



Fighting for refuge

Immigration lawyer represents
controversial 'war resisters'
in their battle to remain in Canada.

BY LAURA KAMINKER

"It's my personal belief that if a soldier doesn't want to fight in a war because he believes it's immoral or illegal, he should be allowed to make that choice."

— ALYSSA MANNING

Heroes, peacemakers, people of conscience. Cowards, opportunists, traitors. Alyssa Manning's clients are labelled all of these. The 29-year-old calls her clients "war resisters," and she represents them with razor-sharp intellect and quietly fierce passion.

Manning, called to the bar in June 2008, practises immigration and refugee law with Toronto firm VanderVennen Lehrer. Her most controversial clients — Jeremy Hinzman, James Corey Glass, Kimberly Rivera, Patrick Hart, and others — are seeking sanctuary in Canada after deserting the United States military because of their opposition to the Iraq War.

Canada's Immigration and Refugee Board (IRB) has consistently ruled against these cases, leading to deportation orders

for the former soldiers and their families. If deported, they likely face court martial, prison, and dishonourable discharge, the equivalent of a felony offence. Three war resisters who had been living in British Columbia, who are not Manning's clients, have already been deported.

Manning believes the negative IRB decisions are contrary to both Canadian and international law. She navigates her clients through the complex refugee claims system, from initial application and IRB hearing, through stays of removal, applications to remain in Canada on humanitarian and compassionate grounds, requests for judicial review, and Federal Court reviews of negative decisions. To date, Manning has won several stays of removal and leaves to

appeal. More Federal Court reviews are in the pipeline.

As a philosophy and political science major at the University of Toronto, then at Osgoode Hall Law School, Manning was interested in criminal law, international human rights, and using the law to advance social justice. She saw these interests merge in immigration law when she articulated and later worked at Parkdale Community Legal Services, a legal aid clinic in Toronto's west end. "In immigration law, you're dealing with people and their real experiences," says Manning. "You also deal with higher principles of law. So it's both aspects of law that I like."

Working with veteran refugee lawyer Geraldine Sadoway at Parkdale, Manning

SANDRA STRANGEMORE

was introduced to the war resisters' files, and found her niche. "The clients are amazing," says Manning. "They've made some really hard choices based on their moral or religious beliefs. There are also some very interesting legal issues involved."

For Manning, there is a simple issue of personal autonomy for her clients. "What other job can you not quit? In this case, if you quit, you're thrown in jail." In a broader sense, Manning believes her war resister clients are exercising their fundamental human rights. "It's my personal belief that if a soldier doesn't want to fight in a war because he believes it's immoral or illegal, he should be allowed to make that choice. An employee shouldn't be sent to jail because he doesn't want to do something he finds immoral, even if the employer is the military."

But does that mean the former soldiers actually qualify for refugee status in Canada? Manning argues that Americans refusing to fight in Iraq may be considered refugees for several reasons, the most compelling being the specific orders they've been given. "It's been very well documented that what the coalition forces have been doing on a regular basis in Iraq constitutes mass breaches of humanitarian law," says Manning. "The law is clear. If military orders are breaches of humanitarian law, then any punishment that stems from refusing to follow those orders constitutes persecution."

There are also arguments stemming from how Manning's clients would be treated in the U.S. "There's a growing body of evidence that the U.S. military is selecting people who have publicly spoken out about their opposition to the Iraq War for prosecution and harsher punishment," she says. "In any other context, if you were punished for expressing your political opinion, that would be considered persecution. I think it's just as clear in this case."

There was a time when Manning didn't seem destined to don legal robes. At 16, she dropped out of her Kingston, Ont., high school and lived on her own. "I was listening to punk rock, playing guitar," she says, adding with a wry smile, "I was not the most productive member

of society."


Manning — who says she's wanted to be a lawyer "ever since I got over wanting to be a rock star" — still plays guitar. And although she never moved back home, she describes her relationship with her parents as "amazing," and looks forward to family jam sessions as a favourite form of stress relief. The Mannings play "rock, blues, country, a bit of pop, and funk — whatever we can find the chords to."

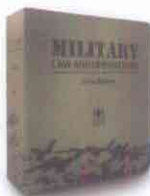
Even in law school, although intellectually stimulated, Manning says she was "never a very attentive student. In refugee law class, a representative from the Department of Justice gave a guest lecture on the Hinzman [war resister] case. I said to my friend, 'What's this guy talking about, do you know?'" Manning recalls. "Two-and-a-half years later, I was in Federal Court arguing for a stay of removal in the same case."

Immigration and refugee law brings a unique set of challenges. Manning's clients are often traumatized by war and violence. "Constantly hearing about, thinking about, working on experiences

of trauma is emotionally draining," she says. "And to adequately present someone's story and make legal arguments about it, you not only have to listen, you have to get in there with them, in depth." Confidentiality increases the burden. "It stays with you."

The war resister cases are highly specialized, giving rise to mountains of documentary evidence. In similar cases, there might be a dozen pages of written submissions; in these cases, submissions will routinely run 50 pages or more. And while Manning leads the typical associate's life of late nights and long hours, she takes home a fraction of the income of her Bay Street counterparts.

The rewards, like the workload, can be enormous. "With a positive decision," says Manning, "you have improved someone's life in such a serious way. To tell someone, 'You don't have to go to prison, you can stay safely in the country you have chosen,' it's a huge impact. There is no better feeling than being able to help other people. That feeling is irreplaceable." 



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