

Hawai'i Access to Justice Conference
“Continuing to Meet Challenges to Access to Justice”
Friday, June 17, 2022

Workshop Summary

“Working Together to Provide Immigration Legal Services to the Low-Income Clients”
Friday, June 17, 2022, 12:45 to 2:00 p.m.

Moderators: John Egan, Esther Yoo

Panelists: Makoto Messersmith, Ethan Higa, Kara Teng

This panel focused on the importance of building “human” infrastructure in Hawaii in order to provide immigration legal services specifically, and access to justice more broadly, for low-income immigrants in Hawaii. Despite the fact that nearly a quarter of Hawaii’s population is foreign born, Professor Egan pointed out that there are only a handful of immigration practitioners doing the type of immigration work that indigent immigrants typically need.

Esther Yoo shared a recent Tweet by Ian Millhiser, a legal correspondent: “One of the law’s cruelest twists is that the areas of the law which involve the most vulnerable people – immigration, habeas, civil rights – are monstrously complicated and often require top notch lawyers that immigrants, inmates, and civil rights plaintiffs can rarely afford.” She then explained the typical challenges that indigent immigrants face in court. Unlike criminal defendants, indigent immigrants do not have a right to counsel that is paid for by the government, despite the severity of the consequence of deportation. Those who cannot afford a lawyer must represent themselves in court and must contend not only with understanding a highly technical, complicated body of law but also navigating a legal process not in their primary language. As a result, the lack of counsel almost certainly dooms the immigrant to failure.

Building this infrastructure means, in part, creating a pipeline starting in law school for emerging immigration practitioners to learn immigration law and practice. The panel featured a conversation with three emerging immigration practitioners, all of whom were former students of Professor Egan and represent the diversity of practices, pathways, and potentials in immigration: 1) Makoto Messersmith, a staff attorney at the Legal Aid Society of Hawaii; 2) Ethan Higa, a fellow at the William S. Richardson School of Law Refugee and Immigration Law Clinic; and 3) Kara Teng, a staff attorney at The Legal Clinic.

To begin, the panelists explained what they are doing in immigration law. **Makoto** primarily helps **victims of domestic violence and human trafficking**. She described how the typical abuser uses immigration status to control immigrant survivors, i.e., by threatening to get them deported if they don’t do what the abuser wants. She said it is common for domestic

violence survivors to leave their abuser, return to their abuser, and then make a final break. She also explained that, in human trafficking cases, victims often don't realize they are being trafficked until they speak with a lawyer. She views her job as an attorney not as making her clients' decisions for them but as educating clients about how the law views their situation and their immigration options. **Ethan** focuses on assisting **asylum seekers**. He shared one of the UH clinic's success stories: a Honduran single mother fled gender-based sexual violence. The Immigration Court initially denied her asylum, but the clinic appealed her case to the Board of Immigration Appeals, which remanded the case to the Immigration Court. She was eventually granted asylum, along with her child. Ethan said this case illustrates three common issues with immigration practice: language issues; the lengthiness of immigration cases (the case began in 2017 and concluded in 2022); and the complexity and narrowness of asylum law. **Kara** primarily helps **immigrants in removal proceedings and those seeking postconviction relief**. She explained that immigrants with criminal records face an even greater uphill battle in court. Contrary to what people may think, not all immigrants who are in removal proceedings because of their criminal record committed serious crimes. One of her clients is a long-time lawful permanent resident with U.S. citizen children, grandchildren, and great-grandchildren. She was placed in removal for a single criminal conviction in the 1980's that arose from an abusive relationship. She has had no criminal convictions since then and yet the government only recently placed her in removal because there is no statute of limitations in immigration. Because her conviction is so old, she has a possible path to relief from removal, but without counsel, she wouldn't have known about it.

Next, each of the panelists shared their pathway into immigration law practice. **Makoto** went directly to working for a **nonprofit**. As an immigrant from Japan, she was curious to learn more about immigration law in law school. She volunteered at Legal Aid Society of Hawaii as an interpreter and discovered her passion there. Following law school, **Ethan** started working in **academia** with Professor Egan at Richardson's immigration clinic, using real cases and clients to expose students to immigration law and practice. Before law school, he interned at a refugee resettlement agency in Georgia, helping recent arrivals find jobs. He came to Richardson intending to study immigration law at Richardson and become an immigration lawyer. **Kara** came to The Legal Clinic with experience in **government**. During law school, she externed at the Honolulu Immigration Court one summer. She also worked at the San Francisco Immigration Court as part of the Department of Justice Honors Program after law school.

Finally, each of the panelists described what they hoped to do as immigration lawyers in the future. **Makoto** expressed her desire **to be a bridge** for immigrant clients to understand and adjust to the U.S. legal system. She also mentioned that, while immigrants in Hawaii are much better integrated than in other places, she does hear from clients about incidents of bias. She strives to use cultural sensitivity in her practice and encourages others to do so as well. **Ethan** hopes **to build the infrastructure** for a more diverse system of services for immigrants in

Hawaii, which requires more funding and training of pro bono attorneys. **Kara** hopes to see **universal representation** in immigration courts and sees a need for a coalition of immigration services providers and pro bono attorneys to provide universal representation.

Professor Egan promoted the **Immigrant Rights Forum at the law school in October** as an opportunity for interested pro bono attorneys to learn more about immigration law and possibly volunteer their services in the future.