

Trauma and Support for Asylum Seekers, Legal Service Providers, and Expert Witnesses

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Working as an expert witness is rewarding. However, precisely because it requires delving into the applicant's experience of persecution and torture, it can also be stressful and take an emotional toll on the witness, as it does on the applicant and the attorneys.

For more than thirty-two years, I have worked as a legal service provider with asylum seekers. Secondary trauma and vicarious trauma, long identified as occupational hazards for those working in victim and emergency services, can affect legal service providers who work directly with asylum seekers.¹ Over the years, I have listened to harrowing stories from many applicants who have fled their homes, and witnessing their pain in the retelling of their stories remains with me. To prepare their cases, I must ask questions that force them to relive their traumatic experiences, and I have witnessed their flashbacks and other reactions. The human spirit can be battered by a single act or multiple acts of violence against bodily integrity, as well as extreme mental cruelty and torture, by an individual actor or government-sanctioned actors. Those most harmed are resilient and some of the bravest people I have ever met, as are the attorneys who support their asylum claims and therefore vicariously experience the suffering these migrants have had to endure. After many years, the legal profession has finally begun to recognize and address the secondary trauma that so many immigration attorneys regularly experience.

This chapter outlines the issues that an expert witness may encounter while working with legal service providers on asylum cases. It provides suggestions for self-care and assistance to address concerns that may arise.²

TRAUMA IN THE ASYLUM PROCESS

Near the beginning of the COVID-19 pandemic, as the virus spread throughout the United States, the contributors to this handbook and I met for five days at the Women's International Study Center (WISC) in Santa Fe, New Mexico, where we separately and collectively worked on our chapters. Little did we then understand, or could we predict, the trauma that many of us would experience during the pandemic. Throughout 2020, many asylum applicants, their family members, legal service providers, and expert witnesses contracted COVID-19, and several were hospitalized, resulting in additional work to prepare and file motions for continuances and late filings. On top of all this, attorneys have had to struggle to get documents from clients who lack access to computers and face U.S. Postal Service delays. The extended COVID-19 pandemic produced specific challenges that have compounded the increased stress, loss, and anxiety felt across the country and the world.³

In March 2020, we had also already endured more than three years of the Trump administration's gutting of asylum and refugee law, defiance of international treaties and due process, and other offenses to human decency. Still ahead of us lay the murder of George Floyd and the demonstrations around the world sparked by his death, with law enforcement attacks on expressions of free speech. We had yet to see the threats against the lives of government officials by other government officials, let alone the attempted overthrow of a legitimate presidential election. All this added heavy burdens to the already difficult work of representing applicants seeking protection in the U.S. to prevent them from being returned to their home or transit countries.

Almost by definition, applicants for asylum have suffered trauma.⁴ The American Psychological Association defines trauma as "an emotional response to a terrible event like an accident, rape or natural disaster."⁵ Responses to trauma can include shock, denial, unpredictable emotions, flashbacks, strained relationships, and physical symptoms such as headaches and nausea.⁶ The majority of asylum applicants have endured persecution and/or torture in their home countries and/or the countries through which they passed en route to the U.S. Those from Mexico and South and Central America may have been victimized by cartels, criminals, and corrupt military and law enforcement officials—both in their home countries and during their travels to the U.S.—and it is the job of the expert witness to help the asylum adjudicator understand each applicant's experience. Expert witnesses analyze evidence of criminal activities and the failure of foreign governments and corresponding institutions to protect applicants for protection in the U.S. and are therefore constantly engaging with the realities and evidence of horrifying patterns of violence and abuse in the countries of origin.

Both attorneys and expert witnesses who offer support for asylum claims can be deeply affected by the violent details of these cases. Legal service providers must submit to the immigration courts complete and accurate applications for relief from

removal. To do this, they interview the applicants and prepare declarations, also referred to as affidavits. They must record often-disturbing specific details in these affidavits to the Asylum Office and the immigration court. For expert witnesses, reviewing the applicant's declaration and conducting extensive country conditions research can also be challenging because of the extreme or pervasive structural violence and impunity that characterizes the applicant's country of origin.

Expert witnesses on country conditions must immerse themselves in studies published by scholarly specialists, nongovernmental organizations, governments, and the media. They then typically review the applicant's affidavit and supporting evidence, which may include medical documents, police reports, psychological evaluations, and statements by friends and relatives. These documents usually contain disturbing information, which can induce secondary trauma in expert witnesses and, in some cases, memories of their own past trauma(s). In short, the violent nature of most asylum cases, along with the realities of stress and compassion fatigue that attorneys and experts may also experience, demand that practitioners develop healthy practices and support networks while they prepare an asylum case, even at its earliest stages.

After reviewing the evidence supplied by the applicant's attorney, the expert witness must then provide their expert opinion on the country conditions, the violence experienced by the applicant, and the likelihood that such persecution would recur in their detailed affidavit. For asylum cases presented and filed affirmatively with the U.S. Citizenship and Immigration Services (USCIS) Asylum Offices, an asylum applicant can file their application initially and provide the expert witness affidavit either before or at the time of the asylum interview. The expert witness may or may not be called to testify in person or telephonically at the interview conducted by the USCIS asylum officer. Unlike state and federal courts, the immigration court requires that the applicant present a detailed written affidavit of the proffered expert witness in advance of the trial. An expert witness will usually be called to testify during the hearing. Live expert witness testimony may be presented in person, telephonically, or via the new Webex video conference platform.⁷ Providing testimony presents its own challenges, particularly for expert witnesses who have experienced previous personal trauma that may be triggered by the case in which they are preparing to testify or who are facing other forms of stress.

RECOGNIZING TRAUMA

For academics and others new to the practice of serving as an expert witness, a review of the psychological terms related to trauma, with examples of how these factors may affect expert witnesses, may be helpful.

- **Stress:** An automatic, evolutionarily developed response to an actual or perceived threat. It can be a positive or negative force in a given situation; chronic stress is linked to a plethora of physical and mental illnesses.⁸ For

example, a deadline for finalizing an affidavit as an expert witness can cause stress when it conflicts with an academic deadline.

- **Anxiety:** An emotional and physiological response based on a negative mood, apprehension about the future, and physical tension.⁹
 - Example: An expert witness may feel anxiety in the days leading up to the individual hearing at which testimony will be presented and cross-examination will take place before an immigration judge with a very low rate of granting asylum.
- **Burnout/Professional Burnout:** A state of work-related emotional exhaustion, depersonalization, and decreased sense of accomplishment.¹⁰ Burnout decreases adaptivity and lessens one's ability to cope with stress. It can contribute to feelings of hopelessness and depression as well as decreased productivity and empathy with clients.¹¹
 - Example: Expert witnesses who contribute to many unsuccessful asylum cases may face burnout.
- **Compassion Fatigue:** Considered a negative effect of empathy in people engaged in helping professions, compassion fatigue resembles secondary traumatic stress and can be combined with burnout.¹²
 - Example: Attorneys can experience compassion fatigue when they focus only on asylum cases in their practices and realize that they cannot alleviate the effects of the trauma that the asylum seekers have experienced.
- **Depersonalization:** Characterized by cynicism, detachment, and a deeper sense of disconnection from clients and loved ones.¹³
 - Example: Expert witnesses can become cynical where they feel that their work as expert witnesses is not valued by their academic institutions.
- **Depression:** A unipolar (one-sided) mood disorder characterized by a sustained sad or "down" mood, decreased positive mood, distress, loss of motivation, low energy and activity, and anhedonia, or the inability to feel pleasure.¹⁴
 - Example: An expert witness may experience depression when an immigration judge denies an asylum claim and reveals that the expert's testimony was not given what the expert witness believes is appropriate weight.
- **Emotional Exhaustion:** Occurs when emotional resources are depleted by work so that one lacks enough emotional capacity to fulfill their own or the clients' needs.¹⁵ This decreased sense of accomplishment can encompass feelings of professional failure and demoralization.¹⁶
 - Example: During the Trump administration, many attorneys experienced emotional exhaustion from the relentless attacks on asylum law, on immigration attorneys being labeled "dirty immigration attorneys" by Attorney General Jeff Sessions, and the implementation of the Migrant Protection Protocols (MPP).

- **Post-Traumatic Stress Disorder (PTSD):** Caused by experiencing or witnessing a traumatic event, resulting in cognitive, emotional, behavioral, and/or reexperiencing symptoms.¹⁷ Common PTSD symptoms include flashbacks, emotional numbness, inability to remember aspects of the traumatic event, chronic overarousal, excessive anxiety related to the trigger, and loss of every-day functioning.
 - Example: Attorneys involved in representing asylum seekers subjected to the MPP program experienced PTSD watching their clients be denied and deported to Mexico, where they had already faced sexual assault, kidnappings by cartels, and even murder of other individuals in the migrant camps.
- **Secondary Traumatic Stress (STS):** Shares many symptoms with PTSD, but it is developed through significant vicarious trauma rather than firsthand exposure to trauma.¹⁸ It includes physiological symptoms of a stress response to the trauma, such as avoidance, arousal, and intrusive thoughts.¹⁹
 - Example: An expert witness may experience secondary traumatic stress in reviewing a detailed affidavit that describes the applicant's account of repeated and brutal violence.
- **Vicarious Trauma (VT):** Cumulative harm to the cognitive schemas, perspective, and mental health of a professional due to exposure to the traumatic experiences of their clients.²⁰ Vicarious trauma is especially relevant for professionals in the field of immigration law, as on a daily basis they must elicit, listen to, view, analyze, and present evidence of the horrific experiences that occurred to their clients or that their clients fear will happen if they are deported to their home country or country of last habitual residence.
 - Example: An expert witness may experience vicarious traumatization in reviewing the affidavit of an asylum applicant and placing it in the context of deteriorating country conditions in the applicant's home country in their expert witness affidavit.
- **Vicarious Resilience (VR):** A positive psychological process by which individuals learn to adapt and cope with stress in a healthy manner by vicariously experiencing the growth of their clients, resulting in improved confidence, independence, and resilience for helping professionals.²¹
 - Example: Attorneys can experience vicarious resilience when they speak with a client who has left her abusive partner and has been granted asylum.

Virtually every survivor of persecution and torture has experienced trauma. Most commonly, they suffer from a trilogy of depression, anxiety, and post-traumatic stress disorder.²² The symptoms affecting those who assist them may include some degree of burnout, emotional exhaustion, and compassion fatigue. These in turn can lead to conditions such as secondary post-traumatic stress and symptoms such as anxiety and depression.²³

Many expert witnesses are intimately familiar with the countries where asylum applicants experienced persecution. For these experts, the drafting of affidavits can be quite difficult since they may be able to visualize the places and situations included in the accounts. In some cases, they may even know personally or have met some of the individuals named. This closeness to the events described increases the likelihood that the expert witness will experience trauma and other psychological harms in the process of reviewing the materials, preparing the affidavit, and testifying to the immigration court. The expert's identification with the applicant may be even greater in the process of writing an analysis of why the applicant's account accords with the conditions in the country and why the applicant may be in danger if forced to return.

At the same time, the very process of immersion in the documentation and writing of the report may itself be therapeutic, particularly if the expert witness identifies as part of the team ensuring that the applicant will, through this painful exercise, finally find safety. It may help to try to envision a hopeful future for the applicant in which she can engage in activities such as seeking education, taking part in worthwhile work, and forming strong relationships.

RELATIONSHIPS OF EXPERT WITNESSES WITH LEGAL SERVICE PROVIDERS

It is not uncommon for an expert witness, having already engaged in the difficult work of reviewing an applicant's declaration, drafted and revised their affidavit, and prepared to participate in the asylum hearing, to find that a hearing is canceled due to the pandemic or to changes in priorities of the Executive Office for Immigration Review (EOIR). The expert witness must then spend more time preparing a supplemental expert witness affidavit and reschedule the individual hearing in what may already be a crowded academic schedule. The cancellation and rescheduling of hearings, and the increased workload they signify for the expert witness, has become exponentially more frequent over the past six years.²⁴ Since January 2017, the trauma experienced by those who practice immigration law full-time has been extreme as attacks on the asylum system by the executive branch have intensified.²⁵ The daily changes in policies, procedures, regulations, and precedent decisions that have ostensibly overturned decades of established law have left practitioners on edge as they attempt to frame claims to protect those facing persecution and torture in their home countries.

Experienced immigration legal service providers may often feel helpless. Those who assisted Latin Americans who fled civil wars and persecution in the 1980s and early 1990s see history repeating itself, except that cartels and gangs have taken the place of paramilitary, guerrilla, and insurgent groups. It has been remarked that persecution and torture claims were easier to frame and litigate in the "old days,"

when the political lines were clearly drawn. Burnout among asylum practitioners can happen, along with anxiety and depression. The American Immigration Lawyers Association (AILA) recently released the results of a survey of immigration practitioners regarding vicarious trauma and encourages a call to build resilience among practitioners.²⁶ Steps to build resilience include trauma time management, education in law school classes and clinics, setting and keeping client boundaries, and creating and using a safety plan or toolbox of behaviors and activities that can be accessed when triggered or following periods of crisis.²⁷

Pro bono attorneys and new immigration practitioners who are working on their first asylum case or who have represented applicants in a few cases must learn the ropes of this area of law: in this respect, they face challenges similar to academics who are taking on their first cases as expert witnesses. They often are not prepared for the emotional impact of the direct representation of individuals who have gone through horrific life experiences. They may be solo practitioners and face the challenge of not having colleagues immediately available to talk through case issues.²⁸ In large firms where competition can exist among attorneys, they may not have the emotional support of colleagues at their same experience level or of their supervising attorneys. Similarly, law students do not always receive training to address the impact that these cases may have on their lives. As expert witnesses often work with law students in clinical or pro bono projects, they should be aware of the struggle that the students and newly licensed attorneys may face. Expert witnesses may face similar struggles as they often work in isolation on asylum cases and cannot discuss the facts with their academic colleagues.

Asylum applicants do not always disclose facts that are important to their claims for protection from deportation. Country conditions expert witnesses can provide the context of the cultural and historical background of the clients and their interaction (or lack thereof) with their families, government officials, and law enforcement and other organizations.

THE NEED FOR SELF-CARE FOR EXPERT WITNESSES AND LEGAL PRACTITIONERS

The work to prepare an asylum case can become very intense at times, especially when the immigration court system changes policies and procedures without advance notice. The workloads of expert witnesses and immigration practitioners may result in tensions when filing deadlines approach. Expert witnesses who are academics also usually have full-time employment. Serving as an expert witness in a case before an immigration court requires an additional time commitment that must be worked into an expert witness's schedule. Cancellation of individual hearings can be quite stressful for expert witnesses, and at times expert witnesses may not be available to testify at the rescheduled hearing.

In addition to the stress of a shifting and demanding workload, asylum expert witnesses, including academics and legal service providers, should be prepared

for the possibility that they may experience vicarious trauma by engaging in this work. According to the psychologists Karen Saakvitne and Laurie Anne Pearlman, those experiencing vicarious trauma can cultivate “awareness of their needs” by paying close attention to how this work affects their emotional state. For those supporting asylum applicants, this might mean keeping a personal record of when and how secondary trauma is experienced more acutely—when reading a declaration or during a hearing—and making specific plans to alleviate or recover from those feelings as they move through a case. Saakvitne and Pearlman also recommend cultivating “balance between work, leisure time, and rest,” which, however challenging for those engaged in lifesaving and time-sensitive asylum work, is crucial for sustaining both the work and their own health. Finally, it may be useful for asylum practitioners to cultivate connection—with themselves or with others—through mindful, spiritual, or communal practices.²⁹

Sometimes such connections can be found among those offering support to the applicant. Given that legal service providers and expert witnesses are often suffering from similar issues while dealing with the same cases, it makes sense for the expert witness to keep in close touch with the attorneys working on the case. Since it is often difficult or inappropriate to discuss a case with friends or colleagues, it may help to speak with someone familiar with the facts who can provide support and encouragement. The attorney can also update the expert witness on how the applicant is doing. In some cases, it is possible for the expert witness to speak directly with the applicant if both are in agreement and such conversation will be helpful to the presentation of the case before the adjudicator. Where the case is before the immigration court, however, the immigration practitioner may want to consult with other local practitioners regarding the practices and views of the local court and the Immigration and Customs Enforcement (ICE) assistant chief counsel before scheduling the conversation between the expert witness and the applicant.

COVID-19 AND MENTAL HEALTH

The COVID-19 pandemic has had a detrimental impact on mental health globally. The lockdowns, quarantines, shortages, xenophobia, fear of disease, economic downturn, and many losses have increased stress levels for most people. This extraordinary stress has led to heightened levels of anxiety, depression, and trauma, in addition to worsened symptoms in people with preexisting mental illnesses.³⁰

Asylum applicants have been forced to remain in Mexico under the Migrant Protection Protocols and the Trump executive orders during the pandemic. Those who are in the U.S. have had to address the impact of the virus on themselves and their family members abroad, including those who have been deported from the U.S. and targeted for persecution and torture in their home countries or a country through which they had transited because they tested positive for COVID-19 on their arrival. COVID-19 may form the basis of a claim for asylum based on

membership in a particular social group or on political opinion. Many have lost family members to the virus and may suffer from survivor's guilt.

Living through a once-in-a-century, ongoing disaster with long-term impacts has been challenging for everyone. On top of managing the everyday challenges inflicted by the Trump administration, attorneys have had to navigate constantly changing regulations, court orders, and, for many, the transition to working virtually while struggling with their ethical obligations to represent their clients when immigration courts have refused to continue hearings until the pandemic has subsided in the U.S. Expert witnesses have also fallen ill with COVID-19 in the midst of preparing their affidavits and their court testimony in asylum cases. In addition, academics have been affected by the additional time required to prepare recorded lectures and conduct classes online instead of in person.

The issues of personal safety and professional responsibility have been a constant struggle for many immigration practitioners who represent asylum applicants, as well as for expert witnesses who engage in this work. For asylum applicants who do not have access to computers and printers during the pandemic, documents are exchanged by mail or in person with their counsel. The USCIS does not permit online filing of asylum applications, and most immigration courts do not have online filing of documentation. Thus counsel are required to prepare their filings on paper, which means leaving their homes to go to their offices, the U.S. Postal Service, and courier locations. For interviews at the Asylum Offices and immigration court hearings and interviews, attorneys face a difficult ethical conflict to either appear telephonically and waive their clients' rights to object to evidence presented during the proceedings or to appear in person and risk their own health and that of those with whom they live and work.

While the need for greater self-care has been exposed by the pandemic, it is not new or substantially different from such needs identified before COVID-19. Minimizing time spent on traditional and social media, establishing boundaries, maintaining social connections in a safe manner, and setting aside time every day for mindfulness are all essential practices for staying grounded during chaotic times. As always, taking care of one's body by sleeping enough, exercising, eating nourishing foods, hydrating, and taking regular breaks from screens help maintain physical wellness, which can affect mental wellness.³¹ Understanding when to seek professional help is also key to preventing or catching mental health issues before they worsen.

IMPLEMENTING CHANGE—GETTING HELP

The stigma surrounding mental health is reinforced by toxic cultures embedded in academic institutions, government institutions, and workplaces. Overlooking and neglecting the mental health needs of legal professionals worsens and invalidates the immense challenges they face. In addition, it is necessary to look beyond immigration attorneys and ensure that resources are inclusive of all involved in the process of an asylum case, as interpreters and expert witnesses can experience

vicarious trauma.³² Changing the way mental health is perceived and eliminating stigma in academia, law firms, and nonprofit organizations will take decades, but change can begin now.

Legal proceedings, especially those related to asylum, are dependent on the presentation of events and ability to recall trauma.³³ As such, it is in the best interest of legal employers to preserve their employees' ability to engage with such material for the best outcome of the client. This means prioritizing the mental health of employees to avoid any negative psychological impact of such work. Employers at law firms and legal research centers can work to foster a supportive, open, and balanced environment, valuing employees as humans and implementing policies that encourage work-life balance, mental health days, and health insurance.

Legal service providers should communicate to expert witnesses any changes in filing deadlines as soon as the changes become known. If the live testimony of the expert witness is critical to the case, they should ascertain the availability of the expert witness prior to accepting a new individual hearing date. As academics may have different course schedules every semester of the academic year and individual hearings are frequently moved to different dates by the immigration courts, consideration of the schedules of all parties must be prioritized.

An expert witness may not be able to continue to serve when a case is rescheduled multiple times by an immigration court, often from a few years to more than a decade. As an expert witness may change the focus of their research over time, they may no longer be the appropriate person to serve as an expert witness for the hearing that is anticipated to be the final hearing. In addition, the expert witness may not have the time available to provide more than one affidavit for a case. Attorneys need to inquire whether the expert witness is available to continue to serve as the expert witness and not assume that the expert witness will automatically do so.

MENTAL HEALTH RESOURCES

Academics serving as expert witnesses can inquire whether their institutions provide mental health resources through their health centers or other providers. The opportunity for cross-departmental collaboration exists as well. Local psychologists and social workers may be willing to donate their time to give presentations about mental health concerns to expert witnesses via Zoom or other platforms.

Research and resources for attorneys and law students may be of interest to expert witnesses. In 2016, the American Bar Association (ABA) in collaboration with the Hazelden Betty Ford Foundation published a report on the mental health of attorneys and law students to address concerns beyond drug addiction and alcoholism.³⁴ The ABA and additional national organizations created the National Task Force on Lawyer Well-Being to address the issues raised in the report and implement programs for attorneys.³⁵ In its 2017 report, the Task Force defined "lawyer well-being" as "a continuous process whereby lawyers seek to thrive in

each of the following areas: emotional health, occupational pursuits, creative or intellectual endeavors, sense of spirituality or greater purpose in life, physical health, and social connections with others.”³⁶

Since the ABA report was published, state bar associations and state licensing agencies have moved to require mental health continuing legal education courses for attorneys. These courses help legal service providers fulfill their obligations under the rules of professional responsibility to remain “competent” rather than impaired and possibly incompetent.

State bar associations and licensing agencies have also expanded their Legal Assistance Programs to provide assistance to attorneys and law students who suffer from mental health conditions, such as stress, depression, and anxiety. Colleagues can confidentially report attorneys who could benefit from confidential assistance to address issues that arise in the practice of law.³⁷

Expert witnesses may find that a legal service provider is struggling emotionally and mentally with a case involving persecution and torture. Pro bono attorneys, law students, and other attorneys who do not normally handle immigration cases may not realize that their reactions to the facts of an individual case involving severe persecution and torture may be normal, such as becoming tearful, becoming upset with certain judicial or administrative systems, and struggling to express their emotions in a constructive way.

Resources

The resources below may be helpful to expert witnesses who are academics and graduate students.

- The International Society for Traumatic Stress Studies provides resources, guidelines, and research. <https://istss.org/home>
- The National Association of Social Workers provides a resource center and listings of social workers. <http://www.naswdc.org>
- The following organizations provide search engines to find therapists:
 - American Psychological Association, https://locator.apa.org/?gclid=EAIaI QobChMI8rvzcTq7QIVpeHACH0hzAiCEAAYBCAAEgJEdPD_BwE
 - American Family Therapy Academy, <https://afta.org/afta-therapist-search>
 - Psychology Today, <https://www.psychologytoday.com/us/therapists>
- Resources for mental health during COVID-19:
 - American Psychological Association, <https://www.apa.org/topics/covid-19/local-mental-health>
 - American Bar Association, https://www.americanbar.org/groups/lawyer_assistance/resources/covid-19-mental-health-resources
 - U.S. Center for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/daily-life-coping/managing-stress-anxiety.html>

- The Compassion Fatigue Awareness Project maintains a website with self-tests, speakers, and resources. <http://www.compassionfatigue.org/index.html>
- U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, "Trauma-Informed Care in Behavioral Health Services," 2014. <https://www.ncbi.nlm.nih.gov/books/NBK207201>
- The ABA maintains a resources page with links to substantive articles and links to speakers on different topics, including compassion fatigue, depression, mental health, peer support, stress, substance abuse, and wellness. https://www.americanbar.org/groups/lawyer_assistance/resources/speakers_bureau_topic_list.html
- The ABA National Task Force on Lawyer Well-Being has developed a website defining lawyer well-being and produced a report with recommendations, "The Path to Lawyer Well-Being: Practical Recommendations for Positive Change." <http://lawyerwellbeing.net>
- The ABA also maintains links to national resources and state lawyers' assistance programs. https://www.americanbar.org/groups/lawyer_assistance/resources.html
- The American Immigration Lawyers Association has created a new section on its website, Self-Care Center. The Center has links to substantive articles, podcasts, and practice tips on topics that include PTSD, creating a self-care tool kit, work-life balance, secondary trauma, compassion fatigue, and mindfulness.
- The Trauma Stewardship Institute offers online resources and books to address trauma and create a cross-disciplinary movement. Materials are available for downloading and purchase. <https://traumastewardship.com/the-trauma-stewardship-institute>
- R. Gomez, B. Newell, and S. Vannini, "Empathic Humanitarianism: Understanding the Motivations behind Humanitarian Work with Migrants at the US-Mexico Border," *Journal on Migration and Human Security*, Jan. 20, 2020, <https://journals.sagepub.com/doi/full/10.1177/2331502419900764>.

CONCLUSION

The role and work of the expert witness may engender stress and trauma precisely because the stakes for the asylum applicant are so high and the violence that a country conditions expert must document is so brutal and pervasive. Expert witnesses need to care for themselves as they engage in this difficult work and give voice to an applicant whose voice may not otherwise be heard. At the same time, they must keep in mind the immense value of their work in saving lives and bringing applicants through a tormented passage to safety and freedom. The applicant, the legal service provider, and the expert witness walk together on the path to justice.

NOTES

1. Sometimes referred to as “compassion fatigue” or burnout, the term “vicarious traumatization” was created in 1996 by Pearlman and Saakvitne to treat helping professionals whose work with trauma victims produced significant negative effects on their functioning and mental health. Karen Saakvitne and Laurie Ann Pearlman, *Transforming the Pain: A Workbook on Vicarious Traumatization* (New York: Norton, 1996).

2. I thank Gail Dreyfuss, a linguistics PhD, for her pro bono efforts on behalf of many applicants for asylum, withholding of removal, and relief under article 3 of the Convention Against Torture. Gail has been fundamental to finding and working with academic and other expert witnesses for my firm’s clients. Her support and review of this chapter are very much appreciated.

I also thank Christine Marie Potermin, a sophomore at Northwestern University, who contributed to research and partial writing regarding the psychology terms in this chapter. As my daughter and the daughter of an immigrant, she has experienced trauma and witnessed the impact of the immigration court system on me and close colleagues over the past five years of chaos in the immigration and civil rights arenas. The impact of the Trump administration on the immediate family members of immigration practitioners would be a valuable future research topic.

3. Reid Wilson, “Why 2020 Really Was the Worst Year Ever,” *The Hill*, Dec. 27, 2020: “The cascade of terrible trend lines that has marred 2020 is taking a toll on Americans. One in 5 say their mental health is worse now than it was at this point last year, according to a survey by the American Psychological Association, including more than a third of Generation Z. About two-thirds of Americans told researchers they felt nervous, anxious or on edge for at least several days in the last week.”

4. The use of the term “asylum” in this chapter also refers to applicants for withholding of removal and relief under Article 3 of the Convention against Torture. 8 U.S.C. § 1231(b)(3) (requiring a demonstration of the probability of persecution to be granted withholding of removal); United Nations Convention against Torture and Other Crimes, Inhumane or Degrading Treatment or Punishment, Article 3, G.A. Res. 39/46, 39 UN GAOR Supp. No. 51 at 197, U.N. Doc. A/Res/39/708 (1984), U.N. Doc. 571 Leg./SER.E/13.IV.9 (1995).

5. American Psychological Association, “Trauma,” available at <https://tinyurl.com/4jrtrac>.

6. Id.

7. Webex allows an attorney and witnesses to appear by televideo from locations outside of the courthouse. The Executive Office for Immigration Review (EOIR) began to implement Webex in fall 2020 after immigration attorneys and court personnel fell ill and a few died from COVID-19 after having appeared in person before the immigration courts. See AILA New Jersey Chapter v. EOIR, case no. 2:20-cv-09748 (D.N.J.), pleadings, orders, and case history, available at <https://www.aila.org/infonet/aila-new-jersey-chapter-v-eoir-7-31-20>; EOIR Director James McHenry III, “OPPM 21-03: Immigration Court Hearings Conducted by Telephone and Video Teleconferencing,” Nov. 6, 2020, available at <https://www.justice.gov/eoir/page/file/1335096/download>. Instructions for the use of Webex in immigration court hearings are available at <https://www.justice.gov/eoir/page/file/1339071/download>. As Webex is implemented in immigration courts across the U.S., the individual courts will issue standing orders regarding appearances by Webex. The standing orders are available on the EOIR Operational Status website at <https://www.justice.gov/eoir-operational-status/operational-status-map>.

8. American Psychological Association, “How Stress Affects Your Health,” 2013, available at <https://www.apa.org/topics/stress-health>.

9. D. Barlow et al., *Abnormal Psychology: An Integrative Approach* (Boston: Cengage Learning, 2018), 160.

10. J. Newell and A. Gordon, “Professional Burnout, Vicarious Trauma, Secondary Traumatic Stress, and Compassion Fatigue: A Review of Theoretical Terms, Risk Factors, and Preventive Methods for Clinicians and Researchers,” *Best Practices in Mental Health* 6:2 (2010): 57–68.

11. E. Gillander, "Bearing Witness to Crime: An Examination of Secondary Traumatic Stress and Vicarious Trauma among Attorneys" (ProQuest Dissertations Publishing, 2018).
12. C. Figley, "Compassion Fatigue as Secondary Traumatic Stress Disorder: An Overview," in *Compassion Fatigue: Coping with Secondary Traumatic Stress Disorder in Those Who Treat the Traumatized*, ed. C. R. Figley (New York: Taylor & Francis Group, 1995), 1–20; C. Figley, "Compassion Fatigue: Psychotherapists' Chronic Lack of Self Care," *Psychology in Practice* 58:11 (2002): 1433–41.
13. Id.
14. Id.
15. Id.
16. Id.
17. American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders: DSM-5*, 2017, 274.
18. K. Baird and A. Kracen, "Vicarious Traumatization and Secondary Traumatic Stress: A Research Synthesis," *Counselling Psychology Quarterly* 19:2 (2006): 181–88.
19. See Gillander, "Bearing Witness to Crime," n. 9.
20. See Baird and Kracen, "Vicarious Traumatization and Secondary Traumatic Stress," n. 16.
21. See Gillander, "Bearing Witness to Crime," n. 19. Vicarious resilience is a developing concept for those who work in the helping professions. See P. Hernandez, D. Gangsei, and D. Engstrom, "Vicarious Resilience: A New Concept in Work with Those Who Survive Trauma," *Family Process* 46:2 (2007): 229–41.
22. A. Williams and J. van der Merwe, "The Psychological Impact of Torture," *British Journal of Pain* 7:2 (May 2013): 101–6, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4590125>.
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