Third-Party Brokers: How Administrative Burdens on Nonprofit Attorneys Worsen Immigrant Legal Inequality

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What happens when an administrative burden regime targets third-party brokers? This article describes the experiences of legal aid immigration attorneys during the Donald Trump administration, which made hundreds of changes to immigration law, policy, and processes. Through interviews with attorneys representing thirty-eight nonprofit legal services organizations, I document the learning, compliance, and psychological costs they incurred during this regime. The resulting consequences of these costs to attorneys' caseload size and composition have implications for immigrants' access to free legal services. I argue that targeting administrative burdens at third-party actors on whom people rely for access to government resources and recognition is an effective deterrent and a mechanism for exacerbating unequal outcomes. Future research should examine the impact of administrative burdens on a range of third-party actors who broker people's access to government institutions and resources.

Keywords: third-party actors, immigration attorneys, legal services, immigration law

> It's actually kind of impossible to overstate how fundamentally immigration practice has changed, even though no statute has changed.
>
> —Attorney A10

The administrative burdens literature has traditionally focused on the relationship between individuals and the state. In this article, I argue that the state can worsen inequality by targeting administrative burdens at third-party brokers, particularly when people must rely on brokers to make claims for resources and recognition. Using the case of nonprofit attorneys[1] who represented low-income immigrants mak-

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1. I use the terms *attorney*, *legal aid provider*, *legal services provider*, and *respondent* interchangeably in this article. All respondents were barred attorneys; one was an accredited representative through the U.S. Department of Justice's Recognition and Accreditation program that allows supervised and trained nonattorney practitioners to provide limited representation of clients in affirmative and defensive legal processes.

ing affirmative, humanitarian claims to the United States Citizenship and Immigration Services (USCIS) during the presidential administration of Donald Trump, I demonstrate how third-party brokers regularly bore the costs of increased administrative burdens, or what Pamela Herd and Donald Moynihan conceptualize as individuals' incurrence of learning, compliance, and psychological costs in their effort to comply with government requirements (2018). These costs, in turn, had consequences for attorneys' caseload size and composition and ultimately stratified immigrants' access to representation.

How third-party actors incur administrative burden costs is particularly important in processes where people depend on brokers and gatekeepers for access to claims-making and resources. Seminal scholarship identifies the importance of third parties, or nonstate organizations, and the role they play in lobbying to change burdens, altering citizens' incurred costs, or incurring costs themselves (Herd and Moynihan 2018). Many articles in this double issue also explore the role of third parties in helping people navigate government-imposed burdens, including (all in this volume, issue 5) Jennifer Bouek's (2023) study involving childcare providers, Hana Brown's (2023) exploration of tribal governments, and Stefanie DeLuca, Lawrence Katz, and Sarah Oppenheimer's (2023) study of how housing navigators help people seeking high opportunity neighborhoods. However, scholarship has underexplored third parties as the objects of administrative burdens. The case of immigration attorneys as third-party actors who incur administrative burden costs illustrates how targeting third parties can be an effective downstream deterrent against people making claims to the state.

Third-party brokers have been important actors in efforts to increase immigrant inclusion and fight against immigrant removals. Immigration system processes, as Blair Sackett and Annette Lareau (2023, this issue) demonstrate, are full of institutional knots that reverberate across agencies. This is true of claims to legal status, an institutional process that can reverberate into consequences as costly as deportation orders and removal from the United States. A key concern for scholars, policymakers, and advocates regarding immigrants' ability to make legal claims for legalization and against deportation has therefore been their access to lawyers. Immigrants do not have a right to a lawyer in any immigration legal proceedings, including affirmative application processes or court-based, adversarial removal proceedings. Because studies have shown that immigrants with representation are more successful in a variety of legal proceedings than those who are not (Eagly and Shafer 2015; Ryo 2016), increasing immigrant access to representation has been the focus of many local and national policy efforts.

Immigrants also have differential access to existing representation. Scholarship on immigration lawyering has shown key stratifying mechanisms. First, not all immigrants can afford private legal representation, especially for the majority of undocumented immigrants, who are low income (Migration Policy Institute 2018). Second, free or low-cost legal aid is scarce. Nonprofit attorneys, restricted from most federal legal services funding, rely on private donations and local or specialized government grants to support their work despite high client demand. These barriers to access are mirrored by statistics showing that the vast majority of immigrants in removal proceedings do not have a lawyer (Eagly and Shafer 2015). Issues of access to representation mirror those in other areas of civil legal aid, where an attorney is not guaranteed and free and low-cost representation is not enough to meet demand (Sandefur 2007).

This article explores two research questions. First, how does an administrative burden regime (Moynihan, Gerzina, and Herd 2021) affect third-party brokers of immigrant legal pathways? Second, what are the potential consequences for immigrants' access to legal representation and legal status? Interviews with attorneys representing thirty-eight legal aid organizations in two East Coast metropolitan areas show how dramatic changes to immigration law and policy led to an environment of intense legal uncertainty. This was true for even attorneys in two politically liberal, immigrant friendly locations that were far from the U.S.-Mexico border, the site of many newswor-

thy migration and enforcement activities during the Trump administration. This environment of uncertainty resulted in a significant rise in their learning, compliance, and psychological costs. Attorneys described spending more time, effort, and resources on learning about these dramatic changes; complying with new, obtuse requirements and higher adjudication standards; and responding to overwork, secondary trauma, and burnout from feeling inadequate. Incurring these costs, in turn, changed how attorneys managed their overall caseloads. Attorneys reported decreasing the number of cases they could represent and being more selective in what types of matters and clients they take on—excluding many immigrants with more difficult, less winnable cases from representation. By doing so, they inadvertently exacerbated inequality among undocumented and vulnerable immigrants' access to representation, the legal status application process, and the types of stories and claims made to the state. Attorneys saw these dramatic changes as the Trump administration's attempts to deter immigrants from claiming legal status and slow down the application process. They understood themselves to be targets given their engagement with federal bureaucracies that adjudicated their clients' applications.

My findings provide an example of how the state can strategically increase administrative burdens on third-party brokers when they want to limit individuals' access to resources, services, and recognition. These findings accompany recent scholarship on administrative burdens in the U.S. immigration system and years of news reporting, advocates' reports, and advocacy stories about the challenges imposed on the immigration system during the Trump administration (Davis 2019; Rampell 2020). Advocates argued that these changes were evidence of the administration's strategic intent to limit immigration and deny immigrants their rightful benefits. Examining the impact of these burdens on those most equipped to navigate the Kafka-esque (Moynihan, Gerzina, and Herd 2021) immigration system may confirm many advocates' suspicions. I suggest that increasing our attention to cases when people depend on third-party brokers to access resources, such as abortion funds and civil legal aid, may deepen understandings of administrative burdens on the poor and how these strategic burdens can exacerbate inequality.

LITERATURE REVIEW

The immigration system is a vast, complex, multiagency, and multijurisdiction system led by the federal government and governed by several sources of legal authority. Noncitizens in and coming to the United States must contend with this bureaucratic system at many points and across many agencies, whether interfacing with U.S. Department of State's overseas consulates and the National Visa Center to enter the country; answering questions by Customs and Border Protection officers at a point of entry such as an airport or national border; submitting applications to U.S. Citizenship and Immigration Services (USCIS) to secure or renew legal authorization to work, stay, or travel abroad; or fight efforts to be removed by Immigration and Customs Enforcement (ICE) within the immigration courts. Immigrants' legal status also creates an additional set of complications in navigating institutions such as education (Nichols 2020), healthcare (Horton 2004; Marrow 2012), social services (Heinrich 2018), marriage (Longo 2018; Pila 2016; Rodriguez 2016), and the criminal legal system (Beckett and Evans 2015; Armenta 2017; Arriaga 2016). At every point of institutional contact, noncitizens are met with a bevy of administrative burdens to prove who they are, why they are there, and their eligibility for resources and recognition.

As many immigration advocates, policymakers, and scholars have pointed out, the hundreds of changes made by the Trump administration to every imaginable facet of the administration of immigration law and policy between 2016 and 2020 greatly increased the number of administrative burdens within an already complex and burdensome system (Pierce and Bolter 2020). The consequences of these wide-reaching changes included exclusion of entire groups of people from certain immigration statuses and related benefits and increases in wait times in both affirmative and defensive legal processes (GAO 2021). This increase in burdens via formative executive legal powers and formal administrative directives,

rather than any federal legislation, constituted a dramatic "regime of administrative burdens" (Moynihan, Gerzina, and Herd 2021) that intentionally (Peeters 2020) conducted anti-immigration "policymaking by other means" (Herd and Moynihan 2018). The increased administrative burdens had a host of learning, compliance, and psychological costs on immigrants—all of which scholars and advocates speculate were part of the Trump administration's efforts to decrease overall immigration, including the legal immigration of people from countries deemed unfavorable (Moynihan, Gerzina, and Herd 2021).

ADMINISTRATIVE BURDENS IN THE HUMANITARIAN STATUS PROCESS

To illustrate how even a single process within the immigration system is rife with administrative burdens, this article examines applying for humanitarian legal status with Citizenship and Immigration Services. First are the significant learning costs for applicants to even know about humanitarian status pathways. Although the news media has broadly promulgated information about asylum as a potential legal status for migrants who have experienced persecution, immigrants may never learn about a range of other humanitarian statuses, each with their own specific eligibility criteria.

Second, the compliance costs of applying for humanitarian status include proof not only that the applicant meets the eligibility criteria, but also that they are legally allowed to immigrate at all. Each status includes proof of having experienced some kind of qualifying victimization, suffering, or abuse, which includes—despite "any credible evidence" as the legal standard—police reports, medical provider documentation, and the applicant's written narrative. Several statuses require corroboration from a third-party government agency, such as local or federal law enforcement or family court judges, that the applicant does indeed meet a standard of suffering. Some require applicants to report their victimization and be sufficiently helpful in investigations and prosecutions; for instance, the U visa for victims of severe crimes requires government agencies to formally support the application before the applicant can submit to USCIS. Applicants must also prove that they were admissible at the time of entering the country and, if not, comply with the requirements for special waivers of inadmissibility. Complying with these requirements involves completing multiple lengthy application forms, providing extensive personal histories, and submitting numerous supplemental documents.

Third, immigrants undergoing this application process experience numerous psychological costs. In addition to having experienced past or future fear of violence, victimization, or abuse that qualifies them for humanitarian status, applicants must now retell this experience numerous times at various points of the process to many actors (Tenorio 2020). Applicants feel pressure to self-modulate their stories and the way they narrate their qualifying experiences so that they are legible to both immigration system adjudicators and nonimmigration third-party actor as both "good" immigrants who deserve legal status in general and "deserving" victims who should receive protection on account of their desire to participate in investigations and prosecutions of their abusers (Galli 2018, 2020; Villalon 2010).

ROLE OF THIRD-PARTY IMMIGRATION ATTORNEYS

Given the many administrative burdens in the humanitarian legal status application process, the role of lawyers who help immigrants navigate this process is especially important. Immigration lawyers are similar to other third-party actors in that they decrease the learning costs for people (immigrants) wishing to apply for a government benefit (legal status) (Herd and Moynihan 2018). They reduce the psychological costs for immigrants by communicating the government's rules, eligibility criteria, and individual advocacy throughout the potentially years-long process between seeking and finally receiving status. Nonprofit attorneys who are required to only serve low-income immigrants also potentially mitigate burdens inequality between those who can pay for an attorney and those who cannot.

The seminal literature and subsequent empirical studies have highlighted the role of third-party actors in changing or mediating people's experiences of administrative bur-

dens, such as nongovernmental organizations helping gender minorities seek legal identification from the state (Nisar 2018). Less work examines how third-party actors can bear the brunt of burdens themselves (for an exception that describes how nonprofit social services organizations also bear the harms of administrative burdens that target their clients, see Heinrich et al. 2022). The case of nonprofit immigration attorneys who help undocumented and otherwise vulnerable immigrants seek legal status is a prime case for examining the impact of burdens on third-party actors and what the potential consequences can be for both these actors and the people who rely on their help. In this case, legal representation is important for immigrants seeking to regularize their status or defend themselves against deportation precisely because attorneys help lower clients' administrative burden costs. Many local policy interventions have taken the form of financial support for legal aid organizations and other attorneys to provide free or low-cost legal services for low-income immigrants. Numerous past and ongoing efforts nationally and by the federal government have focused on expanding access to legal representation for immigrants in a variety of legal postures, including those undergoing removal proceedings and children presenting alone at the U.S.-Mexico border.

Immigration lawyers do several things when representing their clients: they assess clients' stories and histories for eligibility, evaluate the risk to the client of applying, communicate the potential benefits if the client does indeed get humanitarian status, and help the client understand next steps, activities, and potential timelines (Galli 2018; Lakhani 2013, 2014; Villalon 2010). They interface between their clients and the government, playing a key brokerage role in clients' access to claims-making.

Yet attorneys can also gatekeep, advertently or inadvertently, immigrants' access to this process. They play a selection role in determining who among their pool of potential clients they will represent fully. In the legal aid and nonprofit legal services context, attorneys must choose who to represent from a pool that is much larger than they have capacity. Because of their nonprofit nature, they may have income thresholds, funding streams, or organizational missions that help dictate whom they represent (Siliunas, Small, and Wallerstein 2019). As attorneys who gatekeep access to legal institutions (Zacharias 2004) and nonprofit workers who broker government resources (Siliunas, Small, and Wallerstein 2019), their client selection processes are important to understanding who can make legal status claims that are ultimately submitted to USCIS.

This article argues that administrative burdens, when targeted at third-party actors who play a brokerage role between people and the state, can effectively damage third-party capacity for assistance. Specifically, I argue that targeting administrative burdens at third-party actors can exacerbate existing inequality in who is selected for representation and who is not. The rest of the article describes the learning, compliance, and psychological costs nonprofit immigration attorneys incurred during the administrative burden regime of the Trump administration, and how the dramatic growth in incurred costs had direct consequences for the size of providers' caseloads and the composition of matters they represent.

DATA AND METHODS

These findings are based on analyses of thirty-eight semi-structured interviews with legal services attorneys in two metropolitan areas. I conducted interviews between March 2019 and February 2021 as part of a larger study on how immigration attorneys in a variety of organizational settings make representation decisions for immigrants seeking humanitarian legal status. Table 1 provides an overview of the victimization-based legal statuses for which respondents screened potential clients.

Respondents represent nonprofit organizations and law school clinics that provide free or low-cost legal services to immigrants in two study sites. These organizations range from social services or victim services organizations with a dedicated immigration law unit to organizations whose dedicated mission is to provide legal or social services to immigrants. Table 2 provides an overview of legal services organization types by study site. Interviewees ranged from a staff attorney with a focus on victimization-based relief to a director or manager of legal services at the organization.

Table 1. Victimization-Based Legal Statuses

Legal Status	Recipients	Requirements
T visa	Victims of human trafficking	Reported victimization to law enforcement, and cooperated with requests for assistance in investigation and prosecution
U visa	Victims of severe qualifying crimes, including domestic violence, sexual violence, physical assault	Reported victimization to law enforcement, cooperated with requests for assistance in investigation and prosecution, and received certification by investigating agency
Violence Against Women Act (VAWA) self-petition	Victims of domestic violence perpetrated by a U.S. citizen or legal permanent resident.	Bona fide marriage to a U.S. citizen or legal permanent resident
Special Immigrant Juvenile Status (SIJS)	Youth victims of child abuse, neglect, or abandonment by at least one parent.	Family or juvenile court order that it's in the best interests of the child to remain in the United States.
Asylum	Victims of gender-based violence from certain countries	Potential future harm if returned to home country

Source: Author's tabulation based on USCIS 2018.

The study sites are two East Coast metropolitan areas that have many similarities. They both consist of a politically liberal urban center, with a mix of liberal and more conservative suburban and rural outer jurisdictions. Both sites therefore share many pro-immigrant policies, such as limits on law enforcement participation with federal immigration enforcement, language access in government agencies, driver's licenses and other public and social benefits for undocumented immigrants, and local government and foundation funding for immigrant legal services. Their immigration courts have among the highest asylum grant rates in the country. Attorneys regularly acknowledged practicing immigration law in some of the most favorable regions in the country, understanding their experiences as best-case scenarios despite the overwhelmingly chaotic and negative legal environment during the Trump administration.

Table 2. Legal Services Organization Characteristics

	N = 38
Organization type	
Immigration	16
Law school legal clinic	7
Legal services	5
Social services	4
Victim services	6
Primary victimization focus	
All forms	27
Domestic violence	5
Human trafficking	2
Sexual violence	2
Child abuse and neglect	2
Site	
A	16
B	22

Source: Author's tabulation.

DATA COLLECTION AND ANALYSIS

This study began approximately two years after the start of the Trump administration. I was initially interested in how lawyers who represented immigrant survivors of human trafficking were responding to the new administration's policy changes. Through various anecdotal accounts reported by the news media, these providers were speaking out about how these changes attacked immigrant survi-

vors of human trafficking, despite the special protections they had as potential T visa recipients and ultimately legal permanent residents or U.S. citizens. While conducting the initial interviews, I quickly learned that the T visa is only one of several legal statuses for which attorneys would assess potential immigrant clients and that all applicants of humanitarian status experienced similar new challenges. Subsequent respondent sampling included all nonprofit attorney types who represented victimization-based statuses.

I recruited respondents by examining publicly available online directories of immigrant legal services and victim services organizations and emailing representatives of each organization inviting them to participate in the study. Ultimately, I conducted seventeen interviews in person, eighteen by phone, and one by Zoom video conference. Interviews ranged from thirty minutes to almost three hours. At the end of each interview, interviewees recommended two or three other respondents or organizations to triangulate my initial online sampling and for snowball sampling purposes. I also wrote post-interview field notes to capture initial impressions, new and repeated empirical and theoretical insights, and researcher reflexivity.

The interviews covered several topics, including but not limited to respondents' professional backgrounds, their organizations' missions and histories, their day-to-day work as legal aid attorneys, how they select clients, how they make representation decisions throughout the life course of a client's case, and their perspectives on a range of immigration policy topics that include recommendations for legal reform. Although I expected respondents to discuss the impact of immigration policy changes on their clients who were survivors of crime, I did not expect the extent to which attorneys shared their daily struggles doing their jobs. Respondents were extremely willing to vent about the changes imposed on their day-to-day work by new bureaucratic and administrative requirements—many of which they considered palpably different from those imposed by the previous administration. I did not frame any interview questions around the concept of administrative burden; upon learning about the administrative burden literature a year after data collection had ended, I realized this framework effectively and thoroughly described attorneys' complaints about legal and policy changes and their experiences practicing law during this era.

I audio-recorded all but two interviews and either transcribed with automated transcription assistance software Temi or outsourced for professional transcription. I took detailed, verbatim-level notes for interviews with two respondents who declined recording. With the assistance of qualitative data analysis software NVivo, I conducted several iterations of coding on the completed interview transcripts using the flexible coding method (Deterding and Waters 2021). I first applied index codes that captured broad, descriptive swaths of the transcripts, followed by analytic codes that applied administrative burden themes to relevant index-coded parts of transcripts. The findings discussed here come from two rounds of analytic coding from which I captured respondents' reported costs of administrative burdens—compliance, learning, and psychological costs—and the consequences of these costs. Using the flexible coding method, I applied these administrative burden-specific codes to already index-coded sections of the transcripts that captured descriptive legal changes and the outcomes of these changes to respondents, their organizations, and their clients.

FINDINGS

> "The cruelty is the point."
>
> —Attorney A10

When reflecting on their experience representing immigrants seeking legal help during the Trump administration, nonprofit attorneys reported perceiving dramatic changes to immigration policy that increased existing administrative burdens on the humanitarian status application process. These changes were dramatic for three reasons. First, they noted the sheer number of changes in the law, which numbered in the hundreds (Pierce and Bolter 2020). Second, they reported an increased frequency in these changes, with attorneys noting they felt changes occurred on a daily or weekly

basis. Third, they commented on how these polices affected a wide breadth of immigration law. Respondents noted changes that ranged from ones affecting their direct day-to-day work and the lives of their clients to areas of the law that were only tangential to their practice. These changes also affected not only processes at specific immigration agencies, such as the U.S. Citizenship and Immigration Services or the immigration courts, but national border policy, discretionary decision-making by immigration actors across agencies, and eligibility for certain legal statuses—all via legal authority such as federal regulations, executive orders, federal agency practice, and administrative case law.

As a result of these changes, nonprofit attorneys described practicing law in an environment of intense legal uncertainty that made their day-to-day jobs significantly more difficult than under the previous presidential administration. Many respondents shared the view that immigration law was already among the most difficult areas of law to practice; the sheer number, extent, and frequency of changes during the Trump administration only increased its complexity. As one attorney explained, "Immigration's always been a form of law where you need to really be on top of changes, but now it seems like policy changes are happening so regularly. . . . But it's really essential for us to keep track of all updates and changes because it can affect our ability to file certain applications, to include certain family members, to meet certain deadlines, to see if our client is eligible for certain class actions. So it's keeping us more vigilant" (Attorney B03).

Most attorneys understood these changes to be the administration's acting on its anti-immigration campaign promises. Respondents pointed to the deterrent effect these changes have on immigrants' desires to regularize their status through existing legal pathways, of which humanitarian and victimization-based status is one. As one attorney put it, the flood of small changes to the application process are "death by a thousand cuts" (Attorney B22) to humanitarian pathways to status. Attorneys also understood the administrative nature of these changes to be the Executive Branch's attempts to change immigration policy while bypassing federal legislation. As one provider explained, "[The current administration] actually can't change the fact that VAWA [the Violence Against Women Act] exists. . . . So they do the next best things. They look at all of the ways in which applying for these would be harder. . . . 'We're going to attack all the ways, all the ancillary ways that we possibly can to discourage people from applying because we can't just take away the application'" (Attorney A10).

In essence, attorneys viewed these changes as intentional (Peeters 2020) "policymaking by other means" (Herd and Moynihan 2018).

Attorneys often compared their current era of immigration policy with that of the administration under Barack Obama. They frequently acknowledged that the Obama administration was not perfect when it came to immigration policy, particularly in how it increased immigrant deportations. The nonprofit attorneys in this study—who primarily represented affirmative, humanitarian-seeking clients who were victims of crime and persecution—also acknowledged that their clients were not the target of Obama-era deportation policies that focused on "felons not families" (Thompson 2014). However, they saw the Trump administration's attacks on immigrant victims as a sign of its intentional anti-immigrant cruelty. One attorney explained: "I think immigration attorneys have always thought things were bad, but there's a difference between bad and worse. . . . domestic violence is a particular one I could give you an example of those types of claims are much harder to win now. That was not true under the Obama administration" (Attorney A11).

Respondents identified this anti-immigrant strategic intent behind changes in USCIS's processes that attacked immigrant survivors and other eligible applicants. First they perceived a cultural shift within an agency that they viewed as historically representing the benefits-giving arm of the immigration system, as opposed to ICE as the enforcement and removal arm. Now they perceived USCIS to be a benefits-denying agency—"it seems like a directive to aim to deny rather than aim to approve" (Attorney A05)—evidenced by their increased, often unreasonable demands for more evidence from applicants. USCIS had also become implicated in enforcement efforts due to an Executive Or-

der that linked denied applications to removal proceedings (USCIS 2018; see also ILRC 2020). "Definitely in the past, USCIS was the more friendly place, and they would say themselves that they're not focused on enforcement. . . . They would differentiate themselves from ICE or DHS [Department of Homeland Security]. And I think now that distinction has sort of been blurred" (Attorney A17).

Second, respondents noted the application backlog within USCIS has increased astronomically, so that applications they helped clients file in a previously more friendly administration were now being adjudicated during an unfriendly one with unpredictable and potentially unfavorable outcomes. One provider explained, "The feedback loop on immigration, especially in certain forms of relief, are really slow. So what you submitted six months ago might not be what you submit today, and what you submitted four years ago you don't really have control over at this point" (A19).

This change, too, they attributed to the Trump administration's attempts to damage the agency in order to damage their clients' pathways to legal status.

COSTS TO THIRD PARTIES

Nonprofit attorneys also saw themselves as targets because of their role in helping immigrants navigate these complex processes. Several respondents cited what they perceived to be anti-immigration lawyer bias within the Trump administration, including former Attorney General Jeff Sessions's comments that "dirty immigration lawyers" were purposefully encouraging immigrants to make fraudulent claims for status, which attorneys interpreted to mean that they themselves were the "dirty" lawyers (Sessions 2017). According to attorneys, these changes illustrated strategic intent by the administration to attack immigrants vis-à-vis their advocates. One respondent identified the changes as "trying to wear down the advocacy community" (Attorney B6). Others thought the administration was directly attacking their organizations or purposefully making their jobs harder to "throw people off" (Attorney B11). Because the attacks on the already complex legal system often involved changing minute, tedious procedures and eligibility criteria within USCIS applications and processes, the result was significant administrative burden costs to legal aid providers.

LEARNING COSTS

> "We can't keep up."
>
> —Attorney A05

Attorneys incurred many learning costs while practicing law during the Trump administration, including spending more time learning about policy and procedural changes, effectively communicating changes to their clients and other practitioners, and consulting with other members of the immigration legal bar. Although attorneys were clear that they could not promise clients a particular application outcome, they described being able to make informed representation decisions by drawing on what had worked in successful applications. As one respondent explained, "your ability to serve clients well depends on your ability to predict the future based off of your knowledge of law, regulation, local practice" (Attorney B18). The increase in legal uncertainty, however, meant they could no longer rely on this knowledge to make "predictions about their case and counsel them about what to do" (Attorney A11).

The increase in changes was accompanied by a decrease in communication channels between attorneys and the government agencies that adjudicated their clients' applications. Attorneys in both study sites mentioned no longer being able to use specific USCIS service center telephone hotlines and email addresses to ask questions, check on case updates, and solve problems. They also no longer had access to government actors in their local USCIS field offices via local conferences, community stakeholder meetings, and other formal and informal information-sharing. In the absence of these agencies explicating why these channels had disappeared, attorneys attributed these changes to further attempts by the administration to deter effective legal representation of immigrants.

Attorneys also criticized the lack of transparency around some changes. Although some large proposed and actualized changes, such as

new fees for applying for asylum, required a months-long notice and comment period and received widespread media attention, others, such as a change in adjudication practice for a specific form, were never publicly announced. Attorneys lamented how they often discovered these changes only after other attorneys filed certain applications, only to see them be denied or returned. For example, one attorney discussed learning about changes to a certain waiver through trial and error: "Generally, we didn't have issues with [waivers of inadmissibility]. All we did was provide proof and ask for the waiver. And then we just started seeing one after the other get rejected and rejected and we couldn't figure out why, because none of these details and changes were being posted" (Attorney B11).

Because of the lack of regular communication and transparency around these changes, staying up to date with announced and unannounced changes to immigration law and bureaucratic processes at USCIS became incredibly time-consuming for attorneys. Respondents consistently brought up the time required to learn about new changes and understand their implications for their entire caseload, including past, current, and future clients, and alter their representation strategies in response. Several attorneys described the tiring activity of regularly looking for changes, whether that meant reading the news, looking for email announcements, or even checking President Trump's Twitter feed: "I tried to stay away from the news first thing in the morning. But we can't keep up. . . . I find that at least an hour of my time is going to pull all the articles, all the updates, what has changed" (Attorney A06).

Attorneys had to then communicate these changes to their clients, for whom eligibility for certain statuses or ability to apply might be affected at any moment. Because of the sheer scope of changes, attorneys also developed an informed understanding of and communicated inapplicable changes that received wide attention in the media or from clients' friends, families, and communities. Several respondents mentioned how they spent time understanding the 2019 proposed public charge rule and, despite humanitarian status recipients being statutorily eligible for public benefits, explaining to fearful clients why they may be exempt. One respondent illustrated this learning cost:

> Disentangling what the rule is and who it applies to takes up an inordinate amount of time. . . . And then if we have someone that the rule applies to, the paperwork associated with it is going to go through the roof. . . . So explaining that to people is also very time consuming. . . . I mean this one rule is the one that dominates my time more than any other. Every time it's on the news, if I see it on the news, on Univision, I know that the next day I'm going to have three or four phone calls about what it means. It's like clockwork. Like when the Supreme Court ruled in January [2020], came in the next day, I was like I might as well clear my morning because I'm going to be sitting by the phone. (Attorney A10)

Attorneys also increasingly communicated these changes to other practitioners—including the training of internal staff, experienced or new; pro bono attorneys or attorneys new to immigration law; or students participating in law clinics or other nonlawyer volunteers. For example, "We have weekly case reviews that are increasingly being used, rather than to talk about specific case issues, they're being used to talk about practice updates" (Attorney B17).

To understand these changes and the implications for clients, attorneys reported increasingly relying on their larger professional community of immigration attorneys. Attorneys from larger organizations with dedicated technical assistance projects would often promulgate information to other practitioners, which respondents who led smaller legal teams appreciated. They also cited professional organizations, such as local chapters of the American Immigration Lawyers Association, immigration law advocacy groups, state or local groups of attorneys, and email listservs and online groups as main sources of information-sharing and collaboration. They also referred clients and cases to each other if they did not have the time to understand a complex legal issue in which another attorney held expertise: "We

have statewide coalitions, we meet regularly, we have statewide listservs, and they're used very regularly to kind of coordinate. I mean everyone ultimately, each attorney's office has to kind of make their decisions, but we do have a lot of conversation as policies change about what different offices are doing, how people are approaching it. We do some sharing of resources and things where we can, and that is really helpful when there's so many changes happening all the time" (Attorney A19).

In summary, the number, breadth, and frequency of changes to immigration law during the Trump administration led to attorneys experiencing a significant increase in learning costs. These time- and effort-consuming learning costs involved not only staying up to date on and understanding the implications of changes, but also communicating these changes to their clients, staff, and partners and increasingly relying on the assistance of other practitioners.

COMPLIANCE COSTS

> "In every case we do . . . the eye of the needle gets smaller and smaller."
>
> —Attorney A13

Attorneys also incurred new compliance costs because of three often-cited changes to humanitarian status application processes within USCIS: new requirements, many existing and new requirements that no longer made sense, and more adjudicator scrutiny over evidence needed to prove these requirements. Attorneys perceived these compliance costs as evidence that USCIS had experienced an internal cultural shift from a benefits-giving to a benefits-denying agency. Applications for humanitarian legal status have several components, including the application form itself, supplemental forms for applicants' eligible family members, the applicant's narrative, a fee waiver for low-income clients, and a waiver of inadmissibility for clients who had entered without inspection (that is, were not examined at a port of entry). Many applicants also apply for employment authorization and, down the line, adjust their status to permanent residency. After submitting an application, attorneys anticipated receiving and responding to Requests for Evidence (RFEs), which was the primary method of communication from USCIS.

First, the new enforcement of additional requirements by USCIS resulted in an increase in workload. Attorneys mentioned changes that were frustrating to comply with because their time-consuming, drawn-out nature often resulted in denied or returned applications they needed to refile. These included frequent updates to certain application forms that rendered completed or filed applications obsolete, the blank spaces policy required attorneys to write N/A for any form field that was not applicable rather than leaving it blank, the use of blue rather than black ink, and changes to requirements for fee waivers.[2] For example, many attorneys mentioned how fee waivers, which their largely low-income clients could easily secure in the past, suddenly required new forms of income proof that they did not need before—leading to de facto discrimination against their clientele who were meant to be the beneficiaries.[3] As this respondent explains:

> Until about a year and a half ago, the specific unit within USCIS that handled humanitarian cases like U visas and T visas had a very flexible and generous fee waiver policy, and that has gotten much tighter. Even more recently, there was a change in the fee waiver itself. Previously, receipt of means-tested public benefits was a basis for receiving a fee waiver. . . . They proposed a change—well, they didn't propose a change, they implemented a change to the form in November that erased that basis for seeking a fee waiver. No comment, just "we're changing the form.

2. Although humanitarian status applications themselves do not have a filing fee, unlike many other applications with USCIS, many clients entered without inspection and therefore needed a waiver of inadmissibility (Form I-192). The Form I-192 costs roughly $900 to file at the time and has an accompanying fee waiver.

3. Carolyn Heinrich (2016) finds similar discriminatory outcomes against beneficiaries in her study of a South African cash transfer program.

> Oh and by the way, receipt of means-tested benefits is no longer a basis for a fee waiver." (Attorney B17)

This change resulted in many attorneys needing to do more work to correct returned applications and secure more documentation to prove clients should be eligible.

Second, respondents described needing to comply with what they saw as nonsensical, inconsistent, or impossible-to-satisfy requirements. When discussing the fee waiver change, attorneys noted that the new documentation requirements did not make sense for their largely undocumented client population, who did not have work authorization, and therefore could not provide tax returns to prove their qualifying income levels. Clients applying for VAWA or U visas because they were victims of domestic violence may not have access to documents kept by their abuser or perpetrator. One attorney explained: "We started getting responses regarding this type of proof, such as income tax returns, will be accepted to prove that a person's low income. Well, a lot of the people that we work with don't have Social Security numbers. Not everybody files taxes. And that has become another nightmare where we just had to figure out and get creative in how we request a fee waiver now" (Attorney B11).

Others brought up examples of inconsistent adjudication of a form or fee waiver for members of the same family who had the same set of facts in their background. When they could not satisfy these new requirements, some attorneys bypassed the fee waiver altogether by using organization funds or fundraising specifically to cover these fees, or resubmitted applications with hopes of getting an adjudicator who has more favorable discretion: "There's a lot of times we'll resubmit fee waivers four or five times hoping to get the right person because there's nothing more we can do for it. And so we're killing trees but we'll get that fee waiver one way or another" (B16).

Attorneys also expressed frustration at receiving RFEs that asked for information already provided in the application file, which only increased application adjudication timelines. Some respondents speculated the reason for these RFEs was a lack of attention and care on the part of USCIS, and others speculating this to be an intentional tactic to slow down legalization processes. Attorneys described using clearer labeling techniques, such as Post-its and dividers, to prevent an RFE for information they had already submitted.

Third and perhaps most significant, respondents overwhelmingly described a shift toward more scrutiny and higher standards of adjudication for almost all parts of the application. As one respondent put it, "the law hasn't really changed, but how people read the law is what is changing" (Attorney A06). Almost all attorneys reported an increase in the number of RFEs they were receiving on submitted applications ("It's been raining RFEs" —Attorney B10), many of them demands for more documentation and proof that the applicant met the underlying eligibility and requirements for their visa and the accompanying waivers. Large shifts in case law also meant certain bases for applying for asylum, such as gender-based violence or family membership, took much more time and effort to prove eligibility.

Because humanitarian status is for people who have experienced some form of suffering, violence, or abuse, respondents perceived the standard for suffering to have increased during the Trump administration. One respondent discussed an example when a previously acceptable form of proof on the U visa's requirement for severe harm was denied because the harm did not rise to a new standard of severity: "We have had some U visa cases denied on the harm prong. 'Oh it says here, the police report says that you were thrown to the ground, but when you were admitted to the hospital, they noted no lacerations were noted on the form,' things like that, which makes your blood boil" (Attorney A13).

Respondents incurred many compliance costs to respond to these higher standards of adjudication. First, attorneys discussed increasing the amount of evidence and documentation to prove an applicant met legal requirements, some describing it as overinclusion. The same attorney who discussed receiving a

denial because the client's suffering was inconsistently documented described her organization's new techniques for evidence inclusion:

> We're treating it much more, for example, like a personal injury litigation case where we're getting documents from every provider. Where we used to feel pretty good about, "Here's the emergency room the day of the incident. You went to the emergency room and here are the notes they made of your record, but it doesn't make sense for us to get a CD of your x-ray. It doesn't make sense for us to, you know, we don't need to bring in your primary care provider's notes of your follow up visit a week later," things like that. And now we do. (Attorney A13)

Second, attorneys modified their involvement in the writing of clients' affidavits and statements. They made more effort to ensure that clients' narratives were written in a way that, though still truthful to their stories, represented their qualifications and eligibility for relief in the clearest and strongest way possible. This was often frustrating for attorneys, many of whom strongly believed in a client-centered model of representation that prioritized client decision-making and letting clients tell their own stories. One attorney explained in detail:

> Something that's very frustrating for us, and extremely frustrating for clients, is [that] we try and work on shaping narratives in a way that makes it seem like their claim is still viable despite all these recent changes and recent case law that make it so that their case is not viable. . . . For example, I have a client who has suffered many different types of persecution, both gender-based persecution, persecution from gangs, interfamily violence, just a lot of different types of persecution. And [many of these have] been completely undercut by recent case law. And so when I'm working with her on her case and we're drafting declarations, et cetera, she has a hard time understanding why I am focusing on certain parts of her story and not others, especially when that doesn't comport with what she feels was the most traumatic to her. (Attorney B21)

Third, attorneys changed how they seek certification from qualifying law enforcement agencies and other government actors whose corroboration is a required for several forms of humanitarian status. Some attorneys were more reluctant to seek certification from federal law enforcement because of the potential risk of removal to their client if their application were ultimately denied. Attorneys were more careful to seek certification from actors who were not only favorable toward certifying a U visa or a T visa, but could provide narrative explanations of why their client did indeed experience qualifying victimization and went above and beyond their duty to help with investigations and prosecutions. Respondents described conducting increased outreach and education to other stakeholders in this process as necessary to create favorable certifications that they hoped would satisfy USCIS requirements:

> What can be challenging is when you have other players that have to be involved in the application. So for instance, you're asking for a certification, you're asking for extra language in the certification that in the past you wouldn't have put in there. But you're doing that because in your previous case [to USCIS], you got pushback. And the law enforcement officer's saying, "why do you need this? I never do this. Why should I do this now? This doesn't seem like a case that's different than anyone else." So you're asking the officer or the law enforcement agency to rely on you as an advocate who's obviously biased to educate them. . . . You have to have a lot of buy-in and trust from like that other individual in order to change their practice based on like one person. (Attorney A05)

In summary, nonprofit attorneys incurred many new compliance costs due to an influx of new requirements, nonsensical requirements, and higher standards of evidence for existing requirements. All these new costs resulted in extra time, effort, sources, and labor in the day-to-day representation of humanitarian cases.

PSYCHOLOGICAL COSTS

Practicing humanitarian immigration law during this period of intense legal uncertainty was psychologically challenging for nonprofit attorneys in several ways. In interviews, attorneys articulated three new primary and related psychological costs: overwork, vicarious trauma and fear for their clients, and burnout from feeling ineffective and inadequate.

Attorneys consistently described practicing law during the Trump administration as characterized by overwork. As illustrated, the learning and compliance costs of the administration's dramatic changes to immigration law directly resulted in increased attorney labor in almost all areas of their day-to-day practice. Although they emphasized that immigration law was always difficult, many respondents were clear that this was perhaps the most difficult time in their careers: "This work has never been easy, but it's emotionally and kind of mentally harder than it's ever been" (Attorney B12). Attorneys reported expending much more resources, time, effort, and energy to learn about new policies and comply with their changes. Several attorneys explicitly described feeling exhausted, pointing out difficulties in balancing their personal and professional lives. Others pointed out the sacrifices they made to continue working in this environment, either professionally by pursuing a much lower paid legal career, or personally, such as not having children or a partner: "We're really struggling right now through how do we respond, how do we as nonprofit advocates who are in a nonprofit job earning much less than we could anywhere else, because we care about the issues, how do we as individuals feel like we're responding to the crisis but not burn out?" (Attorney B18).

Attorneys also expressed significant fear and anxiety for their clients on the basis of what they perceived to be an explicit attack on immigrants by the administration that translated to an increased risk of removal for undergoing the regularization process via humanitarian status. Respondents pointed out the administration's anti-immigrant rhetoric as abhorrent and dehumanizing for both their clients as well as demoralizing for themselves to have to fight against an immigration bureaucracy that was, to them, quite clearly looking for reasons to deny or discourage applications.

This fear was compounded by the fact that humanitarian immigration status revolves entirely around the stories of clients who had suffered extreme forms of violence, abuse, and suffering and that their organizations were all nonprofit legal aids that only served low-income and poor clients. Many respondents recognized the difficulty clients face when pursuing humanitarian status given the demands the process places on them to retell traumatic stories and prove to several stakeholders that they suffered enough to be eligible. Pursuing this process in a legal environment that is actively hostile to them, therefore, is an additional source of trauma and burden for clients. As one attorney reflected, "Something that definitely weighs on me a lot is that the interactions that I have with these clients can sometimes be very triggering, and that the irony of doing this work in this system that is supposed to be leading them to a result of refuge and safety, that in working in that system and leading to that, trying to achieve that result, is so retraumatizing to them" (Attorney B21).

Attorneys also experienced vicarious trauma and compassion fatigue from representing clients with intense stories of suffering, who additionally experienced barriers to transportation, technology and communication, childcare, income and work, and stable housing that made representation more difficult: "This is work that is really emotionally and psychologically challenging to just do over and over and over again, especially when you're just giving . . . sad advice. Working with people with mental health issues. A lot of really hopeless sort of cases, a lot of desperation, a lot of families being torn apart. It can be really challenging" (Attorney A15).

Attorneys' increases in overwork and vicarious trauma were compounded by a decrease in confidence in their knowledge and expertise as immigration attorneys and corresponding wins for their clients, resulting in feelings of ineffectiveness and inadequacy that characterizes burnout. As one attorney explained, the stress of practicing law in this environment would be

lessened if there were corresponding wins: "So yes, they're busy. Yes, they're overworked. Yes, they have a lot of demands. Yes, the stories are difficult. Really the kernel of stress is losing your case. So if you could be sure that you weren't losing your case, like you could deal with everything else, right? Cause at the end of the day you felt like you have some assurance. But it's really like, nobody likes to lose anything and especially when someone's relying on you" (Attorney A04).

This combination of overwork, fear for their clients, and feelings of inadequacy led to a demoralizing climate in which to practice law. Attorneys viewed these psychological costs as having serious implications for the health of the immigration legal profession and their ability to attract and retain lawyers. Several respondents mentioned examples of colleagues who had taken time off or left immigration practice altogether, or students who no longer intended on practicing immigration law, because of psychological costs: "All my attorneys tell me, 'I'm feeling overwhelmed, I'm feeling stressed.' We have, network-wide, lost a lot of attorneys because of exhaustion and stress. One came back after a year absence, part-time. . . . I remember one young attorney was like, 'I started doing this under Obama and I just can't do this anymore.' And she just quit, you know, she just can't take it. So we see that a lot" (Attorney B07).

Those who supervised other, more junior attorneys or students in law school clinics expressed fears that their new colleagues would be turned away from practicing immigration law as a result: "[My younger staff] are afraid they're going to make a mistake and their client is going to be deported. They're afraid they can't predict the future. . . . They're losing cases they would have previously won . . . and that's really demoralizing" (Attorney B18).

Attorneys described several ways they and their organizations tried to alleviate psychological costs, ranging from institutional mental health days away from work, creating workplace cultures that emphasized work-life balance, helping staff access mental health services and therapy, and giving staff more control over their caseloads and day-to-day decision-making.

CASELOAD IMPLICATIONS

Legal aid attorneys in this study reported that as they incurred the many costs of administrative burdens to the humanitarian immigration process during the Trump administration, their capacity to effectively represent undocumented and vulnerable immigrants seeking to regularize their status decreased. This change in capacity had two main consequences: an increase in case selectivity and a decrease in caseload size.

First, attorneys described being more selective about which clients and clients' cases to represent, often preferring cases that they felt confident could win. As respondents put it, "a policy in this office is your case doesn't get out unless we think it's going to get granted" (Attorney A06) or "We do filter for the cases that we're more confident that we can be successful on" (Attorney A14). The dramatic nature of the Trump administration's immigration policy changes reversed attorneys' long-standing understandings of which immigrants could and feasibly would be successful under existing legalization strategies based on humanitarian status. Their assessment of which cases could be successful also became higher stakes due to policy changes that dictated denied cases be referred to removal proceedings. This attorney discussed an example when a potential client had a weak VAWA case and her team deliberated whether to represent the client, ultimately deciding not to because of the risks under the administration of the time:

> Do we support this person in trying to obtain this relief, even though we know it's not going to get granted, and that it very well could result in them being put in proceedings? . . . Do we just look at our resources and say this isn't a case where we could put our very limited resources into? And we just decided on the latter. . . . But I think that could have been a little bit of a different conversation before. I think it could have been like, "Well, it might be worth a try, and we'll see what happens." . . . And we also talked about, "Maybe you should wait and see if there is a change in the administration. There might be some different options, and it might be safer to do this." (Attorney A18)

Others described explaining the risks to clients and managing clients' expectations in a way that led them to not go forward with an application:

> I would sit down with the person and I would say, "Here are the facts, here are the numbers. You're one of several hundred thousand people applying for [ten] thousand U visas and this fact in your biography makes it less likely you will get it. And if you get it and are denied, you will basically just raise your hand and call the attention of immigration enforcement to you. Do you want to proceed?" And if the person says yes, then I will absolutely proceed. . . . I've not had a person say yes yet. (Attorney A13)

To adjust their legal practices to accommodate the psychological costs incurred during this period, attorneys also reported allowing more control and freedom for individual attorneys when it came to selecting cases to represent. This meant that some attorneys selected cases that they felt confident representing and excluded cases they did not feel they could represent well; others selected cases where they had a personal affinity for or an interest in specific legal issues. Often this meant selecting cases that were a bit easier to represent, that had less of an emotional or traumatic weight on the attorney, or that could be completed in a more predictable manner. One respondent gave an example of a case her organization declined to take because of their lack of capacity:

> We had a consult last week of an asylum case that was probably going to include an extended family that included like twelve people that was going to be at least eight different asylum applications. And it was just like, we just don't have the bandwidth to do it. So that also feels frustrating, of like just looking at a case and doing some mental math of like, taking this case means X fewer other cases that you can take. So we're constantly making those decisions and it never feels satisfying. (Attorney B18)

Second, attorneys described a decrease in overall caseload size despite an increase in perceived demand and need. They consistently identified the increase in learning and compliance costs as increasing the amount of time, effort, and energy spent on each case. Not only did it take more time to learn about new changes to the law and how to respond, but they also invested more time to ensure compliance with new requirements and responded to more RFEs that drew out case timelines. Several respondents illustrated this point by estimating changes in how attorneys' hours per case had increased: "Because every single case type has gotten more difficult across the board, what's happened is we can't serve as many people because a case that previously would've taken fifteen hours of attorney time is now taking twenty hours of attorney time. Five hours of attorney time is now eight to ten hours of attorney time. So you know, if I could have had 120 cases before, now I can only have ninety to a hundred. So there's a greater need and there's less ability to serve" (Attorney B07).

The unpredictability of case outcomes due to these costs also meant that attorneys often advised clients to apply for multiple forms of relief, if they were eligible, in case one form failed or one visa's processing timelines were unbearably long. This also decreased the total number of clients they could serve. "Before [this administration], you will come in for a consult and I will be able to tell, well these are your options. We can do one. Because in time wise, it's better. You're going to get better benefits, you're going to get a green card versus a work permit. Now we are doing one client might have four cases with us if they're eligible because we don't know which one is going to stick" (Attorney A06). Further, new activities, such as staying abreast of frequent legal changes or needing to fundraise to cover fee waivers, all took staff time that decreased the amount of time spent on representation. As a result, these costs decreased the size of caseloads for attorneys.

The potential implications of attorneys' making caseload changes in response to their increase in administrative burden costs are twofold. First, by targeting costs at immigration attorneys, the federal government potentially reduces the number of immigrants seeking to regularize their status. Although

attorneys in this study did not provide specific numbers regarding their caseloads and how that changed over the years, almost every attorney reported decreasing their caseloads during this period, implying that they represented less applicants overall.

Second, the composition of who makes legal status claims and the content of their claims also changes. Even though attorneys discussed the potential deterrent effect of the administration's policy changes and slow adjudication timelines, they still represented many people who decided to go forward with their claims. Who makes those claims, then, potentially differed during the Trump years. As attorneys became more selective, they reported shying away from difficult or complicated claims, including those by clients with criminal backgrounds, nonlinear narratives, and less robust access to evidence and documentation for their suffering. Attorneys were very aware of cultural narratives of immigrant deservingness that were explicitly and implicitly expected of all applicants and especially of immigrant victims. During the Trump administration, they reported feeling even more pressure to help their clients adhere to these cultural narratives. Some attorneys went out of their way to secure law enforcement corroboration that their clients were helpful in investigations and prosecutions even if it was not formally required. For clients with "messy" backgrounds (Lakhani 2013), some attorneys felt less confident in their ability to explain or represent them in a favorable light because they perceived adjudicators who had an "aim to deny" (Attorney A05) applicants. This was especially concerning in areas where adjudicators had a lot of discretion to assess "squishy" (Attorney A04) requirements such as good moral character or the bona fides of a marriage.

Attorneys also saw potential consequences for the larger universe of humanitarian claims because they felt pressure to meet higher standards of adjudication. Some discussed how over-including evidence, including materials or information that USCIS did not necessarily require, could potentially raise the bar for adjudicators' expectations. They struggled with how to balance their responsibility to their client and their responsibility for the overall legal bar and unrepresented immigrants: "It is crazy that a pro se [unrepresented] applicant would be forced to articulate a legal rationale for what his particular social group is. That's like a purely legal concept for which you need legal training, essentially. But I can't be afraid—I still, as an attorney, have to fully articulate a particular social group for the clients whom I'm representing. And I can't not do that out of a fear that it is negatively raising the bar on pro se applicants" (Attorney B18).

DISCUSSION AND CONCLUSION

Because legal claims are difficult to navigate without lawyers and lawyers are usually expensive, poor and low-income immigrants often depend on nonprofit legal services organizations to understand whether they are eligible for legal status and apply for status from USCIS. From their perspectives, however, legal aid providers experienced a simultaneous increase in both demand for their services and the costs of administrative burdens during the Trump administration—an outcome they perceived as intentional, anti-immigrant policymaking (Herd and Moynihan 2018; Peeters 2020). The many learning, compliance, and psychological costs they incurred during this period forced many to simultaneously decrease their caseload size and pivot away from more difficult and complex cases to ensure ethical, quality representation (Cartwright et al. 2020). This meant representing both fewer people and also people with "easier" cases, excluding many people with viable but difficult claims as a result. The decisions third-party actors feel forced to make to mitigate the burdens they themselves face when helping low-income clients overcome administrative burdens have important consequences for their ability and capacity to serve their clients and fulfill their important missions, affecting the already tenuous safety net of nonprofit organizations on which the poor depend (Heinrich et al. 2022).

Many members of the immigration legal bar have raised the potential long-term consequences to the profession as a result of these costs (Cartwright et al. 2020; Harris and Mellinger 2021). One legal scholar conducted a survey of more than seven hundred asylum attorneys and found high rates of burnout and

secondary trauma among them; she and her coauthor concluded that these high rates are a serious concern for a profession whose ability to provide effective, zealous representation for often already vulnerable clients depends on their own well-being (Harris and Mellinger 2021). As long as navigating the immigration system and processes for claiming status and achieving safety for many immigrants depends on their access to lawyers, especially nonprofit lawyers, the health and wellness of the immigration bar is of utmost importance.

Assuming that the federal government is invested in improving the efficiency and effectiveness of the immigration system, policymakers should lessen administrative burdens not only on attorneys, but also on all parties within the system, including immigrants themselves and immigration bureaucracies. Efforts to increase representation for immigrants, such as universal representation models (Vera Institute for Justice 2021), cannot be done without increasing the number of attorneys and cannot resemble underfunded public defense systems in the criminal legal system that have their own struggles with client selection and caseload size (Van Cleve 2017). The government should undo the institutional knots that characterize the current immigration system by simplifying administrative processes, engaging in communication and transparency, and generally striving to make the immigration process less onerous so that immigrants do not depend on attorneys to navigate every step of the way for fear of costly reverberations. Increasing administrative burdens in ways that also increase fear in immigrants (Moynihan, Gerzina, and Herd 2021) should be avoided as to not spike immigrants' understandable demand in legal services.

Future research can examine the administrative burdens of the immigration system and its impact on third-party brokers in additional ways. First, as noted, I conducted interviews with immigration attorneys who considered their two jurisdictions to be among the most favorable environments in which to practice immigration law. What are the impacts of the immigration administrative burdens regime in areas where the political and legal services environment is dramatically different? Scholars have examined the variable concentration of immigrant legal service providers across the United States, where rural areas and certain geographic areas have fewer providers (de Leon and Roach 2013; Ryo and Peacock 2019; Yasenov et al. 2020). Organizational capacity and pressures may look different based on providers' geographic jurisdictions and political climates. It is possible that nonprofit attorneys in unfavorable areas with already strained caseloads did not feel the impact of this administrative burdens regime as much as the attorneys in this study did. Future comparative work could shed light on how an administrative burden regime of this nature has varied effects.

Second, how rapidly do these administrative burdens disappear with administration change? Many attorneys in this study noted it may take years to undo the impact of these burdens because the sheer number and scope of policy changes alone during the Trump years means progress may be slow.[4] They also perceived these changes to be quite intentional on part of the Trump administration, coalescing in both formal and informal policy and agency practices (Peeters 2020). Indeed, advocates, reporters, and others have covered how little the Biden administration has overturned in its first year in office (Chishti and Bolter 2022; Kanno-Youngs 2022; Rampell 2022). Future work should examine the continuity and stickiness of administrative burdens over time. For instance, what prevents a new administration from undoing a previous administrative burdens regime, or doing so quickly? How intentionally is the current administration acting to undo this regime? Further, if the Biden administration can reverse the majority or a meaningful number of the previous administration's changes to immigration law and policy, how long until the attorneys in this study feel those effects in a way that changes their representation capacity? If this regime is even possible to reverse, what is the long-term impact on the

4. The Immigration Policy Tracker, which counted 1,059 immigration policies during the Trump administration, is also tracking those that have been overturned during the Biden administration. As of January 9, 2023, 746 are fully in effect.

quantity and composition of immigrant clients who get legal representation over the many years under which it was in effect?

How nonprofit immigration attorneys have incurred the costs of the Trump administration's administrative burdens regime and the consequences of those costs provide a compelling case for understanding the role of administrative burdens on third-party brokers, particularly third-party actors who determine which clients receive needed resources and recognition or a chance to proceed down a particular institutional process. People depend on third-party brokers for institutional access in other arenas as well, such as independent abortion funds who provide resources and assistance to abortion-seekers in states with restricted abortion access or other areas of civil legal aid in which access to legal representation is not guaranteed, such as in eviction or family courts. Applying an administrative burdens framework to past and future studies of street-level bureaucrats in a variety of settings can shed light on how burdens can be an additional mechanism of inequality among clients' access to services or help.

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