

2019 Hawaii Access to Justice Conference  
“Expanding Access to Civil Justice”  
June 7, 2019

Workshop Summary<sup>1</sup>

**“Access to Justice Conference for Immigrants”**

John Egan, facilitator and professor of the new Immigration Clinic at the law school, opened the section, explaining, “Most of what we do in immigration law doesn’t fit into the definition of what other areas do with regards to Access to Justice.” Kevin Block, immigration attorney practicing on the islands of Maui and Hawaii and ACLU board member shares what is going on in immigration on the neighbor islands, on the front lines and in the trenches as practitioners in court every day. “Basic principles of human decency are under attack in immigration law, courts, and at the borders. All institutions that interface with immigration have adopted reverse posture toward immigrants, those of hostility and inhumanity. Long-held principles of asylum law are being thrown out the window, due process is being thwarted. Institutions that are supposed the benefit immigrants are becoming enforcement arms in this alarming new development. Constant changes in policies erode at the rights of immigrants.”

Today, the Justice Department has become politicized. Immigration judges have quotas and less discretion. Judges no longer have the choice to administratively close a case for removal so that other collateral matters can be adjudicated in order obtain a favorable outcome for adjustment of status. In addition, Attorney General Jeff Sessions in an unprecedented move has begun seizing cases from the Board of Immigration Appeals, setting precedent for countless other immigrant court cases. For instance, in the *Matter of A.B.*, a woman was seeking asylum after being sexually assaulted and beaten by her husband in front of her children. The Department of Homeland Security (“DHS”) attorney said that is a private act of violence and because there was no state actor, relief should not be granted. As a result, every individual asylum applicant must prove that the government was unable to assist her in her situation with her abuser before being eligible for relief.

Here in Hawaii, particularly on the islands of Maui and Hawaii which grow coffee, we have an unexpected flux of undocumented immigrants from Guatemala and Honduras. A young star soccer player and presidential scholar graduate with honors from Maui lost his Deferred Action for Childhood Arrivals (“DACA”) status after taking a plea for driving while ability impaired in Colorado. He was later arrested for losing his DACA status and put in removal proceedings. Once pre-med, he then attended UH Maui to get his LPN license

while caring for a man with Alzheimer's. Still removal proceedings were pursued against him.

Today, Immigration and Customs Enforcement ("ICE") is misusing bond in order to detain and penalize immigrants. Bond is supposed to be connected to public safety and flight risk, but is now being used as a deterrent for immigrants from obtaining status and trying to remain in the country. Even after winning their case, as long as DHS says they intend to appeal the decision, ICE will set bond at an amount they know the individual cannot afford in order to keep them detained.

*Access to Justice* for Immigrants sometimes means just being able to get actual access to the court. Immigrants face obstacles that impair their *access to justice* in ways that are easily over looked but extremely crucial to their cases. Just getting to the courthouse, especially for immigrants coming from outer island, can be a huge feat. Hearings are typically scheduled for 8:30 a.m., meaning these people better catch the first flight out if they hope to make it on time. In addition, many immigrants have virtually no way of obtaining an I.D. as they are unable to get a driver's license or state identification. Just getting through airport security can seem almost impossible when traveling after your passport was taken from you and you have an ankle bracelet, courtesy of DHS. Then once on Oahu, these people must find their way through the airport, find a ride to the courthouse, and then find their way to their courtroom, on time. If these people arrive five minutes late to their hearing, the judge will have them removed. Even if an attorney is present at the hearing on behalf of someone, the judge will still find that DHS met their burden and find that person removable.

Some ideas for possible solutions include a community navigator for immigrants, someone that can help these people get to their court hearings, and for faith based churches to put together mini bail funds to help cover bond. Mr. Egan also suggested moving local infrastructure to serve immigrant communities. The new clinic at the law school intends to hold trainings to increase the number of people available to do sub legal representation at immigration proceedings, as well as assisting with filling out forms and instructing people on how to appear at court.

Mr. Egan named three key things moving forward with *access to justice* for immigrants: (1) The law school's commitment to the process, training young lawyers to do this work and providing somewhere people can go to get the necessary information; (2) Community involvement: navigators, churches, Hawaii Immigrant Justice Center, etc.;(3) Funding.

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<sup>1</sup> A draft was prepared by Malia Alexander, staff attorney, Legal Aid Society of Hawai'i and reviewed by the presenters.