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# CLINICAL LEGAL EDUCATION AT A GENERATIONAL CROSSROADS: SHADES OF GRAY

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*Many law professors have noticed a change in the law students and professors entering the profession. This change is often attributed to a generational shift. Law professors have debated how generational differences impact clinical pedagogy and interactions with their colleagues. This essay is a dialogue with my Gen-X and Baby Boomer colleagues on how the generational shift impacts clinical legal education. Through examining my path to clinical legal education as a Millennial on the cusp of Gen-X, I explore fundamental questions that have pervaded clinical education since its inception. These questions include whether the public service mission, on which clinical legal education is based, is outdated given the desires of Millennial law students, whether servicing indigent clients is essential to clinical legal education, and whether the Millennial law student seeks experience and skills over the social justice mission. Through this examination, I conclude that the reasons why Millennial students seek clinical experiences can not be generically summarized. Given the diverse characteristics of the Millennials, in order to develop a holistic, practice-ready attorney, my mission is to equip my students with the necessary skills to succeed as lawyers with a passion for their practice while maintaining an awareness of the social, political, and economic spheres in which they practice.*

*Life is not lived in black and white.  
Our lives dwell within deep, rich shades of gray.*

—Karla McKanders

## I. INTRODUCTION

In this essay, I critically analyze my motivations for entering clinical teaching in light of the traditional public service ethic that has historically pervaded clinical legal education. I also explore how my own personal goals, and the foundation on which clinical education is based, have influenced teaching the new generation of Millennial<sup>1</sup> law

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<sup>1</sup> Praveen Kosuri, *Clinical Legal Education at a Generational Crossroads: X Marks the Spot*, 17 CLIN. L. REV. 205, 206 n.2 (2010) (defining “Baby Boomer” as someone born

students. By telling my own story as a Millennial clinician,<sup>2</sup> I challenge the notion that Millennials can be generically categorized, and reflect upon the challenges of working with Gen-X and Baby Boomer colleagues.

Many law professors are noting a change in the students entering law school. This change is often described as a generational change. Various social scientists have noted “that those who live during particular time periods typically share common experiences at certain times of their lives.”<sup>3</sup> For example, the new Millennial generation is often described as the generation that wants everything instantaneously. This is the generation that only takes “yes” for an answer and had their parents telling them that they could be anything their hearts desired. For Millennials, they come first. In the context of clinical legal education, this translates into students who enter the clinic with the desire to litigate cases immediately so that they can become practice-ready attorneys who succeed at everything they do.

Reflecting upon generational issues, it is interesting to examine how clinical law professors balance the traditional clinical public service mission with the substantive legal skills that Millennials demand as part of their clinical and law school experience. In this essay, I examine this question in the context of a critical review of the needs and desires of the Millennial generation along with my own path into clinical teaching and my unique position as a law professor straddling the Gen-X and Millennial generations: a “cusper.”<sup>4</sup> As a law profes-

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between 1946 and 1964, a ‘Generation Xer’ between 1965 and 1976, and a ‘Millennial’ between 1977 and 1990”).

<sup>2</sup> I am probably better characterized as a “cusper,” having been born and raised between the Gen-X and Millennial generations. See LYNEE C. LANCASTER & DAVID STILLMAN, *WHEN GENERATIONS COLLIDE: WHO THEY ARE. WHY THEY CLASH. HOW TO SOLVE THE GENERATIONAL PUZZLEWORK*. 36-41 (2002) (defining “cuspers” as persons between each set of generations).

<sup>3</sup> Judith Welch Wegner, *Reframing Legal Education’s “Wicked Problems,”* 61 *RUTGERS L. REV.* 867, 988 (2009). Wegner stated:

Based on a review of historical cycles, Strauss and Howe posited that those who live during particular time periods typically share common experiences at certain times of their lives. As a result, in their view, “generations” often share particular assumptions, values, behaviors, and challenges. They argued that any given “generation” (defining by reference to the period when a population group was born) processes through four major life stages (each running about twenty to twenty-five years in duration). In their view, overlapping generations do not experience life events in the same way and do not have a linear pattern of development. Instead, they theorize that society itself goes through a four-part cycle in roughly eighty year intervals, moving from a “high” point, through an “unraveling,” to a “crisis” and ultimately an “awakening,” before repeating that cycle.

*Id.* (citing NEIL HOWE & WILLIAM STRAUSS, *GENERATIONS: THE HISTORY OF AMERICA’S FUTURE, 1584-2069* (1991)).

<sup>4</sup> LANCASTER & STILLMAN, *supra* note 2.

sor with a foot in each of these generations, I have a unique position and viewpoint. I am close in age to our students' generation when compared to my colleagues who are writing with me. In engaging in this analysis, I have found that my individual upbringing impacted my desire to enter into public service work. Perhaps, I can best be described as a hybrid between my Gen-X and Baby Boomer colleagues: a high achieving social-justice-minded clinician who advocates for social justice, but often sees unique ways that the "old system" that the Baby Boomer clinicians created can be revamped to accommodate diverse Millennial students and new clinicians with varying motivations.

## II. WHO ARE THE "MILLENNIALS"?: PUBLIC SERVICE GOALS AND THE NEW GENERATION

Frequently throughout my career, I have heard countless law professors discuss their interactions with the Millennial generation.<sup>5</sup> The stories range from student use of laptops during lectures, to calls from parents inquiring about student progress, to students being more technologically savvy than their professors. An issue of significant concern among clinical professors today is how the underlying public service mission, on which clinical legal education is based, impacts the Millennial generation of law students.<sup>6</sup> Clinicians often perceive that the Millennial generation wants to learn a skill set, and that these students have little or no underlying concern for the indigent populations whom they are serving. My teaching experience has debunked this myth. I have come across many diverse students who take the clinic to serve others, which counters the stereotypical image of the Millennial student being self-absorbed.

The Millennial generation is comprised of persons born between 1977 and 1990.<sup>7</sup> Many studies and articles have been written on the

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<sup>5</sup> See Wegner, *supra* note 3, at 987 ("Law faculty members have likely observed that present-day law students 'aren't like they used to be.' While demographic changes are probably evident, more subtle differences relating to how law students learn and are motivated may be less apparent absent some more in-depth review of the research literature. Increasing attention has been given to these issues by those who work with undergraduate students, but legal educators are only beginning to appreciate the significance of related issues." (citations omitted)).

<sup>6</sup> Doug Blaze, *Déjà Vu All Over Again: Reflections on Fifty Years of Clinical Legal Education*, 64 TENN. L. REV. 939, 949 n.79 (1997) (explaining the tension between the educational mission of clinics and their public service mission).

<sup>7</sup> U.S. CENSUS BUREAU, GENERATION X SPEAKS OUT ON CIVIC ENGAGEMENT AND THE DECENNIAL CENSUS: AN ETHNOGRAPHIC APPROACH (2003), available at <http://www.census.gov/pred/www/rpts/Generation%20X%20Final%20Report.pdf>. But see Ron Alsop, *The 'Trophy Kids' Go to Work*, WALL ST. J., Oct. 21, 2008, at D1, available at <http://online.wsj.com/article/SB122455219391652725.html>; Janelle L. Wilson, *The Millennials: Getting To Know Our Current Generation of Students*, MOUNTAIN RISE: THE INT'L J. SCHOLARSHIP TEACHING & LEARNING, Fall 2008, at 3, <http://www.wcu.edu/facctr/mountainrise/archive/>

Millennial generation and on the unique challenges of working with Millennials.<sup>8</sup> These articles describe the Millennial generation as a technologically savvy, racially and culturally diverse, over-watched generation, who were heavily influenced by parents, relatives, teachers, coaches, babysitters, counselors, chaperones, mini-vans, and curfews.<sup>9</sup> They are described as ambitious, enterprising spirits.<sup>10</sup>

[Millennials] focus on “achievement” including good grades, extra-curricular success and high-paying jobs, particularly in the sciences, but often believe that they are entitled to such recognition and expect to be given explicit instructions on how to achieve at the highest levels. They may feel “pressured” as a result since they have been highly scheduled, prefer to avoid risks, expect others to accommodate them (rather than vice-versa), and tend to multi-task. They also tend to be “conventional,” civic-minded, and disinclined to question authority (often valuing their parents’ values, expectations, and rules, rather than striking out for themselves).<sup>11</sup>

Contrary to notions that Millennials are self-absorbed, an annual survey of undergraduate students in January 2009 found that government and public service jobs were the most popular career options for American undergraduates, with 17% naming these types of jobs as their top choice.<sup>12</sup> Health care (13%), education (12%), and marketing/advertising (11%) were the next top choices.<sup>13</sup> Surprisingly, in this survey, “63 percent of the students considering government/public service are considerably more likely to ‘be dedicated to a cause’ or to feel they are serving the greater good as an important career goal com-

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vol5no1/html/Millennials.pdf.

<sup>8</sup> Joan Catherine Bohl, *Generations X and Y in Law School: Practical Strategies for Teaching the “MTV/Google” Generation*, 54 LOY. L. REV. 775 (2008) (comparing generational differences in learning styles, including the role of technology and the implications of the educational system on Millennial students); Susan K. McClellan, *Externships for Millennial Generation Law Students: Bridging the Generation Gap*, 15 CLIN. L. REV. 255 (2009) (discussing need for structure, praise, collaborative assignments, discussion of personal stories, discussion of office culture, attention to stress, attention to workloads, discussion of multi-tasking); Tracy L. McGaugh, *Generation X in Law School: The Dying of the Light or the Dawn of a New Day?*, 9 LEGAL WRITING 119 (2003) (discussing differences between Gen-Xers and Millennial students); Wegner, *supra* note 3, at 986 (citing Leslie Larkin Cooney, *Giving Millennials a Leg-Up: How to Avoid the “If I Knew Then What I Know Now” Syndrome*, 96 KY. L.J. 505 (2008) (discussing how Millennial traits may need to be addressed in clinical teaching)).

<sup>9</sup> Alsop, *supra* note 7; Wilson, *supra* note 7, at 3.

<sup>10</sup> Alsop, *supra* note 7.

<sup>11</sup> Wegner, *supra* note 3, at 989.

<sup>12</sup> UNIVERSUM & P'SHIP FOR PUB. SERV., GREAT EXPECTATIONS: WHAT STUDENTS WANT IN AN EMPLOYER AND HOW FEDERAL AGENCIES CAN DELIVER IT 6 (2009), available at [www.ourpublicservice.org/OPS/publications/download.php?id=131](http://www.ourpublicservice.org/OPS/publications/download.php?id=131); see also Andrea Stone, ‘Civic Generation’ Rolls up Sleeves in Record Numbers, USA TODAY, Apr. 19, 2008, available at [http://www.usatoday.com/news/sharing/2009-04-13-millennial\\_N.htm](http://www.usatoday.com/news/sharing/2009-04-13-millennial_N.htm).

<sup>13</sup> UNIVERSUM & P'SHIP FOR PUB. SERV., *supra* note 12, at 2.

pared to 46 percent of the overall student population.”<sup>14</sup> Even though these career choices were listed, all of the students responding to the survey expected to receive very high salaries.<sup>15</sup>

This perception is contrary to law professors’ preconceived notions that all Millennial students are self-absorbed and not concerned at all with the public service missions of the clinic. In my experience, the reality is more complex: some want a heavily skills-based course while others are motivated by the public service missions that serve as the foundation of clinical legal education.

Millennials will begin practicing law in a professional environment where technological advances have drastically changed the way a lawyer researches, writes, communicates, dresses, and bills.<sup>16</sup> Further, the recent economic downturn has caused large law firms to begin rethinking how they bill clients. This will definitely impact the practice of law for Millennial students. In other words, the change comes not only from the Millennials themselves, but also from their employers, who are modernizing in order to compete in an increasingly global and competitive landscape where economic concerns drive much of the lawyering.

In light of the highly diverse characteristics of the Millennial generation, it is important to re-examine how the diverse service missions of clinical legal education blend with the Millennial generation and with the history of clinical pedagogy. During my short time in legal academia, I have taught a myriad of students, many who approach their clinical courses with differing goals. Perhaps, the new Millennial student wants to serve while not taking a huge pay cut at the same time.<sup>17</sup>

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<sup>14</sup> *Id.* at 3.

<sup>15</sup> *Id.* (stating that students “expect to earn an annual salary of \$49,108 in their first job after graduation. The federal government General Schedule’s salaries for entry-level (Grades 5 or 7) positions have a starting range of \$30,134 (GS-5) to \$38,162 (GS-7), adjusted for cost of living in individual localities. While students—and government recruiters—may find this gap discouraging, students interested in government list their expected base salary as \$45,119, lower than the expectations for ‘all students’”).

<sup>16</sup> Sam Dillon, *Praise, Advice and Reminders of the Sour Economy for Graduates*, N.Y. TIMES, June 16, 2009, <http://www.nytimes.com/interactive/2009/06/14/education/0614-commencement.html> (quoting Natalie Davis, Professor of Political Science and Pre-Law Advisor, Birmingham-Southern College, Commencement Address at Birmingham-Southern College (May 17, 2009) (“You are the Millennials. You differ from Generation X in that you are neither cynical nor alienated, and you seem to like your parents. You’re not like the boomers, who are ideologues and tend to listen only to those who share their ideology. You are seen as being inclusive when it comes to race, ethnicity and sexual orientation. You actually have positive attitudes on the ability of government to play a constructive role in our lives. You want to build coalitions. . . . You are networked and you tweet. And most importantly for our time, you are problem-solvers.”)).

<sup>17</sup> It may be argued that out of this philosophy many law firms hired *pro bono* coordinators and gave associates credit for taking on *pro bono* work.

### III. WHY DID I BECOME A CLINICAL PROFESSOR?

Too often lawyering is conceptualized in black and white. This black and white thinking is reflected in students' perception that when they graduate they will either be a big firm lawyer or selflessly devote their career to full-time public service. Similarly, there is often a conflict between practicing social justice attorneys who turn their noses up at big firm lawyers. These dichotomies somewhat pervade the legal academy as the top students are encouraged to pursue big firm jobs. When I was contemplating whether to enter clinical teaching, this same dichotomy pervaded my thought process as I contemplated which path to take. This section discusses my path into clinical teaching and the historical and familial experiences that influenced my decision to become a clinical professor.

Events that shaped my life, and perhaps those of others within my generation, were the end of the Cold War, the beginning of the computer age and the invention of the internet, and growing up in a world that was relatively at peace (with the notable exceptions of the Iraqi Desert Shield and Desert Storm conflicts). I also grew up in a very middle class neighborhood, but attended primary and secondary school with students from very diverse backgrounds and socio-economic statuses. I grew up in a sheltered environment which is somewhat characteristic of the Millennial generation. I was also enrolled in very structured after-school programs where every minute of my time was planned.<sup>18</sup>

One critique of Millennials is that they are so far removed from the civil rights movement and grew up in such sheltered and structured environments that they do not feel an urgent call to action. I grew up very idealistic, but with a sense and duty of always wanting to impact social change. Some of my earliest childhood memories include watching the Civil Rights PBS series *Eyes on the Prize*;<sup>19</sup> gathering around the television with my family to watch Alex Haley's *Roots*;<sup>20</sup> and, at an early age, reading *The Autobiography of Malcolm X*.<sup>21</sup> While I found books and television series of this nature inspiring, my colleague Praveen Kosuri notes that he found books of this nature depressing.<sup>22</sup> While I gleaned a need for persons to become social justice advocates, he took away from the books that life was hard,

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<sup>18</sup> McClellan, *supra* note 8, at 262.

<sup>19</sup> EYES ON THE PRIZE: AMERICA'S CIVIL RIGHTS YEARS 1954-1965 (Public Broadcasting Service 1992).

<sup>20</sup> *Roots* (ABC television broadcast Jan. 23-30, 1977).

<sup>21</sup> MALCOLM X, THE AUTOBIOGRAPHY OF MALCOLM X: AS TOLD TO ALEX HALEY (1965).

<sup>22</sup> Kosuri, *supra* note 1, at 209.

while he had lived a very easy life.<sup>23</sup>

In addition, my commitment to public interest lawyering was motivated by listening to my parents and grandparents recount their experiences with racial segregation. I clearly remember one story of my father's: When he was around the age of six or seven, he experienced the depths of racial hatred from an older white woman in her sixties. He was shopping with his mother in the suburbs of Detroit when he decided to go sit on a bench next to this woman. This woman became overtly hostile with him and began uttering racial epithets. This experience was deeply ingrained in his memory as he shared this with his children about how the depths of racial hatred could be foisted upon a young child. I also remember attending conferences with my mother, who taught in the Detroit public schools, on educating African American children. The conferences examined how African American history was not fully integrated into the history that was taught within the school system and the psychological effect of this absence on African American children.

Being only one or two generations removed from legal segregation, combined with my own early experiences with discrimination, affected how I viewed the world. I came to have a sense that I was not so far removed from my parents' and grandparents' experiences. My parents' reflections created a sense of duty in me to make sure that other people's civil rights were not violated and that everyone had equal access to the justice system. This manifested itself in the form of my always feeling that I had to be the voice in advocating for others. As early as the sixth grade, I remember challenging school officials on selecting a school t-shirt with all white students on it. I questioned the teachers as to whether the depiction on the shirt accurately reflected our diverse student body. This resulted in students of color being placed on the school shirt.

Living in Michigan, I did not experience many of the overt forms of discrimination and racism that my parents and grandparents had. The racism I experienced was much more subtle and not socially accepted. For example, in high school, I always noticed that most of the African American students were tracked into non-college preparatory classes. During my senior year in high school, no student overtly voiced their concerns with me, an African American woman, being the class president. However, students made me keenly aware that my leadership efforts were not appreciated when they placed a Ku Klux Klan sticker with derogatory pictures of African Americans on my locker. These experiences of racism facilitated my desire to pursue

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<sup>23</sup> *Id.*

social justice issues.

Prior to law school, I interned at a refugee center while studying abroad in Strasbourg, France. I worked with refugees from Afghanistan, Mauritania, and Kashmir. I vividly remember my work with a very young boy from Afghanistan whose family had fled the Taliban. I observed this young boy struggle with post-traumatic stress disorder from witnessing a car bomb detonate and kill his grandfather. His family was also attempting to integrate into a society that was not welcoming of *des émigrés* populations residing in the suburbs.<sup>24</sup> This experience deeply engrained in me an appreciation of the need that relocating refugees had for people advocating on their behalf.

Several of my professors in Strasbourg were from the Council of Europe, an international organization comprised of European countries that focuses on human rights issues among other issues.<sup>25</sup> During this time, my human rights professor and course struck a chord with me. We viewed a videotape of the civil rights struggles of the Roman Catholics in Northern Ireland, struggling against the Protestants for equal protection under the laws. I remember being surprised to learn about how the Catholics employed the same strategies that African Americans used during the civil rights movement in the United States.

Until this point, as a student, I did not realize the impact of the civil rights movement on persons outside of the United States. As an undergraduate student, I learned how the non-violent civil resistance strategies of Ghandi and Martin Luther King, Jr. had an international influence on social justice movements. I was similarly intrigued by the similarities between various human rights movements and discriminatory governmental actions in Europe and in the United States.<sup>26</sup> This experience sparked my interest in assessing how social conditions af-

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<sup>24</sup> In 2005, in the suburbs of Paris, France many immigrants rioted over the discriminatory treatment and lack of employment in poor immigrant communities in France. See generally Thomas Crampton, *Behind the Furor, the Last Moments of Two Youths*, N.Y. TIMES, Nov. 7, 2005, available at [http://www.nytimes.com/2005/11/07/international/europe/07youths.html/partner/rssnyt?\\_r=1&pagewanted=print](http://www.nytimes.com/2005/11/07/international/europe/07youths.html/partner/rssnyt?_r=1&pagewanted=print) (speaking about how the deaths of two immigrant boys in the suburbs of Paris sparked ten days of rioting in Paris).

<sup>25</sup> The Council of Europe, based in Strasbourg, France, now covers virtually the entire European continent, with its forty-seven member countries. Founded on May 5, 1949 by ten countries, the Council of Europe seeks to develop throughout Europe common and democratic principles based on the European Convention on Human Rights and other reference texts on the protection of individuals. The primary aim of the Council of Europe is to create a common democratic and legal area throughout the whole of the continent, ensuring respect for its fundamental values: human rights, democracy, and the rule of law. See Council of Europe Objectives, <http://www.coe.int/aboutCoe/index.asp?page=nosObjectifs&l=en> (last visited Aug. 6, 2010).

<sup>26</sup> In Europe, I studied conflicts and civil strife, such as the Northern Ireland conflict, conflicts between the French and immigrant Northern Africans, and the treatment of the Roma (gypsy) population in Europe.

fect the implementation of the laws and the citizens' resistance to changing them. This study abroad experience influenced me so profoundly that when I returned from Strasbourg I began working with a children's refugee center in Atlanta, Georgia, something I would not have considered prior to my experience in Europe.

All of these experiences coalesced in my personality and consciousness such that, by the time I graduated from college, I could be characterized as a budding activist. Although very quiet, I always found a medium—whether writing, volunteering, or presenting at academic conferences—to express my opinion about what was unjust and unfair in our society and in the institutions in which I operated. Based on these experiences, when I entered law school I was fairly certain that I would pursue a career in the area of human rights, more specifically refugee and asylum law.

Like most law students, by my third year at Duke University School of Law in North Carolina, I craved actual experience. I wanted to learn more than the theory of law. I wanted live client experiences. The clinics at my law school were more of the externship model versus the in-house clinic model. I enrolled in two separate clinics: the Death Penalty Litigation Clinic and the Criminal Litigation Clinic. Both clinics had a seminar and externship component with the local District Attorney and the Center for Death Penalty Litigation respectively. Enrolling in these two clinics continued my development as a social justice oriented person in a unique way that was quite distinct from my colleagues in the Baby Boomer generation directly involved in the sixties and seventies unrest and protests and the legal aid movements.<sup>27</sup> As explained above, my orientation to the social justice world was largely based upon interactions with my family and directly experiencing racism while growing up.

In the Death Penalty Litigation Clinic, my partner and I worked on post-conviction death penalty cases. At the beginning of our clinical experience, in January 2003, then-Governor of Illinois, George Ryan, commuted to life imprisonment the death sentences of all 156 inmates then confined on Illinois' death row.<sup>28</sup> This executive action garnered significant national media attention. Governor Ryan argued that the administration of the death penalty system was so rife with errors that a fair death sentence could not be imposed.

At the beginning of our clinic semester, Governor Ryan spoke at the University of North Carolina in Chapel Hill. His presentation im-

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<sup>27</sup> Minna J. Kotkin & Dean Hill Rivkin, *Clinical Legal Education at a Generational Crossroads: Reflections from Two Boomers*, 17 *CLIN. L. REV.* 197, 199 (2010).

<sup>28</sup> *Governor Clears Illinois Death Row*, BBC, Jan. 11, 2003, <http://news.bbc.co.uk/2/hi/americas/2649125.stm> (last visited Aug. 6, 2010).

bued my clinic partner and me with a heightened sense of purpose as we set out to do post-conviction work for two death row inmates. The first inmate we worked for was the only woman of color to be sentenced to death in North Carolina. We were conducting fact investigation for state post-conviction relief and traveling through rural North Carolina interviewing jurors, mitigation witnesses, and conducting legal research for the attorney. Our second client had been on death row for approximately ten years. Again, we were helping the attorney with the mitigation investigation and also with legal research.

We spoke with jurors about why they imposed a death sentence, the atmosphere of the courtroom during the trial, and what the client was like during his or her life. Traveling in rural areas of North Carolina, we encountered varying perceptions of the people we interviewed on why they chose a death sentence and their perceptions of the defendants. For the most part, people welcomed discussions about their jury experience or declined to speak with us about the case. I left my clinical experience with a heightened awareness of how the theory of the law is applied in the court room, of the inner workings of the justice system, and of how this system can be skewed based on access to resources, the race of the client, and the environment where the case is litigated.

I also had the opportunity to experience practicing law in a mid-sized firm. The summer after my second year in law school, I turned down an internship with the National Association for the Advancement of Colored People (“NAACP”) Legal Defense and Education Fund in Washington, D.C. to take a summer associate position at a mid-size, corporate defense, law firm. This was an extremely difficult decision for me as I had always wanted to work for a legal advocacy organization like the NAACP; however, I was dissuaded by the overwhelming majority of my colleagues in law school leaning towards working in law firms after graduation. The factors influencing my decision were being able to pay off law school loans, wanting to experience something outside of social justice work, and the heavy emphasis the career services office placed on working in law firms. I vividly remember sitting in career service recruitment meetings and witnessing students intensely taking notes and conversing over the criteria to “make it” into a large New York law firm. This seemed to be the post-law school job to which all law students aspired. Even though this experience deviated from my long-term path of pursuing public service work, working in a law firm provided me with excellent training and the ability to work on diverse client matters. In addition, this experience broadened my perspective on how attorneys with social justice leanings are needed in all areas of legal practice (both corporate

defense and plaintiffs' law firms).

After graduating from law school, I accepted a position at the law firm practicing in the area of labor and employment law. I was exposed to a challenging civil defense practice that involved writing briefs, arguing summary judgment motions, presenting employer legal updates, conducting document intensive discovery, preparing partners for depositions, and keeping track of billable hours. My first day on the job, I was assigned to a high profile racial discrimination case where it was alleged that the employer permitted an environment to exist where there were racial epithets, nooses hanging on the worksite, and racial graffiti galore. Working on this case challenged my perceptions of what it meant to be an attorney and how to work on a case where the employer may be liable for not taking prompt and appropriate remedial action to prevent racial discrimination. Specifically, growing up, I never envisioned that I would be working and advocating on the "bad guys'" side. This experience demonstrated again that life's experiences are not black and white. I watched the African American partner navigate advising the client regarding what the best strategies were to pursue in defending this case. This also raised many ethical issues for me in evaluating the employer's response to its employees' and subcontractors' discriminatory behavior. Being a socially conscious African American litigating this kind of racial discrimination lawsuit provided many moments to educate and work with the client to revise its discrimination policies and also counsel the client on how a jury would view its claims.

A year into my position, I was offered a clerkship position with Judge Damon J. Keith of the U.S. Sixth Circuit Court of Appeals. During my clerkship, I observed the backlog of immigration cases and the disparate levels of lawyering in immigration cases. I was fortunate to work under the tutelage of Judge Keith who is a great civil rights advocate and humanitarian. During this time, Rosa Parks passed away. Judge Keith was a part of planning her funeral services. At her funeral, there were many people who gathered to remember her symbolic act of not giving up her bus seat and how it changed the course of history. This experience had a great impact on me and caused me to reflect on why I entered law school and what I would do with the rest of my legal career.

At the end of my clerkship, I was uncertain about my career path. As noted, I had entered law school with the intention of pursuing a career in human rights, refugee, and asylum law. This was my passion. After clerking on the Sixth Circuit and viewing the representation immigrants were provided, I knew I wanted to advocate on behalf of immigrants and work to educate future lawyers to address the dispa-

rate levels of advocacy I saw while I was a law clerk. In the interim, my colleague from the law firm, Bridgette Carr, had left the firm to start her own immigration clinic at Ave Maria School of Law.<sup>29</sup> When I spoke with her about possibly going into teaching, she raved about how she had truly found the right career through teaching. She indicated that she was able to combine teaching with her passion.

I also consulted with many law professors and practitioners regarding my career path and encountered varying opinions. Some encouraged me to take the law firm job with the intent to take asylum cases on a *pro bono* basis. Others opined that a career in legal academia could provide me with the opportunity to facilitate student growth while pursuing legal scholarship and my passion of working with the asylee and refugee population. They thought teaching could provide the opportunity to educate and assist students in becoming skillful legal advocates while addressing systematic problems within the U.S. immigration system.

While some would view this as a very black and white decision, it was laced with varying shades of gray. I asked myself questions such as whether returning to work at the law firm would eviscerate my passion for refugee and asylum law. Could a public service practice actually occur under the umbrella of a corporate law firm? Was legal scholarship an avenue to express my passion for the law or does legal scholarship fall on deaf ears? Was I overpowered by idealism that would wane once I entered into the elusive world of legal academia? Would the status issues between doctrinal and clinical professors that pervaded the bureaucracy of the legal academy stymie my desire to engage in legal scholarship and practice? These were all questions that I pondered as I tried to make a decision about which career path to pursue.

I ultimately decided to venture into the unknown world of legal academia. My decision was based on a desire to educate law students, improve the caliber of lawyers graduating from law school, pursue my passion of working with refugees and asylees and immigrants, and help students as they begin to make decisions about their career paths as lawyers. Since I entered clinical teaching my goal has been to ensure that my students become great advocates with a public service mindset who think critically about the areas of law in which they practice. The question I face today is whether this goal is congruent with the expectations of the current generation of Millennial law students.

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<sup>29</sup> Bridgette Carr was a co-presenter with me on the Association of American Law Schools (“AALS”) panel. She currently teaches in the Human Trafficking Clinic at the University of Michigan School of Law.

#### IV. PUBLIC SERVICE AND THE MILLENNIAL GENERATION OF LAW STUDENTS

The roots of the clinical legal education movement stem from the legal aid movement.<sup>30</sup> This movement began in the 1960s<sup>31</sup> with law students representing indigent clients who were otherwise without access to legal counsel.<sup>32</sup> Despite these public service underpinnings, many clinicians disagree on what the primary goal of clinical legal education is today.<sup>33</sup> My colleague Praveen Kosuri has a strong opinion that clinical legal education is solely about educating law students. Whereas, the Baby Boomer contributors to this set of essays, Dean Rivkin and Minna Kotkin, focus on the strong public service foundation of clinical legal education.<sup>34</sup> Rivkin and Kotkin critique the *Generators* and my essay for our student-centered approach over focusing on our clients.<sup>35</sup> As Rivkin and Kotkin see public service to clients and students as being mutually exclusive, I envision these two as congruent. As a law clerk for the Sixth Circuit, I saw a lot of *bad* law-

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<sup>30</sup> Blaze, *supra* note 6, at 950.

<sup>31</sup> See Robert Condlin, *The Moral Failure of Clinical Education*, in *THE GOOD LAWYER: LAWYERS' ROLES AND LAWYERS' ETHICS* 317, 332 (D. Luban ed., 1983) (stating that “[t]he clinical revolution started in the 1960s and 1970s with money from the Ford Foundation channeled through a series of grant-making agencies” (citation omitted)); Marc Feldman, *On the Margins of Clinical Education*, 13 N.Y.U. REV. L. & SOC. CHANGE 607, 608 (1985); Minna J. Kotkin, *The Violence Against Women Act Project: Teaching a New Generation of Public Interest Lawyers*, 4 J.L. & POL’Y 435, 446 (1996) (“The modern era of clinical education began in the mid-1960s at a time when both the federal government and private foundations were supporting legal services and public interest law organizations with unprecedented amounts of funding and enthusiasm.”); Mark Spiegel, *Theory and Practice in Legal Education: An Essay on Clinical Education*, 34 UCLA L. REV. 577, 589 (1987) (noting the “early stages of [clinical education] development during the 1960’s”).

<sup>32</sup> Blaze, *supra* note 6, at 944-47.

<sup>33</sup> Sameer Ashar, *Law Clinics and Collective Mobilization*, 14 CLIN. L. REV. 355, 356 (2008) (positing that clinical legal education should be framed around the collective needs and politics of the community in which they are based); Margaret Martin Barry, Jon C. Dubin & Peter A. Joy, 7 CLIN. L. REV. 1, 17 (2000) (explaining that during the 1970s and 1980s clinical faculty started to create a vocabulary for clinical legal education wherein the clinical scholars explained that the primary goal of clinical legal education should be to teach students how to learn from experience (citing Kenneth R. Kreiling, *Clinical Education and Lawyer Competency: The Process of Learning To Learn from Experience Through Properly Structured Clinical Supervision*, 40 MD. L. REV. 284 (1981))); Juliet M. Brodie, *Little Cases on the Middle Ground: Teaching Social Justice Lawyering in Neighborhood-Based Community Lawyering Clinics*, 15 CLIN. L. REV. 333, 338 (2009) (recognizing that a tension exists between the clinical twin goals of service and teaching); *id.* at 334 (outlining the view that any clinical service docket that privileges individual service cases outside of an explicit, articulated commitment to ‘politicized’ collectives of local poor people misses the social justice mark and squanders the opportunity to participate meaningfully in the fight for global justice); Jon C. Dubin, *Clinical Design for Social Justice Imperatives*, 51 SMU L. REV. 1461, 1478-82 (1998) (discussing the reconciliation of “service and instructional goals in social justice-oriented clinical design”).

<sup>34</sup> Kotkin & Rivkin, *supra* note 27, at 199.

<sup>35</sup> *Id.* at 201.

ying on many levels. This motivated me, in part, to become a clinical professor. While clinical education is about the students, teaching the students to become skilled advocates in many contexts and to value *pro bono* work is part of creating a fair and just legal system.

Furthermore, I have seen the tensions between serving students and serving clients play out in many contexts. As one of the only immigration practitioners on the eastside of Tennessee, I receive many telephone calls from non-profit organizations and from potential clients asking me to take on many cases. Some clinics across the country take on numerous cases and run their clinics like legal services offices. A question that often surfaces in this context is whether pedagogy suffers with an increased caseload. Or, alternatively, can a clinical professor properly slow down the case so that the student learns each step properly, without jeopardizing the client? Is it necessary to slow down the steps? Do students learn best in high pressure situations? I have found that both the students and the clients win in situations where the student is experiencing their first interactions with clients and legal work in a highly reflective environment.<sup>36</sup> However, at no point are the client's needs sacrificed in order to facilitate student learning. In my experience as a clinician, a somewhat imperfect mixture of clinical pedagogy and a client-centered approach yields a result where both the student and client's expectations are exceeded.

Recently, at a conference on clinical legal scholarship, Stephen Ellman, a clinician at New York Law School, questioned whether or not the public service element is even necessary when you have the majority of students going into private practice.<sup>37</sup> He posited that clinicians should consider that perhaps students do not need to work with indigent clients to learn how to practice law.<sup>38</sup> Given his position

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<sup>36</sup> GUY CLAXTON, *WISE UP: THE CHALLENGE OF LIFELONG LEARNING* 14 (1999); DONALD A. SCHÖN, *THE REFLECTIVE PRACTITIONER: HOW PROFESSIONALS THINK IN ACTION* 68 (1983); Brodie, *supra* note 33, at 337 (discussing neighborhood-based community lawyering clinics and acknowledging that clinics provide opportunity for "reflective practice and intellectual rigor that are the hallmarks of the clinical method"); Leslie Larkin Cooney, *Giving Millennials a Leg Up: How to Avoid the "If I Knew Then What I Know Now" Syndrome*, 96 KY. L.J. 505, 506 (2007-2008) (stating that Millennials "crave interactivity and 'may need to be encouraged to stop experiencing and spend time reflecting'" in the context of their clinical experience); *id.* at 524 (discussing the use of therapeutic jurisprudence in the context of supervising Millennials as being a method to get students to reflect on collateral issues that will affect their practicing law (citing ROY STUCKEY ET AL., *BEST PRACTICES FOR LEGAL EDUCATION* 127 (2007))); J.P. Ogilvy, *Use of Journals*, 3 CLIN. L. REV. 55 (1996); Donald A. Schön, *Educating the Reflective Legal Practitioner*, 2 CLIN. L. REV. 231 (1995).

<sup>37</sup> Stephen Ellmann, *Ten Unanswered Questions for Clinical Scholarship*, SEALS Panel Presentation (Aug. 1, 2010) (unpublished manuscript, on file with author).

<sup>38</sup> *Id.*

and the new Millennial generation, conceivably the public service mission is outdated. It is plausible that clinical students could be trained without servicing indigent clients. In his essay, Steve Reed notes that poor persons are not the exclusive clients of a clinic that includes for-profit ventures.<sup>39</sup> His clinic takes on corporate clients for the purpose of providing his students, who will largely pursue large law firm jobs, with an experience similar to that of a large law firm. Despite the notion of moving away from exclusively serving indigent clients, clinical legal education continues to be known for responding to various legal service and reform-related initiatives across the country.<sup>40</sup> For example, in 2005, Loyola Law School responded to the legal deficiency during Hurricane Katrina by connecting with law schools across the country to provide legal aid to the victims.<sup>41</sup>

I currently teach in the University of Tennessee College of Law's Advocacy Clinic, which, founded in 1947, boasts the longest standing legal clinic in the United States. When the University of Tennessee's clinic began, its mission was comprised of four main parts: "(1) skills training, (2) provision of legal services, (3) education about society, and (4) development of professional responsibility."<sup>42</sup> For a number of years, the legal clinic was the only free legal aid provider in Knoxville. After teaching for one year at the University of Tennessee, I have come to understand that the students who take the legal clinic are highly motivated to obtain litigation skills prior to graduation. Most students enter the clinic with the goal of litigating multiple cases prior to graduation.<sup>43</sup> The public service mission is secondary to their clinical experience. The students ultimately want to hit the ground running and litigate as many cases as possible throughout the semester.

Teaching in a long-standing clinic presents many of the issues that Kosuri raised in his essay. He uses a perfect analogy of moving in to a house that was built by someone else, wanting to make changes to the house, but facing skepticism from the original owners who are wary of

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<sup>39</sup> Stephen F. Reed, *Clinical Legal Education at a Generational Crossroads: A Self-Focused Self-Study of Self*, 17 CLIN. L. REV. 243, 250 (2010).

<sup>40</sup> Blaze, *supra* note 6, at 950; *see also* William P. Quigley, *Letter to a Law Student Interested in Social Justice*, 1 DEPAUL J. SOC. JUST. 7, 7-10 (2007) (describing how volunteer law students assisted victims of Hurricane Katrina in protesting the demolition of their homes without notice).

<sup>41</sup> Quigley, *supra* note 40.

<sup>42</sup> Press Release, Tennessee Legislature Honors UT Legal Clinic for 60 Years of Work (Mar. 24, 2008), <http://www.utk.edu/tntoday/2008/03/24/tennessee-legislature-honors-ut-legal-clinic-for-60-years-of-work> (last visited Aug. 27, 2010).

<sup>43</sup> Blaze, *supra* note 6, at 954 n.123 (stating that Charlie Miller, the founder of the clinic at UT "determined that after graduation most Tennessee students engaged in general practice alone or in small firms in small to medium sized communities").

attracting too much attention if changes are made.<sup>44</sup> As a newer professor, I have directly experienced this in the context of entering into a new clinical environment, an environment where the clinic has been run the same way for *many* years. In attempting to suggest changes to more senior colleagues, I have been told that the new students would not be receptive to using technology in class, engaging in group activities, and various forms of outside-the-box teaching techniques.

A student critique that regularly surfaces within the context of clinical teaching is that some clinical professors foist their public service mentality upon their students. There is a continuing debate among clinicians<sup>45</sup> regarding whether the public service mission that underpins the clinical legal education movement still motivates Millennial students and new professors or whether students simply take the clinic to gain a skill set (i.e., litigate as many cases as possible prior to graduation). Considering these uncertainties, teaching students to be reflective on the public service mission of the clinic and the indigent clients that they are representing can often be challenging.

During a mid-semester evaluation meeting at Tennessee one student expressed concern that clinical professors are so devoted to clients and public service that they have difficulty serving those clinic clients who may not deserve free legal assistance. This Millennial student was taking the clinic to build practice skills. When this question arises in the clinic, we often spend one of our rounds discussions unpacking their perceptions of the clients they thought they would be serving throughout their clinical experience. Students often express the feeling that if they are working so hard their clients should be more responsive to them and as motivated about their cases. From this conversation, we discuss what may be affecting how the client is responding to the students. In this context, we often learn that clients have multiple things going on in their lives or that fear may inhibit the client's level of participation in the case. Without fail, this conversation resurfaces each semester. On another occasion, a student raised concerns regarding whether a client who drove to a meeting in an ex-

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<sup>44</sup> Kosuri, *supra* note 1, at 213-17.

<sup>45</sup> Lauren Carasik, *Justice in the Balance: An Evaluation of One Clinic's Ability to Harmonize Teaching Practical Skills, Ethics and Professionalism with a Social Justice Mission*, 16 S. CAL. REV. L. & SOC. JUST. 23 (2006) (discussing the balance between clinic social justice missions and teaching practical skills to law students); Peter A. Joy, *Prosecution Clinics: Dealing with Professional Role*, 74 MISS. L.J. 955, 960-62 (2005) ("Clinical legal education has developed and expanded in the last several decades, and not every law school tailors all of its clinical courses to fit into the historical access to legal services model underpinning the clinical legal education movement. . . ."); Wegner, *supra* note 3, at 986 (discussing how to reform clinical legal education in dealing with the problem of student disengagement among upper level students in attempt to "galvanize[ ]" students "more meaningfully in learning beyond the first year").

pensive car deserved free legal assistance. He felt that the client did not deserve the clinic's limited resources. A common concern among all students arises when a client refuses to return their phone calls or has missed court dates. Students often become concerned that their clients do not care as much about their cases as they do.

These concerns are often accompanied with questions regarding who deserves free legal aid in conjunction with what the mission and goals of the legal clinic are or should be. Students question whether some clients are more deserving of free legal assistance than those who are not paying close attention to the progress of their cases and not working with the student advocates to facilitate the progression of their cases. As a new clinical professor, I often wonder how many of these concerns are unique to Millennial law students or just a characteristic of students in general.<sup>46</sup> Perhaps all students raise similar concerns. However, the responses given the Millennial generation may be different given the belief that the Millennial generation likes instant gratification and may not be comfortable with ambiguity. The question for all clinical professors becomes how to facilitate an open and honest dialogue surrounding issues of deserving clients, the educational goals of the clinic, and the underlying public service mission.

In raising this issue, it is important to recognize how our background and motivations impact our interactions with students. Given my background, I am always cognizant of how commitment to social justice impacts the classroom environment. The question remains whether some clinical professors may be too forceful in their public service missions, and whether the new generation of students is more concerned with learning a skill set over the public service mission. If the diverse Millennial generation wants a myriad of experiences varying from practice to the underlying social service mission, how can both be balanced to provide an optimal experience for clinical Millennial students? My goal as a clinical professor is to create service-oriented students who will graduate with the ability to critically analyze and challenge existing legal systems in whatever fields they pursue. I

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<sup>46</sup> We know that these are not unique to Millennial students as many clinicians have written on this issue. Jane Aiken & Stephen Wizner, *Law as Social Work*, 11 WASH. U. J.L. & POL'Y 63, 73 (2003) (noting "student confusion about the social justice mission of [their] clinics and their sometimes plaintive complaint that we are asking them to practice social work when they want to practice law"); Cathy Lesser Mansfield, *Deconstructing Reconstructive Poverty Law: A Practice-Based Critique of the Storytelling Aspects of the Theoretic of Practice Movement*, 61 BROOK. L. REV. 889 (1995); Spencer Rand, *Teach Law Students To Practice Social Justice: An Interdisciplinary Search for Help Through Social Work's Empowerment Approach*, 13 CLIN. L. REV. 459, 465 (2006) (stating that sometimes students "see social justice as a concept that may be talked about in her clinical and non-clinical classes but as something about which she need not think about while evaluating [a client's case]").

personally seek to attain this goal by constantly reflecting on how my past experiences impact the teaching environment and whether I am facilitating a teaching environment that supports student growth.

Lawyers by virtue of their trade are constantly engaged in analyzing the social institutions of law. In law school, students are taught to review the theoretical underpinnings of the law with a critical eye. In the clinical context, often through representing underserved populations, students are placed in the role of an attorney and must not only learn to practice, but also critically analyze legal systems and the effectiveness of those systems in addressing indigent clients. Part of the goal is to unbundle the myths and stereotypes of the Millennial generation. My goal is to educate students to have the legal skill set that empowers them to be effective and skillful lawyers, who are cognizant of the social, political, and economic spheres in which they practice. However, my colleague Praveen Kosuri is skeptical of the goal of inculcating students with a sense of public interest responsibility when they take a clinical course.<sup>47</sup> He believes that his job is to provide his students with the tools to succeed as lawyers.<sup>48</sup> In my opinion, one of these tools is a sense of duty to devote some of your time to servicing indigent clients. A clinical experience can expose students to this type of work and create a sense of obligation towards their ethical duties as attorneys to continue *pro bono* work once they graduate. By contrast, Stephen Reed pushes *pro bono* service in a way that can be argued would appeal to the Millennial generation's selfish sensibilities.<sup>49</sup> He touts *pro bono* work as giving associates freedom to work without partner supervision and providing young lawyers good training.<sup>50</sup> Perhaps, it is in this context that programs like the Skadden Fellowships or the need for most law firms to have a *pro bono* coordinator were created.

## V. CONCLUSION

My goal as a clinical professor, similar to other past clinicians, is to provide an educational experience for students that exposes them to the intersecting complexities of the practice of law.<sup>51</sup> In examining these complexities, students will learn that both life and lawyering are

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<sup>47</sup> Kosuri, *supra* note 1, at 214.

<sup>48</sup> *Id.*

<sup>49</sup> Reed, *supra* note 39, at 252.

<sup>50</sup> *Id.*

<sup>51</sup> Blaze, *supra* note 6, at 949-50 ("Central to this sense of professional responsibility is the lawyer's concept of himself and his role in the legal process. We think that students who complete our program will be more sensitive to the need for providing effective representation in the unpopular cause and to the client, individual or group, which lacks sufficient financial resources to gain access to the legal system.").

not black and white. This will help students to critically analyze the legal system as they learn to navigate within the system as well as follow their passions and what brought them to law school.

From reviewing the studies on the Millennial generation and from my own experience, I conclude that the Millennial generation's attraction to clinics may not be broadly summarized.<sup>52</sup> Even though various generations are typically generically categorized, perhaps factors like race, economic upbringing, education level of parents, and gender all influence the type of lawyer a student will become. This variation is probably the most obvious in my colleague Stephen Reed's essay. As one would expect from a Millennial, after graduating from law school, he was on a rocket ship directly to the top of his firm on an accelerated training schedule.<sup>53</sup> Unfortunately, the example is not perfect, because Reed identifies not as a Millennial, but a Gen-Xer, focused on fast track success.

My experience teaching has led me to surmise that there are various reasons that Millennial law students take clinical legal courses, which include the interplay between seeking a skill set while serving indigent clients. Part of my mission as a clinical law professor is to help my Millennial students become attorneys with skills, a passion for their jobs, and an awareness of the social, political, and economic spheres in which they practice with an emphasis on being able to give back to the community.

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<sup>52</sup> McClellan, *supra* note 8, at 258 (stating that “[g]eneralized traits for any generation are just that: generalized. Any young law student might exhibit some of Millennial traits or none at all”).

<sup>53</sup> Reed, *supra* note 39, at 244.

