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REMARKS

Access to Justice Through Technology: An Immigration Practitioner's Perspective

ELIZABETH RIESER-MURPHY*

Hi everyone, I am very excited to be here. Not only because of the stellar panel that I am a part of, but also because I am an alumna of the *University of Miami Law Review* and I feel like I am in the presence of many rockstars here. I am also excited to talk to you about access to justice and legal technology. I will be taking the perspective of an immigration advocate and will discuss some of the innovative things that I have seen happen on the ground and that I have heard of through the grapevine.

I. ACCESS TO JUSTICE

Before this event, my co-panelists and I had a conversation about what access to justice means. When we first started talking, my mind immediately went to court because I am an immigration practitioner. I see people trying to represent themselves in immigration court all the time and it is extremely challenging. There was a study done by the American Immigration Council that stated that only thirty-seven

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percent (37%) of immigrants are represented and those who are represented have a significantly higher chance of winning their cases.¹ But, as we were talking, I really started thinking, “No. You know what? It is such a typical lawyer perspective to say, ‘as long as you have access to counsel all your problems are over.’” That is not actually true.

There are some people who are not great lawyers.² There are also not enough lawyers in the world to deal with all of the problems that are out there.³ I really wanted to push myself and push this conversation further and thought, “No, it is not enough to just have access to lawyers. It is more than that. It is about deconstructing barriers that are placed in the way of people and put people in positions where they are afraid to engage in the system. In order to have that conversation, I think we need to be talking to people outside of the system. That is why this whole panel is so exciting to me.

II. LAW AND TECHNOLOGY

I have to tell you: I am not a technological expert. PowerPoints are actually really high tech for me, but I love technology, and I really try to read up on it and understand blockchain and new forms of technology. I came across a quote by Bryan Stevenson, who is an amazing advocate. He wrote a book called *Just Mercy*.⁴ He also

¹ INGRID EAGLY & STEVEN SHAFER, AM. IMMIGRATION COUNCIL, ACCESS TO COUNSEL IN IMMIGRATION COURT 2–3 (2016), https://www.americanimmigrationcouncil.org/sites/default/files/research/access_to_counsel_in_immigration_court.pdf.

² See STANDING COMM. ON LAWYERS’ PROF’L LIAB., AM. BAR ASS’N, PROFILE OF LEGAL MALPRACTICE CLAIMS: 2012–2015, at 18–19 (2016). See, e.g., Ian Austen, *The Comma That Costs 1 Million Dollars (Canadian)*, N.Y. TIMES (Oct. 25, 2006), <https://www.nytimes.com/2006/10/25/business/worldbusiness/25comma.html>.

³ William E. Foster, *There Are Not Too Many Lawyers*, HUFFPOST (Feb. 6, 2013, 1:10 PM), https://www.huffingtonpost.com/william-e-foster/not-too-many-lawyers_b_2631224.html; see *The Most Litigious Countries in the World*, CLEMENTS WORLDWIDE, <https://www.clements.com/resources/articles/The-Most-Litigious-Countries-in-the-World> (last visited Jan. 9, 2018).

⁴ See BRYAN STEVENSON, JUST MERCY: A STORY OF JUSTICE AND REDEMPTION (2014).

heads a non-profit in Alabama and does a lot of prisoner rights advocacy.⁵ He said, “our visions of technology and design and entertainment and creativity have to be married with visions of humanity, compassion and justice.”⁶ I think that this is completely true, but how can we bring technology to a field that sometimes feels like it is stuck in the stone ages, at least from my perspective? We really need to think outside of the box.

One barrier to technology, especially for people who work as advocates—as I mentioned, I work for Legal Aid, which is a non-profit—is that we are often overwhelmed with the amount of work that we have.⁷ We do not have time to take a break and think creatively about how we are going to use processes better;⁸ however, it is an important break that we need to take. I think another barrier for people in the nonprofit field is cost. Technology can be expensive.⁹ We heard about a great free product or project here this morning,¹⁰ but I think for many non-profits and smaller firms, cost is an issue.¹¹

⁵ Jeffrey Toobin, *The Legacy of Lynching, on Death Row*, NEW YORKER (Aug. 22, 2016), <https://www.newyorker.com/magazine/2016/08/22/bryan-stevenson-and-the-legacy-of-lynching>.

⁶ Bryan Stevenson, *We Need to Talk About an Injustice*, TED (Mar. 5, 2012), https://www.ted.com/talks/bryan_stevenson_we_need_to_talk_about_an_injustice?language=en.

⁷ See Jonathan Timm, *The Plight of the Overworked Nonprofit Employee*, ATLANTIC (Aug. 24, 2016), <https://www.theatlantic.com/business/archive/2016/08/the-plight-of-the-overworked-nonprofit-employee/497081>; see also JESSICA WORD & LYNNE NORTON, OPPORTUNITY KNOCKS, ENGAGING THE NON-PROFIT WORKFORCE: MISSION, MANAGEMENT AND EMOTION 9, 19–20 (2012), https://www.gcn.org/sites/default/files/ctools/OK_Engaging_the_Non-profit_Workforce_Report.pdf.

⁸ See Timm, *supra* note 7.

⁹ See ROBERT HULSHOF-SCHMIDT, NTEN, THE 10TH ANNUAL NONPROFIT TECHNOLOGY STAFFING AND INVESTMENTS REPORT 6–11 (2017), https://www.nten.org/wp-content/uploads/2017/05/Staffing_Report2016_v12.pdf; William Vogeler, *How Expensive Is AI for Law Firms Really?*, FINDLAW (Feb. 23, 2017, 5:57 AM), <https://blogs.findlaw.com/technologist/2017/02/how-expensive-is-ai-for-law-firms-really.html>.

¹⁰ See Andrew Arruda, *Meet ROSS' New Coworker, EVA*, ROSS, <https://ross-intelligence.com/ross-new-coworker-eva/> (last visited Jan. 10, 2019).

¹¹ Mary E. Juetten, *Access to Justice Through Technology for 2018*, ABOVE L. (Dec. 19, 2017, 3:59 PM), <http://abovethelaw.com/legal-innovation-center/2017/12/19/access-to-justice-through-technology-for-2018/>; Vogeler, *supra* note 9.

How can we get past this barrier? We need to create partnerships with for-profit companies that have access to technology and are willing to do corporate social good. One article that I read recently by Mary Juetten highlighted the work of a company called MetaJure, which is a document systems provider.¹² MetaJure took inspiration from Tom's One for One program.¹³ I am sure many of you have heard of Tom's program: if you purchase one pair of shoes, another pair of shoes goes to a child in poverty.¹⁴ Similarly, MetaJure has a program where for every dollar that the company raises in Series A financing, they make an equivalent value donation of a product to legal aid providers.¹⁵ I also think that technology can be used to put the power of the law into the hands of people, freeing up attorneys to do more complex work.¹⁶

III. ACCESSING JUSTICE THROUGH PARTNERSHIPS: LEGAL AND TECH COMING TOGETHER

Now, I want to talk about accessing justice through partnerships, and I am super excited because I am going to be talking about two companies that are in the room;¹⁷ hopefully, I make them proud. I have to tell you: as an immigration practitioner, 2017 was a challenging year for me professionally. I am not sure if those outside of the immigration field have noticed, but immigration appears to be a favorite topic of some of our politicians. By Friday January 27, 2017, only a few days into office, President Donald Trump issued several executive orders, including one that, among other things, stopped the admission of refugees from Syria and also barred entry

¹² Juetten, *supra* note 11.

¹³ *Id.*

¹⁴ *One for One*, TOMS, <https://www.toms.com/one-for-one-en/> (last visited Nov. 5, 2018).

¹⁵ Juetten, *supra* note 11.

¹⁶ *Artificial Intelligence Won't Replace Lawyers—It Will Free Them*, LAW TECH. TODAY (Feb. 27, 2018), <https://www.lawtechnologytoday.org/2018/02/artificial-intelligence-wont-replace-lawyers-it-will-free-them/>.

¹⁷ Michael Mills from Neota Logic spoke on Panel I, entitled *Emerging Technologies: Artificial Intelligence*, and Joshua Lenon from Clio spoke on Panel IV, entitled *LegalTech and the Corporate World*, at the *University of Miami Law Review's* 2018 Symposium. *2018 Symposium*, U. MIAMI L. REV., <https://lawreview.law.miami.edu/2018-symposium/> (last visited Nov. 5, 2018).

into the United States for ninety days for people from seven predominantly Muslim countries.¹⁸ These countries were Iraq, Syria, Iran, Sudan, Libya, Somalia, and Yemen.¹⁹ This travel ban went into effect immediately, and there were no clear guidelines as to who would be affected.²⁰ Would it just be refugees? Would it be travelers? Visitors? Would it be permanent residents? Nobody really knew, and it was all happening on the ground, in the moment.²¹

Immediately, people in New York and in other cities converged on airports to protest what they called the “Muslim ban.”²² After my day at Legal Aid, I was one of the many people who showed up at the airport to protest.²³ However, soon we received email messages through our networks that lawyers were needed inside because there were people who were traveling and they were being caught in secondary inspection.²⁴ Nobody really knew what was happening to them. Would they would be sent back to the countries from which they came?²⁵

¹⁸ Exec. Order No. 13,769, 82 Fed. Reg. 8977 (Jan. 27, 2017); Avalon Zoppo, Amanda Proença Santos & Jackson Hudgins, *Here’s a Full List of Donald Trump’s Executive Orders*, NBC NEWS (Feb. 14, 2017, 5:39 PM), <https://www.nbcnews.com/politics/white-house/here-s-full-list-donald-trump-s-executive-orders-n720796>.

¹⁹ Zoppo, Proença Santos & Hudgins, *supra* note 18.

²⁰ Evan Perez, Pamela Brown & Kevin Liptak, *Inside the Confusion of the Trump Executive Order and Travel Ban*, CNN (Jan. 30, 2017, 11:29 AM), <https://www.cnn.com/2017/01/28/politics/donald-trump-travel-ban/index.html>.

²¹ See Matt Stevens, *First Travel Ban Order Left Officials Confused, Documents Show*, N.Y. TIMES (Oct. 2, 2017), <https://www.nytimes.com/2017/10/02/us/trump-travel-ban.html>.

²² Andy Newman, *Highlights: Reaction to Trump’s Travel Ban*, N.Y. TIMES (Jan. 29, 2017), <https://www.nytimes.com/2017/01/29/nyregion/trump-travel-ban-protests-briefing.html>.

²³ See Timothy B. Lee, *Thousands of People Are Protesting Trump’s Immigration Order at Airports Across America*, VOX (Jan. 28, 2017, 9:10 PM), <https://www.vox.com/2017/1/28/14427288/muslim-ban-airport-protests> (including a photograph of protesters at JFK Airport by Stephanie Keith/Getty Images).

²⁴ See *Attorneys Remain at JFK After Weekend Detentions Due to Trump Travel Ban*, CBS N.Y. (Jan. 30, 2017, 10:30 AM), <https://newyork.cbslocal.com/2017/01/30/jfk-airport-trump-travel-ban/>.

²⁵ See Miriam Jordan, Ian Lovett & Alejandro Lazo, *Donald Trump’s Immigration Order Sparks Confusion, Despair at Airports*, WALL STREET J. (Jan. 29, 2017, 11:58 AM), <https://www.wsj.com/articles/donald-trumps-immigration-order-sparks-confusion-despair-at-airports-1485709114>; Stevens, *supra* note 21.

A. *Airport Triage*

This was a really inspirational moment. It was a very organic response. Probably the most organic and exciting response that I have ever seen from a group of lawyers. All of the sudden, everyone showed up at the airport. Several hundred lawyers showed up at JFK airport, including not just people from the nonprofit sector, but also lawyers from many different firms,²⁶ and said, “What can we do to help? Tell us.” People showed up with notepads. People showed up with their laptops. We were all sitting on the floor. We had signs saying, “Do you have a relative on the other side? Are you waiting for someone?” We were going up to people trying to figure out the best way to help.

It was very organic but very chaotic as well. It was hard to communicate between terminals. What would be the most secure way to communicate? How could we get information from people who were not physically in front of us at the airport? Maybe there were people back in their home country who could tell us things that we would need to know. How do lawyers effectively gather information and communicate across terminals, across airports, across the world? There had to be a more effective way to get information from family members or would-be travelers.

That is where these two great companies come into play. Clio is a legal data management company.²⁷ Clio reached out to this attorney, Greg McLawsen, asking “What is it that we can do to help you all out?”²⁸ They joined in with Neota Logic and donated their time, their technology, and their systems.²⁹ They worked with advocates and quickly developed a platform called the Airport Lawyer, a web page where people could go and input information about their family

²⁶ See Jonah Engel Bromwich, *Lawyers Mobilize at Nation's Airports After Trump's Order*, N.Y. TIMES (Jan. 29, 2017), <https://www.nytimes.com/2017/01/29/us/lawyers-trump-muslim-ban-immigration.html>.

²⁷ CLIO, <https://www.clio.com> (last visited on Nov. 13, 2018).

²⁸ Debra Cassens Weiss, *Airport Lawyer Website Connects Volunteer Lawyers with Travelers Affected by Immigration Ban*, ABA J. (Feb. 9, 2017, 8:00 AM), http://www.abajournal.com/news/article/airport_lawyer_website_connects_volunteer_lawyers_with_travelers_affected/.

²⁹ See Greg McLawsen, *New Web App Connects “Immigration Ban” Travelers with Volunteer Lawyers*, NEOTA LOGIC (Feb. 7, 2017), <https://www.neotalogic.com/2017/02/07/new-web-app-connects-immigration-ban-travelers-with-volunteer-lawyers/>.

members and their friends.³⁰ That information could be securely accessed by attorneys on the ground.³¹

The most exciting thing about all of this is that for-profit companies jumped in and helped out, and did this literally within just two or three days. It was really remarkable. There were also other tech companies and for-profit companies who came together in this moment to really take a stand, which was inspiring.³²

B. *Harnessing the Power of Universities*

Another one of my favorite projects is LawWithoutWalls (“LWOW”) here at the University of Miami. It teams over one hundred students from over thirty law and business schools together with tech people and advocates.³³ They create innovative solutions to problems posed to them.³⁴ I was once an LWOW student and now, as an alumna, I was a mentor to this group, whose problem was “Friend or Foe: How the Legal Industry Can Help Asylum Seekers and Refugees in Detention Centers.”³⁵ My group, Ithaca, came up with a nonprofit tech platform that could help refugees obtain legal assistance by connecting them with pro bono lawyers and providing a case management system.³⁶

I bring this up because there were some really good lessons learned from this experience. One is that flexibility is key. You should really build off systems and networks that are already in place. The most important thing is that we, as lawyers, often think that we have the answers when many times we do not. The people

³⁰ *Id.*

³¹ *Id.*

³² See Robinson Meyer, *The Tech Industry Is Fighting Trump—and Mostly Losing*, ATLANTIC (June 27, 2018), <https://www.theatlantic.com/technology/archive/2018/06/tech-companies-travel-ban-muslim/563786>. Tech companies—such as Apple, Airbnb, Amazon, Salesforce, Uber, Microsoft, Facebook, and others—came together to speak out against the ban, not because these companies recruit a significant number of employees from countries that fell under the ban, but because the ban was “inherently prejudiced.” *Id.*

³³ See LAWWITHOUTWALLS, <http://lawwithoutwalls.org/> (last visited Jan. 15, 2019).

³⁴ *Id.*

³⁵ *2018 Projects of Worth*, LAWWITHOUTWALLS, <http://lawwithoutwalls.org/innovations/past-projects/> (last visited Jan. 15, 2019).

³⁶ *Id.*

who have the answers are the people whose needs we are trying to address themselves.

C. *Empowering Clients*

That brings me to Techfugees.³⁷ I went to Greece in the summer of 2016 to refugee camps on the Island of Lesbos and I was really shocked to see that many of the refugees—almost all of them—had cell phones.³⁸ I think when we are working with survivors, we often fall into a trap of viewing the person through the lens of his or her own trauma, but people are more complex than that. They come to the table with their own skills and their own ideas, and I think we, as lawyers, often try to take over and tell people, “this is what you should do.” But we should really be asking people, “What do you think you should do? What is it that you can bring to the table? And how can we empower you to make decisions or to be involved in this system without the need for me so that I can help you with the more complex things.”

Techfugees is an organization that brings together a bunch of different people in the tech community³⁹ to participate in hackathons⁴⁰ to benefit refugees in Greece.⁴¹ They are giving the power to the people to come up with the solutions that they need. I think that is really inspiring and empowering. We can learn from other people and incorporate those ideas into our own practice.

One other organization that is putting power into the hands of survivors is an organization based in California called FreeFrom. This is an organization that really empowers survivors of domestic violence to access and achieve economic justice in order to remain

³⁷ See *Who We Are*, TECHFUGEES, <https://techfugees.com/about/> (last visited Nov. 2, 2018).

³⁸ Luke Graham, *How Smartphones Are Helping Refugees in Europe*, CNBC (Sept. 11, 2015, 9:23 AM), <https://www.cnbc.com/2015/09/11/how-smartphones-are-helping-refugees-in-europe.html>.

³⁹ *Who We Are*, *supra* note 37.

⁴⁰ A “hackathon” is defined as “a usually competitive event in which people work in groups on software or hardware projects, with the goal of creating a functioning product by the end of the event. *Hackathon*, DICTIONARY.COM, <https://www.dictionary.com/browse/hackathon> (last visited Nov. 2, 2018).

⁴¹ See Lisa Tsene, *#HacktheCamp: The Creative Marathon to Find Sustainable Solutions to Refugee Issues in Greece*, TECHFUGEES (Feb. 6, 2017), <https://techfugees.com/news/hackthecamp-the-creative-marathon-to-find-sustainable-solutions-to-refugee-issues-in-greece/>.

free from the situations in which they encountered violence.⁴² One thing that FreeFrom did was create a financial tool in which they really sought feedback from their clients as to what was important to them.⁴³ They had their clients do a survey about considerations like time, cost, whether they were willing to do publicity,⁴⁴ asking what were the things that were important to them. And from this tool, the client was able to see their “compensation mindset.”⁴⁵ I think a lot of people love taking quizzes. With this type of quiz, the client is empowered to say, “This is what is important to me.” They have the words and are able to have the conversation with their attorneys to say, “This is my compensation mindset. What are the best tools that I can access to get compensation based on what you know about me?”

CONCLUSION

I think that there is a bright future ahead when it comes to access to justice and technology. I am super excited to see what types of effective partnerships will come about in the future. I want to mention one initiative I read about called Game Chaingers, which is probably going to make sense more to the technology people, but this is an initiative between UNICEF and BETC, a French ad agency.⁴⁶ It is a fundraising campaign in which gamers use blockchain technology to raise money for Syrian children.⁴⁷ Gamers are

⁴² *Our Work*, FREEFROM, <http://www.freefrom.org/about> (last visited Nov. 2, 2018).

⁴³ Madeline Buxton, *A New Online Tool Aims to Help Domestic Violence Survivors Get Compensation*, REFINERY29 (Jan. 29, 2018, 3:40 PM), <https://www.refinery29.com/en-us/2018/01/189328/freefrom-domestic-violence-survivor-tool>. For the financial tool, see *What Is Your Compensation Type?*, FREEFROM, <https://compensation-quiz.freefrom.org> (last visited Nov. 2, 2018).

⁴⁴ Buxton, *supra* note 43.

⁴⁵ *See id.* (defining “compensation mindset” as “a classification that is intended to help [clients] figure out what their priorities are and what their compensation options look like in their state”).

⁴⁶ Matthew Gault, *UNICEF Is Asking Gamers to Mine Cryptocurrency for Syrian Children*, MOTHERBOARD (Feb. 6, 2018, 2:00 PM), https://motherboard.vice.com/en_us/article/neqvgg/unicef-is-asking-gamers-to-mine-cryptocurrency-for-syrian-children.

⁴⁷ *Id.*

asked to mine,⁴⁸ and in exchange for mining, they are rewarded with cryptocurrency, which then gets donated to UNICEF.⁴⁹ If UNICEF can do it, why can't lawyers figure out how to do it? The challenge is out there, and I hope we take it up.

Thank you.

⁴⁸ Mining is the process through which miners mint cryptocurrency by verifying cryptocurrency transactions. Euny Hong, *How Does Bitcoin Mining Work?*, INVESTOPEDIA, <https://www.investopedia.com/tech/how-does-bitcoin-mining-work/> (last updated Nov. 12, 2018).

⁴⁹ Gault, *supra* note 46.