

**Legal Justice: Right to Legal Representation and/or Assistance for Immigrants**

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**By Linh Le**

**Candidate for Bachelor of Arts and Bachelor of Science Degree and Renée Crown  
University Honors**

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### **Abstract**

Every year, thousands of foreigners come to the US for relief. These individuals arrive in the US hoping to build a new life or seek safety and shelter away from precarious conditions at home. With thousands of people, including young children and the weak elderly, the US immigration system is prosecuting them in manners resembling criminal practices. However, except for immigrants with mental disabilities, others who, under criminal law and some civil cases, would be entitled to the right to representation are deprived of such rights. This lack of legal assistance and representation decreases their chances of obtaining relief and stripping them, in many cases, of a just and fair legal proceeding. Thousands of backlog cases alongside practices that are questioned by the international communities concerning respect for human rights are warnings that it might be time for reforms within the current immigration system. This study focuses mainly on the necessity of enacting a law requiring legal assistance and/or representation for different immigrant groups and how such policy would impact the lives of immigrants and the functioning and efficiency of the government.

## Executive Summary

In analyzing the impacts of implementing the right to legal assistance and/or representation in immigration cases, the thesis proposes the research question: **How would extending the right to an attorney or at least the right to legal assistance benefit immigrants and the current system?** This research question will examine the impact of representation on immigrants on two main criteria: the success rate of represented cases compared to unrepresented cases in different steps of immigration proceedings and the role of public defenders in addressing the current discrimination in the system. Concerning court efficiency, the paper will analyze the association between representation and the financial costs of the current system and the potential impact of counsel on ameliorating the chaos within this overwhelmed system.

This thesis delves into the potential costs and benefits of introducing various formats of federally funded legal assistance to immigrants at different levels within the context of the current immigration system. It draws on extensive literature reviews of law journal articles, reports published by governmental and nonprofit organizations, and personal communications with individuals who have closely worked with immigrants or have undergone the process themselves. The aim is to provide a comprehensive understanding of the current immigration legal system, with a special focus on laws and resources dedicated to refugees and asylum seekers. The state of immigration law as practiced in the US is also placed in a larger global context through comparative case studies with other Western nations that are also grappling with a high volume of immigrants. This thesis also utilizes numerous open source databases including ProQuest, Transactional Records Access Clearinghouse (TRAC), and the Census. By

cross-tabulating data, the thesis aims to illustrate the inefficiency of the current system as well as the potential benefits of providing free legal aid. These methods aim to contribute to the existing literature analyzing the impacts of implementing free legal assistance to immigrants in an immigration legal system that imposes criminal law components on cases regarded as civil matters.

First, this thesis provides summaries of personal stories and testimonies from experts as well as figures regarding the efficiency and cost-effectiveness of the current immigration system. This thesis also briefly discusses the mental and financial implications this system imposes upon immigrants. The second chapter provides an overview of the current immigration system wherein immigration cases are legally acknowledged to belong to civil law but result in punishments and practices that resemble those seen in criminal law. This chapter also discusses the conceptualization and categorization of deportation as a legal punishment by analyzing previous court cases. The chapter summarizes the asylum application process to demonstrate the complexity involved in the procedures. Chapter 3 relies on testimonies of individuals and experts as well as surveys and studies in the current literature body to provide an overview of the various methods utilized by immigrants to navigate the complexities of the process. One of the prominent methods discussed is the practice of precarious legal patchworking (Martinez-Aranda, 2023). The chapter also highlights the general inefficiency of a decentralized and scattered method of seeking legal advice. From here, the fourth chapter focuses on analyzing the efficiency of the current process and its implications on the economy and individuals. Here, the chapter argues that the system as it stands is inefficient in many regards, which contributes to rising state and city budget overruns, failure in realizing numerous financial benefits, and further worsening the mental health of immigrants, especially asylum seekers. This thesis then discusses

the role of lawyers in the process by discussing the statistics that illustrate a positive correlation between representation and success rate in cases and current literature findings on the correlation between legal representation and the efficiency of the current system. The paper then moves to put the current system into a global context by providing a brief overview of international laws that the current system has violated and how the system in the U.S. compares to those of other European countries that receive a high volume of immigrants. The seventh chapter then highlights some of the current prominent social movements advocating for the right to representation for immigrants. Chapter eight attempts to introduce three routes through which the federal government could introduce the right to free legal assistance. In the first scenario, the government could provide free legal assistance only in the first instance or during the process before immigrants face deportation. In the second scenario, the government could provide free legal representation, not just free legal aid, in the first instance. In the third scenario, the government could provide free legal representation for all immigrants who face deportation.

Through these chapters, this thesis aims to illustrate the problem of inefficiency and inequity of the current system and how it impacts the government and immigrants. As a potential solution, the paper proposes the introduction of a right to free legal assistance and/or representation for all immigrants. This policy, in its various formats, could potentially alleviate the inefficiencies and provide a more just and humane approach to immigration law. Further analysis is needed to understand how such policies are currently being implemented on a state level and in different countries that also face a high level of incoming immigrants.

This project aims to contribute to a further analysis of the potential of introducing the right to free legal assistance and/or representation to all, especially to immigrants, irrespective of

their citizenship status. Additionally, the project provides brief comparative case studies to position the current US immigration law system within a larger global context.

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## Chapter 1: Introduction

The United States had over two million immigration backlog cases in 2023 (TRAC). *The New York Times* recently reported that New York State faces an overwhelmed immigration system with a backlog of 180,000 cases and expects 21,000 during summer 2023. These numbers are to be addressed by only 88 judges in the state immigration courts (Meko). Behind the summary numbers is a chaotic system that poses a real challenge to everyone involved. This chaos is the product of an immigration system that operated based on civil law but applied criminal practices, producing, in turn, a mechanism that criminalizes noncitizens arriving in the U.S. while profiting from private prison companies. With high-stakes consequences and complex legal roundabouts, foreigners with limited understanding of the language and customs are arguably entitled to the right to counsel in an attempt to ameliorate the injustices inherent in immigration law that are in clear violation of international human rights agreements.

Behind these numbers are the lives of individuals directly impacted by the very process that leaves many in limbo. Kamran James Sandhu, the Founder and CEO of Impact Relief International, Inc., who led an initiative to provide families in Pakistan who hoped to open their start-up the funds that can kick start their careers, is well known within the Syracuse community for connecting individuals who came to seek asylum in the U.S. with a community that could aid them socially, financially, and legally. Among these many individuals, some families were facing persecution back home due to publications of materials or violence. While some succeeded in becoming refugees, others wasted thousands of dollars trying to navigate a system just so they had to undergo even more stress when legal documents were not being filled out correctly, or they discovered that their immigration process demanded more time given missing documents that they did not know were required. That is not to say no families succeeded in going through



the process smoothly. Mr. Sandhu noted the story of his brother, who brought his family to the U.S. following his book publication, which attracted numerous threats to his safety. Here, while awaiting their cases to be processed, he and his family were staying with Mr. Sandhu and living with Mr. Sandhu's paycheck and successfully gaining a job permit with the help of a robust immigrant community. He has obtained a relevant work document allowing them to rent a house and enroll their children in schools but is still awaiting approval for their citizenship. Other stories of immigrants also are a testament to the resilience of individuals. Conversations with Irina Fishman, a refugee from Russia in the late 80s and early 90s, revealed the layers of difficulties families faced. She retold the story of going through the immigration process as a fifteen-year-old Jewish girl from Russia when persecution of the Jewish population in Moscow was at an all-time high. Talking about the year-long process, Mrs. Fishman recalled the hours and nights her parents, who are prominent figures in Moscow and highly educated individuals, spent sleepless on the kitchen table to fill out forms in a language they did not understand just for these forms to be sent back months later marked for incomplete or incorrect forms. She talked about how she saw her parents enduring the stress of protecting their children from the assault on the Jewish population. She remembered the frustration and the anxiety they felt as they, who are individuals with PhD and degrees across many fields, had trouble understanding the requirements of lengthy documents and forms. Thankfully, after three years, they obtained refugee status and immigrated to the U.S. However, not many are as fortunate. As of November 2023, over ten thousand individuals in Chicago alone have not been granted special protection or work permits (Molina, 2023). With no work permission and stable income, twelve thousand live in shelters across the city, and over fifteen hundred individuals are still waiting on housing placements. To get work permits, which would enable them to be legally employed and afford to

rent living spaces for their families, these individuals need to go through numerous steps typically done with a licensed attorney's help. Without such assistance, many are struggling in a new city. While some can rely on their family members who have successfully resided in the U.S. and get connected with a robust community, others require legal assistance to grasp the demanding nature of the immigration process.

In a complex and intricate legal system that significantly impacts an individual's life and even that of an entire family, the resources dedicated to these individuals are limited, and many are struggling to access resources. Richard Whitson, the Director of Development for Refugee and Immigrant Self-Empowerment (RISE) located in Syracuse, provided some insights into the current structuring of the immigration system and the impact of dedicating resources to immigrants. In the conversation with Whitson, he highlighted the many channels through which immigrants are admitted and applications are processed in the United States. There is a clear distinction between asylum seekers and refugees. For individuals who hope to become refugees, they would have to undergo the U.S. Refugee Admissions Program (USRAP), which is managed by the Department of State (State), Department of Homeland Security (DHS), and Department of Health and Human Services (HHS). During this process, the individuals or family must first register with the United Nations High Commissioner for Refugees (UNHCR) in the country to which they fled (About Refugee Admissions). According to Whitson, these individuals would be in refugee camps wherein they would proceed to apply for refugee status, a process that could take months to years, depending on their circumstances, with distinction between refugees and humanitarian parolees. A series of documents need to be submitted alongside security vetting and adjudication interviews. Only after their admission application is approved would they be assigned to a sponsor group or resettlement agency such as RISE. According to Whitson, who

has spoken to many families resettled in Syracuse, this process imposes a lot of stress and nervousness on individuals, especially for those whose application requires a longer time. Whitson noted that it would be in a person's favor to have access to an attorney during immigration application and afterward, given the complex legal requirements for immigrants.

## **Chapter 2: Overview of the Current Immigration Law**

In principle, immigration law is categorized as a civil practice. However, immigration law violations can lead to more severe and more frequent criminal consequences. First, it is essential to note that many categories of immigrants exist. Individuals can become immigrants in the U.S. if they are immediate relatives of U.S. Citizens, if they fall into specific categories of individuals eligible to become an immigrant here via family sponsorship if they are eligible via employment, if they come from nations with low levels of immigration, if they are refugees or asylees, and if they are eligible via other special legislation (Office of Homeland Security Statistics). For this thesis, the paper will focus primarily on refugees and asylum seekers while still drawing on the cases and legislation for all immigrant categories.

Immigration proceedings include multiple stages, including consular processing, which takes place in regions outside of the U.S. Once the person arrives at the port of entry, they are met with primary and secondary inspections. If the decision is not made here, noncitizens are subjected to deferred inspection due to insufficient information. If they do not satisfy the conditions, Nonaliens will have to move on to removal proceedings or the first and potentially last chance to be in U.S. Court. Under the Trump administration, the expedited removal proceedings are extended to include those who are undocumented or committed fraud or misrepresentation and have been living in the U.S. for two years or less. The last stage of immigration law, similar to other bodies of the law, is appealing (Emamdjomeh, 2022). At no point during the process is a noncitizen entitled to the right to counsel. However, the Department of Homeland Security (DHS) employed well-trained trial attorneys to represent the government in every immigration case (Wolf, 2014).

To go into more detail, the paper will examine the current proceedings regarding asylum seekers. For the asylum process, a person needs to meet the requirements to establish them as a refugee according to the Immigration and Naturalization Act, which states that they need to face persecution or have a well-founded fear of persecution on account of “race, religion, nationality, membership in a particular social group, or political opinion” (Office of Homeland Security Statistics). There are two main routes through which an individual can obtain asylum: the affirmative and defensive processes. Through the affirmative process, an individual needs to file a Form I-589 Application for Asylum and for Withholding of Removal to USCIS within one year of when they last arrived in the U.S. unless there are extenuating circumstances that can be demonstrated to impact their eligibility for asylum or their ability to file on time. Form I-589 is a twelve-page document with questions ranging from basic personal information to testimonial details such as enrollment in any form of groups not limited to political, student, or paramilitary groups (APPENDIX A).

Additionally, the form notes that false information would be considered perjury and subsequently entails a fine or imprisonment of 25 years. After their application is accepted, the applicant would get a receipt and a biometrics services appointment. This would mark the beginning of security vetting and would be followed by a notice of the date for their interview to establish their well-founded fear of persecution. If the application is denied due to certain reasons, such as lacking valid documentation, they would face deportation but can resort to the defensive asylum process, wherein their chances are lower, with 58% of all asylum grants in 2021 being affirmative asylum seekers (Roy, 2023). Migrants might be apprehended upon denial by ICE if residing within the U.S. or CBP if they are at ports of entry. At this point, migrants will file for claims within immigration courts wherein a judge would hear from the asylum seeker and

the government as represented by ICE attorneys. This process can take significantly longer than the affirmative process. If the asylum seeker's claim is again denied, they would have thirty days to petition the Board of Immigration Appeals. If this process also does not turn the desired result, the applicant can choose to escalate the appeal to the Federal Court.

Within this system, how individuals enter the U.S. can determine the treatments and challenges they might face. For anyone who enters the country legally on a valid work or travel visa and ends up overstaying the deadline, which is the case for up to 45% of undocumented immigrants, the system considers their violations to be civil and, hence, should be handled in immigration courts proceeding with the penalty of deportation (Jarrett, 2017). In 1893, the Supreme Court stated that "the order of deportation is not a punishment for crime," in other words, deportation is an administrative tool used to return immigrants to their native countries (AIC, 2013). However, in *Fung Ho v. White* (1992), the Court delivered the ruling opinion that deportation "may also result in the loss of both property and life or of all that makes life worth living (*Fung Ho v. White*, 1992). In 2010 *Padilla v. Kentucky*, 2010, Padilla, a permanent resident in the U.S., was ordered to be deported after he pleaded guilty to a drug-distribution charge in Kentucky. However, following the conviction, Padilla claimed that his attorney did not advise him properly of this consequence. According to Padilla, if his attorney had done so, he would have gone to trial. This is the case Padilla made to support his post-conviction relief based on the Sixth Amendment's effective assistance of counsel. However, the Kentucky Supreme Court denied this claim because this clause does not protect defendants from incorrect legal advice regarding the possibility of deportation, given that deportation is a collateral consequence of a conviction (*Padilla v. Kentucky*, 2010). The Supreme Court ruled on appeal that "deportation is a particularly severe 'penalty'...but it is not...a criminal sanction." However, the Supreme

Court, in delivering the opinion of the Court, acknowledged that “deportation is nevertheless intimately related to the criminal process” and “removal [is] nearly an automatic result for a broad class of noncitizen offenders” (*Padilla v. Kentucky*, 2010).

On the other hand, if a person comes into the U.S. without a visa or proper documentation or via illegal entry, they commit a federal crime considered a misdemeanor offense that carries fines and up to six months in prison. Both of these groups, during their immigration proceedings, can be detained by one or more government immigration agencies, including the U.S. Customs and Border Protection (CBP), Immigration and Customs Enforcement (ICE), Office of Refugee Resettlement (ORR), and U.S. Marshals Service (USMS). While these agencies have general guidelines for the duration they can hold noncitizens, in many cases, immigrants are held in these facilities for much longer (AIC, 2020).

Additionally, even when immigrants are admitted as lawful residents in the U.S., they might still face deportation. Congress has expanded the list of offenses that merit deportation numerous times, with the most extensive increase seen in 1996 with the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA). Here, the list includes specific offenses, which would be considered felonies or result in at least a year and a day in prison, that are deemed aggravated felonies, alongside many misdemeanor offenses listed under aggravated felonies. This means if immigrants are to commit a crime that would be deemed a misdemeanor under state law, such as possession of thirty grams or less of marijuana under Minnesota law, they might be convicted of aggravated felonies under immigration law and hence face deportation.

Besides deportation, detention, and prison time, this body of law also incorporates longstanding practices of the criminal justice system, such as plea bargaining and immigration interviews, which can resemble criminal custodial interrogations. Some government actors, such as federal sentencing judges and the police, perform criminal and immigration functions. The recent transfer of immigration proceedings from the Department of Justice (DOJ) to the Department of Homeland Security (DHS) has further transformed the politics of immigration by implying the need to impose criminal enforcement on immigration violations (Legomsky, 2007).

To be more specific, it is essential to consider the IIRIRA. According to the provisions detailed in this act, asylum seekers are challenged with a filing deadline of one year, summary deportation procedures with “expedited removal” and “reinstatement of removal,” and mandatory detention of certain groups (Eleanor & Olga, 2017). These requirements meant that refugees have fewer chances to make their case, even if they are genuine refugees, since asylum seekers have to prove that they have filed the application within the deadline and are deprived of even applying for asylum or accessing removal hearing if they are placed under expedited removal upon entry. The 1996 Antiterrorism and Effective Death Penalty Act (AEDPA) also allows for the use of secret evidence (Jackson, 2000) and further provisions allowing for aliens to be detained or deported if convicted of certain offenses (Antiterrorism and Effective Death Penalty Act, 1996). The IIRIRA and AEDPA have then racialized and exacerbated the criminalization of immigrants by binding together the most punitive aspects of criminal and immigration law (Martinez, Aranda, 2023).



### **Chapter 3: Current Practices in Navigating the System**

With myriad agencies, deadlines, and legal requirements, current immigration law can be a complex mechanism for many who enter the US to seek relief. As of March 2023, about 28,000 people were being detained by ICE and CBP, a 21 percent increase from December 2023 (TRAC). With a massive influx of new arrivals and a large population in detention, the question is how all these cases are being efficiently processed through a complicated system with interwoven legal mechanisms.

A notable practice employed by the immigrant community is utilizing legal resources and assistance from different organizations and agencies, or what is termed in contemporary literature as “precarious legal patchworking” (Martinez-Aranda, 2023). Since immigrants are challenged by a civil body of law, they are not entitled to the right to counsel; in some cases, immigrants are denied the right to appear in court. Hence, they turn to a collage of services, including pro-bono aid, social networks, and jailhouse lawyers (Martinez-Aranda, 2023). While these legal resources provide immigrants with a specific strategy to challenge the system that imposes inherent power differentials between the government and the defendants, PLP can lengthen the detention time or even complicate the already overwhelming case facing immigrants given the significant differences in legal access based on races and locations and the inequalities of quality of legal services. In fact, from the account of Sandhu, while some migrants have family who are currently residing in the US and have extensive knowledge of the legal system, such as the case with his brother, others are spending thousands of dollars they do not have to get unreliable service that eventually leads to additional time and unnecessary proceedings.

Non-detained aliens are five times more likely to be represented than detained individuals (Eagly & Shafer, 2015). This reality can be the byproduct of the detention centers outsourcing practices to private, for-profit prison companies. Many of these facilities are built in rural places with limited access to counsel (Galli-Graves, 2023). Moreover, the representation rate also varies based on court jurisdiction, with areas such as Miami, Florida, or El Paso, Texas, having up to 22 percent representation rate while others like Tucson, Arizona, have as low as 0.002% representation rate (Eagly & Shafer, 2015) (APPENDIX B). Moreover, only some facilities have legal aid programs. Moreover, even in this case, these programs are significantly underfunded (Martinez-Aranda, 2023). The disparities in representation rates among different jurisdictions speak volumes about the reality of injustices that persist within the immigration system, wherein certain places implement a quick court mechanism to hold hearings at Border Patrol detention centers with a quick processing rate and limited access to the council. On top of detainment status and geographical locations, there persists a racial disparity in access to counsel. There is a 71% difference in representation rate across the fifteen most common countries of origin in removal cases, with non-citizens from China obtaining around 92% of representation while people from Mexico, the largest nationality group in removal, having only 21% of representation rate (Eagly & Shafer, 2015).

Besides disparities in access to counsel, the quality of legal services provided also varies. With 90% of cases represented by small or solo law firms, these firms have the lowest level of success in seeking legal relief for clients. Larger firms, well-funded nonprofits, and highly resourceful law school clinics have the highest success rate but only take on a small number of cases. The ability to access quality counsel or counsel at all depends on economic status and the strength of their social networks. Individuals who can afford an attorney are likely to obtain

counsel as opposed to the majority of immigrants who are poor and have to rely on scarce pro-bono resources.

With these realities, immigrants must turn to their social networks for help while utilizing other resources. However, this practice can be unreliable. At times, individuals have to work with untrustworthy lawyers who may be unresponsive or even abandon them. In these cases, immigrants have limited recourse. Others might turn to jailhouse lawyers who have detained individuals who have not practiced the law but have specific knowledge about the system due to prolonged detention. They can help with paperwork and legal advice but cannot represent people in court ((Martinez-Aranda, 2023). Non-citizens might also have to rely on self-representation as a last resort. However, many immigrants have to already cope with post-traumatic stress disorder, embarrassment, and fear. Furthermore, in most cases, immigrants also have a limited understanding of the language and the system, preventing them from efficiently presenting possible defenses. However, they are asked to challenge well-trained trial attorneys employed by the government.

## **Chapter 4: Realities of Immigration Proceedings Efficiency**

### **A. Current System Efficiency**

As of 2023, the U.S. has over 3 million pending immigration cases, an increase of one million from 2022, or a thirty-three percent increase (Adler, 2024). The system appears to be in complete chaos in New York State Court alone. Courts have lost paperwork, sent legal documents to arbitrary addresses, and turned people away from scheduled hearings (Meko, 2022). In fact, in 2020, TRAC released a report claiming that EOIR's data release on asylum was "so deficient the public should not rely on the accuracy of court records." April 2020 data released by EOIR were missing 68,282 relief applications that were present in the month prior (TRAC, 2020). When asylum seekers can remain in the country during their proceedings, CBP releases them from custody. While most immigrants consistently check in with ICE field offices, about 25 percent of the families have not been located by ICE (Meko, 2022).

Moreover, with the prolonged wait for a work permit and the need to have income, immigrants are working in the underground economy in New York City, joining 500,000 undocumented workers (Meko, 2022). Asylum-seekers can only obtain work authorization 150 days after submitting their application. They also can only receive work permits once those applications have been pending for 180 days (Silva, 2022). Furthermore, other migrants are not at all eligible for work permits. In the case of Sandhu's brother, who came to the U.S. with a family, he had to be entirely dependent on Sandhu's income for the first months after arriving in the U.S.

Other migrants with no family living in the U.S. must turn to shelters for housing and food. The prolonged proceedings regarding work permits and immigration status contribute to strained

resources throughout the country. New York City alone allocated \$1.45 billion in 2023 on migrant costs. This figure is expected to balloon up to \$9.1 billion to house migrants in 2024 and 2025. Other cities face the same fate: Chicago will spend \$275 million on these services in 2023, and Denver will spend \$46 million in 2023, with an estimated significant budget overrun (Adler, 2024). These costs, however, are barely sufficient to service millions of migrants needing support. In New York City, where the right to shelter entails that the city is obligated to provide beds to every homeless person, regardless of citizenship status, the government is struggling to find a method to provide housing to these individuals. The city stated that on a given night, hundreds of up to a thousand migrants are on a waiting list with a wait time for a bed averaging eight days. For those who have to wait, the city can only offer a place on the floor or a chair at the limited number of waiting centers. However, many migrants also turn to the streets or subway system (Newman & Parnell, 2024). With these rising costs and limited resources, states and cities are demanding more assistance from the government. However, in the 2024 fiscal year, lawmakers voted to cut FEMA's Shelter and Services Program's funding down twenty percent to \$650 million. With that being the case, cities and counties are adjusting to cut down on services offered (Luhby, 2024). New York City has recently enforced a 30-day limit on the time migrants can spend in the shelter system (Newman & Parnell, 2024). To put this into perspective, this is less than one-sixth of the period migrants are legally not allowed to work. Additionally, by slashing funding, services that offered migrants legal assistance could only address a limited number of migrants coming into the country, cutting into one of the legal methods employed by migrants: seeking pro bono assistance or relying on legal patchwork. Theoretically, more individuals would have missing valid documentation, resulting in longer processing times and

more individuals living in a limbo state and further burdening the already strained resources cities and counties can offer.

To get into more detail about the wait time for approval or decision on the seeking process, the story of Sandhu's brother came to mind. As a published author who came with a well-founded fear of persecution, he has been living with his family in the U.S. for months without a decision on whether his status and permanent residence status are approved. In most cases, the situation is dire. In 2022, the average days to completion is 1,100, a sharp increase from just a decade prior, wherein the average day to completion, regardless of outcomes, is around 400. This number decreased in 2023, with the average days to completion as reported through January of last year to stand around 1000 days (TRAC, 2023) (APPENDIX C).

In cases where non-citizens are detained, the cost of maintaining these centers is also high. According to ICE's fiscal year 2020 results, immigration detention is estimated to cost about 120 dollars per person per day. This number is considered to be low by immigration estimates. According to the General Accountability Office report, ICE appears to have "consistently underestimated the actual bed rate." In other calculations, the average daily cost can go as high as \$775 per day for beds in cities along the border that hold unaccompanied children (Galli-Graves, 2023). These numbers, when put into perspective the duration of detention, which can range from days to years, mean that the American taxpayers' money is being spent partially due to the inefficiency of processing cases, adding to the prolonged detention time.

The budget allocated to immigration enforcement has also risen significantly. From 2003 to 2023, within twenty years, the budget for CBP has increased almost 200 percent, from \$5.9 billion to \$17.5 billion, not adjusted for inflation. During this same period, ICE's budget

increased significantly, from \$3.3 billion in 2003 to \$8.5 billion in 2023 (Mendez, 2023). These are a significant strain on the federal budget.

Besides the obvious financial burdens, the current immigration system, with the lack of access to counsel, also has hidden costs. In his essay, Judge Katzmman of the U.S. Court of Appeals of the Second Circuit draws from his own experience with the significant increase in the caseload with up to thirty-two to forty-eight cases per week as of 2008 (Katzmann, 2008). This high number of caseloads means that judges have less time to process and evaluate an individual's case, undermining the efficiency and accuracy of the issued judgment, directly violating the ethics of the legal profession.

## **B. Current System's Economic Implications**

From 2005 to 2019, the median annual household income for all refugees and asylees was estimated to be around \$51,686. While persons with less than five years of residence have a family income below the poverty rate of over 33 percent, significantly higher than that of the whole US population, at just over 12 percent, those who have lived in the US for longer than ten years have a percentage of family income below poverty around 14.4 percent. Additionally, there is no significant statistical difference between the median annual household income for those with over ten years of residence, at \$59,072, and that of the entire US population, at \$59,002 (Ghertner, Macartney, and Dost, 2024).

From this same period, the federal and local governments have spent approximately \$457 billion on refugees and asylees. These populations have, in turn, contributed to revenue of 581 billion dollars, meaning that the government, from 2005 to 2019, earned a net fiscal benefit of \$123 billion from refugees and asylees. These fiscal impacts are more significant on the

state/local level, with these governments having 92 billion dollars in net fiscal benefit compared to just \$31 billion for the federal government (Ghertner, Macartney, and Dost, 2024).

With the 1986 Immigration Reform and Control Act (1986), which granted amnesty to around 1.7 million unauthorized long-term workers in the US, a study done by economists Sherrie Kossoudji and Deborah Cobb-Clark projects that men who obtained legal status under IRCA would have earned between 14 to 24 percent higher wages if they have this status throughout their working lives. These figures are significantly higher than the benefit of legalization under the IRCA, which stood at around 6% (Kossoudji & Clark, 2002). This figure demonstrates the importance of legal status given that working-age individuals could earn higher education degrees and provide such opportunities for their families. Additionally, these individuals could theoretically participate in the economy and pay taxes via official channels, further contributing to local, state, and federal taxes as opposed to working in an underground economy, enabling businesses that employ these individuals to go without paying taxes and not respecting regulations such as labor laws. According to estimates done by Raúl Hinojosa-Ojeda, three years after legalization, “higher earning power of newly legalized workers translates into an increase in net personal income of \$30 to \$36 billion, which would generate \$4.5 to \$5.4 billion in additional net tax revenue. Moreover, an increase in personal income of this scale would generate consumer spending sufficient to support 750,000 to 900,000 jobs” (American Immigration Council, 2013).

On a more local level, the economic impact is ever more significant in cities such as New York City, where there is a large population of immigrants. A study by the Immigration Research Initiative showed that while new arrivals to the city are expected to earn a median wage of just around \$23,000 per year, this would still be below the federal poverty level in 2021, which was



positioned at \$12,880. When immigrants have a five-year residency, their annual median wage is projected to increase to around \$31,000. This means that for each 1000 newly arrived immigrants authorized to work, the total annual wages would be around \$23 million, generating around \$3.5 million in state and local tax revenues (Immigration Research Initiative, 2024).

### **C. Current System's Implications for Immigrants**

In the conversation with Kamran James Sandhu, he frequently underlined one common problem with migrants: stress. This problem is once again highlighted in the conversation with Irina Fishman. Time and time again, the topic of stress arose as one of the challenges during the immigration process. However, more robust studies are necessary, especially research with extensive methodologies. With the current body of work, researchers are analyzing the mental training the immigration process can impose. Study finds that asylum seekers and displaced persons around the world report high rates of pre-migration trauma, which could lead to trauma-related mental health issues. Additionally, the process of asylum application could then impose an additional burden upon this group through lengthy and stressful legal processes (Robjant, Hassan, & Katona, 2018). Research shows that “post-migratory stressors seem...to be negatively affecting this population, who are already vulnerable to mental health difficulties as a result of their previous exposure to traumatic events” (Robjant, Hassan, & Katona, 2018).

According to a report published by the American Psychiatric Association, around one out of three asylum seekers and refugees report high rates of depression, anxiety, and post-traumatic stress disorder (Song & Teichholtz). Refugees are shown to undergo events with diverse stressors that accumulate over the preflight, flight, exile, and resettlement periods (Porter & Haslam, 2005). Some studies have found that post-migration factors are significantly associated more with

adverse mental health problems over and above the impact of pre-migration trauma. Research finds that the asylum application process has a substantial impact on worsening mental health symptoms by exposing individuals to stressors, including detention, extended processing times, and uncertain visa status (Li, Liddell, & Nickerson). The issue of detention is shown to be incredibly challenging for immigrants. Research shows that among detainees, high levels of mental health problems are reported, which include anxiety, depression, and PTSD. There is a positive correlation between the length of detention and the severity of distress. Notably, there is evidence suggesting an initial improvement in mental health following release; however, the effects of detention would persist (Robjant, Hassan, & Katona, 2018).

Additionally, several financial factors may also burden immigrants considerably, including the responsibility to obtain financial security and acquire stable employment. However, immigrants might face numerous barriers in their job-seeking process, including visa restrictions, low level of language fluency, qualifications from their home country needing to be recognized, lack of skills, discrimination, and other factors. Research also demonstrates that unemployment is associated with a higher risk for depression and anxiety among refugees (Li, Liddell, & Nickerson).

These stressors are also compounded by the effects of living in a different environment. The pressure of uprooting a life and assimilating to an unfamiliar culture and environment might pose significant challenges for refugees (Li, Liddell, & Nickerson). These compounding factors are present within the current US immigration system and arguably more exacerbated here compared to other Western countries that also receive a high volume of immigrants.

## **Chapter 5: The Role of Lawyers in Immigration Cases**

In many studies, the presence of an attorney during an immigration case significantly increases the chances of an individual receiving relief. Noncitizens represented by an attorney are four times more likely to be released from detention and twice more likely to get relief (Emamdjomeh, 2022). According to the EOIR, while unrepresented individuals whose cases begin while in detention achieve a success rate of 6%, represented individuals have a successful outcome at 46% of the time (Caplow et al., 2011-2012). The New York Immigrants Family Unit Project (NYIFUP) is a testament to the role of an attorney in immigration cases. The program, started in July 2014 and funded by the New York City Council, is the nation's first public defender system for immigrants facing deportation. NYIFUP assigned free representation to all poor detainees facing deportation at Varick Street Immigration Council who are unrepresented at their first court appearances. According to some estimations, individuals represented by NYIFUP attorneys have a 48% success rate as opposed to the 4% success rate of unrepresented immigrants (New York City Council, 2019).

Regarding nationwide statistics, of all 1.9 million asylum filings from 2001 to 2022, 81% of individuals who were never detained and 87% of individuals who were released were represented, while only 54% of detained individuals were represented (TRAC). These figures alone demonstrate the positive correlation between representation and detainment. Additionally, regarding asylum decisions, of all 790,000 asylum decisions from 2002 to 2024, 47% of represented applications were granted asylum, compared to only 16% of unrepresented applications (TRAC). These percentages demonstrate a significant positive correlation between representation and success rate in seeking asylum.

The right to an attorney would help to end the unreliable system of obtaining representation employed by immigrants. While public defenders, as seen in criminal cases, can be overworked and underfunded, with the right to counsel, immigrants would no longer have to rely on jailhouse lawyers, self-representation, or untrustworthy attorneys where they have no legal recourse for unqualified representation. The reliability provided by a lawyer can arguably provide individuals who have experienced trauma and have been subjected to the punitive conditions at detention centers with a sense of certainty and potentially prevent the burdens of stress and pressure.

With regard to state resources, the presence of an attorney can help increase efficiency and reduce the overhead costs of the immigration system. Individuals with representation are less likely to bring unmeritorious claims to the burdened system with high backlog cases, more likely to be released from the already overcrowded detention centers, and more reliable in reappearing at future hearings (Eagly & Shafer, 2015). Moreover, in represented cases, the detainees are more likely to submit documents, make affirmative arguments for release, and present legally relevant arguments (Ryo, 2018). Representation in these cases is significantly associated with the type of courtroom advocacy in immigration cases. However, with regard to the correlation between representation and the system's efficiency, research has found disparaging results. A recent study found no statistically significant positive correlation between representation and judicial efficiency (Ryo, 2024). However, within the same study, the author highlights the necessity of investigating factors that are not quantifiable, including the quality of legal advocacy provided by immigrant lawyers and their connection with other figures within the courtroom. With the lack of literature on this topic, individual stories came to mind, especially the story of Sandhu's

client, who suffered from unqualified representation, which had cost her time and financial resources.

Free access to legal representation can also create a more equitable legal system for immigrants. As mentioned above, there is a statistically significant difference regarding the representation rate among different immigrant groups. Additionally, per conversation with Whitson, individuals from higher socioeconomic backgrounds are more likely to have access to legal representation. Given that there is a positive correlation between success rate and legal representation, individuals from higher socioeconomic backgrounds and certain racial and national origin groups are more likely to be granted asylum or desired immigration status. By committing to providing free legal representation for all, the federal government could contribute to a more equitable legal system in alignment with international treaties.

## **Chapter 6: US Immigration System's Lack of Right to Representation in a Global Context**

### **A. US Immigration System's Adherence to International Agreements**

The Universal Declaration of Human Rights (UDHR) is recognized internationally as a statement of human rights principles. Some of the core principles, as enshrined in the document, include "the right to equality before the law and the right to equal protection, the right to a fair hearing in the determination of rights; and to judicial recourse and effective remedy when fundamental rights have been violated" (Paoletti, 2006). While this is an international treaty and hence is not binding in nature, the UDHR has been a model upon which many international human rights documents have been built (Paoletti, 2006). One critical third-generation human rights instrument is the International Convention on the Elimination of Racial Discrimination (ICERD). A recent Human Rights Watch written testimony submitted to the US State Department alleged that the US government's conduct as it pertains to the use of criminal punishments in response to illegal entry is racially discriminatory (Parker, 2022). ICE is found to be more likely to place individuals from Africa in solitary confinement, and the length of solitary confinement is approximately five days longer when it concerns immigrants from the Middle East (Franco, Patlarm & Reiter, 2013-2017).

### **B. Comparative Case Studies with European Union Countries**

In accordance with European human rights law, individuals are entitled to the right to appear in court or certain dispute resolution bodies to find remedies if the person's rights have been violated under the larger legal concept of access to justice. The European Convention on Human Rights (ECHR) and the European Union Charter of Fundamental Rights include several

clauses that enforce this notion, including the right to a fair trial and the right to an effective remedy. To be more specific, the rights encompass the efficiency and effectiveness with which justice is served. Under the articles in both the ECHR and EU Charter of Fundamental Rights, access to justice includes the right to fair proceedings, timely resolution of disputes, the provision of adequate access to a court or other dispute resolution body, the right to adequate redress of grievances, and general enforcement of efficiency and effectiveness principles (European Union Agency for Fundamental Rights and Council of Europe, 2016). However, these rights are enforced on a national level. With this overview of the European legal system in mind, it is critical to look at what some European countries are doing regarding legal assistance for asylum seekers.

Sweden, a member of the European Union that has been accepting refugees continually, has been committed to providing free-of-charge legal assistance at the European equivalent of the affirmative and defensive processes. The country has submitted data to the Asylum Information Database, a system organized by the European Council on Refugees and Exiles. A report published in 2022 indicates that Sweden's Migration Agency provides asylum seekers with a list of lawyers from which individuals can choose their representation. The only exception to this law concerns Dublin procedures. However, even within this exception, unaccompanied minors are entitled to legal counsel (Aida, 2022). Sweden currently has a backlog of 5,229 cases of first-time applications and 19,811 for prolongation decisions concerning the renewal of temporary protection permits (Aida, 2024). The total figure is significantly less than the number of immigration backlog cases in many states, including Louisiana, with over forty-eight thousand cases. Additionally, Sweden has a time limit for the Swedish Migration Agency, wherein asylum applications must be processed within six months from the date the application is received, with

certain exceptions, wherein the time limit includes an additional nine months (Aida, 2024). These figures are also significantly smaller than the average processing time for asylum applications in the United States.

Besides Sweden, several European countries are frequent destinations for many immigrants, especially asylum seekers. One of these countries is Spain, wherein twelve percent of all asylum applications in the EU were received in 2023, or over 160,000 cases (European Council, 2023). Detained immigrants and asylum seekers, in general, are provided with free legal assistance as required by law (Aida, 2022). However, they do not have a time limit for processing an application. The average time for ruling is from one to two years, which is still lower than the 1000-day average in the US (Aida, 2023). While Spain also experienced a backlog in asylum applications, a substantial contributing factor to these issues is a lack of human and material resources. In 2022, their backlog stood at 122 035 cases, which is still significantly lower than that of the United States (Aida, 2022).



## **Chapter 7: Current Movements**

Access to counsel for immigrants has been a priority issue for many immigration advocacy groups. On the state level, the New York Immigration Coalition organized one of the first legislative bills advocating for the right to an attorney for immigrants. The Access to Representation Act would provide state-appointed lawyers for anyone without proper financial funding for an attorney when having their case heard in an immigration court in New York. This provision would include any individual with a case hearing before an immigration judge or those with reasonable evidence to appeal or request to reopen a previous deportation order (New York Immigration Coalition). The bill is supported by a statewide coalition that includes the New York Immigration Coalition, the Vera Institute of Justice, Immigrant ARC, and more than 100 other organizations. A recent survey indicates that New Yorkers are incredibly supportive of this effort, with 9 out of 10 people reporting supporting government-funded representation for immigrants in the case of deportation (Hoylman-Sigal, 2022). Recently, the act was sponsored by Senator Brad Hoylman and Assemblymember Catalina Cruz. The bill is required to be amended and recommitted to the Committee on Codes in the New York State Assembly (New York State Assembly).

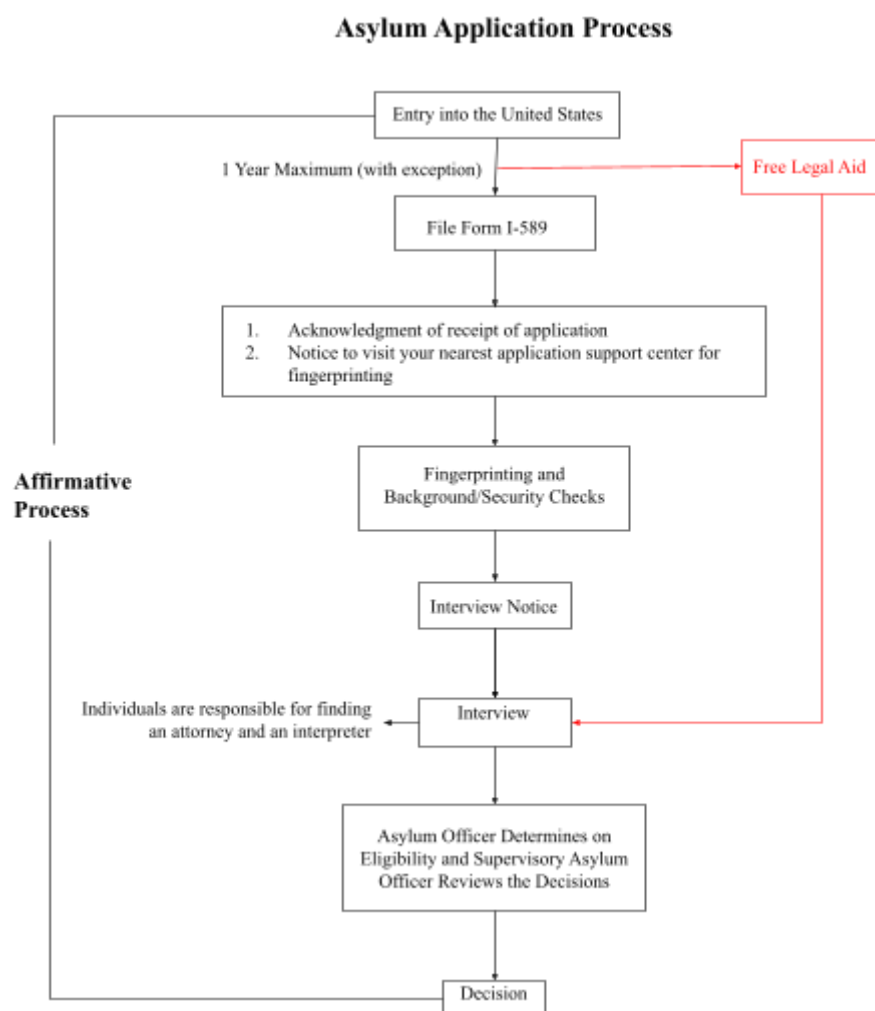
Besides state-level initiatives, organizations nationwide have also joined in the efforts to advocate for access to counsel. The Vera Institute of Justice and the National Partnership for New Americans launched one of the leading campaigns. The organizations pushed for the Fairness to Freedom Act, which would establish the Office of Immigration Representation, an organization tasked with providing high-quality and universal representation. The bill calls for government-funded representation for individuals in “removal, exclusion, deportation, bond, or expedited removal proceeding” (The Fairness to Freedom Act of 2023 Summary). In an attempt

to address the complicated and precarious nature of the current legal resources that immigrants rely on, the act calls for “early, continuous, and full-scope representation” with full provision of high-quality representation, which entails many services such as translation services (The Fairness to Freedom Act of 2023 Summary). This bill is supported by a coalition of more than 170 civil rights groups, advocacy organizations, legal providers, and government officials. It has been introduced by Representatives Norma Torres, Pramila Jayapal, and Grace Meng with Senators Kirsten Gillibrand and Cory Booker (Vera Institute of Justice). As of May 2023, the bill was introduced to the Senate floor and referred to the Committee on the Judiciary.

These efforts are further enhanced by initiatives to provide immediate assistance to individuals, such as the New York Immigrants Family Unit Project, funded by New York City Council, and the Immigrants’ Rights Project by the American Civil Liberties Union (ACLU). All the current movements demonstrate a nationwide increasing focus on the right to counsel for immigrants.

## Chapter 8: Reimagining of Current Access to Legal Aid for Immigrants, with a Focus on Asylum Seekers

### 1. Providing legal aid at first instance



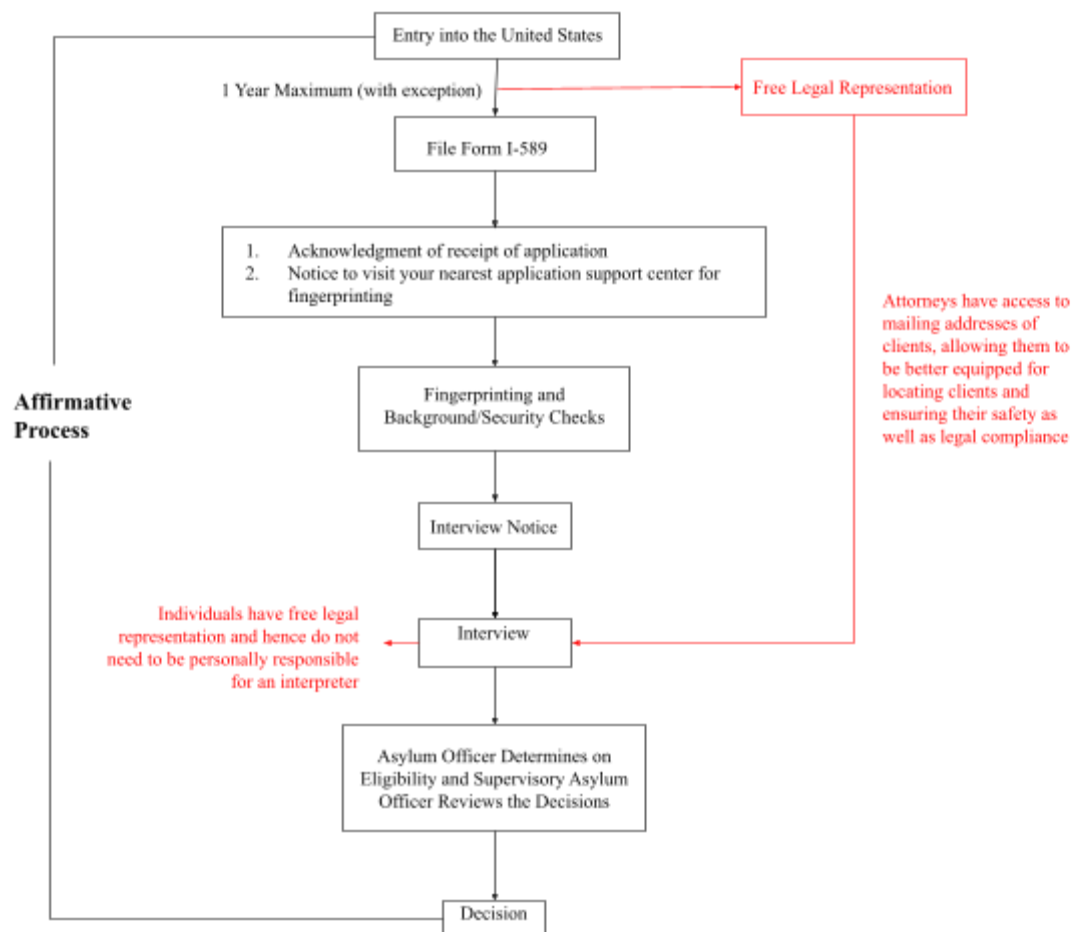
While there is sparse data on the calculated cost of providing attorneys for all immigrants or the cost of representation per individual, some European countries have dedicated themselves to the policy of providing free legal services for immigrants at first instance or upon arrival. By doing so, the state could prevent problems pertaining to missing information, necessary documents, or intelligible or incomprehensible information on the I-589 form. As mentioned

above, false information on the I-589 form could be considered perjury and hence merits criminal penalties, including prison terms. Additionally, individuals could face deportation if documents are missing during the process. Hence, providing free legal aid would ensure asylum seekers' right to access justice as they could tell their stories effectively and efficiently.

Additionally, the assistance of an attorney would also provide the state with more streamlined information that allows for more efficient processing time. Note the use of the term "legal aid" instead of "legal representation." In this first scenario, the state only has to account for assistance and not full representation, enabling more clients to be serviced by an attorney, which would subsequently allow for less spending on legal services for individuals. Moreover, by providing this assistance, the federal government could also assume the costs currently shouldered by the states. As noted above, states and cities such as New York and Chicago are facing severe financial problems with regard to housing and providing services, including legal assistance for immigrants such as asylum seekers. By taking on this fiscal responsibility, the federal government could allow states to budget for more urgent issues, including housing immigrants and preventing rising homeless populations, especially in Metropolitan areas.

## **2. Providing legal representation at first instance**

### Asylum Application Process

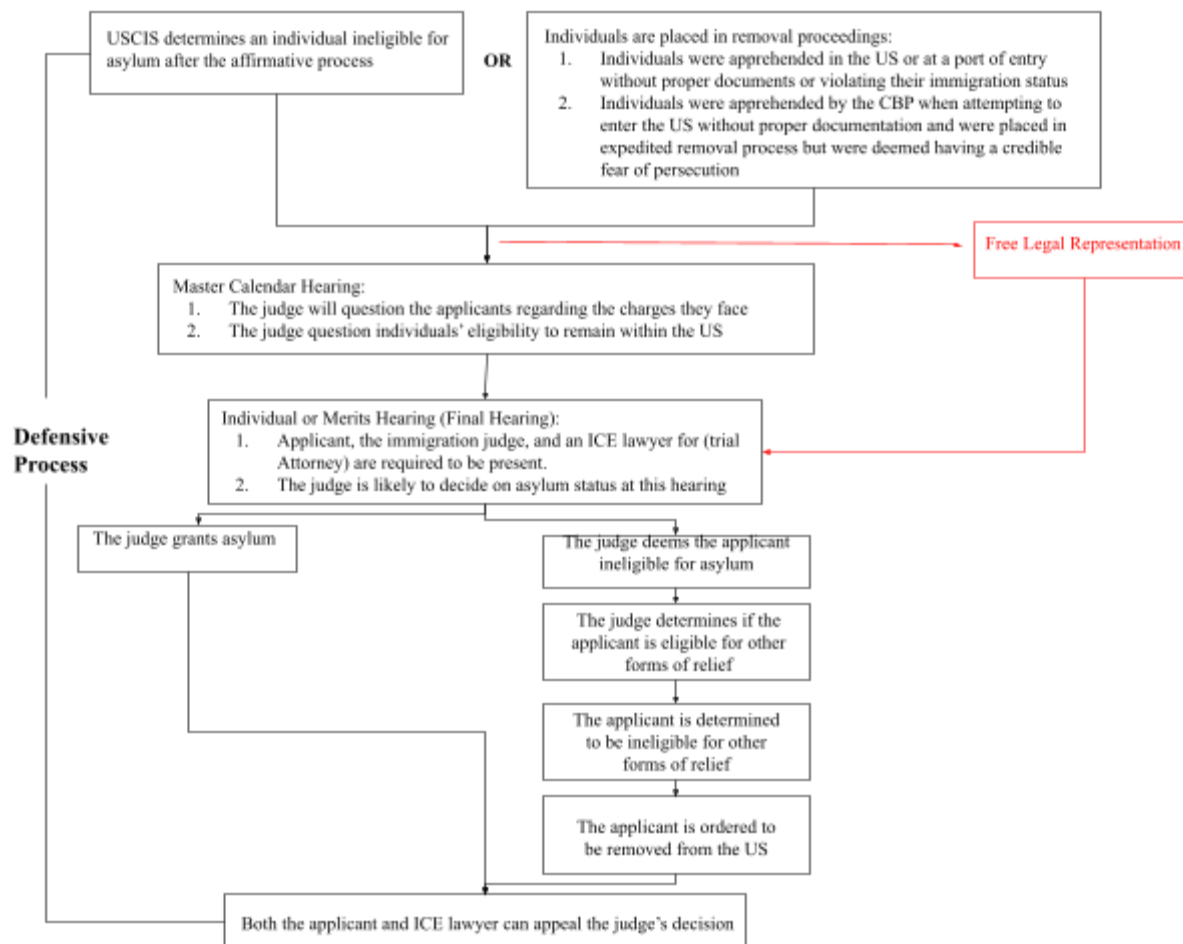


Some European countries, including Sweden and Spain, have dedicated themselves to providing free legal representation for asylum seekers, which in turn has correlated to a lower number of backlog cases within the system. Additionally, this policy would potentially alleviate one prominent issue regarding the system's inefficiency—missing files and applications as well as difficulty locating families and individuals. By introducing a representative who only has to contact a specific number of clients, the government could address the issues of individuals having difficulties reporting to ICE offices.

While providing legal representation for all appears daunting, once again, the federal government could shoulder the costs of these services that are currently straining the budget of states and cities. Moreover, increasing efficiency in processing time would also translate to more qualified individuals having the ability to gain job permits and, hence, not having to rely on shelters or resorts to underground work. Individuals could then contribute meaningfully to the economy and the federal tax system. Additionally, access to an attorney could provide a degree of certainty and trusted authority for individuals who are seeking asylum. More research should be conducted on the correlation between access to an attorney and its implications on individuals's mental health.

Moreover, providing free legal representation would also address the discrepancy in representation rates across different races and national origins, ensuring a more equitable immigration system. With free-for-all immigration legal representation, the government could also limit the volume of immigration services fraud and further alleviate the burden shouldered by asylum seekers.

### **3. Providing legal representation during defensive process**



The government could provide free legal representation in the defensive process instead of the affirmative process. The attorneys would then assist the government in organizing proper documents. Given that many who have to submit to defensive processes are apprehended due to lack of proper documentation, an attorney could aid individuals in tracking documents, hence making the process more efficient and equitable. Additionally, the federal government's implementation of this policy would once again alleviate the financial burden currently imposed on states. With regards to financial prospects, the 2024 New York City Comptroller's office showed that free access to representation for all individuals facing deportation would allow

53,000 New Yorkers to remain in communities around the state, which could yield around 8.4 billion dollars in benefits for governments across federal, state, and local levels. This figure is estimated based on the net present value over thirty years of increased tax revenues and decreased required services.

Additionally, as mentioned above, New York City is struggling with providing adequate housing for asylum seekers, contributing to an increasing homeless population. With free access to counsel for all, the Comptroller's report estimated that asylum seekers currently living in the City shelters have the potential to earn upward of \$382 million, and if all working-age asylum seekers are granted work authorizations, this figure could increase to above \$470 million (Stanton & Callahan, 2024). The current proposal A01961 bill, the Access to Representation Act, estimates the fiscal implications for providing free legal representation to all immigrants in New York State to be \$300 million.



**Methods/Sources of Data**

**Method:** The paper relies on concrete data collected from databases, including ProQuest and TRAC. Moreover, the paper also explores secondary sources from existing literature, including published articles reporting on the current realities of the immigration system, law review articles focusing on immigration law and the constitutionality and legality of extending the right to counsel to immigration, and research on immigration and immigration representation. Additionally, the paper draws from personal communications with two experts, one who has undergone the proceedings to seek refugee status and one who is an immigrant and has supported others in seeking asylum in the United States.

## Summary Findings

### I. Current Practices in Navigating the System

- Immigrants need to use legal resources and assistance from different organizations and agencies, known as "precarious legal patch working" (PLP) method. PLP can lengthen the detention time, overcomplicate the case, and/or become unreliable (Martinez-Aranda, 2023).
- Non-detained aliens are **five times** more likely to be represented in comparison to detained individuals (Early & Shafer, 2015).
- Representation rate also varies significantly based on court jurisdiction (Early & Shafer, 2015).
- Non-citizens from China are represented **92%** of the time compared to people from Mexico who only obtain representation **21%** of the time (Early & Shafer, 2015).
- Small or solo law firms have the **lowest level** of success in cases as compared to other legal resources (Martinez-Aranda, 2023).

### II. The Role of Lawyers

- Represented individuals have a successful outcome at **46%** of the time as compared to unrepresented individual who only achieve a success rate of **6%** (Caplow, Markowitz, Annobil, Cobb, Morawetz, Root, Slovinsky, Cheng, & Nash, 2011-2012).
- With representation, detainees are more likely to submit documents, make affirmative arguments, and present legally relevant arguments (Ryo, 2018).
- Non-citizens represented by an attorney are **four times** more likely to be released from detention and **twice** as likely to get relief (Emamdjomeh, 2022).

### III. Current Immigration System and Its Efficiency

- The immigration detention is estimated to cost about **\$120** per person, per day (ICE, 2020). The average daily cost of holding a person in detention can go as high as **\$775** per day for beds in cities along the border that hold unaccompanied children (Galli-Graves, 2023).
- In some courts, there are **32 to 48 immigration cases** per week (Katzmann, 2008)

#### **IV. Current Movements**

- Vera and the National Partnership for New Americans (NPNA) launched Fairness to Freedom: The Campaign for Universal Representation.
- New York City Council funded the New York Immigrants Family Unit Project
- The American Civil Liberties Union are organizing the Immigrants' Rights Project
- New York Immigration Coalition are campaigning for the Access to Representation Act

#### **V. Current US Immigration system within a global context**

- A recent Human Rights Watch's written testimony submitted to the US State Department alleged that the US government conduct as it pertains to the use of criminal punishments in response to illegal entry is racially discriminatory (Parker, 2022).
- ICE is found to be more likely to place individual from Africa in solitary confinement and the length of solitary confinement are approximately five days longer when it concerns immigrants from the Middle East (Franco, Patlarm & Reiter, 2013-2017)

## **Conclusion and Recommendation**

### **Conclusion:**

The current immigration system, with its lack of access to counsel, has proven to undermine the rights of immigrants while simultaneously adding to the overburdened and chaotic system. The right to an attorney can provide individuals seeking immigration in the US with a fair chance to effectively represent themselves without relying on unreliable legal providers that can potentially lengthen their cases. An attorney can also help to mitigate the injustices existing in the current practices where individuals from different geographical locations and national origins receive differential representation. Moreover, the presence of an attorney can be considered a third-party liaison between the state and the immigrants, helping to reduce the number of unmeritorious claims and acting as a point of contact for immigration agencies that are already overwhelmed with tracking and ensuring updates on individuals.

### **Recommendation:**

There are multiple ways and channels through which the federal government could provide legal assistance to all immigrants. Firstly, drawing on systems put in place by other Western nations that are destinations for large populations of immigrants, such as Sweden and Spain, the federal government could provide free legal assistance or free legal representation at first instance for all immigrants. Implementing this proposal could manifest in form of legal assistance and/or legal representation for asylum seekers during the affirmative process. The federal government could also provide free legal representation for all immigrants placed in removal proceedings to protect their rights under the current legal system.

The government should consider passing the current Fairness to Freedom Act nationally for more immediate action. This means that nonprofit organizations must put more funding into lobbying the Senate to pass the current bill through the Senate and the House. Given the financial nature of the bill, the government should consider allocating appropriate funding to ensure it can reach every individual it was meant to serve. With regard to citizens' civic engagement, citizens in every state must contact their representatives to advocate for the passing of this bill. Besides passing this historic bill, the government can amend the current legal body by recognizing that expedited removal and prolonged detention are criminal, not civil proceedings. In this case, individuals facing these processes are entitled to an attorney.

If such sweeping legislative actions are not feasible shortly, the government should consider increasing funding for pro bono legal providers and other legal aid organizations to provide immigrants with more resources. If full representation for all is unachievable for most of the immigrant population, legal advice should be the least and final resort that should be made available for every individual to ensure their basic understanding of the legal proceedings facing them. Lastly, the government should increase its public awareness campaign with quick facts on where individuals can go to file their claims and ensure that individuals understand their rights and obligations while staying in the United States.

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## Appendices

### APPENDIX A

**Questions on Form I-589: These questions might be straightforward for native English speakers but could pose challenges for individuals who do not speak the language. Additionally, individuals can commit perjury if filling the form with incorrect information. However, individuals might not be aware of the necessary information to fill certain questions correctly**

A. Have you, your family, or close friends or colleagues ever experienced harm or mistreatment or threats in the past by anyone?

☐ No ☐ Yes

If "Yes," explain in detail:

1. What happened;
2. When the harm or mistreatment or threats occurred;
3. Who caused the harm or mistreatment or threats; and
4. Why you believe the harm or mistreatment or threats occurred.

3.A. Have you or your family members ever belonged to or been associated with any organizations or groups in your home country, such as, but not limited to, a political party, student group, labor union, religious organization, military or paramilitary group, civil patrol, guerrilla organization, ethnic group, human rights group, or the press or media?

☐ No ☐ Yes

If "Yes," describe for each person the level of participation, any leadership or other positions held, and the length of time you or your family members were involved in each organization or activity.

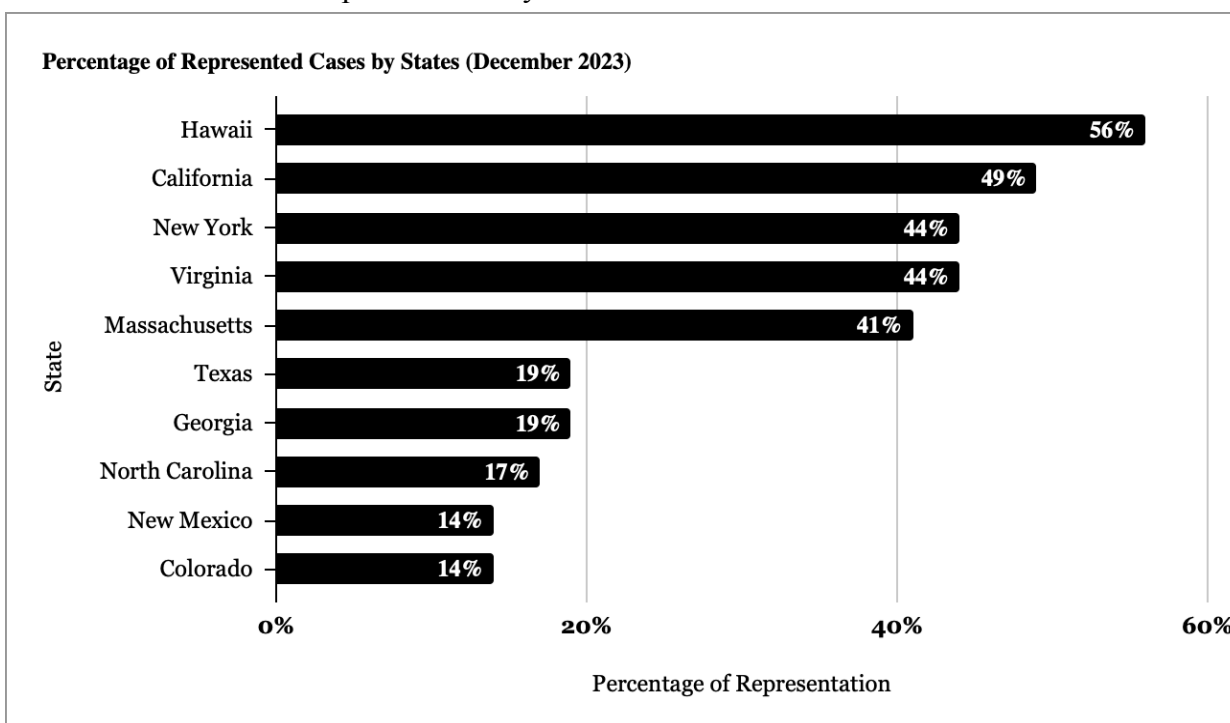
**3.B.** Do you or your family members continue to participate in any way in these organizations or groups?

☐ No

☐ Yes

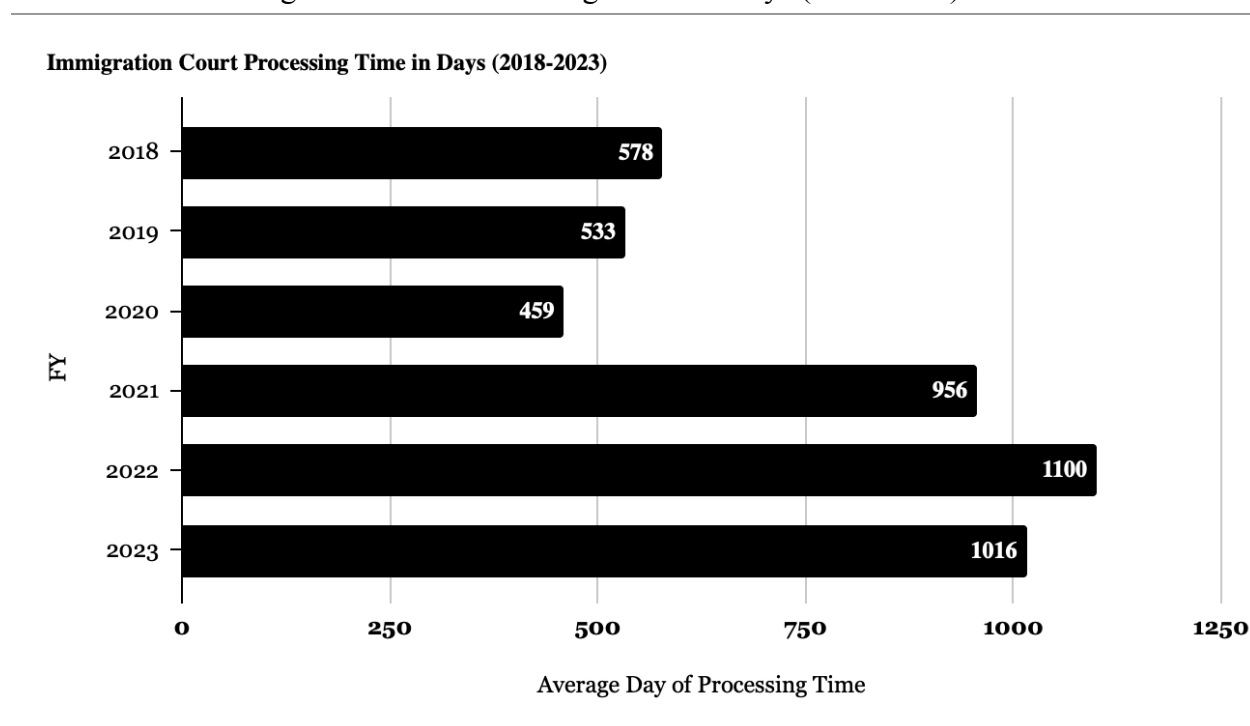
If "Yes," describe for each person your or your family members' current level of participation, any leadership or other positions currently held, and the length of time you or your family members have been involved in each organization or group.

**APPENDIX B: Rate of Representation by Jurisdiction**



*Source: TRAC, 2023*

## APPENDIX C: Immigration Court Processing Times in Days (2018-2023)



*Source: TRAC, 2023*