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Everyone deserves representation

(New York City Council/William Alatríste)

BY Jojo Annobil

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These are uncertain times for immigrants in America, and the urgent need for free and affordable competent counsel in deportation proceedings has never been more critical. The U.S. government continues to aggressively deport tens of thousands of vulnerable, unaccompanied minor children and mothers with children fleeing extreme violence who do not have the benefit of a lawyer.

Moreover, every year, hundreds of U.S. citizens find themselves mistakenly in deportation proceedings. Green card holders who have no memory of living in another country face deportation based on minor crimes oftentimes committed decades ago.

Although the Supreme Court has recognized that deportation — being torn away from one's family and the life a person has built in America — is a severe penalty, there is currently no right to appointed counsel in deportation proceedings, and 63% of all immigrants are forced to represent themselves, with disastrous consequences.

Against this backdrop, the country is bracing for what may be an unprecedented era of enforcement against immigrants. President Trump and his appointees and advisers have talked about deporting millions of immigrants. Such a drastic enforcement measure will overwhelm the immigration bar, especially legal services providers and pro bono (volunteer) attorneys who represent immigrants in removal proceedings who cannot afford a lawyer.

Trump signs order authorizing work on Mexico border wall

Courts have often compared immigration law to the tax code as being one of the most complicated areas of federal law. Even experienced volunteer lawyers who are new to immigration law are only able to take on deportation cases after they go through extensive training and receive mentoring from experienced immigration attorneys.

Immigration judges and even attorneys for the Department of Homeland Security have acknowledged that when immigrants have good lawyers, the deportation proceedings move faster and more efficiently. Those who have no claims to relief or waiver of deportation are more likely to accept deportation quickly, and those who do have a basis to remain in the United States can present their case more effectively.

For immigrants who are detained, giving them lawyers can actually save taxpayers money by moving the case faster and reducing the expense of holding immigrants in jails.

The statistics are daunting. In 2015, unaccompanied minor children forced to represent themselves in immigration court nationwide lost 91% of their cases. But when they have competent counsel, they win 84% of their cases. The children who have arrived recently in the United States are fleeing unspeakable violence inflicted by multinational gangs. Without counsel, they realistically have no chance of avoiding deportation.

Responding to the President's plan to increase immigration enforcement, Gov. Cuomo has proposed an emergency deportation defense fund to assist immigrants in deportation proceedings. The California Legislature and Los Angeles, San Francisco, Chicago, Connecticut and Washington, D.C., officials have also announced similar relief funds to protect their immigrant populations. These visionary leaders recognize the importance of counsel in removal proceedings.

The need for representation is great and will likely stretch beyond the resources that these states and cities can make available. Immigrants will need help from municipalities, foundations and private donors to ensure that they get a fair day in court. Innovative approaches are needed to meet a crisis that will only grow in the coming years.

For the past three years, Immigrant Justice Corps, a fellowship program dedicated to improving the quantity and quality of immigration representation, has been training the next generation of immigration lawyers. In two years, the program has impacted the lives of more than 15,000 immigrants residing in New York City, surrounding counties, New Jersey and Texas with 70 justice fellows (law graduates) and community fellows (college graduates). Additional funding could also assist modest-income earners who are ineligible for free legal services and immigrants who believe that paying for aid no matter how modest gets them better treatment.

In 2007, Judge Robert Katzmann (now chief judge) of the 2nd Circuit U.S. Court of Appeals first challenged the legal profession to meet the representation needs of poor immigrants; justice, he said, should not depend on whether an immigrant can afford a lawyer.

His clarion call rings out loud today. Immigration is America's past, present and future, and we should uphold the core principles of liberty and justice for all.

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<http://www.nydailynews.com/opinion/needed-justice-immigrants-fighting-deportation-article-1.2955736>