detention center hunger strike, and one was eventually hospitalized.

In January 2019, Sabrina got a call from the Michigan Immigrant Rights Center (MIRC), the community partner organization with which the clinic collaborated most closely. The managing attorney told her that a number of asylum-seekers had been transferred from the southern border to Battle Creek, on the western side of Michigan. MIRC staff screened these individuals and found that some of them had contacts and resources to be able to seek bond, and many of them had strong claims for immigration relief as well. But MIRC did not have the capacity to take on these additional removal cases, and asked if the clinic could help. Sabrina had a full case docket, but she presented the opportunity to three advanced clinic students. The students (all deeply committed) responded enthusiastically; they wanted to represent all seven detainees referred to the clinic. In her heart of hearts, Sabrina did not want to say no to the asylum-seekers or to the students. Besides, seven detained clients did not seem like too much—weren't there clinics that represented many more? The next ten weeks were incredible to witness, but more exhausting than Sabrina or her students could have contemplated. When bond options fell through, the students worked to find alternative options to secure release. They reached out to bond funds, drew up contracts with community members to post bond, found places for people to live while their cases were heard locally, and even arranged to have new clothes and shoes waiting for detainees when they were finally released into the arms of family and newfound friends. The students took turns staffing the phones—including the one in Sabrina's office—to make sure that there were no calls missed from the detention facility, and they coordinated handoffs of paperwork to the next person scheduled to make the nearly two-hour drive to Battle Creek. They were also in court constantly, sometimes leaving a merits hearing at 5pm, going to the office to work on the next filing until security kicked them out after midnight, and coming back at 7:30am to stand in the security line for an hour for a bond hearing the next morning. In addition to securing release for detainees, the students did four expedited merits hearings.

Most days, Sabrina doesn't regret it. She fondly remembers clients passing the phone around as they called from the jail to wish students a happy Valentine's Day, a Unitarian Universalist congregation packing

the courtroom to support a bond claim, and crying at breakfast after the last asylum-seeker won relief. Modest as the results were, she remains in awe of her students and what they accomplished, and in that work, she felt dialed into her sense of purpose as an advocate and a teacher. The fellowship in the clinic and with the wider community was something beautiful and inspiring when immigration policy seemed to offer nothing but ugliness and despair. But the toll these efforts took on her physical and mental health was notable and persisted long after the hearings were over. Sabrina was depressed, but also restless and afflicted with the constant compulsion to work. Her digestive system was tied up in knots, and she had fatigue and brain fog that would not go away. As the COVID-19 pandemic ramped up, Sabrina leaned out of her caseload. But she felt guilty, thinking about how hard many of her colleagues were working—seeking injunctions against horrific Trump-era policies, advocating for mass release of detainees as COVID-19 ravaged jails and detention centers, and taking on much higher caseloads than her clinic ever would.

Leading up to the drafting of this article, Sabrina saw four different therapists, dealt with stress-related health diagnoses, and sought to repair personal relationships damaged by overwork. She was also painfully aware that her law school colleagues were pleased with her service work but also monitoring her scholarly productivity as she transitioned to a tenure-track position. She reasoned that, to set herself up for success, she would need to set limits on the number and types of cases she took on for her clinic in order to show up in the way she wanted to for her students and clients while still devoting adequate time to her research and scholarship.

II. OPPORTUNITY AND SCARCITY

A. *The Opportunities Offered in Meeting Acute Needs*

Among the many opportunities offered by engaging in emergency work, three rise to the top for us, but we will consider others. The three biggest opportunities are (1) the chance to meet acute community needs, (2) the ability to leverage and engage student interest, and (3) the fulfillment of our own sense of purpose.

1. *Meeting Acute Community Needs*

Acute can refer both to problems of a severe degree and to sudden-onset problems.⁴⁵ This factor thus does not immediately distinguish emergency work from other kinds of work being done in clinics across

⁴⁵ *Acute*, MERRIAM-WEBSTER DICTIONARY, <https://www.merriam-webster.com/dictionary/acute> (accessed Jul. 12, 2024).

the country, as the shortage of legal services for low-income persons is acute in the sense of severity, and these are often the clients our clinics aim to serve.⁴⁶ Indeed, Best Practices in Clinical Legal Education notes the general duty “owed by educators to the public,” and the more specific duty clinicians have to “respond to the legal services needs of the communities in which they operate.”⁴⁷ In a very real sense, crisis lawyering is exactly what clinicians *do*: clinical work often involves responding to client emergencies, and crisis response is but magnified variation of this.⁴⁸ We note in Part III.B, *infra*, why it is important to question lawyers’ primacy as crisis-solvers, but here we note that our ability to handle client emergencies that present themselves somewhat routinely in our ongoing clinical work offers clinicians a large well of insight to draw from in considering crisis lawyering.

We use the term acute here in the sense of “sudden-onset:” in a *crisis* context, acute signifies a need anchored to a particular event or moment in time. In this sense, there are aspects of the community need singular enough to be worth foregrounding. Before we do so, we also acknowledge that right here, in this dual meaning of the term “acute,” we foreshadow a major cost of doing crisis work: devoting resources to one area of acute need (sudden-onset legal needs), almost always at the expense of other acute needs (the long-term unavailability of the legal system to many).

The visibility presented by acute (sudden-onset) legal needs drives the sense of opportunity. Just as whistling tea-kettles attract attention from both the person making a cup of tea and the unfortunate family members and pets who hear the kettle as well, emergencies attract the attention of not just the legal experts, but the community that is neither directly nor personally affected by the emergency.⁴⁹ One of us had, for example, taken on an immigration case for a young teenage girl from Central America in 2010, trying to gain expertise in a slightly different area of immigration practice from our usual asylum and domestic

⁴⁶ See generally Stephen Wizner & Jane Aiken, *Teaching and Doing: The Role of Law School Clinics in Enhancing Access to Justice*, 73 FORDHAM L. REV. 997 (2004).

⁴⁷ ROY STUCKEY, BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP (2007), at 145, available at https://www.cleaweb.org/Resources/Documents/best_practices-full.pdf.

⁴⁸ Ahmad & Wishnie, *supra* note 19, at 313; see also Margaret Martin Barry, *A Question of Mission: Catholic Law School's Domestic Violence Clinic*, 38 HOW. L.J. 135 (1994).

⁴⁹ Swain and Newman describe the importance of this moment to “harness and channel the energy of both the victims and the responders...when legal service providers [are] overwhelmed... Non-profit providers wanted to assist applicants in a fast and organized capacity... Volunteer hotline numbers rang off the hook with persons who were willing to help. This initial surge only happens immediately post-disaster and inevitably dies down even though the need still exists.” Swain & Newman, *supra* note 25, at 162.

violence work: work with “unaccompanied minors.”⁵⁰ That case led to others, and by 2014, we had become quite competent in the area, and all-too-familiar with the dynamics of working with young migrants. Then, in 2014, the numbers of these cases rose dramatically and suddenly enough to attract widespread attention in the news. Interest in the area exploded, from scholars, from the media, from leaders in our own institutions, and from the public, all of whom were gratified to know we were already doing this work; we discuss this in more detail in part A.3. and A.4 *infra*. As new situations rose to the forefront of public attention in the ensuing years, this visibility remained a striking opportunity.

The sense of purpose in the acute context also offers meaningful opportunity. While in many respects demanding and exhausting, the work offers its own energy, as Baher Azmy states so beautifully, reflecting on his work representing Guantanamo detainees:

This legal effort exposed incompetence, cruelty, torture, and deeply misguided executive policies; it narrated the experiences of humans who would otherwise have remained voiceless and demonized; it captured the attention of the highest decision makers in the land and across the world; and it led to the release of 750 men from the brutality and dignity of indefinite detention. Personally, it was the most meaningful, morally engaging, and challenging work I have ever done.⁵¹

The work also allows those concerned with an issue to “look for the helpers,” to use the phrase now associated with Mr. Rogers,⁵² or to persist in what our students increasingly call “optimistic nihilism.”⁵³ Guantanamo lawyer Azmy notes how the work of lawyers in the

⁵⁰ Unaccompanied minors are defined as those who cross the border without a parent, prior to age 18. 6 USC § 279(g)(2).

⁵¹ Baher Azmy, *Crisis Lawyering in a Lawless Space: Reflections on Nearly Two Decades of Representing Guantánamo Detainees*, in *CRISIS LAWYERING* 67-68 (Ray Brescia and Eric K. Stern, eds., 2021). We note the irony of a two-decade legal project (still ongoing as of this writing) being an example of “crisis” lawyering; see part I, *supra*.

⁵² For a critique of the “fetishization” of this phrase, see Ian Bogost, *The Fetishization of ‘Look for the Helpers,’* THE ATLANTIC (Oct. 29, 2018), at <https://www.theatlantic.com/technology/archive/2018/10/look-for-the-helpers-mr-rogers-is-bad-for-adults/574210/>.

⁵³ Whether this is a true offspring of Nietzschean nihilism is beyond our expertise and beyond the point of this article, but optimistic nihilism, as used by our Gen Z students, can be defined as “Optimistic nihilism is the ability of a person to create his own meaning after fully accepting that the universe is a large place of meaninglessness.” Iyalo Durmonski, *Optimistic Nihilism Explained: Turn Meaninglessness Into Determination*, MEDIUM (July 30, 2023), at <https://durmonski.com/well-being/optimistic-nihilism-explained/#:~:text=What%20is%20Optimistic%20Nihilism%3F,can%20create%20our%20own%20path>. In our effort to understand our students better, we found this thought piece that helped us understand: <https://www.centreforoptimism.com/blog/everything-everywhere-all-at-once-perfects-optimistic-nihilism>.

otherwise lawless space “produce[s] hope in systems that are otherwise dependent on desolation and despair.”⁵⁴ This work of hope-production certainly exists in the act of lawyering through crises and emergencies.

The acute moment may also benefit from and deepen collaborations that far outlast the initial “sudden-onset” phase of response. Professor Sarah Rogerson’s organization of mass representation for detainees in Albany was recognized with the 2019 AALS Clinical Section’s M. Shanara Gilbert Award; her work drew on and strengthened her abolitionist praxis.⁵⁵ She writes:

[I]f we cultivate a strong foundation of relationships and collaborations around a known threat, crisis can serve as the birthplace of transformative ideas...When this crisis subsides and there is time to assess our impact, a small group of lawyers and advocates will have coordinated legal, religious, medical, and translation services to more than 300 individuals from more than thirty different countries, speaking nineteen different languages. We will have organized hundreds of volunteer attorneys, clergy, and interpreters from across the country and leveraged their collective effort to restore a modicum of due process to an immigration system designed to separate individuals from individual constitutional rights.⁵⁶

This has also been our experience. Indeed, the 2014 interest in unaccompanied migrant children gave rise in Baltimore to a meeting with every stakeholder in a then-small community of legal service providers, foundations, and the immigration courts to develop a community-wide response. The response led to the creation of the vitally-necessary and still strong Unaccompanied Children Project with the Maryland Pro Bono Resource Center. There may be a chicken-and-egg quality to this, where the collaborations cannot happen without some pre-existing degree of connection, but the collaborations may lack urgency and depth until the crisis-moment itself. Regardless, the importance of relationships is a constant theme in the literature on crisis response.⁵⁷

⁵⁴ Azmy, *supra* note 51, at 69.

⁵⁵ Rogerson, *supra* note 27, at 180.

⁵⁶ *Id.* at 180-81.

⁵⁷ See Newman & Swain, *supra* note 25; see also Baker et al., *supra* note 2, at 429 (“When a law school is located in the affected community, law clinics and perhaps local pro bono programs most often have the strongest relationships with vulnerable populations, potential client groups, and with bar leaders and legal aid organizations that will be central to coordinating post-disaster legal services.”).

2. *Engaging Students*

For some students, the opportunity for collaboration and community-centered work represents their highest hope as to what they can achieve with their law degrees. Law school can be a profoundly frustrating experience for students who entered the study of law with the hopes of making a positive difference in vital issues of the day. Students who applied to law school after watching the inspiring work of lawyers at the airports fighting the Muslim ban found themselves immersed in the 1L curriculum, learning (necessarily) to think like lawyers by studying cases that seemingly had nothing to do with their reasons for entering law school at all. Professor Bill Quigley's wonderful *Letter to a Law Student Interested in Social Justice* contains the powerful, all-too-familiar insight of a student who tells him, "You know...the first thing I lost in law school was the reason that I came."⁵⁸ That quotation goes on, however, to reflect that after time spent working in a neighborhood ruined by Hurricane Katrina, "this will help me get back on track."⁵⁹ Like that student, many, many law students are hungry for the experience that will connect them with the reasons they came to law school.

As Professor Fran Quigley has written, "disorienting moments" in lawyering offer enormous possibility for engaging law students.⁶⁰ Reflecting on Quigley, Jane Aiken notes that the best learning from such moments requires planning and reflection,⁶¹ which may be more difficult in times of overload, as we discuss in Part B, *infra*. But in terms of the opportunity, such moments can be fertile ground for learning and, potentially, transformation. Laurie Morin and Susan Waysdorf broaden Quigley's prism to disorienting generational moments.⁶² We posit that many of the highly-visible immigration moments of the past decade rise to that level of generational disorientation, particularly the scenes of airports in January 2017, when lawyers looked to be the ones visibly, forcefully, and *en masse* blocking the Trump Administration.

⁵⁸ William P. Quigley, *Letter to A Law Student Interested in Social Justice*, 1 DEPAUL J. FOR SOC. JUST. 7, 8 (2007).

⁵⁹ *Id.*

⁶⁰ Quigley, *supra* note 6.

⁶¹ Jane Harris Aiken, *Striving to Teach "Justice, Fairness, and Morality,"* 4 CLINICAL L. REV. 1, 26 (1997) ("[W]e must help our students in reflecting on why the moments are 'disorienting.' This requires students not only to analyze the world outside of them but also to turn inward and analyze themselves. They must seize the moment of their disorientation and deconstruct it.

⁶² Morin & Waysdorf, *supra* note 34, at 588 ("Just as individuals may experience a disorienting moment when faced with a particular incident of injustice, we believe that seminal events like Hurricane Katrina can trigger a 'disorienting moment' for an entire generation.").

3. *Institutional Opportunities*

The series of immigration crises created opportunities for our clinical programs as well. Nonclinical colleagues who knew about our work in a general way knew with much more particularity when they connected the work to the relentless news headlines about migration. Immigration clinicians often served as experts for those same news stories, increasing their visibility and, by proxy, the visibility of their clinics and their institutions. Students applied in greater numbers to our clinics, and we were able to connect students to community partners in greater numbers as well, including for externships and volunteer events. Alumni wrote to us wanting to know what we are doing, and were presumably content to know we were in the thick of the response. And so on.

In small but important ways, different parts of our institutions could lean on the clinics' work for meeting the needs of both the institutional mission and institutional constituencies. Admissions staff could entice applicants with the prospect of being part of such valuable and meaningful work. Timely sessions on public events, open to the public, supported the institutional mission and added vibrancy to the law school community. Stories on the clinical work made for good law school magazine articles to appeal to donors and alumni alike. For publicly-funded institutions, this response at a time of high visibility seemed especially important. Most public institutions (and, of course, many private ones) have community service at the heart of their missions, and reporting on that service can be useful to meeting the expectations of taxpayers⁶³ and, even more crucially, legislators who control important aspects of our institutional finances.

In less utilitarian terms, the work also clearly supported the social justice and access to justice mission at the heart of so many clinical programs.⁶⁴ Not all law school clinical programs have publicly available mission statements, but a sampling of large and small, public and private schools, secular and religious, foreground the importance

⁶³ This came as a surprise, but Liz received plentiful calls and emails from people otherwise unaffiliated with the University of Baltimore, wondering how we were responding to the situation. (Unsurprisingly, she also received plentiful calls and emails from people who disliked that we did anything whatsoever in the immigration law space.)

⁶⁴ See generally, Carolyn Grose, *Beyond Skills Training, Revisited: The Clinical Education Spiral*, 19 CLINICAL L. REV. 489, 495-6 (2013); Stephen Wizner, *The Law School Clinic: Legal Education in the Interests of Justice*, 70 FORDHAM L. REV. 1929, 1935 (2002) ("The founders of the clinical legal education movement, responding to the social ferment and legal rights explosion in America during the 1960s, envisioned clinical legal education not only as a way of enriching legal education with professional training, but as a means of stimulating law schools to attend to the legal needs of the poor and minorities, and engaging students in the pursuit of social justice in American society.")

of social justice to clinical education. One of the most comprehensive in this regard is that of University of St. Thomas School of Law:

[I]nspired by its social justice mission, is committed to preparing students to become accomplished servant leaders in the practice of law who seek to address the needs and improve the conditions of the disadvantaged and underserved. Our state, nation and world need passionate lawyers to help close the Justice Gap and tackle the inequities and inequalities that persist in our legal system and society.⁶⁵

As Davida Finger and others wrote in the context of natural disasters, emergency response work “can serve as a lens for a broader inquiry into social injustice, an inquiry that the legal academy is obliged to make as part of its educational mission...Disasters can offer a useful context for the type of dynamic, social justice-oriented learning advocated by the Carnegie Report.”⁶⁶

4. *Personal Opportunities*

Exciting and cutting-edge legal work can also inform our scholarship. Generally, that’s what we do. We have the deepest admiration for our asylum clinician colleagues who have expanded the law’s imagination through their tremendous scholarship. Karen Musalo, individually and through the Center for Gender and Refugee Studies that she founded and leads, has produced extensive scholarship and other writing that expanded the ability for women to seek asylum related to gender violence.⁶⁷ David Baluarte and Kate Evans turned their caselaw frustrations into powerful scholarship aimed at dismantling one of the

⁶⁵ St. Thomas School of Law, *Public Interest and Social Justice*, <https://law.stthomas.edu/jd-program/areas-of-study/public-interest-social-justice/>. See also Howard Law School, *Clinical Law Center, Mission Statement*, <https://law.howard.edu/academics/clinical-law-center> (describing the clinics “a nerve center in Howard’s social justice operations”); Maine Law, *Clinics and Centers*, program <https://mainelaw.maine.edu/academics/clinics-and-centers/> (“the Clinic represents a defining program of Maine Law... helping fulfill long-standing commitment to social justice”); Santa Clara Law School, *Center for Social Justice and Public Service, Mission Statement*, <https://law.scu.edu/socialjustice/> (“promoting and enabling a commitment to social justice through law.”); and Berkeley Law, *Clinical Education Program*, <https://www.law.berkeley.edu/experiential/clinics/> (referencing the program’s “mission to advance racial, economic, and social justice”).

⁶⁶ Davida Finger et. al., *supra* note 3, at 212.

⁶⁷ See, e.g. Karen Musalo & Stephen Knight, *Gender-Based Asylum: An Analysis of Recent Trends*, 42 INTERPRETER RELEASES 1533 (Oct. 30, 2000); Karen Musalo, *The Struggle for Equality: Women’s Rights, Human Rights, and Asylum Protection*, 48 SW. L. REV. 531 (2019); Karen Musalo, *Matter of R-A-: An Analysis of the Decision and its Implications*, 76 No. 30 INTERPRETER RELEASES 1177 (Aug. 9, 1999).

bars to asylum.⁶⁸ Annie Lai as well as Chris Lasch, whom we all lost far too soon, put scholarly heft to the urgent need for sanctuary and the disentanglement of law enforcement and the immigration system.⁶⁹

Crassly, moments of crisis created real opportunities for us personally. We could showcase our strengths, make visible our clinical work,⁷⁰ channel our words into scholarship and out to a hungry media. As we climbed the rungs of academia or entered the job market process, where law review publications, media mentions, and public visibility are all forms of currency, this moment was *helpful*. No, that was not our motivation. Yes, we hate to acknowledge this. And it is nonetheless true.

It was also inescapably true that doing this work, and being relevant and necessary at such a crucial moment, met certain needs in our own temperaments. Like so many of our students, we went to law school to develop the skills to help real people, to “repair the world” (in the spirit of *tikkun olam*).⁷¹ As the beautiful rabbinical text says, “It is not your duty to finish the work, but neither are you at liberty to neglect it.”⁷² Although neither of us is Jewish, this wisdom drives us, and at moments of acute need, our ability to do the work satisfied something deep within us.

B. Supply Side Scarcity

With such real opportunities available to us, it is easy to assume the right answer is to jump in as best we can. This impulse is often grounded in a beautiful optimism (driven often by experience) about our ability to handle enormous amounts of complex challenges, along with the

⁶⁸ David Baluarte, *Refugees Under Duress: International Law and the Serious Nonpolitical Crime Bar*, 9 BELMONT L. REV. 406 (2022); Kate Evans, *Drawing Lines Among the Persecuted*, 101 MINN. L. REV. 453, 455 (2016).

⁶⁹ Annie Lai & Christopher N. Lasch, *Crimmigration Resistance and the Case of Sanctuary City Defunding*, 57 SANTA CLARA L. REV. 539, 541 (2017); Christopher N. Lasch, *Sanctuary Cities and Dog-Whistle Politics*, 42 NEW ENG. J. ON CRIM. & CIV. CONFINEMENT 159 (2016); Christopher N. Lasch, *Enforcing the Limits of the Executive’s Authority to Issue Immigration Detainers*, 35 WM. MITCHELL L. REV. 164, 165 (2008).

⁷⁰ Rebecca Sharpless has written a powerful critique of the gendered ways direct-services work is generally less valued. Rebecca Sharpless, *More Than One Lane Wide: Against Hierarchies of Helping in Progressive Legal Advocacy*, 19 CLINICAL L. REV. 347, 356 (2012) (“Within the universe of progressive lawyers, direct service lawyers are usually paid the least. Moreover, the aesthetic of direct service work resembles traditional women’s work. Direct service lawyering involves extensive contact with and service to others, and it involves repetitive tasks and patience for the mundane. It entails being responsive to concrete instances of people’s pain and suffering. It involves helping to sustain life. Like raising children, caring for others, and running a household, direct service work is invisible and devalued even though more public and highly valued work depends upon it.”)

⁷¹ See, e.g. Jonathan Krasner, *The World is Broken, So Humans Must Repair It: The History and Evolution of Tikkun Olam* (May 22, 2023), <https://www.brandeis.edu/jewish-experience/history-culture/2023/may/tikkun-olam-history.html>.

⁷² Pirkei Avot, 2:15-16.

justice-seeking imperatives of our temperaments. We turn to a framework in Part III, *infra*, for slowing down that understandable impulse. But before turning to that, it is equally critical to name the ways in which these opportunities co-exist in a framework of scarcity and limitation. Justice-seekers too seldom account for our limitations.

1. *The Access to Justice Crisis Generally*

Little need be said for our audience about the limitations people have in seeking and finding competent legal representation. For completeness, we do note this factor, and especially because (as we discuss in Part III.A, *infra*) we sometimes will ourselves into believing we can individually rectify what is clearly a systemic problem.

A 2022 Report shows that low-income Americans (defined as at or below 125% of the federal poverty level) did “not get any or enough legal help for 92% of their substantial legal problems.”⁷³ In the criminal system, despite the guarantee of counsel under *Gideon v. Wainwright*, many accused lack counsel at the bail stage, and as the head of the DOJ Office of Access to Justice notes, “when public defense is available, lack of resources and staff can make fulfilling the guarantees of the Sixth Amendment difficult, or even impossible—leading to the effective denial of counsel.”⁷⁴ In the immigration context, in 2016, only 37% of immigrants facing removal proceedings in court have lawyers (a mere 14% have representation when facing removal from within a detention facility).⁷⁵

Clinics, of course, play an important role in meeting the justice gap. The Center for the Study of Applied Legal Education (CSALE) estimates that clinics nationally aided roughly 200,000 client matters (civil and criminal) during the 2018-19 year.⁷⁶ Impressive though that is, as of December 2023, there were 1,101,819 asylum cases *alone* in the immigration court system (a figure that does not include other forms of relief from deportation, or other immigration services needed outside the deportation context).⁷⁷ If *every* clinic across the country—not just immigration clinics—did only asylum work for a year, we would only cover 25% of that need (and at the obvious expense of doing other

⁷³ LEGAL SERVICES CORP., THE JUSTICE GAP: THE UNMET CIVIL LEGAL NEEDS OF LOW-INCOME AMERICANS 7 (April 2022), <https://lsc.gov/initiatives/justice-gap-research>.

⁷⁴ U.S. Dep’t of Justice, *Director Rachel Rossi Delivers Remarks at the 2023 Texas Poverty Law Conference* (Sept. 1, 2023), at <https://www.justice.gov/opa/speech/director-rachel-rossi-delivers-remarks-2023-texas-poverty-law-conference>.

⁷⁵ AMERICAN IMMIGRATION COUNCIL, ACCESS TO COUNSEL IN IMMIGRATION COURT (2016), <https://www.americanimmigrationcouncil.org/research/access-counsel-immigration-court>.

⁷⁶ CSALE, *supra* note 23, at 38.

⁷⁷ TRAC, *Immigration Court Asylum Backlog*, <https://trac.syr.edu/phptools/immigration/asylumbl/> (last checked July 17, 2024) (providing data through December 2023).

critical work in the civil and criminal spheres). We simply are not a great enough force to individually lawyer our way through the access to justice crisis.

2. *Capacity of Clinical Programs*

At least on a short-term basis, our clinical programs have significant limitations in how they can expand capacity. The numbers of students we may admit is generally set in a fixed ratio to available faculty for supervision, to ensure the kind of supervision which yields impressive student learning and growth. Adding faculty requires either fundraising or long-term commitments from our institutions, both of which demand additional time and energy; 53% of clinics reported the lack of hard money to support clinics as a major challenge their clinical programs faced, as of 2019-20.⁷⁸ Though the need for legal services was overwhelming, the median number of clinics nationally did not change over the surveys done by CSALE from 2013 through 2019 (although the mix in the substance of the clinics did change over that time).⁷⁹ We do acknowledge that an individual clinic could increase its capacity through hiring of fellows, staff attorneys, adjunct faculty, and so forth, and from 2009 through 2019, capacity did increase by roughly 25%.⁸⁰

Beyond financial and staffing constraints, other factors limit the capacity of clinicians to engage fully in emergency and disaster response. First among these is the attention required for our existing clients. In immigration clinics, like many others whose client matters last across multiple years, most clinics have pre-existing commitments to many people. Our active docket in any given semester might include five court cases for ten students, with dozens more clients in the pipeline who have hearing dates in the following semesters, or who have next steps with opaque processes and timelines determined by the U.S. Department of Homeland Security. Unless our clients can afford private counsel, there is no way to remove them from our dockets, and our ethical duties to them continue unabated.

In the University of Baltimore Immigrant Rights Clinic, we did an exercise on competence and diligence with our students each semester for a decade, asking them to deliberate on a dramatic choice that came from a real situation. Situating ourselves in an immigrant rights organization, we tell them they have an existing docket full of cases in active litigation, when an immigration raid affects the community, and their executive director wants them to spend the entirety of the following three

⁷⁸ *Id.* at 6.

⁷⁹ *Id.*

⁸⁰ *Id.* at 17-18.

weeks handling the emergency. The students quickly work through their desire to help in the emergency, and how that desire is tempered by the duties to clients with upcoming court cases. They inevitably seek to problem-solve, trying to generate more capacity or create some hitherto unknown efficiency in their work distribution. Typically, a large percentage will decide it is worth it to simply work long hours for the confined time period (with a smaller percentage recognizing that their personal commitments or limitations of time and energy preclude that solution).

We fully acknowledge the satisfaction that comes from throwing oneself into this kind of urgent project, and honor the many clinicians who have beautifully articulated the value our students find in the work, in addition to the value delivered to the clients and communities. If immigration emergencies were like this semi-fictional one in the class exercise, it is likely that we, too, would simply find a way. What we know from long and hard experience, though, is that few emergencies actually last a short-enough time for this “double the work” strategy to be feasible. This is especially true at schools with large numbers of students whose financial situations require them to work full-time, despite being full-time students. Even if the barrier were not economic, many of our students have health limitations or family obligations that make such strategies difficult at best.

At times of emergency, pedagogy can feel like a distant priority. In 2017, Liz was part of a group of immigration clinicians trying to articulate which aspects of pedagogy could potentially be sacrificed in the effort to do more for the immigration crises we saw all around. We knew some aspects had to remain, but wondered where compromise was feasible, at least temporarily. In hindsight, as described in Part I.A *supra*, the crises were going to be a permanent feature of the immigration landscape, which changes the question from temporary accommodations to something more permanent, which would have challenged our thinking at the time.⁸¹ We still have duties to our students and to the legal profession to teach our existing students as well as we possibly can. We willingly acknowledge there may be some countervailing positives for the students themselves, who gain so much from feeling useful in a

⁸¹ Here, we see some value in distinguishing between natural disasters where the nature of the crisis is truly unexpected, and in its crisis-phase, of somewhat shorter duration. However, even those disasters tend to inflict the most damage on populations who face long-standing structural injustices. MATTHEW SCOTT, CLIMATE, CHANGE, DISASTERS, AND THE REFUGEE CONVENTION 15 (2020) (“The widespread notion of the ‘natural disaster’ therefore fails to be disaggregated. The occurrence of a natural hazard event or process is a necessary, but not sufficient, condition for the unfolding of a ‘natural’ disaster. Without exposed and vulnerable human settlements, a flood will not engender disaster.”) See also Harold A. McDougall, *Hurricane Katrina: A Story of Race, Poverty, and Environmental Injustice*, 51 How. L.J. 533 (2008).

time of a great need. But when we allow crisis to erode our standards too far, we can do both audiences a profound disservice.

3. *Capacity of Students*

It is critical as well to note where and how our own students have limitations, especially when the students themselves are so eager to do more and be more involved in the same ways we are eager. Many students *do* have the time and ability to do extraordinary work. We remain awed by the students Michael Wishnie and Muneer Ahmad supervised at Yale, who filed those earliest lawsuits in the first weekend of the Muslim ban in 2017. In only modestly less dramatic ways, hundreds of law students gave up spring breaks every year to do grueling work at the Southern border or at isolated detention centers. Our own students did the maximum they reasonably could, and then did a little more.

We also recognize, though, that not all law students are alike. Many of our students work almost full-time jobs despite being full-time law students. Many have significant family care obligations. Others have found law school academically or emotionally challenging, or have mental and physical health needs, and are trying to focus on simply getting the degree as the critical stepping stone to their longer-term dreams. By contrast, not all, but many of the people who become law professors had easier times academically and fewer short-term financial stressors—our own energy and time as law students was likely more expansive than that of our students. Being engaged in meaningful, timely work like these “emergencies” provided comes at a considerable cost to other important, and sometimes indispensable, priorities. As professors, we need to honor those limitations.

III. A FRAMEWORK FOR DECIDING

All of these competing opportunities and demands on our time are worth reckoning with before crisis hits. We understand from our own experience how our best, most-sophisticated understandings of the various tradeoffs can vanish in the rush to “do the thing.” With a critical perspective on the emergency framework, and self-awareness about the demands on our time and energy, it becomes easier to contemplate whether and how to engage in emergency response work. As a structure, we offer the steps and questions below as a structure to facilitate reflection and decision-making around clinic emergency response work.

A. *Know Yourself*

In the introduction to the critical volume *CRISIS LAWYERING*, Ray Brescia and Eric K. Stern introduce a series of challenges that define

crisis leadership: preparing, sense-making, decision-making, meaning-making, terminating and accounting, and learning.⁸² These steps are certainly germane to the response of clinicians and clinical programs to crisis. But crisis lawyering is notably different from “traditional lawyering” in its level of risk and complexity.⁸³ For clinical programs that are not regularly engaged in emergency response,⁸⁴ and for students who may have limited or varying exposure to crisis situations, we are suggesting a complementary framework that introduces self-knowledge, assessment, and reflection to a crisis response framework as a preliminary process to decide whether and how a clinic will assist in an emergency situation. This is a natural outgrowth of the skills and practices we foster in our students as clinicians.

Specifically, unless we become more intentional and reflective about *whether* to engage, with special emphasis on the humbling question of whether others might be better suited to engage, we are apt to center ourselves in a response. There are many possible reasons why we might find ourselves gravitating towards involvement. As previously noted, the work can be extremely fulfilling. But as immigration lawyers, we also experienced a rise of visibility in our work during the Trump era; work that was previously noted within a small community of practitioners was now squarely in the public eye. The central role of lawyers in the fight against unjust policies replicated a narrative we are familiar with because it is lionized in the profession: lawyers intervene swiftly and competently, bringing about just outcomes with their advocacy. This feeling of power and efficacy idealized within this lawyer archetype may be part of what drives us as well. As we work through a decision-making in a crisis response, this tendency to center lawyers—ourselves specifically—in the process is worth questioning.

Digging deeper, this may go beyond ego. Grandiosity (i.e., an over-inflated sense of importance), as well as the sense that one can never do enough, are among the signs of secondary trauma.⁸⁵ Clinicians of all stripes encounter trauma in their work; many who work in the immigration space find the representation of asylum-seekers and engagement with the deep dysfunctions of the immigration system to be inherently traumatic.⁸⁶ Many immigration professionals report signs of secondary trauma and burnout, citing—among other things—feelings

⁸² Ray Brescia & Eric K. Stern, *Introduction: Lawyers as Problem-Solvers in Crisis*, in *CRISIS LAWYERING* 13 (Ray Brescia and Eric K. Stern, eds., 2021).

⁸³ *Id.* at 15.

⁸⁴ Ahmad & Wishnie, *supra* note 19, at 374.

⁸⁵ LAURA VAN DERNOOT LIPSKY & CONNIE BURK, *TRAUMA STEWARDSHIP: AN EVERYDAY GUIDE TO CARING FOR SELF WHEN CARING FOR OTHERS* (2009) at 111-113.

⁸⁶ See generally Lindsay Muir Harris and Hillary Mellinger, *Asylum Attorney Burnout and Secondary Trauma*, 56 WAKE FOREST L. REV. 733 (2021).

of complicity in a racist system,⁸⁷ a sense of powerlessness to protect clients,⁸⁸ and being haunted by stories of torture and abuse.⁸⁹ Whereas we usually think of secondary trauma and burnout producing avoidance, it can actually drive us toward work—particularly work that can be seen as efficacious—and can lead us to think about our necessity to that work in a potentially distorted way. A contemplative approach to crisis response may therefore be a critical way of hedging against that thinking, attending to our trauma, and supporting our boundaries.

This contemplative approach fits well with where we stand as clinicians: as participants in and observers of legal systems. As Carrie Menkel-Meadow suggests, “[a]s both a working professional and a scholar or expert on the legal system, the clinician can view the aggregate impact of the individual lawyer on the legal system *and, conversely, the legal system on the lawyer.*”⁹⁰ Attention to the ways we respond to the exigencies of the legal system is part of what we heed *as* clinicians.

As clinicians, we are lawyers but also educators, and we must thus also consider the teaching and modeling aspects of our role with students as our focus.⁹¹ As we regularly encourage clinic students to develop and engage with their professional identities, values, and boundaries, it is also important to consider how we model our own consideration of the same, particularly in the fast-paced and high-stakes conditions of emergency response.

B. Four Questions: An Emergency Response Checklist

From experience we have had, we suggest using the four questions below—concerning competency, capacity, fit, and design—to identify questions and unknowns around a potential response. We hope that this process brings interests, concerns, and gaps in knowledge to the surface. More importantly, students have reported that this template was useful when they entered the world of nonprofit practice after law school and had to make decisions about intervening in urgent situation.

⁸⁷ *Id.* at 752-53; see also Elizabeth Keyes, *Beyond Saints and Sinners: Discretion and the Need for New Narratives in the U.S. Immigration System*, 26 GEO. IMMIGR. L.J. 207, 209-56 (2012).

⁸⁸ Harris & Mellinger, *supra* note 86, at 796, 798.

⁸⁹ *Id.* at 752, 795.

⁹⁰ Carrie Menkel-Meadow, *The Legacy of Clinical Education: Theories About Lawyering*, 29 CLEV. ST. L. REV. 555, 569 (1980) (emphasis added). We found this quotation in the thought-provoking essay by Sameer Ashar and Wendy Bach, *Critical Theory and Clinical Stance*, 81 CLINICAL L. REV. 90 (2019).

⁹¹ See Jill C. Engle, *Taming the Tigers: Domestic Violence, Legal Professionalism, and Well-Being*, 4 TENN. J. RACE, GENDER, & SOC. JUST. 1, 5, 12 (2015); Ronald Tyler, *The First Thing We Do, Let's Heal All the Law Students: Incorporation Self-Care into a Criminal Defense Clinic*, 21 BERKELEY J. CRIM. L. 1, 35 (2016).

1. Competence

The first question for a clinician to consider is *what would it take for me to be competent in this area?*

The rules of professional responsibility give primacy to the question of competence—a combination of “legal knowledge, skill, thoroughness and preparation” necessary for representation.⁹² In the context of an emergency response, competence requires not only identifying legal needs and issues, but also placing them in context⁹³ and recognizing the different perspectives, values, and relationships in play.⁹⁴ Institutional knowledge and relationships are also part of a basis of competence.⁹⁵

Clinicians may find themselves competent—sometimes extremely so—due to knowledge and experience they developed long before crisis shown a light on a particular issue. For example, Muneer Ahmed and Michael Wishnie, of the Yale Law School Worker and Immigrant Rights Advocacy Clinic, had extensive experience pursuing habeas for detained noncitizens. When the clinic was tapped to pursue a national injunction against the Muslim ban, they observed that “longitudinal, non-crisis lawyering enabled us to engage in latitudinal, crisis lawyering,” and the clinic obtained an injunction within twenty-four hours.⁹⁶

Conversely, if a clinician does not have a pre-existing skill set, there is a question of how that competency will be developed. The professional rules contemplate that lawyers can become competent through training or study.⁹⁷ Latisha Nixon-Jones offers the example of the Southern University Law Center’s response to the Baton Rouge floods of August 2016, in which nine clinical faculty were able to get up to speed via quick online trainings.⁹⁸ The availability of trainings and other resources provided by local and national partners may dramatically increase potential for developing competency in the wake of an emergency. For example,

⁹² MODEL RULES OF PROF’L CONDUCT R1.1 (Am. Bar Ass’n, 2019).

⁹³ See Baker et al., *supra* note 3, at 428-21.

⁹⁴ Ray Brescia and Eric K. Stern refer to the crisis leadership skill of “sense-making,” which “refers to the challenging task of developing an adequate interpretation of what are often complex, dynamic, and ambiguous situations. This entails developing not only a picture of what is happening, but also an understanding of the implications of the situation from one’s own vantage point and that of other important stakeholders.” Brescia & Stern, *supra* note 82, at 13.

⁹⁵ See, e.g. Rogerson, *supra* note 27, at 149-53 (discussing developing a relationship with the local jail created a foundation of trust that was critical to mobilizing for assistance to detainees after a sudden mass transfer).

⁹⁶ Ahmad & Wishnie, *supra* note 19, at 333.

⁹⁷ MODEL RULES OF PROF’L CONDUCT R1.1, Comment 2 (Am. Bar Ass’n, 2019).

⁹⁸ Latisha Nixon-Jones, *Beyond Response: Reimagining the Legal Academy’s Role in Disaster Recovery and Preparedness*, 71 CLEV. ST. L. REV. 571, 607 (2023).

the Austin, Texas-based legal nonprofit VECINA provided training to organizations and individuals to assist Afghan arrivals, dramatically increasing the pro bono capacity for representation.⁹⁹

Of course, given the structure of our programs, clinicians must not only consider their own competence, but how to bring law students into that knowledge as well. Many clinicians have reflected on the struggles—but also the joys—of learning alongside students.¹⁰⁰ Some clinicians posit that, because students regularly respond to client emergencies and develop the competence to do so, crisis response is contemplated in the clinical model.¹⁰¹ Other clinicians point out that, because of time constraints in an emergency, law schools must teach emergency response as part of a permanent curriculum. Nixon-Jones is among the proponents of this approach, arguing that law schools should commit to crisis-preparedness for the future of the legal profession.¹⁰²

Clinic students may themselves hold important potential for competence; most will have completed at least one year of law school coursework, and they benefit from a classroom seminar component to the course that can be used to teach needed substantive law and skills. However, among the eye-opening aspects of competence development for students is that emergencies do not allow for extensive research and preparation. To this end, the ABA Model Rules contemplate that “in an emergency a lawyer may give advice or assistance in a matter in which the lawyer does not have the skill ordinarily required where referral to or consultation or association with another lawyer would be impractical,” but caution that such assistance “should be limited to that reasonably necessary.”¹⁰³ In Lindsay Harris’s survey of immigration service-learning opportunities, Denise Gilman, at the University of Texas School of Law, noted,

We talk to the students about how different [triage in immigration detention] is from the deliberate thoughtful way we practice in the clinic when representing clients. By making the difference explicit, we hope to show them the value of the more deliberative model of representation while also exposing them to the reality of representation for many service providers.¹⁰⁴

⁹⁹ VECINA, *Representing Afghan Nationals in Affirmative Asylum Proceedings*, <https://vecina.teachable.com/p/afghan-asylum>.

¹⁰⁰ See, e.g. Sharpless (2024), *supra* note 26; Newman & Swain, *supra* note 25.

¹⁰¹ Ahmad & Wishnie, *supra* note 19, at 329.

¹⁰² Nixon-Jones, *supra* note 98; see also Newman & Swain, *supra* note 25, at 4 (noting that volunteer agencies and legal services providers have begun providing training and materials to volunteer lawyers preemptively, in order to improve the availability and quality of legal assistance following an emergency).

¹⁰³ MODEL RULES OF PROF’L CONDUCT R1.1, Comment 3 (Am. Bar Ass’n, 2019).

¹⁰⁴ Harris, *supra* note 3, at 35 (excerpt from survey response of Denise Gilman).

In preparing students for crisis response, clinicians can similarly provide context for the flexible, adaptive approach to competence taken within the confines of an emergency.

2. Capacity

The second question for a clinician to consider is *what is our capacity to respond?*

The authors of *In Times of Chaos* identify capacity as a key question for clinicians, balancing a response against the commitments to existing clients and the workload of students.¹⁰⁵ In considering this question of capacity, clinicians should estimate the time commitment and assess deadlines or other tasks that urgently need to be undertaken. Some existing commitments may be flexible, or can be postponed or delegated to prioritize response to an emergency.

This capacity question has been a particular concern for immigration law clinicians. Lindsay Harris identified at least 40 schools that sent law students to assist detainees between 2015 and 2018, the vast majority of them led by immigration law clinic directors.¹⁰⁶ She reports that, given their clinics' commitments to existing clients, many found the pivot to representing detainees challenging.¹⁰⁷ As highlighted previously, active immigration dockets include years-long commitments to clients and frequent court dates, and work on these cases—particularly when students are first chair—requires time and supervision capacity.

Along these lines, the capacity of students should be considered as well. Depending on when an emergency occurs, students may already be enrolled in a clinic course and have expectations around time commitments and workload.¹⁰⁸ As part of setting this work up for students, a clinician will also need to consider how the varying and at times unpredictable work should be assigned to students, particularly if the change in direction for the clinic comes after the start of the semester. Clinicians should also consider their role and their capacity for student supervision. Most clinicians supervise eight students in a typical semester,¹⁰⁹ but in the context of fast-paced emergency response, both clinicians and

¹⁰⁵ Finger et al., *supra* note 3, at 432.

¹⁰⁶ Harris, *supra* note 3, at 186.

¹⁰⁷ *Id.* at 187-88.

¹⁰⁸ The American Bar Association defines a "credit hour" as one hour of instruction and two hours of out-of-class work per week or the equivalent amount of work for other academic activities, based on a fifteen-week semester. ABA Standard 310. CSALE data from 2019-20 indicates that the number of academic credits most students receive is fixed (rather than variable based on the amount of hours devoted to their work), with most clinics awarding three credit hours for legal work. CSALE, *supra* note 23, at 31.

¹⁰⁹ *Id.* at 30.

students may find it beneficial to have a lower student-to-faculty ratio.¹¹⁰ Some clinicians have found that they are better able to maximize their capacity by serving as facilitators rather than direct supervisors.¹¹¹

A less obvious question that might emerge when considering capacity is *what might we be giving up by taking on this work?* In addition to considering trade-offs in case work and community partnerships, the frenetic energy of emergency response often means giving up a more relaxed pace—or even downtime and rest—over the course of the semester. This premise may seem antithetical to the engaged social justice work of clinicians, but social justice activists and thinkers such as Tricia Hersey¹¹² and adrienne marie brown¹¹³ have sought to change our thinking around rest and other pleasures, framing them as necessary for our humanity and life force as we take on difficult work. Clinicians have incorporated these teachings into our curriculum to support students' development as healthy, grounded, and resilient advocates.¹¹⁴ In assessing capacity, we should thus consider the effect on our students' well-being as well as our own well-being over the long term.

3. *Fit*

The third question is: *is this work a good fit for what my program has to offer?*

For many clinicians, the question of “fit” will immediately go to the questions of our personal and programmatic values, knowledge of community institutions and the vital work they do, and what is important to our school and our students. The first aspect of crisis leadership—preparation—also requires the identification of players, roles, and relationships poised to respond.¹¹⁵ Clinicians are experts in taking inventory of their programs and, as the authors of *In Times of Chaos* point out, programs will be able to determine their core competencies and the ways they can uniquely contribute to meet the needs of an emergency.¹¹⁶ Having a strong sense of these programmatic assets—and regularly

¹¹⁰ See, e.g. Harris, *supra* note 3, at 210 (observing that many clinicians preferred to supervise only four students, and that some students who responded to the survey reported not having adequate supervision or being supervised by someone other than an attorney, raising concerns about unauthorized practice of law).

¹¹¹ *Id.* at 99, fn 136.

¹¹² See The Nap Ministry, *Rest is Anything that Connects Your Mind and Body*, <https://thenapministry.wordpress.com/2022/02/21/rest-is-anything-that-connects-your-mind-and-body/> (“Rest pushes back and disrupts a system that views human bodies as a tool for production and labor.”); Tricia Hersey, *REST IS RESISTANCE: A MANIFESTO* (2022).

¹¹³ See adrienne marie brown, *PLEASURE ACTIVISM: THE POLITICS OF FEELING GOOD* (2019).

¹¹⁴ See note 3, *supra*.

¹¹⁵ Brescia & Stern, *supra* note 82, at 13.

¹¹⁶ Baker et al., *supra* note 3, at 431.

taking stock of them—will leave us well-prepared to decide whether and how to be involved when an emergency arises.

Many of the clinicians who have written about disaster response emphasize that successful partnership programs should have a connection to the affected community.¹¹⁷ Social networks are critically important following an emergency, and individuals with community connections are best able to recognize and honor those networks.¹¹⁸ These community connections also hedge against the possibility that a clinic will engage in “voluntourism”—a scenario in which volunteers enter the community with the intent to help, but may take more than they give and move on quickly.¹¹⁹ Depth of understanding of the social context, as well as an ongoing commitment to the community, will ensure a good fit for a clinic’s involvement in crisis response.

This question of fit also asks us to consider whether there another group better situated to spearhead a response. There is the potential for valuable insight here about the role of lawyers generally in crisis situations. As Christy E. Lopez succinctly advises in her “lessons learned” after the DOJ investigation in Ferguson, Missouri: “recognize that you’re not all that.”¹²⁰ Liz’s own happy experience of being “not all that” happened early in the months after Maryland saw record numbers of accompanied Central American children arriving; armed with some expertise and good intentions, she entertained the idea of somehow expanding the clinic to be the nerve-center of the local response. Instead, she facilitated the meeting described in Part I.B.4, *supra*, that resulted the creation of new funding sources that gave rise to a much more sustainable project folded into the already strong structure of the Maryland Pro Bono Resource Center.

Sometimes the “other group” better placed consists of nonlawyers. Models for lawyer intervention are often distorted in that they automatically center the role of lawyers. In crises, some of the work is inevitably legal in nature, yet lawyers are seldom the only players in responding. Community organizers often play a vital role in problem-definition and response-design, plugging lawyers into their efforts—as opposed to having lawyers assume the lead in these stages.¹²¹ As Professor Laila Hlass writes,

¹¹⁷ See Finger et al, *supra* note 3, at 222-23; Harris, *supra* note 3, at 200.

¹¹⁸ See, e.g. JENNIFER SEIDENBERG, CULTURAL COMPETENCY IN DISASTER RECOVERY: LESSONS LEARNED FROM THE HURRICANE KATRINA EXPERIENCE FOR BETTER SERVING MARGINALIZED COMMUNITIES, (2005), <http://www.lawberkeleyedulibrarydisastersSeidenberg.pdf>, at 62-63, 102.

¹¹⁹ Harris, *supra* note 3, at 188, 193-94.

¹²⁰ Christy E. Lopez, *Responding to the (Dual) Police Crisis in Ferguson*, in CRISIS LAWYERING (Ray Brescia and Eric K. Stern, eds., 2021), at 118.

¹²¹ For seminal work critiquing lawyer-supremacy, see, e.g. Michael Grinstead, *Power With: Practice Models for Social Justice Lawyering*, 15 U. PA. J. L. & SOC. CHANGE 25 (2011);

Traditional lawyering—in immigration and in other contexts—has been critiqued for reifying lawyers, disempowering clients, legitimizing violent legal systems by participation in them, and obscuring community and systemic harm by an overly narrow focus on individual remedy. . . . “reinstantiat[ing] the lawyerly idea of the client’s individuated ‘problem’ in ways that undermine collective power-building.”¹²²

As clinics consider engaging in crisis response, it is worth remembering Hlass’s recommendation to “recalibrate[e] legal relationships to take the lead from directly impacted clients and communities, understanding individual harms to be part of larger systemic injustice, and shining light on unjust legal systems.”¹²³

Nor must lawyers always be the only actors in providing support for legal representation. State unauthorized practice of law statutes make nonlawyer assistance in legal representation complicated at best, but sometimes exceptions exist permitting work to be done capably—even exceptionally—by nonlawyers. This is especially true in immigration law, whose tribunals permit nonlawyer representation. The VIISTA program at Villanova University that trains immigration advocates,¹²⁴ the use of BIA-accredited representatives in community organizations to serve more clients,¹²⁵ and the staffing of Immigration Court helpdesks¹²⁶ offers examples of the vital immigrant rights work being done by nonlawyers.

Scott L. Cummings & Ingrid V. Eagly, *A Critical Reflection on Law and Organizing*, 48 UCLA L. REV. 443, 444 (2001).

¹²² Hlass, *supra* note 12 at 1646 (quoting Amna A. Akbar, Sameer M. Ashar & Jocelyn Simonson, *Movement Law*, 73 STAN. L. REV. 821, 870 (2021)). See also Margaret Martin Barry, *A Question of Mission: Catholic Law School’s Domestic Violence Clinic*, 38 HOW. L.J. 135, 135–36 (1994) (“Litigation...frequently fails to solve the problems facing the poor people served by clinics...[I]n practice, clinics too often provide only a fix for the immediate problem of a particular client. While clinical programs and poverty lawyers do not hold the key to deliverance, their role must be more expansive than litigation of isolated issues in the lives of their clients.”).

¹²³ Hlass, *supra* note 12 at 1647.

¹²⁴ Villanova Interdisciplinary Immigration Studies Training for Advocates (VIISTA) is an online a holistic, interdisciplinary, online program focused on training immigrant rights advocates to serve migrants and refugees. See *VIISTA—Villanova Interdisciplinary Immigration Studies Training for Advocates*, <https://www1.villanova.edu/university/professional-studies/academics/professional-education/viista.html>.

¹²⁵ Individuals accredited by the Board of Immigration Appeals (BIA) may represent noncitizens before the Department of Homeland Security and, if accredited at a higher level, before the Executive Office for Immigration Review. 8 C.F.R. § 1292.1(a)(4).

¹²⁶ The Immigration Court Helpdesk program, funded by the Executive Office for Immigration Review and administered by the Vera Institute of Justice, funds legal service organizations to help unrepresented noncitizens navigate proceedings and understand their legal options. The Helpdesk program operates in thirteen Immigration Courts across the country. Vera Institute of Justice, *Immigration Court Helpdesk*, <https://www.vera.org/projects/immigration-court-helpdesk>.

This is not to say that lawyers cannot contribute meaningfully—or have not done so—in an emergency response situation. But placing the role of lawyers front and center can communicate to students as part of their course of professional education that intervention is the sole provenance of legal professionals. As clinicians, we must consciously address this misperception as in our teaching. As discussed below, there are many ways to structure a crisis response to highlight a specific role that can be played by lawyers to support larger community efforts.

4. *Design*

If the questions above yield positive responses, one more question remains for the clinician to consider: *how will we do this work?*

Before answering this, we acknowledge the necessary critique of our own and many other clinics offered by Sameer Ashar, who first called upon clinicians to consider different kinds of clinics in these pages in 2008. Ashar notes how “[p]oor people are not served well by the kinds of advocacy currently taught and reinforced in most law clinics.”¹²⁷ Among other aspects of his critique of the “canonical” models of clinics, he shows how client-centered lawyering tends to “overlook the relationship between the legal action and the pre-existing political engagements of both lawyer and client.”¹²⁸ Ashar adds, “[c]ase-centered clinics are primarily accountable to students and law school administrators, rather than clients, and fail to serve political collectives.”¹²⁹ As shown in our critique, *infra*, of systemic failures that produce emergencies, Ashar’s insistence on considering political collectives is all the more important. He personally went on to create movement lawyering clinics at University of California—Irvine and later UCLA—and many other clinicians, particularly in the community development space, incorporate this work as core to their design.

It is safe to say, however, that most clinics still have the lawyer-client dyad at the center of their design, and it is for these clinics that our design question is intended. As part of a response, clinicians might assess whether our priorities are appropriate in the first place. We suspect that after doing emergency work, many more clinicians will consider ways of challenging or adapting the canonical approach. In the meantime, we offer some thoughts for the harried period of entering the emergency fray.

In planning a response, it is worth attending to that aspect of crisis leadership that Brescia and Stern refer to as “meaning-making”—the

¹²⁷ Sameer M. Ashar, *Law Clinics and Collective Mobilization*, 14 CLINICAL L. REV. 355, 357 (2008)

¹²⁸ *Id.* at 382.

¹²⁹ *Id.* at 387.

need to consider how a crisis and responses are understood or perceived.¹³⁰ Legal clinics are not always situated for optimal meaning-making, and may be better situated to assist as part of a collective effort. Not only does such an approach provide valuable professional lessons collaboration and an important demonstration to students of the importance of professional humility, it is also about pushing back on a reflexive, trauma-reinforced response that many clinicians will recognize: *if we don't do it, nobody will*.

The answers to the previous three questions in this checklist will thus be instructive when designing a response. For example, the scope of a project can be adjusted to reflect a clinic program's zone of competence and capacity. Clinics may opt to take on work in partnership, or responsibilities delegated by community organizations or institutions, as part of a collaborative response. Institutions may find creative ways to involve students outside of clinics, incorporating alternative models such as alternative breaks or student volunteer networks.¹³¹ Other considerations may include whether all aspects of the work will be assigned or whether students might have the choice to opt in; whether the work will be taken on individually or by a group; and who ultimately decides what course of action will be taken.

Another design question concerns how teaching and clinical methods will operate in the potentially fast-paced context of an emergency response. Clinical education has long-standing precedents, for example about the role of teamwork¹³² and non-directive supervision.¹³³ Clinicians acknowledge that, in a rapidly-unfolding emergency situation, clinicians themselves may ultimately take on a larger role in the work and some of these longstanding principles of clinical education may need to be modified.¹³⁴ Such considerations may include whether all aspects of the work will be assigned or whether students might have the choice to opt in; whether the work will be taken on individually or by a group; and who ultimately decides what course of action will be taken. While tradeoffs in the short-term are recognized by many clinicians as necessary, the rationale for these tradeoffs deteriorates in the face of protracted crises or legal fields where crises emerge regularly.

¹³⁰ Brescia & Stern, *supra* note 82, at 14.

¹³¹ See Section IB, *supra*.

¹³² See, e.g., David F. Chavkin, *Matchmaker, Matchmaker: Student Collaboration in Clinical Programs*, 1 CLINICAL L. REV. 199 (1994-1995).

¹³³ See, e.g. David F. Chavkin & Elliot Milstein, CLINICAL LEGAL EDUCATION: A TEXTBOOK FOR LAW SCHOOL CLINICAL PROGRAMS (2001); Wallace J. Mlyniec, *Where to Begin? Training New Teachers in the Art of Clinical Pedagogy*, 18 CLINICAL L. REV. 505, 518 (2012); Serge A. Martinez, *Why are We Doing This? Cognitive Science and Nondirective Supervision in Clinical Teaching*, 26 KANSAS J. OF LAW & PUB. POLICY 24 (2016).

¹³⁴ See Ahmad & Wishnie, *supra* note 19, at 328-332; Harris, *supra* note 2, at 190.

Given the potential effects of emergency response on the well-being of clinicians and students alike, reflection is a particularly important aspect of clinical teaching to incorporate into the design of an emergency response. Clinicians cite reflection circles,¹³⁵ debriefing sessions,¹³⁶ journaling,¹³⁷ and student presentations¹³⁸ as important sites of learning and personal meaning-making for students. In particular, Lindsay Harris notes the importance of teaching students about secondary trauma in order to hedge against the development of symptoms, and notes that clinicians created reflective space for students working at detention centers to process their experiences and identify their emotions, in some cases with the support of a mental health professional.¹³⁹ As Dr. Rachel Naomi Remen says, “The expectation that we can be immersed in suffering and loss daily and not be touched by it is as unrealistic as expecting to be able to walk through water without getting wet.”¹⁴⁰ In planning for involvement in a crisis, we must prepare our students and ourselves for the difficult work of witnessing suffering and confronting systemic harm, and the compassion fatigue and trauma responses that may follow. This best practice in response design also brings us full circle: a grounded approach that recognizes the emotional toll that crisis can take will help us recognize potential trauma for ourselves. This approach can leave us more self-aware when we contemplate intervention in the next emergency—because there will always be a next emergency.

C. Lessons Learned

Sabrina developed and first implemented the four-question framework above alongside her Fall 2021 students in the Community Advocacy Clinic (CAC). The CAC is an evening clinic at Wayne State Law School, with enrollment geared towards evening- and part-time students. Sabrina was poised to consider whether she would shift the focus of the CAC to address the need for legal representation for Afghan and Ukrainian asylum-seekers. She and her students considered all four questions in

¹³⁵ Morin & Waysdorf, *supra* note 34, at 607-08.

¹³⁶ One form of debriefing is “the Big Table,” developed as a practice by Stephen Manning of Innovation Law Lab for volunteer attorneys at the Artesia Detention Center. See Stephen Manning, THE ARTESIA REPORT (2015) Ch. 10, *The Mechanics of Artesia* <https://innovationlawlab.org/thertesia-report/the-artesia-report/> (“Big Table was a nightly meeting of all the advocates on-the-ground that would last until the early morning hours. It was a meeting held in round-table fashion in which each advocate at the table spoke in equal measure on the day’s successes and failures, on critiques of the arguments and case theories, on mapping strategy for difficult fact patterns, and on setting a plan for the next day.”). See also Harris, *supra* note 2, at 215.

¹³⁷ Harris, *supra* note 3, at 170-83 (describing journaling assignments for students participating in representation efforts at detention centers).

¹³⁸ *Id.* at 215-16.

¹³⁹ *Id.* at 206-07.

¹⁴⁰ RACHEL NAOMI REMEN, KITCHEN TABLE WISDOM: STORIES THAT HEAL (1996).

this framework together. The elephant in the room was capacity: nearly all the students had full-time jobs, and many had young families. They were (rightfully) concerned that they would not be able to manage the demands of full-scale representation. Sabrina and the students decided to return to a model that the ACLU used in the *Hamama* litigation, opting to support legal service providers engaged in legal representation by developing a database with country conditions information and legal research to support Afghan asylum claims. While it felt painful at the time to not respond as a direct service provider, Sabrina is grateful now as she reflects on the more limited role the clinic decided to take, which made it possible to navigate the changes in case scheduling and procedures for existing AILC clients in the aftermath of the pandemic.

Liz did not have the opportunity to deploy this framework before she transitioned out of clinical teaching entirely. When she learned about it from Sabrina, she immediately recognized that the immense value was doing the very thing we do in our clinical teaching with students: slowing things down and questioning assumptions. The framework does not lead clinicians toward singular answers—it may push some to do more or different work, and it may give others courage to moderate the extent of the work they are already doing. Sabrina’s radical action was simply to acknowledge that there was more space around that decision-making than many of us, Liz included, had perceived. Her hope is that clinicians on unsustainable paths might avail of that increased reflective space to make choices that let them do this work well for many years to come.

IV. CONCLUSION

This article adds to the existing literature on clinicians and crisis response by asking questions that we as clinicians have the unique luxury of asking. What are the systemic critiques of emergency frameworks and how do we calibrate our clinics’ responses accordingly? How do we shepherd our resources, serve our existing clients as well as the community, and support student learning in the face of crisis? And what expectations do we encounter—from ourselves, from our institutions, from our profession—when confronted with the question of whether and how to respond to an emergency? We believe that our understanding of emergencies in clinical education has the potential to evolve in ways that are more contemplated, trauma-informed, and sustainable. In particular, we believe that crisis response needs to account for the toll—physical and psychological—that this work takes, and the need to incorporate existing literature on the long-term effects of traumatic work into our understanding of emergency intervention.¹⁴¹ In doing so, we model a different vision

¹⁴¹ See, e.g. Harris & Mellinger, *supra* note 86.

of clinical work for each other in the teaching community, and a more holistic conception of public interest lawyering for our students. We also recognize that these processes are organic and will reflect the realities of a specific time and place—the phases of our careers, the shifting of our personal boundaries, the energy and aspirations of our students, how acutely the present emergency is felt and whether it stands alone or is preceded by other crises. But it is important to remember that our clinics are not the only sites of community response or student learning, and we should evaluate our responses holistically.

As part of introducing this critical dimension to emergency intervention, we must ask the age-old question of who benefits. Some of the beneficiaries are well-identified: ideally the affected communities and our students. We clinicians may also benefit, if the work fortifies our spirit, builds our reputations and secures our positions, and even deepens our scholarship. Our own institutions benefit as well, and it is important to note that at times they may do so at clinicians' expense. The value of our work is evident to law schools and universities, who regularly highlight clinics and personal engagement of clinicians in recruitment, admissions, and public relations generally. It is especially problematic when clinical work is used to burnish a school's otherwise poor levels of commitment to the wider community—a complaint we have heard from many of our clinical colleagues around the country. This dynamic may result in pressure—direct or indirect—for clinicians to intervene in local emergencies or embrace models to respond to national ones. Where these expectations are not balanced by secure status, representation in faculty governance, and programmatic support, this imbalance of cost (borne by clinicians themselves) and benefit (to institutions) is especially acute.

The benefits to the institution do offer a potential source of leverage for clinicians at institutions that do not yet fully support clinical programs with durable status for professors, with coverage support for those required to do scholarship, and more. While we believe the less attention-grabbing work done daily deserves recognition regardless, the valorization of emergency work may create an opportunity for clinicians to seek the institutional support they deserve.

The ruptures and rot revealed by emergencies also create an opportunity for clinicians to think proactively about what supports would be necessary to do this work well—to provide the benefits we lay out above, while diminishing some of the toll caused by scarcity of resources. As we envision the kinds of broad-scale legal challenges coming toward us in coming decades, we can think *now* about the clinics we wish to have in place when those challenges manifest.