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ISSUE BRIEF SERIES

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KEY FACTS

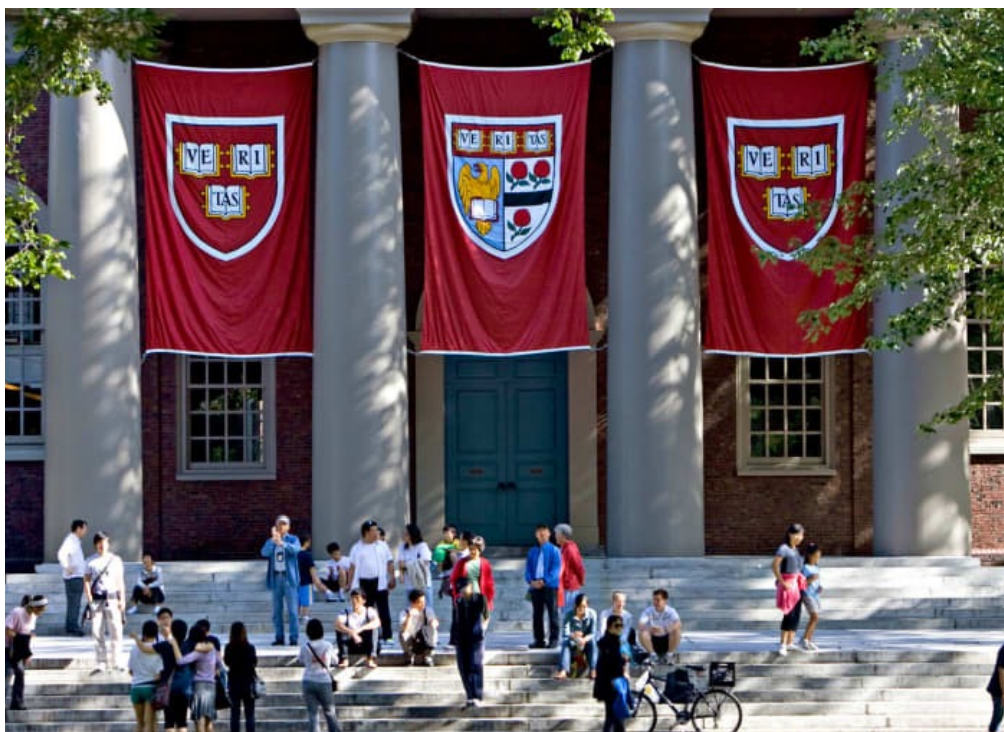
- Interdisciplinary collaborations create new opportunities for more effective client representation.
- Individuals who are not documented or who have DACA or TPS may be eligible for long-term immigration relief, depending on their specific circumstances.
- A variety of communication avenues, including town halls, workshops, Know-Your-Rights presentations, and regularly updated answers to Frequently Asked Questions, can help respond to concerns about ever-changing immigration policies and expand access to critical information, in addition to individual consultations.
- The challenges faced by international students, staff, and scholars, including barriers to entry and resulting traumas, require greater attention.

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Lessons from the Harvard Representation Initiative: A Holistic Approach to Immigration Representation

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Immigration Initiative at Harvard Policy Brief 10.



Background

In the wake of former President Donald Trump's assault on immigrants, including the attempted rollback of Deferred Action for Childhood Arrivals ("DACA"), universities across the country launched new initiatives to provide legal support to members of their communities whose immigration status was at risk. This issue brief highlights the holistic approach to immigration representation adopted by one such initiative, the Harvard Representation Initiative at the Harvard Immigration and Refugee Clinical Program. The brief first explores some of the benefits and obstacles presented by interdisciplinary immigration representation. The brief next identifies some potential legal remedies for those who are undocumented or DACAmented, as well as those with Temporary Protected Status ("TPS"). Finally, the brief concludes with a discussion of some of the particular challenges presented when advocating for international students whose immigration status is at risk.



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A Holistic Model to Immigration Representation

Interdisciplinary collaboration in legal representation has become increasingly prevalent in recent years in law school clinics and legal services organizations. Lawyers, and in law school clinics, law students, regularly collaborate with mental health and medical professionals to address their clients' needs. Particularly in the context of immigration, interdisciplinary collaboration can be critical to effectively representing clients in their applications for long-term relief. While such interdisciplinary collaboration has been studied extensively in the context of other fields, including criminal law, family law, and child advocacy, it has received less attention in the immigration space and presents significant benefits as well as some challenges.

At the Harvard Immigration and Refugee Clinical Program ("HIRC"), we have been fortunate to have a social worker as part of our legal team for almost a decade. When the Harvard Representation Initiative ("HRI") was launched in early 2017, we adopted an interdisciplinary approach to outreach, intakes, and representation, with potential new clients given the option to access social work support from the outset.

A holistic approach to representation can be particularly critical in facilitating effective case preparation in the context of asylum claims and other humanitarian relief, discussed further below, since clients may have to discuss past trauma and harm as part of their legal case. The social work team at HRI, for example, works with the legal team to adopt a trauma-sensitive approach to interviewing and case development. The interdisciplinary model at HRI also means that if clients are having difficulty meeting basic needs, for example, when housing

or health care or employment are precarious, the social work team can engage in advocacy to address those concerns, which, in turn, can facilitate more effective engagement in the representation process. The social work team serves as a key liaison with university health services, as well as with financial aid, career services, human resources, and diversity and inclusion offices across the university to try to coordinate support and services for members of the community whose immigration status is at risk and who may be struggling with other stressors, as well.

Despite these benefits, it is important to note that some challenges may arise in holistic immigration representation. Specifically, funding constraints may limit or foreclose the ability to hire a social worker as part of a legal team. Being in a university setting afforded HIRC the ability to learn from and build on the interdisciplinary approach of another clinic, the Criminal Justice Institute ("CJI") at HLS. The social worker at CJI initially consulted with HIRC clinicians, then supervised social work interns working with the HIRC team until funding became available for HIRC to hire its own social worker. Mental health clinicians and lawyers may also have differing perspectives about how to approach a client or case or how quickly to proceed with a claim for relief. Those differences in perspectives must be navigated through conversations led by clients, who are ultimately the decision-makers about how they want to proceed.

Medical and mental health professionals may also have conflicting professional duties in terms of duties of confidentiality and mandated reporting, depending on the jurisdiction in which they are licensed. Before engaging in collaborative work, it is therefore critical to closely review the ethical duties for lawyers and mental health professionals alike when determining how best to structure the collaboration—whether that means embedding a social worker within the legal team or collaborating with a social worker as an independent professional and affording clients the opportunity to opt in or out of social work services as part of the representation. It can also be helpful to explore possible points of convergence between social workers' and lawyers' ethical duties as well as points of divergence, regardless of the model adopted, to ensure a better understanding of each professions' perspectives and obligations.

Possible Avenues for Long-Term Immigration Relief

With the Trump administration's focus on detaining and deporting immigrants, many lawyers, legal services

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organizations, and law school clinics across the country ramped up outreach, including know-your-rights presentations, town halls, workshops, and screenings for undocumented and DACAmented community members as well as TPS recipients to determine whether they might be eligible to apply for long-term forms of immigration relief.

At HRI, for example, we combined outreach and screenings with direct representation and referrals. We also posted answers to Frequently Asked Questions in an effort to disseminate information and updates more broadly. Given how different each situation is, it is critical that before applying for any immigration benefit individuals consult with a reputable immigration attorney to properly assess eligibility and any risks associated with moving forward with an application.

The forms of relief we screen for include, for example, adjustment of status to permanent resident through a qualifying family member, such as a spouse, parent, or child over 21 years of age, or through employment, or through the diversity visa lottery.

Some may be eligible for asylum or other humanitarian protection, including withholding of removal and protection under the Torture Convention, if they have either suffered or fear persecution or torture in their countries of origin. Depending on the circumstances of a specific case, others may be able to apply for special visas for youth who have been abused, abandoned or neglected and come to the U.S. with either one parent or without a parent, as well as for visas for victims of crimes or trafficking in the U.S. where the person has cooperated or is willing to cooperate in the investigation of the crime. Others may be eligible for special protections under the Violence Against Women Act if they are or have been married to a U.S. citizen or permanent resident who was abusive.

People who are facing removal from the United States and are in proceedings before an immigration court may be able to defend against deportation through applications for cancellation of removal if they meet a number of requirements, including living in the United States for a decade or more without status and having a U.S. citizen child, parent, or spouse who would suffer exceptional and extremely unusual hardship if deported.

As with all immigration processes, the facts and circumstances of each person's case differs and whether someone might be eligible for one of these, or some other, form(s) of long-term immigration relief is very much dependent on their personal circumstances. Additionally, applying for immigration relief is often a long process that can be rife with complications without competent counsel. It is therefore critical that individuals with concerns about their

immigration status connect with legal representation—whether through law school clinics, legal services organizations, or private attorneys—to determine what, if any, forms of immigration relief they might be eligible for and the risks, if any, of moving forward with an application for relief.

International Students and Immigration Concerns

Finally, it is important to note that over the past four years, international students, scholars, and their families have also had their immigration status placed at risk, with barriers to entry from the Muslim Ban to discretionary denials of entry at airports and the border by Customs and Border Protection. Across the country, news reports have documented the experiences of international students and scholars, who uprooted their lives to study and work in the U.S., only to be turned away, despite having valid visas and the support of universities and employers. The traumas suffered by these international students and scholars require greater attention, as do the discriminatory practices of CBP and the violations of basic human and civil rights, which are still ongoing today.

International students and scholars affected by these discriminatory practices and rights violations may consider filing a complaint with the Office of Civil Rights and Civil Liberties (“CRCL”) at the Department of Homeland Security (“DHS”) so that DHS can look into the allegations of abuse. CRCL is tasked with investigating violations of civil rights, profiling based on race, ethnicity, and religion, and/or abuses based on disability committed by DHS officials, including CBP. Although CRCL cannot provide individual immigration relief, the office can place a “Z hold” on a person's immigration status, to protect against deportation while a claim is under investigation. Depending on where the rights' violations occurred and the nature of the abuses, individuals subject to abuse by CBP may also be able to file claims under the Federal Tort Claims Act

“With the Trump administration's focus on detaining and deporting immigrants, many lawyers, legal services organizations, and law school clinics across the country ramped up outreach.”

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("FTCA") based on negligence, or in some cases intentional misconduct, of federal employees; such claims must be filed within two years of the incident that forms the basis of the complaint.

Conclusion

The Harvard Representation Initiative's interdisciplinary, holistic model grew out of a specific need following immigration policy objectives that specifically targeted immigrant students and workers across the country. However, the holistic approach that combines social work and legal representation created opportunities for improved communication and community building to better understand and address concerns impacting campus life. For those whose immigration status may have made them feel invisible, this building of relationships between students, staff, faculty and administrators has helped deepen a sense of community and fostered important collaborations capable of engaging in meaningful problem-solving efforts towards equity for citizens and non-citizens alike.

How to Cite

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Endnotes

1. This section is based on a more extensive analysis of the trends in, as well as benefits of and obstacles to interdisciplinary collaboration in immigration representation. See Sabrineh Ardan, *Constructive or Counterproductive? Benefits and Challenges of Integrating Mental Health Professionals into Asylum Representation*, 20 Georgetown Immigration L.J. 1 (Fall 2015).
2. See Frequently Asked Questions (FAQs), <https://harvardimmigrationclinic.org/for-clients/faqs/>.
3. See USCIS, Adjustment of Status, <https://www.uscis.gov/green-card/green-card-processes-and-procedures/adjustment-of-status>; U.S. Dep't of State, Diversity Visa Program, <https://travel.state.gov/content/travel/en/us-visas/immigrate/diversity-visa-program-entry/diversity-visa-submit-entry1.html?wcmode=disabled>.
4. See USCIS, Asylum, <https://www.uscis.gov/humanitarian/refugees-and-asylum/asylum>.
5. See USCIS, Special Immigrant Juveniles, <https://www.uscis.gov/working-in-the-united-states/permanent-workers/employment-based-immigration-fourth-preference-eb-4/special-immigrant-juveniles>; USCIS, Victims of human trafficking and other crimes, <https://www.uscis.gov/humanitarian/victims-of-human-trafficking-and-other-crimes>.
6. See USCIS, Green Card for VAWA Self-Petitioner, <https://www.uscis.gov/green-card/green-card-eligibility/green-card-for-va-wa-self-petitioner>.
7. See Immigrant Legal Resource Center, Non-LPR Cancellation of Removal: An Overview of Eligibility for Immigration Practitioners, https://www.ilrc.org/sites/default/files/resources/non_lpr_cancel_remov-20180606.pdf.
8. See, e.g., Ava Sasani, I Did Everything Right. Despite following the rules, these students got deported, *The Boston Globe*, Jan. 18, 2021, <https://www.bostonglobe.com/2021/01/18/metro/they-were-accepted-american-colleges-followed-rules-get-student-visas-then-they-were-deported/>; Caleb Hampton, 'Treated like a terrorist': US deports growing number of Iranian students with valid visas from US airports, Jan. 14, 2020, <https://www.theguardian.com/us-news/2020/jan/14/they-treated-me-like-a-terrorist-the-vetted-iranians-blocked-from-the-us>.
9. Make a Civil Rights Complaint, Office for Civil Rights and Civil Liberties, available at <https://www.dhs.gov/file-civil-rights-complaint>.
10. The SF-95 form summarizes the information necessary to bring a claim and can be accessed here- <https://www.gsa.gov/forms-library/claim-damage-injury-or-death>; see also CBP, Tort Claims – Claim for property damage or loss, or personal injury, or death, Dec. 16, 2020, https://help.cbp.gov/s/article/Article-178?language=en_US; Hold CBP Accountable: Stopping U.S. Customs and Border Protection (CBP) Abuse, <https://holdcbpaccountable.org/category/assaults-and-use-of-excessive-force/>.

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The Harvard Representation Initiative

The Harvard Representation Initiative provides free legal representation and social service support to members of the Harvard community who have immigration concerns, including those who are undocumented, DACAmented, or who have TPS.

For further information about HRI, please visit <https://harvardimmigrationclinic.org/hri/>.

To schedule a free consultation, email hri@law.harvard.edu.

ABOUT IIH

The Immigration Initiative at Harvard (IIH) was created to advance and promote interdisciplinary scholarship, original research, and intellectual exchange among stakeholders interested in immigration policy and immigrant communities. The IIH serves as a place of convening for scholars, students, and policy leaders working on issues of immigration—and a clearinghouse for rapid-response, non-partisan research and usable knowledge relevant to the media, policymakers, and community practitioners.



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