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3-2021

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## TRIBUTES

### EXTRAPOLATING LESSONS FROM A MASTER MENTOR: WHAT BOB BURDICK TAUGHT ME

SUSAN M. AKRAM\*

#### MY INTRODUCTION TO BOB BURDICK AND BU'S CIVIL CLINICAL PROGRAM

Bob Burdick began his career in clinical practice as a student in the clinic at Boston University School of Law in 1970, shortly after the civil clinic had been established as the Legal Aid Program in Hyde Park in 1969. Right out of law school, Bob worked at Greater Boston Legal Services (“GBLS”), he then was hired at BU as a clinical instructor and later promoted to director of what became the Civil Litigation Program in 1979. During the forty years Bob led the civil clinic (now renamed the Civil Litigation and Justice Program), he was the creative and innovative brains behind it, the master mentor, the innovative clinical teacher, the ethical problem solver, the student-centered supervisor, and a generous colleague.

I worked with Bob in the civil clinic for twenty years. I first met him in the summer of 1993, when he interviewed me for a visiting clinical supervisor position. BU hired both Mary Connaughton and me that summer to fill two sudden vacancies in the civil clinic. Although I had applied for the position on the urging of Boston lawyer friends and colleagues, I was not at all sure I was the right fit. I had ten years of practice behind me, but aside from my first few years in a private litigation firm, I had been working in immigration, asylum, and refugee law, none of which was an area of practice in the civil clinic. I had established and directed two immigration programs—the Immigration Project at Public Counsel in Los Angeles and the Political Asylum/Immigration Representation (“PAIR”) Project in Boston—and directed the U.S. refugee resettlement program in Saudi Arabia after the First Gulf War, with a stint at GBLS in between. But I knew close to nothing about the civil clinic’s areas of practice: employment, housing, social security, disability, and family law. I have no idea why Bob thought I could master five areas of law over the summer and be ready to teach both the substance and practice of those areas by the fall. But he did, reflecting an attribute I would see Bob exercise over and over again in

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the coming years; if he believed you had the skills and the motivation to learn, he simply let you do it.

So there Mary and I were in June of 1993, along with my five-week-old daughter, on the couch in Bob's office, ready to spend the next few hours digesting the curriculum, teaching materials, and protocols of the civil clinic. But Bob's first question was pointed at my daughter: Who is this? As I introduced her, he was clearly pleased to have a clinic "baby" joining us. This was another attribute of Bob; his and our families were priorities. He was the regular host of get-togethers at his house, where not only our students but their and our families were welcomed. He was always happy to see my baby daughter at our Friday faculty meetings, and when my second daughter came home, Bob was one of the first people aside from family to visit, with one of his freshly baked pies, to congratulate us. In the years that followed, when I was spending too much time in the clinic office, Bob would regularly remind me: "Go home to your family. They're more important than whatever you're working on."

#### THE MASTER MENTOR

I was fortunate enough to have an office right next to Bob's at GBLs, where the civil clinic is located. He was usually the first person I would see in the morning—though he would already have put in at least an hour of work before anyone arrived, since he was usually in before 8:00 a.m. With the proximity of his office, I knew I could knock on his door anytime and, if he did not have a student, client, or colleague in his office, he was always ready to talk. I gradually learned to understand what made Bob a master mentor, the teacher's teacher, the supervisor's supervisor: he knew how to listen and how to coax you to talk through your own dilemma and arrive at the "right" solution. One illustration will suffice to show how he taught this to me.

For several years I had been representing immigration clients before one particular immigration judge, whom I will call Judge A (and who will remain nameless here).<sup>1</sup> By the time I had my first case with him after I moved to Boston, I was already well aware of his reputation for ethically problematic and unjudicial behavior. When Bob approved my request to expand the clinic practice to include immigration cases, my students and I began representing clients before Judge A in the Boston immigration court. However, I was not prepared for what happened in the first clinic case we had before him, that of a Haitian asylum seeker. The client was five minutes late for his first master calendar hearing because he had to rely on someone else to bring him and there was a massive traffic tie-up on the way. In any event, he arrived at exactly 4:05 p.m. in the courtroom for the 4 p.m. hearing. The judge was sitting on the bench, the government trial attorney and clerk both there when the client arrived. When we started to explain the delay, the judge cut us off and read into the record that the client was not present and that he was ordering him deported *in*

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<sup>1</sup> To maintain Judge A's anonymity, I do not cite to the cases from which I draw the stories in this Tribute, nor do I cite to opinions that criticize him.

*absentia*. We objected that all were present, it was five minutes after the scheduled time, and there was no prejudice to the court whatsoever, but Judge A told us that as far as he was concerned the client was now deported, and he simply left the courtroom.

The trial attorney immediately agreed to a joint motion to reopen, which was ultimately granted, but it was the beginning of a long series of terrible hearings for not only this client but also many subsequent clinic clients before Judge A. He regularly berated, ridiculed, and intimidated clients and counsel, aggressively questioned the clients, and mocked them on their answers. He repeatedly suggested that our clients were lying, objected to our direct examination questions, and mimicked my students' replies and intimidated them. He regularly took over cross-examination for government counsel and in open court told government counsel what to ask and how to object, and then sustained those very objections. At the same time, he routinely refused to allow us to make objections on behalf of our clients. In the Haitian case, Judge A took over the government's attempt to impeach on a prior inconsistent statement by taking the document away from government counsel, reading it, and questioning the client about it. When my student was too overwhelmed to speak, I objected that it was the government's burden to lay the foundation for admission of the document or cross-examine on it. The transcript reflects, at the end of a dialogue between myself and the judge after the student unsuccessfully attempted to regain control of the examination, the following:

Student attorney: What is a le-suaz?

J: That was asked and answered about two hours ago, you know that, that question. It's a baton.

Me: Objection, your honor. It is not . . . .

J: Excuse me.

Me: That wasn't answered.

J: Excuse me, are you going to represent the applicant or is Miss J—?

Me: It is my . . . .

J: There is not going to be two spokesmen for the applicant. You either be quiet or take over the case . . . what are you going to do?

Me: I am not going to take over the case.

J: Then you will be quiet. And if you open up once again, you are going to be removed for obstructing the administration of justice, okay. You are not going to make this a travesty. Okay.

Not surprisingly, the student attorney broke into tears during the hearing. The client was so intimidated that he put his head in his hands while he was being questioned and refused to look up. He later told me that he would prefer to face what he had to face in the country where he had been tortured than go back before Judge A.

The dilemma I raised with Bob was: What should be the clinic's response? Should we take the position the Yale Law School asylum clinic had taken, which

was to refuse to allow students to appear before Judge A? Should we decline to continue representation of clients if the case went before Judge A? How could we protect the current clients whose cases were before Judge A without prejudicing any future clients we had to represent before him? Bob listened and asked a few pointed questions to get me to articulate the applicable rules and talk through the different options.<sup>2</sup> He gave no indication of what he considered the “right” way to proceed, but he prompted me to talk through each one, analyze the pros and cons, and reach a resolution myself.

My response was to file a motion to recuse Judge A in this case and in every subsequent case we had before him. Most of the attorneys appearing before Judge A were reluctant to challenge him in individual cases, as they worried about the consequences to other cases in which they had to appear before him. We took the position that our primary obligation was to represent each individual client as zealously as the law permitted and that this obligation required us to continue to preserve objections, file motions to recuse, and seek interlocutory appeals when appropriate. Bob’s mentoring went further than talking through options, ensuring that students were fully prepared for what they would be facing, and giving students the option of not working on cases going before Judge A.<sup>3</sup> We agreed that students should absolutely be given the opportunity to work on difficult cases, ones that pushed them out of their comfort zones. He invited me to guest lecture in his Professional Responsibility class on the ethical dilemmas this situation presented. That presentation forced me to dig deeper into my weighing of the various rules, analyze their application more precisely, and

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<sup>2</sup> Besides the professional responsibility rules that applied to me and the clinic student attorneys of competence and zealous advocacy, *see* MODEL RULES OF PRO. CONDUCT r. 1.1-1.3 (AM. BAR ASS’N 2020), our considerations included: judicial ethics rules and the immigration judges’ benchbook rules; the INA § 240(b)(4) and related due process requirements, particularly requirements of the separation of judicial from prosecutorial functions, *see* 8 C.F.R. § 236.2 (2020); the recognition of the right to be represented by clinical students in immigration court, *see id.* § 292.1; and Fifth Amendment due process rights and case law (since immigration law is not governed by the Administrative Procedure Act, 5 U.S.C. §§ 551-559), *see* U.S. CONST. amend. V.

<sup>3</sup> In another clinic case that Bob talked me through, and the ethics problems of which he also asked me to analyze in a presentation to his Professional Responsibility class, Judge A told our client that he was the “terminator” because he “terminated” cases like our client’s. The client was seeking asylum based on a history of torture and inhuman treatment from his home country, including his father being executed as an “enemy of the state.” Judge A told our client, who was suffering from injuries caused by his torture, that he should “die and get it over with so [he] wouldn’t have to continue the hearing.” After this kind of treatment over the course of fourteen hearings, our client insisted on withdrawing all his claims for relief. We reopened his case and also filed a complaint against Judge A before the Department of Justice’s Office of Professional Responsibility. *See Ethical Dilemmas in Immigration Practice: Notes for Bob Burdick’s Professional Responsibility Class*, (Sept. 19, 2007) (on file with author).

be prepared to defend my strategy before all the students in his class.<sup>4</sup> He knew, but did not say, that going through this exercise would either confirm the strategy we had decided to pursue, tinker with it, or require changing course entirely.

We stayed the course. In a series of cases challenging Judge A's courtroom demeanor, the Board of Immigration Appeals ("BIA") criticized him directly for injudicious behavior, repetitive and argumentative questions, a confrontational attitude, overruling the objections to his own questions, misstating facts in the record, and ordering that an attorney be removed from the courtroom. Unfortunately, despite the BIA's rulings, Judge A stayed on the bench with little change to his behavior. That is, until one day, in August 2003, when a medical expert in an asylum case before Judge A, horrified at his treatment of a torture victim for whom she was testifying, went to the press about the experience. The same week, Judge A was suspended from the bench. It was not our case, and we did not directly cause that result, but I like to think that our decade's worth of persistence in raising legitimate challenges to the judge had an impact on the outcome. And it was Bob's steady mentorship that ensured we pursued the right strategy.

#### THE INNOVATIVE CLINICIAN

Aside from Bob's gift as a tenacious litigator, he had a genius for innovative ways of teaching case development and trial skills.<sup>5</sup> Instead of lecturing about and giving examples of an effective theory of the case, for example, Bob came up with a way for students to frame and test a good theory by using the "COMPASS" technique he invented.<sup>6</sup> A simple example of how Bob helped one of my students and me use COMPASS to get to an effective theory of the case was in one of the first housing cases I had in the clinic, a landlord-tenant dispute over conditions of our client's apartment in South Boston. Our client was an elderly woman with a disabled daughter, and when my student and I visited her, we were overwhelmed with the nature and number of problems in the apartment: from broken plumbing, to exposed wiring, to rodents, the problems were in every room and clearly worsening. She had basically stopped paying rent for quite some time and was now facing eviction. My student must have written

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<sup>4</sup> The Lawyer's Responsibility to Individual Clients and the Justice System: Notes for Bob Burdick's Professional Responsibility Class (Jan. 7, 2004) (on file with author).

<sup>5</sup> I leave to my clinic colleagues to describe Bob's pathbreaking cases in housing and disability rights.

<sup>6</sup> The COMPASS test requires answering a set of questions: (1) is your theory *COM*prehensive—that is, does it cover the main legal and factual issues involved?; (2) is your theory *P*ersuasive—does it frame the issues in a way that persuades your audience that your view of the facts and law are correct?; (3) is your theory *A*ceptable—that is, does it take into account the way your audience is likely to think things work?; (4) is your theory *S*imple—does it encapsulate the facts and law in a straightforward, uncomplicated way?; (5) is your theory *S*ufficient—this refers to legal sufficiency, as a good theory must fit the key legal elements of the case.

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about his struggle in coming up with a good theory for his case in Bob's class, as I somehow found myself talking it over with Bob. In applying COMPASS, we discussed the key issues and concerns. Should we emphasize the vulnerabilities of the client and her daughter—would that be the most effective and persuasive theory to the housing court? Should we emphasize the particularly repulsive problems, that is, the rodents and plumbing leaks? We needed to persuade the housing judge of the seriousness of the conditions and the urgency for immediate repairs. Our theory needed also to persuade the landlord that pursuing his eviction claim for nonpayment was a useless exercise because no court would evict given the conditions. Our client wanted to avoid a trial at all costs because of her age, health, and her daughter's disability that made it difficult for her to leave home for any length of time. Bob listened to my description of the apartment and what seemed to be the client's main concerns. Before showing us through the apartment, our client had insisted that the landlord was "crazy." She described what had happened the week before; she saw water pouring down her front window and thought it was raining. She then realized that the water was from a punctured water bed that the landlord was trying to force out of the window of the upstairs apartment. I recalled that the client told us it was like living in a nightmare, "like that movie about Elm Street, only this was the nightmare on East Third Street." Bob advised us to start by using the client's words to frame our theory because if it captured the problem for us, it would do the same for the judge. We knew we had the right theory when, on our first motion hearing, the landlord moved to strike all references to "a nightmare" and the judge turned to him and said that it did "sound as though [the client] was living a nightmare" in that apartment. He went on to ask when the landlord would have the repairs done and ordered us to break down an assessment of the damages the landlord should pay.<sup>7</sup> In very short order, the landlord began the repairs and personally came over to GBLS with the amount of court-ordered damages, and we settled without trial.

#### THE ETHICAL PROBLEM SOLVER

Rather than painstakingly set them out and have students answer hypotheticals to learn the professional responsibility rules, Bob came up with a vivid, multilayered way to approach resolving ethical dilemmas by separating the black-letter rules from the gray areas where students have to develop and apply their own professional discretion. His framework, "Inside the Fence," describes how ethical practice is like a field with an electrified fence around it but where the power can be turned on or off and the voltage regulated. In the introduction to his paper, Bob describes the fence as "the mandatory legal rules that can't be crossed without at least assuming the risk that the power will be on. I think of what is inside the fence as the important choices I have about how I

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<sup>7</sup> By coincidence, the judge was former clinical faculty at the BU civil clinic, Judge Herman Smith. It was particularly gratifying when Judge Smith spoke to my student after the hearing and congratulated him on his good work on the case.

will conduct myself as a lawyer interacting with other people in our legal system.” The beauty of his framework is that the focus is not on the professional rules per se but on the more important ethical question that each student and attorney must decide for himself *within the fence*: Will my action harm an important person, including myself? Bob’s framework forced each student to go beyond the rules to figure out where his or her own limits are in applying the wide discretion the rules allow.

Similar to his creativity in developing case theories and teaching professional responsibility Bob veered away from the standard negotiation models in *Getting to Yes*<sup>8</sup> or *Getting Past No*.<sup>9</sup> Bob developed his own model of negotiation based on his framework of identifying the “Enhanced Best Deal.” His model, completely consistent with his ethical worldview, focuses not on getting the absolute maximum deal for the client but on locating common ground between the client and the opposing party, probing for ways to expand the available pie, and then identifying the best deal for the client that also satisfies the bottom line, and perhaps more, for the opponent. Not only is Bob’s negotiating strategy a brilliant path to a deal that will last—in other words, less likely to result in litigation later—but it permits relationships between opposing parties to become nonadversarial. This is clearly an important legal strategy in representing the “whole client” and valuing ongoing relationships.

Bob showed me how to turn these theories into practice in many cases, but one stands out in my mind. It was a particularly contentious divorce and custody case involving a couple and their six children. The couple had completely opposing views of how to raise their children. The wife, our client, portrayed the husband as being a neglectful and absent parent and wanted minimal visitation rights for him. She did not want joint or shared custody; wanted to keep the only major asset, their home; and did not want the husband to have input in decisions about the children. As with all of our clients, they had little income and few assets to divide and now had to sustain two households in light of their separation. We viewed our job as pursuing all of our client’s demands, as it seemed that there was enough evidence of neglect on the part of the husband to justify her position. With six young children, she also seemed justified in demanding to keep the family home to maintain stability for them. The husband’s attorney, however, took the position that we were being unethical in pursuing these demands, that there was no evidence to support a claim of neglect against her client, and that she was prepared to file an ethics complaint against me for pursuing a baseless claim. She called Bob to let him know all this, and he asked her to meet with him, my student, and me.

The meeting was, not surprisingly, an uncomfortable one, as the attorney was hostile, accused us of violating ethics rules, and explained that she planned to file a board of bar overseers’ complaint against me. Bob said very little, let my

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<sup>8</sup> ROGER FISHER, WILLIAM URY & BRUCE PATTON, *GETTING TO YES: NEGOTIATING AGREEMENT WITHOUT GIVING IN* (Penguin Books 3d ed. 2011) (1981).

<sup>9</sup> WILLIAM URY, *GETTING PAST NO: NEGOTIATING IN DIFFICULT SITUATIONS* (1991).



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student and I lay out our position, and let the attorney vent her frustration.<sup>10</sup> Then Bob asked her what she hoped to achieve by that and how it would advance her client's claims. He made it clear that we had the clinic's backing, that such a complaint would be vigorously contested, and that she would be spending time and resources in defending it. Would her client be paying for her time pursuing a bar complaint if it didn't clearly advance what he wanted? Would it not make more sense for the lawyers to involve the family court mediator to help assess the merits of both sides' claims?

After the meeting, Bob suggested we work through our mediation strategy and asked us a series of questions that drew directly on his "Best Deal" and "Inside the Fence" teaching. We knew what our client's interests and concerns were, but what did we think were the husband's? What was the concrete evidence of his neglect? We knew that he was the sole breadwinner for the family and that the house was partly paid for by his parents. If he was the only breadwinner and was working long hours to provide for his large family, would that explain why he had almost no time for his kids? If he was paying for the house with help from his parents, would it be justifiable for him to insist that the house be sold and proceeds divided between the couple? If we tested these questions with opposing counsel, showing that we genuinely wanted to understand her client's position, would that reduce the hostility between the parties? We changed our approach, both in counseling our client and in probing for the husband's interests and concerns. Admittedly, it was hard for me to come around to Bob's philosophy and reverse course, since in immigration defense practice there is almost never a possibility of negotiating a just result for clients—especially clients facing serious harm on being deported. However, after seeing that there were others who would be hurt besides our client, determining how to avoid such harm became a priority in our divorce case. Reducing friction between the parties so they could come up with an amicable shared- or joint-custody arrangement and a fair division of their assets took center stage. Not surprisingly, our reversal also had the effect of eliminating opposing counsel's threat to file an ethics complaint against us. It took me a while, but I internalized Bob's teaching, as his was by far the superior approach.

#### THE STUDENT-CENTERED SUPERVISOR

The final attribute I want to illustrate was Bob's insistence at always putting students first. Since I have long had the unfortunate habit of taking on complex and controversial cases, the questions that inevitably came up during discussions with Bob on these cases were along the lines of: How much are your students doing on the case? Are your students able to take the lead on this case? Are the expectations of how much time your students can spend on this case reasonable? Three cases (or sets of cases) illustrate the dilemmas that regularly arose with the complex litigation my students and I worked on in the civil clinic and

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<sup>10</sup> The student attorney at the time, Shirin Philipp, and I recently reminisced about this experience. She is now General Counsel at Lesley University.

illustrate Bob's influence in resolving them. The first case that comes to mind is one that turned into twenty years of litigation defending a high-profile politician from a country engulfed in a violent civil conflict. An attorney with whom I had previously collaborated, and whose work on tough immigration cases I respected, asked us to be co-counsel on a case that had turned from a simple political asylum claim to a far more complicated one than she and her partner had anticipated. They needed additional research and litigation support. At first, our task was to prepare a BIA appeal from the administrative judge decision, but that quickly became a habeas corpus petition when the client was detained. We soon found ourselves in the midst of a case raising at least three issues of first impression in immigration law that involved us in a foreign policy and antiterrorism quagmire. We also faced an anti-Muslim and anti-Arab government strategy targeting not just our client but a host of other individuals in removal proceedings. The three students on the initial team threw themselves into the research and drafting. As we came close to the first deadline, the students decided to do an all-nighter. I took them home, where we spread out in my dining room while we researched and drafted, drank coffee and snacked, and they took turns napping in-between.<sup>11</sup>

I regularly consulted with Bob at each phase of the litigation—not on the substantive immigration law, which was not his expertise, but on strategy and student work. Student involvement became particularly delicate when we challenged the government's refusal to produce evidence for its detention and attempted deportation of our client. As it turned out, the government was using secret evidence in a concerted strategy to detain and deport in about two dozen cases involving only Muslims and Arabs. As we were part of a network of lawyers defending these cases, we suspected that our client and legal team were under surveillance when it came to light that the FBI had been surveilling other legal teams.<sup>12</sup> As the case became more complex and raised dilemmas of risk and ethics, Bob's main focus remained on the students: Were they able to master the substantive law and participate in the strategic decision-making? Were the assignments manageable given their other commitments? And were the risks the legal team was taking clear to the students so they could decide whether to opt out? By the time the case wound down, we had been involved in filing and arguing two BIA appeals, a challenge to an Attorney General self-certification of the case, two habeas corpus petitions and an argument to the Eastern District

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<sup>11</sup> One of the student attorneys from this team, Maritza Karmely, and I published an article about some of the issues raised in this case. See Susan M. Akram & Maritza Karmely, *Immigration and Constitutional Consequences of Post-9/11 Policies Involving Arabs and Muslims in the United States: Is Alienage a Distinction Without a Difference?*, 38 U.C. DAVIS L. REV. 609 (2005). Maritza now directs the Family Advocacy Clinic and teaches Family Law and Trial Advocacy at Suffolk University Law School.

<sup>12</sup> See *Am.-Arab Anti-Discrimination Comm. v. Meese*, 714 F. Supp. 1060 (C.D. Cal. 1989), *rev'd on other grounds sub nom. Am.-Arab Anti-Discrimination Comm. v. Thornburgh*, 970 F.2d 501 (9th Cir. 1991); *ACLU Found. of S. Cal. v. Barr*, 952 F.2d 457 (D.C. Cir. 1991).

Court in Virginia, an appeal to and argument before the U.S. Court of Appeals for the Fourth Circuit, and multiple evidentiary hearings in the immigration court on remand after remand.<sup>13</sup> During all this, our client remained detained for four years with the government refusing to produce the evidence it claimed it had to support his detention.<sup>14</sup>

The second set of cases arose out of the post-9/11 detentions at Guantanamo Bay, Cuba. We were approached by several of the attorneys representing detainees in Guantanamo to research and analyze options for using the United Nations' human rights mechanisms to put pressure on the U.S. government to release and/or resettle their clients. We also supported the legal teams in defending a few of the Guantanamo detainees.<sup>15</sup> A small number of my students became deeply engaged in this effort, and when I talked the cases over with Bob, he wanted to know how more students could be exposed to what we were learning. With Bob's mock trial materials as a guide, I devised a simulation for students in my international human rights law class based on the military tribunal hearings that were ongoing at Guantanamo. As a number of the Guantanamo defense lawyers were based in Boston, I invited them to be tribunal "judges" for the mock hearings and opened the arguments to BU Law faculty and students—fulfilling Bob's urging to expose the "inside story" about Guantanamo to more students in the law school.<sup>16</sup>

The last example is from litigation we joined as co-counsel in an Alien Tort Claims and Torture Victim Protection Act case against Israeli defendants who

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<sup>13</sup> Aside from Bob Burdick, I am grateful to BU Law Professors Larry Yackle and Tracey Maclin for their important input at various stages of this litigation.

<sup>14</sup> I wrote about this case and the other "secret evidence" cases in a number of publications. See, e.g., Susan M. Akram, *Scheherezade Meets Kafka: Two Dozen Sordid Tales of Ideological Exclusion*, 14 GEO. IMMIGR. L.J. 51 (1999). Kevin Johnson's and my research on the long history of targeting Arabs and Muslims by law enforcement appears in, for example, Susan Akram & Kevin Johnson, *Race, Civil Rights, and Immigration Law After September 11, 2001: The Targeting of Arabs and Muslims*, in ISLAMOPHOBIA AND THE LAW 34 (Cyra Akila Choudhury & Khaled A. Beydoun eds., 2020).

<sup>15</sup> One of the student attorneys working on these cases, Elizabeth Ruddick, later joined one of the defense teams at the London-based public interest firm Reprieve, and is now an immigration judge in London. Another one of the students involved in the Guantanamo casework, Judit Visontai, is a foreign service officer, most recently based in Jeddah, Saudi Arabia. A third clinic student, Brendan Doherty, went to work for the State Department War Crimes division, where he was placed on the State Department's team to repatriate or resettle Guantanamo detainees eligible for release.

<sup>16</sup> I published a chapter discussing a few of the core issues raised by the Guantanamo cases, see Susan M. Akram, *Do Constitutions Make a Difference in the Protection of Fundamental Human Rights?*, in THE DYNAMICS OF CONSTITUTIONALISM IN THE AGE OF GLOBALISATION (Morly Frishman & Sam Muller eds., 2010). BU Today wrote about our Guantanamo work in at least one article. See, e.g., Susan Seligson, *Guantanamo: The Legal Mess Behind the Ethical Mess*, BU TODAY (May 28, 2013), <http://www.bu.edu/articles/2013/gitmo-the-legal-mess-behind-the-ethical-mess/> [<https://perma.cc/H3XU-G3CT>].

had ordered the shelling of a U.N. compound in Qana, Lebanon in 1996.<sup>17</sup> Over 100 civilians had been killed in the attack, including dozens of children, among them the two small sons of our initial client in Detroit. The boys had been visiting their grandmother in Lebanon for the summer when the Israeli attack began and were sheltering with other families from the village, assuming they would be safe in the U.N. compound.<sup>18</sup> A small number of students and I worked on developing the evidence from the families in Lebanon and Detroit, and we researched and drafted pleadings in the case that was filed by the Center for Constitutional Rights in the U.S. District Court for the District of Columbia.<sup>19</sup>

To Bob's great credit given the controversial nature of these cases, he never once suggested we back away from any of them. Aside from his focus on managing student work and expectations on the cases, he wanted me to consider exposing more than just the few students handling the cases to what we were learning from them: How could I incorporate these cases into lessons for more students? As with the Guantanamo cases, again using Bob's mock simulated trials as a guide, I converted the Qana litigation into simulations in my international human rights class, in which the students prepared and argued petitions before U.N. human rights mechanisms based on the facts of the case.<sup>20</sup>

#### LESSONS FROM BOB BURDICK'S LEADERSHIP IN THE BU CIVIL CLINIC

The lessons from Bob's mentoring in all these and other cases remain in all my teaching, clinical supervision, and legal practice, examples of which I have barely scraped the surface in this tribute. Times have changed: I could no longer take students to my home to work overnight on a deadline, or give students multiple cases, or push them way beyond their comfort zones without negative feedback from students and the law school. Expectations for clinical supervisors have changed in many ways since Bob led the civil clinic, but his important lessons for many of those he mentored have not. Knowing how to break cases and projects down into manageable assignments, how to frame the ethical dilemmas with students, how to work with opponents to maintain amicable relationships, and how to manage student expectations—all this and more I have integrated into teaching and practice from Bob Burdick's mentoring. Times have

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<sup>17</sup> See 28 U.S.C. § 1350. We initially joined as co-counsel with a small legal team working pro bono on the case and later as cooperating counsel with the Center for Constitutional Rights.

<sup>18</sup> For more on the case, see *CTR. FOR CONST. RTS., THE QANA MASSACRE* (2008), <https://ccrjustice.org/sites/default/files/assets/4.9.08%20qana%20massacre%20factsheet%20UPDATED.pdf> [<https://perma.cc/8LK2-F6UF>].

<sup>19</sup> See *Belhas v. Ya'alon*, 515 F.3d 1279 (D.C. Cir. 2008).

<sup>20</sup> One of the student attorneys who worked on the case and the simulation in my class, Elizabeth Badger, joined BU Law as a visiting clinical instructor in the Asylum and Human Rights clinic, the predecessor to two current clinics, the Immigrants' Rights Clinic and International Human Rights Clinic. Elizabeth is now the Senior Staff Attorney at the PAIR Project in Boston and supervises its Access to Justice for Immigrant Families initiative.

changed in other ways, too: law faculty, like other university faculty, promote their work and themselves on Twitter, blogs, and op-eds, and recommend themselves for recognition—Bob could never imagine engaging in these ways to promote himself. He set the example for his colleagues of neither promoting himself nor his countless accomplishments, of which there were so many. My greatest regret is not insisting on recommending him for the highest university teaching recognition, which he deserved as much as if not more than any law professor I have encountered. Thank you, Bob, for everything you taught me, and so many other clinical colleagues and our students.