VERMONT
LAW & GRADUATE SCHOOL

July 11, 2024

Vermont Bar Foundation
35 Court Street
Montpelier, VT 05602

Dear Vermont Bar Foundation Board Members,

As my final responsibility as the Vermont Poverty Law Fellow, I prepared a concluding report which illuminates the past two years and provides insights about the challenges facing Vermont's immigrant community. I will happily offer time if any board members would like to discuss this report.

Vermont Law and Graduate School has been an ideal home for this work. I am incredibly grateful that I was able to work alongside talented attorneys and professors, as well as bright aspiring immigration attorneys, as part of the Center for Justice Reform Clinic. The scope and impact of my work would have been significantly smaller if I was not at the Clinic at Vermont Law and Graduate School.

The Vermont Poverty Law Fellowship has been immensely rewarding. I treasure it as a formative experience, and being a Vermont Poverty Law Fellow will remain a source of pride. I thank you and the Vermont Bar Foundation for investing in me and in the cause of access to justice.

With gratitude,

Maya Tsukazaki
2022-2024 Vermont Poverty Law Fellow

Final Report of Maya Tsukazaki, 2022-2024 Vermont Poverty Law Fellow, at Vermont Law and Graduate School to the Vermont Bar Foundation | July 2024

"If I stay in the United States all my life, I'll stay here in Vermont."
– "The Best Thing: the Cruz Family," *The Most Costly Journey*[1]

The narrative frequently used within and outside of Vermont is that Vermont is not a diverse state.[2] Although demographic data demonstrates that this is not entirely inaccurate, this narrative allows Vermonters to ignore the unique needs of many individuals, families, and communities across the state who have chosen to make Vermont their home after immigrating to the United States. Some individuals may come for economic opportunities, some to connect with relatives, while many come because of Vermont's reputation as a welcoming and progressive state.

"I don't think I could leave Vermont," said one client when I asked her if she has considered living elsewhere. In one of our final meetings before my fellowship ended, she reflected on her brief time in Texas and then Maine, saying that she liked Vermont best of all because of the support she found here. This sentiment was not unique amongst the clients I worked with, but many expressed appreciation or gratitude for the community and support they have found in Vermont. Many Vermont communities welcome newly arrived immigrants as well as supporting long-term Vermonters. Unfortunately, there are too many noncitizens[3] who struggle in Vermont because of lack of access to legal counsel, lack of housing, inability to pursue higher education, language barriers, transportation challenges, proximity to Customs and Border Protection at the northern border, and other reasons.

As the 2022-24 Vermont Poverty Law Fellow, my work focused on access to justice for noncitizens by expanding access to counsel while also working with community partners to tackle systemic issues. Through direct representation, legislative and policy advocacy, and education with the community and the Bar, I attempted to chip away at some of these broad challenges. This report highlights the work I have done, describes some key findings, and offers recommendations for policy reforms.

LEGAL SERVICES STATISTICS

During my fellowship, I worked on more than 100 separate legal matters on behalf of more than 50 clients. These individuals were from 16 countries, the majority from Latin American or sub-

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[1] "The Best Thing: The Cruz Family," art by Angela Boyle, in The Most Costly Journey: Stories of Migrant Farmworkers in Vermont Drawn by New England Cartoonists, 119 (English edition) (Marek Bennett et al. eds., 2021).

[2] Angela Evancie and Rebecc Sananes, "Why is Vermont So Overwhelmingly White?" Vermont Public (March 3, 2017), https://www.vermontpublic.org/programs/2017-03-03/why-is-vermont-so-overwhelmingly-white.

[3] This report will use "noncitizen" and "immigrant" in different situations. However, "noncitizen" refers to individuals who do not have U.S. citizenship but live in the United States. An individual can be an "immigrant" and also be a naturalized U.S. citizen, which is why the term "noncitizen" is more legally specific to refer to individuals who do not have U.S. citizenship.

Saharan Africa. The most common preferred language of my clients was Spanish, followed by Portuguese and English. Clients ranged in age from four to 58.

I provided full immigration representation to most of my clients. I filed at least 29 work permit applications and represented 27 Special Immigrant Juveniles (SIJ) at some point in their legal process, and in just the past six months, filed 13 SIJ applications. Two clients became U.S. citizens. Four became lawful permanent residents. Eight saw their removal proceedings in immigration court terminated. Some clients were referred from other local organizations or attorneys unable to serve them; many more had never worked with an attorney. The vast majority of my clients lived in Chittenden, Franklin, or Addison counties, but I also represented individuals in Lamoille, Grand Isle, Windham, Windsor, and Orleans counties.

My impact was expanded through the advice and support I gave law students, who provided legal consultations and representation. I am thankful for the opportunity to work with and learn alongside the talented student clinicians at the Center for Justice Reform Clinic (formerly, Vermont Immigrant Assistance Program).

KEY PROJECTS AND ACTIVITIES

Over the course of my fellowship, I worked on educational programs and advocacy projects, which included:

1. **Educating the Vermont Bar on Vulnerable Noncitizen Youth and Special Immigrant Juvenile Status** on three occasions, first at the VBA Young Lawyer's Division Thaw in January 2023, subsequently at a CLE on Updates to Family Law with VBA Family Division Chair Penny Benelli in June 2023, and finally, at the VBA Mid-Year Conference in March 2024. I also discussed some of the nuances of vulnerable noncitizen youth cases before the Vermont Superior Court Family Rules Committee and Probate Oversight Committee.
2. **Successfully Advocating for Education Equity** by working with Migrant Justice and community partners as well as University of Vermont, Vermont State University, and Vermont Student Assistance Corporation to draft and successfully advocate for the passage of Act 136 (2024). This law protects the right of all Vermont residents to access higher education and financial aid regardless of immigration status.
3. **Organizing the Welcoming New Americans Symposium** on June 14, 2024, a gathering of professionals and advocates who work with immigrants. Nearly 150 people attended at Vermont Law and Graduate School, and as of July 2024, nearly 200 additional individuals have watched online.[4]
4. **Commenting on the "Biden Asylum Ban"** on behalf of the Clinic, voicing opposition to President Biden's Notice of Proposed Rulemaking (now codified) that would severely limit access to the asylum system. This included sharing materials on drafting a comment

[4] The Welcoming New Americans Symposium can be accessed for free via YouTube here: https://www.youtube.com/live/wvzPHdjk-A4.

with the VLGS student community, supporting seven VLGS students in submitting comments.[5]

5. **Submitting a Legal Memo on Vermont's Fair and Impartial Policing Policy,** presenting arguments to the Criminal Justice Council in support of the most protective policy possible for noncitizens.
6. **Distributing a one-page flyer entitled** "**What is Asylum?**" to schools and community advocates in Chittenden County, where it was translated into a dozen languages. I also created and distributed flyers on the consequences of immigrants using cannabis or working in the cannabis industry and on immigration pathways available to young Vermonters.
7. **Advocacy with Vermont's Federal Congressional Delegation**, including attending the American Immigration Lawyer Association's National Day of Action in D.C. twice; successfully persuading the full delegation to cosponsor the "Protect Vulnerable Immigrant Youth Act"; joining a meeting with Senator Welch and his team on the needs of asylum seekers in Vermont; and advocating for the needs of the Clinic's clients in meetings and conversations with staffers of the offices on issues related to Border Patrol, lack of asylum interviews, and delays with the USCIS Vermont Service Center.
8. **Organizing "Pop Up Clinics"** to meet with and serve noncitizens in need of legal representation, staffed by students at Vermont Law and Graduate School. This included an event serving Afghan students at Middlebury College as well as multiple events serving dozens of individuals at Vermont Law and Graduate School's Burlington office.
9. **Hosting a training for the Vermont Asylum Service Network** on the basics of asylum law and humanitarian immigration relief for non-practitioners with the Vermont-New Hampshire Asylum Support Network, a community advocacy and mutual aid network supporting recent arrivals to Vermont.

FINDINGS

As the Vermont Poverty Law Fellow, I had the unique opportunity to participate in many conversations around access to justice for noncitizens in Vermont. The following are key issues that were pervasive; however, these findings are not exhaustive and are not substitutes for the investment of more time and effort to identify problems facing the state's noncitizens.

1. Lack of Legal Representation

"We have a life here, we have friends here, we have a community here, and we aren't causing trouble for anybody. We've never harmed anybody. We should be allowed to stay."
– Ambrocio (Member of the "Migrant Justice Ten")[6]

Accurate data about the total number of indigent individuals in need of immigration representation living in Vermont or the United States broadly is extremely sensitive and difficult

[5] The comment I drafted on behalf of the Clinic can be found here: https://www.regulations.gov/comment/USCIS-2022-0016-12217

[6] Krystin Rae, "Migrant workers ask ICE to close their case," NBC5 (June 21, 2022), https://www.mynbc5.com/article/migrant-workers-ask-ice-to-close-their-cases/40368268.

to obtain. However, as of 2021, about 4.3 percent of the Vermont population was born outside of the United States.[7] The foreign-born population of Vermont is larger than Wyoming and West Virginia and similar to South Dakota. However, these states have multiple immigration legal services organizations. As a percentage of the total population, Vermont's foreign-born population is larger than about a dozen states.[8]

Recently, using their clients and contacts as a reference, University of Vermont's Bridges to Health program estimated 3,821 migrant workers in the state from dozens of countries of origin and living in every county.[9] This report also highlights how an increasing number of individuals seeking services from Bridges to Health are under the age of 18. These numbers are almost certainly lower than the actual number of individuals who do not have certain or permanent immigration status and who need the help of an immigration attorney.

Immigrant Advocates Network hosts the National Immigration Legal Services Directory, an online list of trusted immigration legal service providers around the country. For Vermont, the only service provider listed is the clinic at Vermont Law and Graduate School.[10] The only other states with just one service provider are Montana, North Dakota, and Alaska, each of which have a non-profit organization providing immigration services as well as a larger private immigration bar. Vermont is the only state with only a law school teaching clinic listed on the national directory, and considering the limited capacity of a teaching clinic and that national best practice for clinical legal education is to focus on impact litigation and complex cases, this is insufficient to meet the need of thousands of Vermonters seeking status. There is also no Vermont-based organization on the Executive Office of Immigration Review (EOIR)'s directory of pro bono legal service providers in immigration courts.[11] Importantly, other organizations in Vermont provide immigration representation, including U.S. Committee for Refugee and Immigrants, Association of Africans Living in Vermont, and the growing Vermont Asylum Assistance Project, each with one or two attorneys and accredited representatives.

Vermont might look to Maine as instructive in examining its limited immigration legal services. Maine does have a slightly larger immigrant population but is otherwise similar to Vermont in terms of demographics. Maine is fortunate to have multiple immigration legal service providers, including the nationally recognized Immigration Legal Advocacy Project (ILAP) Maine, which hosts more than a dozen attorneys or accredited representatives.[12] Thus, while there is a dearth

[7] "Vermont," Census Reporter, https://censusreporter.org/profiles/04000US50-vermont/ (last accessed July 9, 2024).
[8] "Nativity in the United States," Census Reporter, https://censusreporter.org/data/table/?table=B05012&geo_ids=040%7C01000US (last accessed July 9, 2024).
[9] Naomi Wolcott-MacCausland, "Bridges to Health," February 20, 2024, https://legislature.vermont.gov/Documents/2024/WorkGroups/House%20Health%20Care/FY2025%20Budget/W~Naomi%20Wolcott-MacCausland~Bridges%20to%20Health%20Overview~2-20-2024.pdf.
[10] https://www.immigrationadvocates.org/nonprofit/legaldirectory/search?state=VT
[11] Department of Justice Executive Office for Immigration Review, "List of Pro Bono Legal Service Providers: Massachusetts," July 2024, https://www.justice.gov/eoir/file/ProBonoMA/download (note that this is a list of legal service providers representing individuals before the immigration courts in Massachusetts, where cases for Vermont residents are venued).
[12] ILAP Maine, "Our Team," https://ilapmaine.org/team (last accessed July 9, 2024).

of immigration legal services nationally, the lack of such services in Vermont is particularly egregious.

During my fellowship, I found that referrals are almost impossible in Vermont. For those who could afford a private attorney, referrals to private attorneys in Massachusetts were often the best option. The lack of immigration legal services in Vermont is particularly stark and something that will, and arguably already has, reached a crisis point as more recently arrived asylum seekers settle here.

2. Risks of the Northern Border

"For farmworkers in rural areas of the state, a trip to the grocery store or to a doctor's appointment is cause for significant worry and fear."
– Teresa M. Mares, "Life on the Other Border"[13]

During my fellowship, I had the opportunity to work briefly with a client, "Marino," a leader and activist in the Vermont farmworker community. Marino was arrested in 2018 while leaving a dentist appointment in northern Vermont. This egregious encounter led to an outpouring of support from the community, and he was released from detention; however, his court proceedings remained pending. Thanks to Migrant Justice's ongoing advocacy, Marino and I were able terminate his case in immigration court, almost six years after that fateful arrest. Still, this resolution cannot undo the fact that a drive home from the dentist turned into a stop, then an arrest, then detention, and then lengthy proceedings.

Unfortunately, Marino is just one of dozens, if not hundreds of Vermonters with similar stories. Migrant Justice shared that many of their members have been stopped and placed in removal proceedings since the fall of 2023; two clients and undocumented Vermonters I worked with during my time with the Clinic remain detained or incarcerated after encounters with Border Patrol at the Northern Border. Customs and Border Protection (CBP) has expansive powers with very few constitutional limits within 100 miles of any international border, a scope of authority which encompasses nearly two-thirds of Vermont.[14] As CBP presence has grown at the border recently, long-term undocumented Vermonters living in the northern counties are often caught in the crossfire when they are targeted and stopped by CBP.[15]

Noncitizen Vermonters face a two-fold threat of immigration enforcement from two separate agencies, CBP and Immigration and Customs Enforcement (ICE). It is well-documented that ICE,

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[13] Teresa M. Mares, Life on the Other Border: Farmworkers and Food Justice in Vermont, 8 (2019).
[14] 8 U.S.C. § 1357(a)(3); 8 C.F.R. § 287.1(a); for more, see "Know Your Rights: Border Zone," ACLU, https://www.aclu.org/know-your-rights/border-zone (last accessed July 11, 2024).
[15] For examples, see "Dairy worker arrested by border agents released on bond," WCAX, Mar. 6, 2018, https://www.wcax.com/content/news/Dairy-worker-arrested-by-border-agents-released-on-bond-476005613.html; Elizabeth Hewitt, "3 farmworkers detained as immigration tensions escalate," VT Digger, June 28, 2019, https://vtdigger.org/2019/06/28/3-farmworkers-detained-as-immigration-tensions-escalate/; Dan D'Ambrosio, "A migrant farmworker's life in Vermont is threatened by deportation," Burlington Free Press, Apr. 11, 2024, https://www.burlingtonfreepress.com/story/life/2024/04/11/a-migrant-farmworkers-life-in-vermont-is-threatened-by-deportation/73097447007/.

another agency of immigration enforcement, targeted advocates and activists with Migrant Justice in Vermont during the Trump Administration.[16] With increasing immigration enforcement at the Border in the lead up to the election, no matter the results, the threat of stops, arrests, and deportation will undoubtedly continue for Vermont's noncitizen community.

3. Barriers to Accessing Services and Immigration Status Discrimination

"The first time I thought about getting my license, I felt scared. At best, I saw it as very difficult because of all of the paperwork. Also, because I was undocumented. All the paperwork! When I came here, I came with no form of identification. I had to ask for all of my documents to be sent to me…"
– Paco, "Now that I Have My License: Reflections on Driving," *The Most Costly Journey*[17]

Immigration status is not explicitly a protected class at the state or federal levels, and federal law permits, if not requires, discrimination against noncitizens in many types of services and benefits. Health insurance, financial aid, and food stamps are just a few benefits that are inaccessible to undocumented persons, asylum seekers, and those without "qualifying" status at the federal level and, to some extent, the state level. Vermont has expanded eligibility for a few programs, including Dr. Dynasaur for undocumented youth. However, the vast majority of public means-tested benefits are unobtainable for noncitizens until they become permanent residents, and even then, they may be subject to a period of waiting.[18]

Additionally, documentation requirements can put up additional, unwritten hurdles, such as when a landlord requires a social security number or needing original copies of identity documents to get a driver's privilege card (the latter being particularly difficult when those documents are held by ICE during processing of asylum proceedings). These de facto hurdles often go unnoticed by agencies and can be exploited by private actors. I came to the office one Monday to panicked messages from a client who was losing employer-provided housing and was struggling to find an apartment that would take them because while they could afford rent, they did not have a social security number for the rental application. Thankfully, this client and her family did find a place to live; unfortunately, her story is not unique.

Noncitizen Vermonters in legal "limbo" may also experience difficulties accessing services and benefits, and providers are frequently unsure of how to handle their situations. For example, a client with Special Immigrant Juvenile Status who had Deferred Action (temporary protection to remain in the United States) and a work permit but had not obtained permanent residence spent weeks determining his eligibility for any type of health insurance. The Vermont

[16] "Migrant Justice Settles Federal Lawsuit on ICE Retaliation: Trump Administration Agrees to Terms in First Amendment Suit Days Before Election," ACLU Vermont, October 28, 2020, https://www.acluvt.org/en/press-releases/migrant-justice-settles-federal-lawsuit-ice-retaliation-trump-administration-agrees.
[17] "Now that I Have My License: Reflections on Driving," art by Marek Bennett, The Most Costly Journey: Stories of Migrant Farmworkers in Vermont Drawn by New England Cartoonists (English edition) (Marek Bennett et al. eds., 2021).
[18] Monica Bates and Leslye E. Orloff, "Access to State-Funded Public Benefits in Vermont for Survivors, based on Immigration Status," National Immigrant Women's Advocacy Project (updated March 27, 2024), https://niwaplibrary.wcl.american.edu/wp-content/uploads/VT-Public-Benefits-Chart-3.27.24.pdf.

Department of Health was unfamiliar with his legal status, requiring that he consult with and ultimately receive helpful advice from the Vermont Office of the Healthcare Advocate. Another client seeking permanent residency, and whom U.S. Citizenship and Immigration Services had determined was a victim of domestic violence under the Violence Against Women Act, was tossed back and forth between staff at a state college before they acknowledged her eligibility for financial aid, costing her time and money while she paid full tuition.
Clients shared similar stories throughout my fellowship. Complicated eligibility requirements and barriers to accessing services continue to be a huge burden on Vermont's noncitizen community.

4. Serving the Unique Needs of Youth

"I sacrificed my youth coming to Vermont."
– Gregorio, "It's Worth It," *The Most Costly Journey*[19]

During my fellowship, I represented young people as young as four up to 21, thus aging out of the definition of "child" under immigration law. Serving recently arrived children, particularly unaccompanied children, poses unique challenges, including trauma from the journey, difficulties of family separation, risks of trafficking and labor exploitation, and navigating resettlement and reuniting with family, or identifying safe guardians and caretakers.[20] They also may have unique legal pathways to status, including asylum processing or eligibility for Special Immigrant Juvenile Status.

When I began, the Clinic was providing legal services for a handful of Special Immigrant Juvenile Status-eligible youth, and no other legal service provider or attorney was representing this population in Vermont. In the final six months of my fellowship, the number of case managers, community members, or family members of unaccompanied minor immigrant youth contacting me or our Clinic grew significantly, and I have had to turn away at least a dozen or more young people for representation as I was at capacity. Migrant Justice has also identified dozens of young people in its membership who are likely eligible for Special Immigrant Juvenile Status. A few private attorneys have taken on some of these cases, and I am excited Vermont Asylum Assistance Project will host a fellow in the fall to work with unaccompanied minors. However, more attention paid and service to noncitizen youth in Vermont will be essential in the coming years.

[19] "It's Worth It," art by Kevin Kite, The Most Costly Journey: Stories of Migrant Farmworkers in Vermont Drawn by New England Cartoonists, 22 (English edition) (Marek Bennett et al. eds., 2021).
[20] "ABA CILA Fact Sheet: Unaccompanied Children at the Border," ABA Children's Immigration Law Academy, Sept. 22, 2023, https://cilacademy.org/wp-content/uploads/2023/10/2023.09.06-ABA-CILA-Fact-Sheet-Unaccompanied-Children-at-the-Border.pdf.

RECOMMENDATIONS

Recommendation #1: Universal Representation in Removal Proceedings

"I came to Vermont from Mexico when I was 16 years old…Now they are trying to deport me to Mexico, but my life is here. I am fighting to stay in Vermont to provide for my family and organize with my community for a better future."
– Pedro (one of the "Migrant Justice Ten")[21]

A community that wishes to be truly welcoming to noncitizens should prioritize protection from deportation. There is no right to government-funded counsel in immigration removal proceedings, despite the risk of deportation and subsequent persecution or even death. As discussed, Vermont lacks sufficient legal counsel to represent Vermonters in removal proceedings at this time. As more and more jurisdictions fund programs to provide representation to all residents facing removal proceedings, Vermont should not hesitate to join this initiative and protect the rights of some of the most legally vulnerable but resilient members of our community.

The Vera Institute explains that there are three primary ways that local and state governments fund immigration legal services: single jurisdiction programs providing funding; collaborative government programs, where multiple jurisdictions pool resources to fund legal representation; or public-private partnerships, where private foundations match public funds.[22] Currently, 55 jurisdictions across the country have some type of universal representation program. Although funding limits and lack of counsel means there is yet to be a jurisdiction that can realistically provide universal representation to every indigent person in removal proceedings, programs like those in New York and Maryland have made significant strides in reducing the number of indigent individuals who go unrepresented in removal proceedings, particularly for those in detention facilities or at imminent risk of deportation.[23]

Cities, towns, counties, and/or the state of Vermont should designate appropriations for high-volume legal services to noncitizen Vermonters, including and particularly for those in removal proceedings. These funds might be given to existing organizations to hire immigration attorneys at the Defender General's Office (potentially a program modeled after Prisoner's Legal Services of New York, Brooklyn Defender Services, or Bronx Defenders), Vermont Legal Aid (models include New Hampshire Legal Aid or Connecticut Legal Services), or other existing organizations providing immigration legal services.

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[21] "Press Release: Stop the Deportations of the Migrant Justice Ten," Migrant Justice, June 21, 2022, https://migrantjustice.net/news/press-release-stop-the-deportations-of-the-migrant-justice-10.
[22] Elizabeth Kenney et. al., "Funding the Program," Vera Institute, April 2021, https://www.vera.org/advancing-universal-representation-toolkit/implementing-the-vision/funding-the-program
[23] "The Movement for Deportation Defense: Information Hub," Vera Institute, https://www.vera.org/ending-mass-incarceration/reducing-incarceration/detention-of-immigrants/advancing-universal-representation-initiative/state-and-local-deportation-defense-information-hub (last accessed July 9, 2024).

The state of Vermont advertises itself as a welcoming state to those fleeing harm and persecution. To support this image, and to stand on the right side of history, the legislature must act to join numerous other jurisdictions in providing universal representation for indigent noncitizens in removal proceedings. Additionally, the fact that many Vermont residents are placed in removal proceedings by CBP due to our proximity to the northern border exacerbates the need for more legal representation. At a minimum, failure to support legal services for Vermonters in removal proceedings will harm communities and families impacted by the punitive immigration legal system.

Recommendation #2: A Streamlined Legal Intake System to Coordinate Priorities

"Most people don't know that they can receive this help…People [asylum seekers in Vermont] suffer a lot because they don't know what to do and they don't know where to go…If there was something specific for asylum seekers, a place where they can go, it would help a lot."
– Trudy Namubiru, speaking at the Welcoming New Americans Symposium, Vermont Law and Graduate School, June 2024

Currently, in Vermont, an individual in need of immigration legal services must first find contact information for one of the few service organizations; be screened for intake, if their intake is open; and then, very likely, be guided to another organization if the available services do not meet the client's needs. The telephone chain of referrals can be time-consuming and traumatizing for individuals if they are asked to retell their personal story again and again. Jurisdictions like Utah[24] and New York City[25] have piloted hotlines for legal services for noncitizens, which can then refer to other organizations. Vermont should consider adopting a similar model, with a state-funded intake hotline that can then refer requests for legal help to organizations with capacity and expertise.

Housing any such intake line with a state agency could be risky with a potential change in how the executive branch requires states to share information about noncitizens with federal agencies. Additionally, as the Department of Labor and agencies in Vermont have acknowledged, many undocumented persons fear that calling a state agency would put them at risk of deportation. Thus, I recommend that any such coordinated intake go through a legal services organization that is contracted by the state to manage immigration legal intake, whether that be Vermont Asylum Assistance Project, Association of Africans Living in Vermont, Legal Services of Vermont, or an independent "Vermont Immigration Help Hotline."

For such a program to succeed, Vermont also needs more legal service providers serving noncitizens, as well as coordination of priorities and intake between the few attorneys and advocates scattered around the state. Coordination between various legal service providers will help target referrals while also highlighting gaps in service areas that need to be filled.

[24] Utah Immigration Collaborative, funded by the Utah Bar Foundation, https://utahimmigration.wordpress.com/.
[25] City-funded free "Immigration Legal Support Hotline," https://www.nyc.gov/site/immigrants/legal-resources/immigration-legal-services.page.

Recommendation #3: State-Funded Services to Support Volunteer Networks

"The support CASAN provides is not just financial. It can come in the form of advocacy, helping an individual find medical services, or connecting them with family programs. Equally important is getting to know asylum seekers and making them feel at home in their new community."
– "About Us," Chittenden Asylum Seekers Assistance Network Webpage[26]

As the need to serve asylum seekers in Vermont continues to grow, the absence of a clear social service provider or case management entity for asylum seekers is becoming clearer. While there are a few incredible social workers and advocates serving asylum seekers at organizations like Connecting Cultures, the state relies heavily on the primarily volunteer-run Vermont-New Hampshire Asylum Seeker Support Networks located around the state to serve asylum seekers. These organizations provide a range of wrap-around services and advocacy to asylum seekers. These networks of volunteers do important work and are vital to the communities they serve; however, volunteer networks and their limited funding are an incomplete, if inadequate solution. This work can and should also be recognized as work funded by the state, similar to resettlement services available to those classified as "refugees." The state might look to models of Offices of New Americans[27] around the country as a reference for a state agency that can provide support and funding to other smaller organizations around the state. However, even small injections of funding for case management for the most vulnerable noncitizens in the state, such as children, could create a safer and more welcoming Vermont.

Recommendation #4: State-Level Legislative Reforms

"We need to work on getting those barriers down about eligibility…If you live in Vermont, if you are here, you should be eligible, period. Why are we putting so many barriers?"
– Marita Canedo, at the Welcoming New Americans Symposium, June 2024

Immigration law is federal, and states are restricted from exercising too much authority under the plenary power. The immigration legal system thus will not be fixed overnight, and reform looks like an unsurmountable hurdle. However, there are access to justice issues that noncitizens face at the state level which can be solved by Vermont lawmakers. Recent efforts that have benefited immigrants at the state level include removing immigration status restrictions on professional licensures; education equity for all noncitizens in accessing in-state tuition and financial aid; the Immigrant Health Insurance Plan; and the noncitizen COVID Equity stimulus.

As discussed, gaps and barriers still exist at the state level. There are many more initiatives that have been examined but are overdue. In 2024, an effort was made to add "immigration status"

[26] "About Us," Chittenden Asylum Seekers Assistance Network: CASAN, https://sites.google.com/view/casan-vermont/about (last accessed July 9, 2024).
[27] "Office of New Americans State Network," American Immigration Council, https://www.americanimmigrationcouncil.org/state-local-initiatives/ona-state-network (last accessed July 11, 2024).

to protected classes in Vermont's Fair Housing Act; discussions also started regarding expanding access to the Immigrant Health Insurance Plan to any income-eligible person, not just children and pregnant peoples. These would be significant steps to both empower and aid Vermont's growing noncitizen population. Other helpful legislative changes could include making Vermont's diversion programs and post-conviction relief programs more immigration-friendly; codifying protections for victims seeking support from law enforcement in pursuing U or T visas;[28] and otherwise limiting when a social security number can be requested for state-based services and applications.

Advocacy groups and nonprofits should follow the lead of impacted communities in what reforms to prioritize in upcoming legislative sessions. As immigration becomes an even more volatile topic with the election looming, states should be prepared to find localized solutions to systemic issues to support noncitizens.

Recommendation #5: Uniting the Fight for Justice for All

"…you only leave home when home won't let you stay."
– "Home," by Warsan Shire

Dialogues in Vermont on immigration-related issues frequently focus on narrow sectors of Vermont's noncitizen population. General "asylum seekers" are separated from parolees from Afghanistan and Ukraine while migrant workers are considered a distinct group from those seeking asylum or other types of immigration benefits. Legally, distinctions exist and are important to note because they have a significant impact on the available legal pathways and eligibility for services. Furthermore, organizing advocacy and services around specific needs that affect certain populations is important. However, as part of state-level conversations, these legal distinctions should not distract us from where identities and needs cross over.

Immigrants are not new to Vermont, with migrant farmworkers relocating to the state since the 1990s and refugees and asylees finding refuge in the state since the 1970s and 80s.[29] However, the dichotomy of "migrant" and "refugee" does not capture the reality of why many individuals have come to Vermont in the last few years. Some have come to escape poverty, but the tipping point was a moment of crisis, war, or disaster in their country of origin. Some young people come because they lack anyone in their home country to care for them.

Distinguishing between "migrants" and "refugees" exists internationally and is not a uniquely Vermont problem.[30] Multiple surveys have found that respondents are more likely to say that they have an obligation to help individuals identified as "vulnerable refugees" rather than

[28] As a reference, see Colo. Rev. Stat. Ann. § 24-4.1 (West 2021).
[29] Teresa M. Mares, Life on the Other Border: Farmworkers and Food Justice in Vermont, 6 (2019).
[30] International law, and international organizations like UNHCR also uses "migrant" and "refugee" to define two different types of border crossers. See generally "Asylum and Migration," UNHCR, https://www.unhcr.org/us/what-we-do/protect-human-rights/asylum-and-migration (last accessed July 9, 2024); see also the Protocol Relating to the Status of Refugees, Jan. 31, 1967, 606 U.N.T.S. 267.

"vulnerable migrants." However, a small state like Vermont can upend these assumptions and definitions and recognize how many individuals are in Vermont due to forced migration, and how much help they need. This suggestion is not designed to conflate all migration journeys or ignore real lived experiences, but rather to emphasize the need to avoid restrictive definitions of who is worthy of assistance. Restrictions and barriers can also lead service providers to ignore the pathways of certain populations. For example, I suspect that there are many Vermonters who could potentially benefit from Labor-Based Deferred Action or even T visas for victims of trafficking based on egregious workplace situations; however, these legal pathways are often an afterthought in conversations with legal service providers.

Conversations also tend to ignore some of the most unrepresented and marginalized immigrant communities – those with criminal records. Professor Alina Das of New York University Law School's Immigration Clinic reminds us, "Good versus bad immigrants: this is a recurring theme…It echoes the rhetoric that has fueled America's crime-based deportation machine since the beginning."[31] Justice in a criminalized immigration legal system is also a racial justice issue; statistics demonstrate that immigration enforcement polices, detains, and, while detained, abuses Black migrants at a disproportionately high rate.[32] Thus, any state programs funding universal representation and other services for immigrants should not exclude those who have had interactions with the criminal legal system.

Far be it from this inexperienced, flatlander attorney to suggest how movements in Vermont should operate. However, other state-wide advocacy initiatives have demonstrated the power of uniting the fight for justice for all noncitizens. Access to driver's privilege cards benefited a huge portion of Vermont's noncitizen population. The push for education equity in 2024 brought together both asylum seekers and migrant farmworker advocates. I have heard other service providers who are present in the community, including staff from Bridges to Health and the Family Room, recognize and reflect on the increasingly blurred line between who is considered and "asylum seeker" and "migrant worker." Thus, any statewide solutions, including universal representation, an Office of New Americans, or statewide legislative reforms, should avoid too narrowly tailored eligibility categories and recognize intersectional needs of Vermont's noncitizen population.

CONCLUSION

The Vermont Poverty Law Fellowship was designed to provide legal services and identify solutions to legal issues that need to be solved. For Vermont, immigration is undoubtedly one of these areas, an issue that existed before this fellowship but required more attention during the past two years. As previous Fellows may feel, even five separate fellows tackling access to justice for noncitizens could not have solved the issues facing noncitizen Vermonters. However, it was timely that the 2022-2024 Vermont Poverty Law Fellowship focused on serving Vermont's immigrant communities.

[31] Alina Das, No Justice in the Shadows: How American Criminalizes Immigrants, 190-91 (2020).
[32] Timantha Goff et. al., Uncovering the Truth: Violence and Abuse Against Black Migrants in Immigration Detention (October 2022), https://www.freedomforimmigrants.org/report-uncovering-the-truth.

Many issues remain, but I am confident that my work as the Vermont Poverty Law Fellow made meaningful contributions, including by expanding the practice of and providing resources on representing youth in Special Immigrant Juvenile Status, passing legislation to protect education equity, and bringing together members of the Vermont Bar and service providers to engage in important conversations. As those conversations continue and education and new policies expand, I hope that Vermonters without recent immigration histories will recognize the presence of vital and vibrant communities around them and join with Vermont's noncitizen community to continue to advocate for justice for all.