

Careers in International Law: Asylum Practice

An Interview with Attorney Regina Germain

by **Bonnie Simran Bhatia**

Regina Germain is a nationally-recognized asylum law expert. As an asylum lawyer, Regina assists refugees who seek to escape persecution by resettling outside their home country. Regina guides these refugees through the U.S. asylum law process with the aim of securing them a permanent home in the United States.

Regina has a long history of working in the public interest. While in law school, she was an intern at the Chicago Legal Assistance Foundation and also worked on the Illinois Migrant Legal Assistance Project, where she helped farm workers apply for legal status under the U.S. amnesty program in place at that time. After receiving her law degree, she practiced employment, labor and immigration law for two years at Reed Smith Shaw & McClay in Pittsburgh, Pennsylvania. When she left the firm she began pursuing her real passion – asylum law – as an attorney at the Central American Refugee Center in Houston, Texas. At the Central American Refugee Center, Regina led a delegation of attorneys and law students to El Salvador to investigate a 1982 El Mazote massacre, after which they filed a report with the United Nations Truth Commission.

Years later, Regina moved to Arizona and became a managing attorney at Community Legal Services in Phoenix. In this capacity, she represented clients seeking asylum, visa petitions and humanitarian matters in proceedings before the INS, the Immigration Court, and the Board of Immigration Appeals. After a year in Phoenix, Regina began work at the Florence Immigrant and Refugee Rights Project, in Florence, Arizona, where she spent a considerable amount of effort encouraging private attorneys to provide pro bono legal assistance to detained immigrants.

From the Florence Project, Regina went on to serve as Senior Legal Counselor for the United Nations High Commissioner for Refugees, a position she had always hoped to reach. During her almost six years as Senior Legal Counselor, Regina frequently spoke at immigration law conferences, INS asylum officer trainings, and at many law school and bar association events. It was only natural then that following her work with the United Nations, Regina became an Advocacy Fellow at the Center for Applied Legal Studies at Georgetown University Law Center. As an Advocacy Fellow, she co-taught many clinical classes. She later was a Visiting Assistant Professor at the University of Denver College of Law, and currently teaches Asylum Law there as an adjunct professor. This position is a good fit for Regina, as she is also the author of the course book *Asylum Primer: A Practical Guide to U.S. Asylum Law and Procedure* for the American Immigration Lawyer's Association (AILA).

Regina's passion for community service did bring her back to the practice of public interest law, and currently she is working as the Legal Director for the Rocky Mountain Survivor's Center in Denver, Colorado. Her career in international law is an impressive one, and she was kind enough to discuss her experiences with Editorial Board member Simran Bhatia.

Simran: What drew you to a career in asylum law?

Regina: After I completed my undergraduate degree, I served as a volunteer English teacher to immigrant students, many who were from El Salvador. I really wanted to find a way to help the immigrant population, and teaching English

as a second language was one way to begin doing that. When I began law school, I was interested in labor and employment law. At this time, there were no immigration law courses offered at the University of Pittsburgh. After law school, I had the opportunity to work on a pro bono asylum case for two Salvadoran men. It was quite an experience. After working for two years at a large law firm, I decided to practice asylum law full-time.

What are your responsibilities in your current position as the Legal Director for the Rocky Mountain Survivor Center?

The Rocky Mountain Survivor Center is a center for torture survivors. I act as an in-house attorney, and also work to train and mentor the attorneys and interns that work here on a pro bono basis. Also, I conduct the Center's monthly asylum law breakfasts, at which the pro bono attorneys and more experienced practitioners meet to discuss issues relevant to the field.

What type of speakers have you had during your monthly asylum law breakfasts?

One of the great parts about these breakfasts is that we have had several local, national and international asylum experts come to speak, including a Board of Immigration Appeals member, an Immigration Judge, a Senior Protections Officer from the United Nations High Commissioner for Refugees, and speakers from the U.S. Citizenship and Immigration Service and the Office for Immigration Review at the U.S. Department of Justice.

While some speakers "attend" by video or teleconference, many actually come to Colorado. Amazingly, the speakers who actually fly out here do so on their own budget. But I think the aspect of it that everyone appreciates the most is that these breakfasts have a significant im-

pact on the student population. The breakfasts help to develop the students' interest in asylum law by introducing them to people who are influential in this area, which gives them a taste of what it is really like to practice asylum law.

Can you share with readers any interesting memories you have about your clients?

Near the beginning of my career, I worked on a case of a woman from El Salvador in which some nuns had posted her bond. Our client was very concerned about her daughters who were still in El Salvador, and she wanted to bring them to the United States. Since I was young and idealistic, I really thought I could do almost anything. We filed a petition for humanitarian parole, which is a measure that is almost never granted, given the circumstance that the woman had not even had her immigration hearing yet.

However, the nuns really had some great connections, and were able to put pressure on Tom Ridge who was then in the House of Representatives. He expressed interest in her case to the INS and at one point in her asylum hearing process, he wrote a scathing letter to the Department of State regarding their opinion that our client could safely return to El Salvador. The request for humanitarian parole was granted and the daughters arrived in the United States before our client's hearing date. It really solidified my belief that you should always try, even if something seems somewhat impossible, because you never know what will happen!

How were you chosen to write the *Asylum Primer* for the AILA?

The opportunity to write the book almost fell into my lap, in a way. Really when you live and breathe an area of the law, people start to think of you when a situation comes up. AILA helped me work through the entire process of writing

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the book. And I have been able to update it every two years. I was extremely happy when it came out, because I believe it makes me a better lawyer. Updating the book forces me to research and stay informed about all the frequent changes in asylum law. It has also provided me with the opportunity to serve as an expert in some federal and administrative asylum proceedings, as well as an expert witness before the U.S. House of Representatives.

When you began writing the casebook, you were working for the United Nations High Commissioner for Refugees. What was your work like there?

As the Senior Legal Counselor, I met with several advocacy groups and was involved in legislative work - drafting comments on legislation, meeting with the immigration service to provide feedback, and also discussing with the U.S. government its legal reforms. Additionally, when we saw that an issue was presenting itself repeatedly, I would write advisory opinions for those individual cases.

Drawing on your practical and academic experiences in the area of asylum law, can you remark on the current state of U.S. asylum law and how the law will develop in the future?

I think several things have changed for the better. During the 1990's, I worked with the Florence Immigrant and Refugee Rights Project in Arizona. This was the first place to conduct "Know Your Rights" presentations for the detained immigrant population. The purpose of the presentations is to give the detainees a brief overview of the immigration process, such as what relief they might be eligible for in their native language if possible. It was a long fight to get federal funding to do it, but now there are grants given by the

federal government. It was the Florence Project that played a big role in convincing the federal government that conducting these presentations was efficient, because when people heard them and realized there was no relief available for their particular situation, the government was able to deport them more quickly. This helped to weed out those who actually were entitled to relief, and those who should be sent back. It was a win-win situation.

However, I do see trends that are disturbing. I have volunteers that spend 100 plus hours on a case, and honestly it is almost impossible for an asylum-seeker to pay someone to adequately represent them for that long. It is almost as if it has become too expensive to apply for asylum, unless pro bono legal aid is available. Hence, there are a lot of asylum seekers that are not adequately represented and, at times, poorly represented. Some part of that is the attorney's fault, and some portion is the system's fault because of how expensive and time-consuming the process is.

Do you believe that the U.S. asylum law system is efficient and fair?

Yes and no. It is harder now than it was in the past to acquire asylum, because of the evidence required to substantiate an asylum claim. There are more procedural and evidentiary barriers and issues than ever before. There seems to be more corroboration required, to present evidence (or argue that you do not have the required evidence). Also, the one year deadline, within which a case must be filed, is limiting. That being said, asylum law has evolved in some areas. For instance, the substantive law has broadened. Those who would likely not have had a case fifteen years ago, such as those who were victims of genital mutilation or homosexuals, now file claims for asylum because they are considered members of a particular social group.

What is your view about the U.S. policy to detain refugees while asylum petitions are processed?

The UNHCR believes that detention is inappropriate and that asylum seekers should not be detained while refugee status is determined. The government may have a need to establish someone's identity, and that they are not a flight risk, but once that is established the asylum-seeker should be released. There are times when I would visit jails because asylum-seekers were kept in the same facility. They were held separate from the prisoners, but if they misbehaved, they were punished by being sent to reside with the general prison population. Similarly, asylum-seeking children were held in juvenile detention at times. The UNHCR has been advocating against this, arguing that this should not happen. But changing this policy is difficult; it is an up-hill battle which has not yet been won.

Can you offer any parting advice to our readers who are interested in a career in asylum law?

Talk to people! Call people who are in positions that you think you might like to have down the road. I often meet with students to discuss career paths in asylum law. Students ask; how did you get here? What should I do to advance my career? Also, it is important to network with people and make your interests known. Work experience is also important. The Immigration and Nationality Act allows students to represent actual clients under the supervision of an attorney, so as a student you can gain experience in this field. ■