

FRIDAY, AUGUST 16, 2019

They call it ‘baby jail’

Reflections on my week as a volunteer attorney at the Dilley Immigration Detention Center

By Divya Gupta

Called “South Texas Family Residential Facility” by signage, the Dilley detention facility, which houses up to 2,400 children and mothers seeking asylum in the United States from countries in Central America, is colloquially called “baby jail” and as a visitor looking in, there is no question as to why. The facility itself, located 75 miles from the south Texas border, is surrounded by barbed wire fences and bright flood lights visible from miles away. By appearance alone it looks like a jail, but the detention facility houses only women and children, including toddlers.

I came to Dilley from Southern California to provide one week of pro bono legal services to detained women and children with what can at best be described as expedited due process prior to deportation. Unfortunately, detainees have no guarantee of the right to meet with legal help, which is why the Dilley pro bono project, which provides a steady flow of volunteer lawyers, is a lifeline for these women and children. Even more unfortunately, the project does not get a list of the day’s docket of asylum interviews, so it is up to the women to provide us with notice of their interviews with asylum officers, so we can try to accompany them at their scheduled time.

The process for obtaining asylum now is even more stringent than ever and has become more than a border crisis. As refugee populations grow, Immigration



New York Times News Service

The South Texas Family Residential Center in Dilley, Texas, a detention center for migrants who entered the country illegally, Nov. 10, 2015.

and Customs Enforcement in a third country traversed prior to seeking it in the United States at all. These new policies put vulnerable individuals seeking asylum at great risk.

In Dilley, these women get one shot at telling their story. It’s a game of high stakes poker, except the stakes in many cases was life — returning to their home country meant danger, in some cases death.

manner of doing so isn’t so clear cut. In many cases asylum seekers are forced to return to Mexico while they await processing of their case. Worse yet, with the newly announced Third Country Transit Eligibility Bar, applicants must now show denial of asylum

As I witnessed, the challenges faced by women seeking asylum at Dilley aside from the language barriers are innumerable — they must undergo an hour or more interview with an asylum officer within 48 hours of their arrival at Dilley to articulate why they

have a credible fear of returning to their home country. But articulating a rational and immediate fear of threat to their lives is insufficient. Indeed, the fear of persecution must fall into one of the governments strict 5 areas of protection based on race, religion, national origin, political opinion, or a specific social group. If you’re confused, imagine if you were advised in a foreign language that, although you might be fleeing for your life, the circumstances of your fear must conform to one of these abstract categories exactly or else you and your children would be immediately deported. That’s the legal setting I entered last week.

The ample training I received,

however, still did not prepare me for the experience itself. Many of the women described disturbing human rights issues they faced at the perrera and hielera, which translates to the “Dog Cage” and “Ice Box,” the overcrowded Customs and Border Patrol detention facilities where they stay in for several days in anticipation of coming to Dilley. These facilities have deservedly received significant attention recently for the extremely inhospitable conditions. Many of their children were sick after staying in cold “icebox” quarters, in spite of visiting with the onsite doctor. Mothers shared stories of required food rationing, being separated from their children, and being roused routinely in the middle of the night by Border Patrol agents. These women were not permitted to call their families while detained for these several days.

When we prepared these women for their asylum interviews, the young children in many cases had to sit in while we discussed various atrocities in their home countries most of us couldn’t even imagine in our wildest dreams.

When I requested the children stay at the daycare room in our trailer to avoid listening to these stories, many mothers responded,

they’ve seen what I’m discussing, so it’s ok. Many of the mothers had husbands and other children were detained elsewhere. Many did not know where these other family members were detained or when they would see or hear from them again.

What stood out the most was the necessity of the advocacy. In the United States, we are taught how to confidently share our story, how to interview, how to communicate the most important subjects first, but for these women, such concepts are the Wild West. Many survived abusive relationships, in which they were controlled to subservience. Many had suffered extreme discrimination and condescension because of their poverty or lack of education. Half of our preparation was spent explaining the asylum process itself, the need to speak up, the need to share freely, and the need to advise an asylum officer if there was a translation gap or other inaccuracy.

Most of these women even if they receive a positive determination to leave Dilley with an ankle monitor to their sponsor as they await trial with an immigration judge will likely be deported. Not for the inadequacy of their stories of fear or meeting the legal criteria for asylum, but for inadequate representation. These women

have a long road after Dilley in front of an immigration judge opposite an Immigration and Customs Enforcement prosecutor arguing deportation. Many women are unable to obtain legal representation to explain why they fit the legal standard for asylum, and the result is often deportation.

In Dilley, these women get one shot at telling their story. It’s a game of high stakes poker, except the stakes in many cases was life — returning to their home country meant danger, in some cases death.

I left feeling in some ways helpless, but in others empowered, because countless of us can help in tangible ways if we understand the refugee crisis. These women leaving Dilley for a chance at asylum need our help. Recognizing the extreme access to justice barriers facing these immigrant communities, means we can act locally while still advocating for broader change. So beyond volunteering for the Dilley Pro Bono Project yourself (and you should), I encourage you to reach out to your local immigrant advocacy groups to see if your firm will allow you to take on a pro bono case or two. I ensure you it will be the most rewarding work you will do because you will be helping someone access justice who would otherwise not be able

to navigate our complicated legal system alone.

Divya Gupta is a partner at the international law firm *Dorsey & Whitney LLP*. Divya and a team of Dorsey attorneys were inspired to go to Dilley, Texas as part of a pro bono program run by the Dilley Pro Bono Project to assist asylum seekers with the credible fear interview process, the first step in the immigration asylum process, because of the news and headlines surrounding this important issue. The trip was spearheaded by advocates in Dorsey’s pro bono program because serving the communities in which we operate has always been one of the firm’s core values.

