Spring 2008

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Meeting Saint Vincent’s Challenge in Providing Assistance to the Foreign-Born Poor: Applying the Lessons to the Asylum and Immigration Law Clinic

BY
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Introduction

Following Saint Vincent’s example, Frederick Ozanam, one of the founders of the Saint Vincent de Paul Society, announced in the prospectus for a new journal to be launched in 1848 that the society’s purpose was in part to demand protection of “the peoples who have lost their nationality by unjust conquests which time cannot rectify, and those other peoples which, following our own example from afar, aspire to achieve their own political and moral emancipation.”¹ The situation of persons who have been forced from their home countries through economic or political conquest also confronts our local and national communities today. In Illinois alone, there are over 1.7 million foreign-born persons.² The Asylum and Immigration Law Clinic at the DePaul College of Law seeks to respond to the call for protection of indigent refugees and immigrants. We work with low-income asylum seekers and documented and undocumented immigrants in a time of heated debate over the value of immigration. In doing so, we are challenged and guided by Saint Vincent’s model as a servant of the poor.

A Brief Background on United States Immigration Law

United States immigration laws govern the process for the admission of noncitizens, and their rights and responsibilities once admitted to the United States. Our nationality laws provide the rules by which a person can gain full membership or citizenship. Economic interests and family reunification principles historically have been central in determining which groups are eligible for admission to the United States. Humanitarian considerations — for persons displaced by persecution, war, civil strife, or natural disaster — also

play a role in determining who is granted admission. U.S. laws preclude from membership individuals with characteristics deemed undesirable by Congress, including the infirm, the impoverished, the deceptive, the criminal, and those who threaten security.3

The phenomenon of migration has met with polarized, even visceral reactions within our national community for over a century. Domestic immigration policy has reflected our own anxieties over economic circumstances, our need for labor, our safety, our dislike of human frailty, our intolerance for human diversity, and on occasion our charity for those who need refuge. Sometimes we have responded with an open door, and at other times we have provided very narrow passage. Periods of immigration growth4 with little regulation have been bookended by periods of severe restriction based on qualitative characteristics5 of would-be immigrants, the national origin6 of

3 Laws have prohibited paupers and the infirm from admission since colonial times. Exclusion of prostitutes and certain criminals followed. The Act of 1882 barred "lunatics," "idiots," and those likely to become a public charge. Richard Boswell, Essentials of Immigration Law (Washington, DC: American Immigration Lawyers Association, 2006), Chapter 1, 22 Stat. 214. "In 1891 a general immigration law was passed which provided for the exclusion of 'paupers' and all 'aliens' who had entered the country illegally. A 1903 law added 'anarchists' and others to the list of excludables, and in 1907 the list was expanded to include, among others, persons suffering from mental or physical conditions that might affect their ability to earn a living." 1 Immigration Law and Defense § 2:2, National Immigration Project of the National Lawyers Guild (West, 2007) [footnotes omitted].

4 For the first one hundred years, for example, migration to the United States was largely unrestricted. In the mid-1800s, immigration increased again with the growing number of jobs and need for cheap labor. See 1 Immigration Law and Defense § 2:2. More recently, in 1986 Congress provided avenues to legal status for undocumented immigrants who likely had no other way of lawful admission. Pub. L. 99-603, 100 Stat. 3359 (5 November 1986).

5 Ibid. In the early 1900s additional bars excluded workers based on ideological grounds, including "anarchists, or persons who believed in or advocated the overthrow by force or violence of the government of the United States or of all government or of all forms of law." In the years that followed, communists were added to the list of "subversives" prohibited from residing in the United States. See Kleindienst v. Mandel, 408 U.S. 753, 92 S.Ct. 2576, 33 L.Ed. 2d 683 (1972), citing the Act of 3 March 1875, 18 Stat. 477 (barring convicts and prostitutes); the Act of 3 August 1882, 22 Stat. 214; the Act of 3 March 1903, 32 Stat. 1213 (barring anarchists); the Act of 16 October 1918, 40 Stat. 1012 (barring subversives); Title II of the Alien Registration Act of 1940, 54 Stat. 671 (membership or affiliation with organizations advocating violent overthrow of the U.S. government); the Internal Security Act of 1950, 64 Stat. 987 (eliminating the requirement that an individual finding be made with respect to members of the Communist Party to determine classification as a person who did in fact advocate violent overthrow of the government).

6 For example, the Naturalization Act of 1790 limited citizenship to "free white persons," 1 Stat. 103 (1790) (repealed 70A Stat.644 (1956)). The Chinese Exclusion laws of 1882 barred Chinese immigrants who had entered as laborers and settled largely on the west coast from reentry if they had
those immigrants, our country's own economic distress, and even concern over the number of foreigners admitted.

The past two decades have witnessed a rise in immigration policy discussions focused on the undocumented immigrant. The different "solutions" to the "problem" have ranged from intensified prosecution of violators of immigration status to earned citizenship for those who have fallen out of lawful status. In 1986 the Immigration Reform Control Act (IRCA) attempted to embrace both solutions at once. It imposed sanctions on employers who hired undocumented workers but also provided a path to lawful permanent residence for undocumented individuals who could demonstrate that they had resided in the United States since before 1982 or engaged in agricultural work. Under this legalization program, immigrants had to demonstrate that they possessed no undesirable characteristics and had sufficient knowledge of English, civics, and history. "Amnesty" for immigrants out of status was enacted hand-in-hand with punitive and pecuniary sanctions for employers who hired noncitizens ineligible to work in the United States.

After this significant new legislation, the immigration "reform" laws that followed in 1996 included additional conditions and restrictions for those who had not gained full citizenship. Today, immigrant families continue to suffer blows from the 1996 legislation. Family members are required to submit contracts, or "affidavits of support," to show they would be financially responsible for supporting relatives — a particular burden for the working poor. U.S. citizens or lawful permanent residents face separation from their immigrant family members if they cannot show the ability to provide a dollar-specific amount of income. This requirement has seemed particularly punitive given that use departed for a short trip. See Clae Chan Ping v. United States (The Chinese Exclusion Case), 130 U.S. 581, 9 S. Ct. 623, 32 L. Ed. 1068 (1889). In 1924, "Congress passed the Immigration Restriction Act of 1924 that limited the immigration of Italians and Jews because of their allegedly inferior genetic potentiality." Paul Lombardo, "Saying 'I'm Sorry': The Role of Apology in Public Health," 35 Journal of Law, Medicine & Ethics 132 (Winter 2007). The Public's Health and the Law in the 21st Century: Fifth Annual Partnership Conference, edited by Briana Grovhough Kennedy, Concurrent Session, "E. New Tools in Public Health Law and Ethics," Michal Alberstein, Nadav Davidovitch, Paul Lombardo, Charity Scott, (Moderator). 2007 American Society of Law, Medicine & Ethics; Sale v. Haitian Centers Council, Inc., 509 U.S. 155, 113 S.Ct. 2549, U.S.N.Y., 1993 (allowing for interdiction of Haitians).

For example, "concerns that cheap foreign labor would depress the U.S. labor market led to 'Contract Labor Laws' enacted in 1885 and 1887 and excluded cheap foreign labor to avoid depressing the U.S. labor market." Gerald P. Seipp, Waivers of Inadmissibility – From Basic Principles to Advanced Practice Considerations (West, August 2003), Part I, 03-08 Immigr. Briefings 1.


of public benefits by poor immigrants has been significantly less than that by natives. New regulations amending affidavit-of-support requirements have recently become more restrictive. Sponsoring family members can no longer be credited for work done without valid work authorization, even though they may have paid income and social security taxes on these earnings. Even when they submit accurate documentation of income and have demonstrated an ability and willingness to work, they often meet with bureaucratic requirements requesting additional documents and proof, thus delaying their family members from immigrating to join them in the United States. Enhanced financial requirements have made it difficult for the working poor to obtain status. In addition, immigrant families suffer long periods of separation. Immigrant family members who have been in the United States for some time without lawful immigration status may face “temporary” bars from returning to the United States for either three or ten years, or may even be separated permanently from their United States citizen or lawful-permanent-resident spouses, parents, or children. Immigrants who have made missteps in the process face serious if not irreversible consequences.

Since the 1996 “reforms,” the tragedies of 11 September 2001, have resulted in further dramatic changes in U.S. immigration law including new federal legislation, policies, and regulations; changes to agency structures and personnel; and additional local immigration initiatives that further complicate the path to full citizenship. The immigration policy continually grows more restrictive.

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11 “While the current debate suggests that immigrants are inclined to welfare dependency, immigrants who are poor remain substantially less likely to use welfare than natives (16 percent versus 25 percent).” Michael E. Fix, Jeffrey S. Passel, Wendy Zimmerman, The Use of SSI and Other Welfare Programs by Immigrants (Washington, D.C.: The Urban Institute), Testimony before the House Committee on Ways and Means, 23 May 1996, available at http://www.urban.org/url.cfm?ID=900287; See also “Not Getting What They Paid For” citing to the 2002 Urban Institute Study by Michael Fix & Jeffrey Passel, “The Scope and Impact of Welfare Reform’s Immigrant Provisions” (Washington, D.C.: The Urban Institute, January 2002). “There were substantial declines between 1994 and 1999 in legal immigrants’ use of all major benefit programs: TANF (-60 percent), food stamps (-48 percent), SSI (-32 percent), and Medicaid (-15 percent).” The report found that in comparison to their “citizen counterparts” in 1999, “low-income, working-age noncitizens had substantially larger declines in Medicaid use rates” and “low-income legal immigrant families with children had lower use rates for TANF and food stamps.”

12 8 CFR 213a.1.

13 For example, the Homeland Security Act (HSA) abolished the INS and replaced it with separate agencies: the U.S. Citizenship and Immigration Services (CIS), the U.S. Immigration and Customs Enforcement (ICE), and the U.S. Customs and Border Patrol (CBP). The USA PATRIOT Act changed the practice of immigration law by providing for information-sharing among various federal and state law-enforcement agencies and the legacy INS. The REAL ID Act, which was passed on 6 May 2005, will affect burdens of proof for individuals filing asylum applications and seeking to defend themselves from deportation.
Fresh in the memories of those who debate the future of the twelve million noncitizen families, workers, and neighbors living in our midst are the IRCA reforms of 1986, in which an estimated three million individuals gained legal status. “Amnesty” engenders a hostile response amongst opponents, but supporters of future legalization also critique the 1986 laws and regulations. However, there are still the estimated twelve million undocumented persons living in the United States, and almost 34 million foreign-born. Significant also since the 1986 legalization is the increased disparity between the poverty rates of foreign-born and native populations. By 2001, 16.1 percent of the foreign-born, including 20.6 percent of Latin Americans, lived in poverty compared to 11.1 percent of natives.

A significant number of undocumented immigrants who stand to benefit from a proposed legalization program, or temporary worker program, are individuals of limited means. The now-quieted debate over a comprehensive immigration reform package has corresponded with stepped up immigration and customs enforcement measures targeting the undocumented and other immigration law violators. The failure of immigration reform is painfully apparent in the consequences of enforcement in which citizens are arrested, detained, and separated from their families. The Department of Homeland Security has sent a clear message that its focus will continue to be on enforcement over adjudications. It places a high priority on raids, and

15 Pew Hispanic Center Fact Sheet: Modes of Entry for the Unauthorized Migrant Population (22 May 2006).
18 See Remarks by Secretary of Homeland Security Michael Chertoff, Immigration and Customs Enforcement Assistant Secretary Julie Myers, and Federal Trade Commission Chairman Deborah Platt Majoras, at a press conference on Operation Wagon Train, 13 December 2006, at: http://www.dhs.gov/xnews/releases/pr_11660479951514.shtm. See also Kathy Kiely and David Jackson, “Chertoff Chides left, right over bill,” USA Today, 24 May 2007. “Chertoff, whose department has staged a number of recent raids that have resulted in mass roundups of illegal workers and sharp protests from religious groups, warned there will be more if the workers don’t get a chance to become legal. ‘We’re going to enforce the law,’ he said. ‘People all around the country will be seeing teary-eyed children whose parents are going to be deported.’”
subjects many individuals to prosecution without access to legal advice.

Other state and local initiatives further attack the dignity of immigrants seeking a better life in our communities. Anti-immigrant ordinances and local law enforcement partnerships\textsuperscript{20} with federal immigration officials create an inhospitable environment for immigrants seeking assistance.\textsuperscript{21} Several communities served by the Legal Resource Project of the Asylum and Immigration Clinic are particularly vulnerable to enforcement policies and related misinformation. For example, the Waukegan area is particularly affected by anti-immigrant ordinances.\textsuperscript{22} The experience of the 1986 legalization program under IRCA provides an indication of the service delivery challenges to be faced by community-based organizations.\textsuperscript{23} Further complicating the application process are additional penalties for those with prior immigration infractions, added by the immigration “reform” legislation of

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\item[	extsuperscript{21}] For a summary of litigation regarding state and local provisions denying employment, housing, driver’s licenses, and other benefits to noncitizens, go to American Immigration Law Foundation’s “Developments by State,” found at http://www.ailf.org/lac/clearing-house_120706.shtml#developments.
\item[	extsuperscript{22}] See Ralph Zahorik and Andrew L. Wang, “Suburb seeking power to deport: Waukegan police would target felons,” \textit{Chicago Tribune}, 20 June 2007. “The City Council voted 7-2 Monday night to authorize Police Chief William Biang to apply to U.S. Immigration and Customs Enforcement for the power to enforce federal immigration laws. As the national debate over illegal immigration has heated up, so too has interest among local agencies to increase their enforcement power... In Waukegan, the immigration debate has raged as strongly as in any of Chicago’s suburbs. Long a predominantly white, working-class city, Waukegan has seen an influx of immigrants from Mexico and other Central American countries in recent decades. According to 2005 U.S. census estimates, 38,000 to 50,000 of the city’s 91,000 residents are Hispanic or Latino. Authorities don’t have a good estimate as to how many undocumented immigrants live in the city.”
\item[	extsuperscript{23}] Applicants for legalization under IRCA who might be reluctant to file applications for legalization directly with the Immigration and Naturalization Service filed instead with “qualified designated entities” that assisted in the preparation of applications for legalization. However, a lack of firm standards for QDEs meant that a number of individuals and entities that were not traditional community-based organizations (“notarios” or other for-profit groups) obtained QDE status. CBOs developed different models for addressing legalization, including recruiting volunteer staff, with varying levels of experience, expertise, and supervision and extended work hours and challenges to fee collection. “Case for Legalization,” 13-19.
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1996\textsuperscript{24} and subsequent Immigration and Nationality Act amendments.\textsuperscript{25}

**Catholic Social Teaching**

Catholic social teaching further informs the current debate over domestic immigration policies. As presented in the pastoral letter on migration from the Catholic bishops of Mexico and the United States, an examination of Catholic social teaching identifies challenges and calls for a pastoral response to minister to migrants.

[The] Catholic Church has historically held a strong interest in immigration and how public policy affects immigrants seeking a new life in the United States. Based on Scriptural and Catholic social teachings, as well as her own experience as an immigrant Church in the United States, the Catholic Church is compelled to raise her voice on behalf of those who are marginalized and whose God-given rights are not respected.\textsuperscript{26}

With regard to the immigration reform debate:

The Church believes that current immigration laws and policies have often led to the undermining of immigrants' human dignity and have kept families apart. The existing immigration system has resulted in a growing number of persons in this country in an unauthorized capacity, living in the shadows as they toil in jobs that would otherwise go unfilled. Close family members of U.S. citizens and lawful permanent residents must wait years for a visa to be reunited. And, our nation's border enforcement strategies have been ineffective and have led to the death of thousands of migrants.

The Church has a responsibility to shine the message of God on this issue and help to build bridges between all parties so


\textsuperscript{25} The current immigration climate exacerbates the problems faced by our partner agencies. Since 11 September 2001, U.S. immigration law has undergone its most dramatic changes since 1996, including new federal legislation, policies, and regulations, changes to agency structures and personnel, and additional local immigration initiatives. See Footnote 13.

that an immigration system can be created that is just for all and serves the common good, including the legitimate security concerns of our nation.27

Turning to Pope John Paul II’s 1995 World Migration Day message, U.S. Catholic bishops affirmed that:

In the Church no one is a stranger, and the Church is not foreign to anyone, anywhere. As a sacrament of unity and thus a sign and a binding force for the whole human race, the Church is the place where illegal immigrants are also recognized and accepted as brothers and sisters. It is the task of the various Dioceses to actively ensure that these people, who are obliged to live outside the safety net of civil society, may find a sense of brotherhood in the Christian community. Solidarity means taking responsibility for those in trouble.28

Saint Vincent de Paul’s Experience of Immigration

Saint Vincent de Paul must have felt the blessing and the pain of migration in his own life. Like so many economic refugees, at some personal cost to himself and his family29 he left his home in order to pursue educational opportunity and economic security that could not be found in his place of birth.30 The land where he was born would have provided a bare existence.31 He may have also experienced the injustices and suffering of forced migration. While there is some debate over the authenticity of his account of being sold into slavery, his letters acutely portray the religious oppression, isolation, and longing for home experienced by many refugees.32

Saint Vincent’s empathy for and solidarity with the migrant are readily seen in his works. Within the missions were many foreigners committed

27 Ibid.
30 Pope Leo XIII, “...no one would exchange his country for a foreign land if his own afforded him the means of living a decent and happy life,” Rerum Novarum [On Capital and Labor] (15 May 1891), no. 47. Available at Vatican website, quoted in “Justice for Immigrants.”
to being servants for the poor; Saint Vincent’s concern for the poor was not limited by geographical boundaries. His challenge for the missions was to go into the country, into remote locations. As he wrote, “My brothers, who would then have thought that God intended, by means of the Company of the Mission, to bring about all the good which by the grace of God we now see it doing? Ah! Who knew that he meant to make use of it to seek out on farms, even in remotest Barbary, those poor Christian slaves, to rescue them, if not indeed from hell at least from purgatory? And who knew that it was his will to make use of it in many other places, as we see he does?”

The missions ultimately extended to Ireland, Poland, Tunis, Algiers, Madagascar, Quebec, the Indies, Indochina, and Persia. Neither national boundaries nor circumstances of birth restricted Saint Vincent’s charity. The missions provided care for refugees, as did the Society of Saint Vincent de Paul later, under Frederick Ozanam. They also cared for foundlings of unknown birth.

Saint Vincent too must have felt keenly the pains of being separated from family, since he established a postal service between slaves in Tunis and Algiers and their families. Family members could go to Vincentians anywhere in France in order to get word to their loved ones abroad.

"Here’s another way the rich are different from the poor. They have lawyers."

At the time Saint Vincent was beginning religious life, the spiritual lives of both rich and poor suffered from Church corruption and a lack of trained clergy. The rich, however, had some control over which individuals would ultimately hold religious office. “Abbeys, priories and cannonries represented a source of opulence and honors which parents coveted and sought for their children... The ecclesiastical or religious state offered to youths of good family an excellent opening, a secure livelihood and, to crown all, one that


34 Mary Purcell, The World of Monsieur Vincent (New York: Charles Scribner and Sons, 1963), 196-203.


36 See Calvet, Saint Vincent, 154.

37 Purcell, World of Monsieur Vincent, 200.

made little demands on the paternal purse."39 “The nobility regarded the Church as a field to be exploited. Rich convents and abbeys could restore fortunes lost in gambling or war, or serve as country houses and summer residences; all that was needed was to install a child as prior or prioress, abbot or abbess.”40

The poor, however, had little recourse to any remedy for their situation. “The gap between the nobility and the commoners was paralleled by the chasm between the higher and lower clergy. Wealthy prelates and the canons looked down upon the country curés and vicars who, as often as not, had offered themselves for ordination and were ordained without preparatory study or spiritual formation, with little appreciation of the sacredness of the calling they presumed to follow, and with no tests of their ability, morals, or suitability.”41

At the 25 January 1655 Conference to the Congregation of the Mission, Saint Vincent de Paul spoke of the origins of the Congregation and about the experience of Francoise-Marguerite de Silly, Madame de Gondi, who had

39 Mary Purcell, World of Monsieur Vincent, 48, footnote 2.
40 Ibid., 49.
41 Ibid., 52.
witnessed the inability of parish priests to provide poor peasants with absolution. Saint Vincent explained how this had led to his mission of performing sermons on proper confession and instituting reforms in the education and training of clergy. His description of Madame de Gondi’s experience is illustrative of how institutions, including religious institutions, work differently for poor people. Madame de Gondi had been moved because of the “peril in which her poor country subjects stood with regard to their salvation, for want of having made a good general confession.”

As Vincent stated in his letter to Francis du Coudray in 1631: “You must make it understood that the poor are being damned for want of knowing the things necessary for salvation, and for lack of confession. If His Holiness were aware of this necessity, he would have no rest until he had done all he could to set things right. It is the knowledge we had of this situation that brought about the establishment of the Company, so as to remedy it in some way.”

For the country poor of Madame de Gondi’s day, the parish priests controlled access to redemption. Without a system that ensured access for them, the poor stood in peril. They had no remedy if they had violated God’s law. Much as institutions of Saint Vincent’s day worked differently for the poor and others living on the margins of society than it did for the rich, the law also works differently for poor people today. Like those country curés, lawyers possess the office that can provide full access to protection. Lawyers with licenses to practice possess the keys to the kingdom, while poor persons living in poor communities have limited access. Saint Vincent calls us to go into those places where the poor are, to serve.

Attorneys need some reminder of the duty that comes with their position. The American Bar Association’s Model Rules of Professional Responsibility prescribe the conduct of lawyers and remind them of the responsibility they hold.

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42 See “Repetition of Prayer,” Rules, Conferences and Writings, 123-125. “Vincent provides the first recorded explanation of the origin of the Congregation of the Mission. In doing so he speaks directly of the role of Françoise-Marguerite de Silly, Madame de Gondi. Focusing on that lady’s experience of priests poorly trained in their sacramental duties, Vincent tells how it led to his first ‘mission’ sermon, as well as the second end of the Congregation: the proper formation and education of the clergy.”

43 Ibid.

44 Letter of Vincent de Paul to François du Coudray, 1631, in Rules, Conferences and Writings, 153-154.

45 “The second thing which the rule directs us to do is to instruct people in country places; we are called to do this. Yes our Lord asks us to preach the Gospel to the poor.” Conferences of Vincent de Paul, 6 December 1658, in Rules, Conferences and Writings, p. 140.

46 See “Preamble: A Lawyer’s Responsibilities” from the American Bar Association’s Model Rules of Professional Conduct (2002). “[1] A lawyer, as a member of the legal profession, is a
The practice of law is a public trust. Lawyers are the trustees of the system by which citizens resolve disputes among themselves, punish and deter crime, and determine their relative rights and responsibilities toward each other and their government. Lawyers therefore are responsible... for assuring access to that system through the availability of competent legal counsel... Basic rights have little meaning without access to the judicial system which vindicates them.

It is the responsibility of those licensed as officers of the court to use their training, experience and skills to provide services in the public interest for which compensation may not be available...

Legal services are not a commodity. Rather, they are the result of the efforts, training, judgment and experience of the members of a learned profession.47

And from the American Bar Association’s Model Rules of Professional Conduct:

[6] As a public citizen, a lawyer should seek improvement of the law, access to the legal system, the administration of justice and the quality of service rendered by the legal profession... legal institutions in a constitutional democracy depend on popular participation and support to maintain their authority. A lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance. Therefore, all lawyers should devote professional time and resources and use civic influence to ensure equal access to our system of justice for all those who because of economic or social barriers cannot afford or secure adequate legal counsel.48

Notwithstanding the lawyer’s obligation as a member of the profession representative of clients, an officer of the legal system and a public citizen having special responsibility for the quality of justice.”

47 From the preamble of the Illinois Rules of Professional Conduct.
48 “A Lawyer’s Responsibilities.”
to direct resources to service of the poor, significant gaps remain. It should be understood that while free legal representation is guaranteed in criminal cases, there is no guarantee of legal assistance in civil cases, which often implicate significant rights such as shelter, medical treatment, employment, child custody, and — in the case of immigration — residence in or permanent banishment from the United States.49

A recent study of the legal needs of Illinois residents illustrates that the "legal aid safety net designed to ensure that all Illinois residents have access to the protections offered by our legal system is clearly inadequate to meet the challenge."50 The majority of legal problems examined in the study involved critical threats to the ability of individuals and families to meet basic human needs: stable family relationships, economic solvency, access to shelter, medical care, and subsistence income.51 Immigration status implicates each one of these needs — family reunification, authorization for work, access to housing, health care, and public benefits. The most common difficulty encountered in the study was the attempt to resolve the problem without professional legal help. For those with immigration legal issues, the most reported problem was in applying for a particular immigration status (59.5 percent compared with other categories of immigration problems).52 Charitable institutions, private foundations, and donors are often left to fill the gap.

"Let us do the good that presents itself."53

The DePaul College of Law's Legal Clinic has represented low-income persons for more than thirty years. Since 1991, College of Law faculty and students have provided representation to low-income refugees fleeing persecution in their home countries, and in 1996 the Asylum Law Clinic was formed. In 1999, funders, informed by members of community organizations about the clinic's work, approached it to explore a pilot program aimed at expanding legal services for indigent immigrants and refugees while maximizing resources for educating students. The program then began thanks to the generosity of those funders, who recognized the need and importance of en-

49 See Gideon v. Wainwright, 372 U.S. 335 (1963), providing the right to counsel in criminal proceedings for the indigent. Gideon was followed by Lassiter v. Department of Social Services, 425 U.S. 18 (1981), limiting the right to appointed counsel for the indigent in civil cases (involving termination of parental rights).
51 Ibid., 14.
52 Ibid., 26.
53 See Hugh F. O'Donnell, C.M., "Vincent de Paul: His Life and Way" in Rules, Conferences and Writings, p. 31.
suring that immigrants and refugees would not be denied high-quality legal services on the basis of their economic or geographic disadvantages. In 1999 the clinic established a program that provided technical assistance to non-profit community-based organizations serving immigrants and refugees. When the program began in 1999, the renamed Asylum and Immigration Law Clinic partnered with four agencies to provide training, advice, and support in meeting the legal needs of immigrants, most of whom were the working poor. Since then, it has continued to grow its Legal Resources Project for Immigrant Service Providers, expanding its reach by 500 percent. The clinic now partners with twenty-four agencies in Cook and the collar counties.

The Wealth and Poverty of Community-Based Organizations and the University

Community-based organizations located throughout the Chicago metropolitan area are essential to delivering legal services and information to low-income immigrants and refugees. They are located in the communities where immigrants live, work, and go to school. Their consistent presence provides immediate awareness of the issues confronting the community, and this serves to build trust. In this way, CBOs share in their community’s richness.

However, CBOs meet with significant challenges in delivering the range and depth of legal services that their clients require. They lack funding, legal resources, online assistance, regular legal training, and professional development. Although CBOs serve low-income groups and only charge nominal fees for their services, they face pressure to generate funds to keep their doors open. Because complex cases — those most in need of assistance and representation — consume more staff time and resources and require significant legal expertise, CBOs may favor simple cases. High case loads limit their range and the depth of their services. The current immigration reform climate of constantly changing regulations and policies exacerbates the demands on these CBOs, and the need for their services continues to grow.

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54 Conversation with Craig B. Mousin, university ombudsman and cofounder of the Asylum and Immigration Law Clinic at DePaul College of Law and of the Legal Resources Project for Immigrant Service Providers.

55 Attempting to resolve legal problems without professional help is in fact the most common problem encountered among Illinois’ low-income population. See Illinois Legal Needs Study II (February 2005), p. 14. The majority of the legal problems in the survey involved critical threats to people’s ability to meet basic human needs: stable family relationships, economic solvency, access to shelter, medical care, and subsistence income. Ibid. Immigration status is relevant to each one of these needs (family reunification, authorization for work, access to housing, health care, and public benefits). For those with immigration legal issues, the most reported problem was in applying for a particular immigration status (59.5 percent, compared with other categories of immigration problems). See p. 26.
in the face of restrictive government measures. Department of Homeland Security raids and other enforcement actions, coupled with constantly shifting immigration reform discussions, interpose challenges for CBOs, which must counter disinformation about changes in law and policy with community education and outreach. They must anticipate and respond to the needs of noncitizens who are affected by enforcement measures, and must reach and inform immigrants about their rights if they are arrested in raids.

In the clinic, faculty and students form bonds within CBOs, whose staff members are welcomed to DePaul, invited to participate in educational workshops, and encouraged to share their experiences and expertise with faculty and students in class. Likewise, clinic faculty, staff, and students have worked in the community and spent time there. The students participate in summer externships at partner organizations where they take part in community education, outreach, and naturalization workshops. Similarly, faculty and staff offer presentations to the community, and meet with clients and CBO staff for case consultations and to identify community concerns and resource needs.

The clinic has built relationships with the community. Its location, on the eleventh floor of a downtown Chicago building, may lack the richness of a neighborhood. Yet, as part of DePaul University it has access to a wealth of resources that would be unfathomable to a typical social service provider, and through the Legal Resource Project it shares these resources with the community. The clinic was able to work with the university’s technology department to use Blackboard, an electronic course-management system that incorporates web pages, e-mail, discussion boards, chat rooms, small group areas, document sharing, and more to disseminate information on immigration practice and encourage communication among partners. This marked one of the first times the use of this electronic resource had been extended beyond the university community.

The clinic, with the support of the university’s Steans Center for Community-based Service Learning, has also trained, supervised, and

56 See White House Office Communications announcement of 10 August 2007. Department of Homeland Security Secretary Michael Chertoff and Commerce Secretary Carlos Gutierrez announced a series of immigration-related measures, including the training of local law enforcement personnel to address immigration violations, the publishing of new social security no-match regulations impacting from 1.4 to 8 million workers, reduction in the number of acceptable documents that can be used to show eligibility for employment, an increase in employer sanctions, and assurance that undocumented persons do not receive SSA credit for their work. In addition, the U.S. CIS recently announced that lawful permanent residents with unexpired documents will have to obtain new proof of legal status.

57 See Howard Rosing, Ph.D., “Untangling the Ivy: Discovering Vincentian Service Learning at DePaul University,” in this issue of Vincentian Heritage.
placed undergraduate and law students in summer externships at partner CBOs during the summer. The only attorney at one Chicago-area CBO, who serves thousands of clients each year, has stated that the organization simply could not have done the work they hoped to do without the assistance of students.

One student reflected on the disparity between the resources she had access to and those available to the organization. She had met with a DePaul librarian who familiarized her with Hein Online, an electronic index including full-text law reviews and journals, and consequently she was able to easily research an issue for a client. This student, unlike the attorney at the CBO, had few case assignments and was able to leave the office to travel to the library. The online resources were easily available to her, while the organization truly in need of online research had no such access. Because a clinic can access such resources, it is uniquely positioned to support the work of CBOs, help them to respond to complex legal questions and larger service delivery issues, and also increase the depth and breadth of client representation.

In the clinic we employ some of the strategies successfully used by Saint Vincent in serving the poor. We can leverage the resources of institutions, private donors, and connections with the larger legal community to help immigrant communities. Further, the impact of the project continues beyond the clinic. Many of our students go on to careers in public interest, working for legal aid agencies dedicated to assisting the poor and ensuring that they receive better services.

However, the work of our Legal Resources Project and of the clinic in general presents our faculty, staff, and students with several challenges in observing Vincent's instructions for working with the poor. Some of these challenges seem to come from the nature of immigration laws themselves, some perhaps from the way we subscribe to the legal process, and others from our own ideas of the position held by lawyers and our lack of awareness of the extent of poverty.

For many of the clients we work with in the immigration clinic, immigration status will only come through revealing their greatest pain; immigration and refugee law require it. The graver the injury — persecution, domestic violence, family separation — the greater the likelihood of success. For those who have violated either immigration or criminal laws and seek to cure their mistake, we demand remorse. Proper investigation into whether a client can gain legal status requires exploration of many topics likely to bring shame.

In the clinic course, our students are asked to read an article about a legal aid attorney representing a mother of five, "Mrs. G," at a public aid hearing.58

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58 Lucie E. White, "Subordination, Rhetorical Survival Skills, and Sunday Shoes: Notes on the
The local public aid office notified Mrs. G that she received an overpayment of benefits and has to pay the money back. Some months earlier she received a $592 settlement from a car accident and used most of the money to pay medical bills, but now she is presented with two equally unattractive options for how to defend herself against the demand for repayment. At the actual hearing, and to the surprise of the lawyer and hearing officer, Mrs. G presents her own defense. She shows the hearing officer the Sunday shoes she purchased for her children with the small amount of money left over from the settlement. Then follows an examination of how the administrative hearing process is used as a vehicle for subordination of speech, and in particular what roles race, class, and gender play in shaping such subordinate speech. The legal aid lawyer adds her own critique of the role she played in events.

This article generates classroom discussion that is particularly insightful about the work we do, how we navigate the structures presented by law, and how the client is viewed by us and by the legal system. Students discuss whether they are persuaded by the author’s analysis; they are challenged to examine parallels they see between this story and their own work in the clinic, and also to examine — in the context of representing asylum-seekers and immigrants — whether the client’s voice is subordinated or has meaningful opportunity to be heard.

Recently, students in the clinic reflected on one of our own clients in this context. We were examining the question of whether the client might be able to obtain lawful residency status in light of a relatively new provision of law which grants nonimmigrant visas for victims of certain crimes — particularly, those who have suffered substantial harm and who are willing to aid law enforcement in the prosecution of the crime. The client had been in an abusive relationship and had eventually obtained an order of protection. She reported that although the abuser had never engaged in physical violence toward her, he had threatened, controlled, and demeaned her. The client also said she was certain that if she had remained with him, he would have become violent, so she left with her children before he had the opportunity to cause her physical harm. Because the abuser had never physically assaulted her, the case presented challenges in establishing that she was the victim of a type of crime — the law protects victims of mostly violent crimes — that would qualify her for the visa. From the client’s perspective, it almost seemed that she was being dismissed because she had not remained with the abuser until problems escalated. Ironically, in this context, immigration laws can be viewed as denying protection to the empowered and rewarding the

subordinate.59

How we see our roles as attorneys and future attorneys may serve to further subordinate clients. In the clinic, students are called to reflect on barriers to the attorney/client relationship. Students are assigned to read The Spirit Catches You and You Fall Down, by Anne Fadiman, which examines the true story of an epileptic child, an ethnic Hmong of Loatian refugee parents. The cultural, language, and status barriers to an effective doctor/patient relationship are exposed. In the book, one of the doctors responsible for the child’s care becomes frustrated with the parent’s lack of compliance with the medical regimen prescribed for the child. The roles, as he sees them, are that the doctor is to prescribe treatment and the family is to follow the rules. In the clinic we examine whether this is the approach we sometimes take as attorneys: that our job is to identify the legal remedy available to the client and the client’s role is to comply with what we ask for in order to pursue the remedy.

Saint Vincent’s view centered on recognizing the dignity of the poor and marginalized. He provided rules to guide the servants of the poor and infirm — rules for how they should prepare for their work with the poor, and for how they should treat the sick. The legal construct in which we operate, and our views of the role of the attorney, challenge us to remember what it means to serve the poor, to see the barriers that deny them access to legal protection, and to examine whether our own actions strengthen or challenge those barriers. In working with CBOs to serve the poor, those same barriers challenge us to grow as lawyers — not just in competence but also in our views of justice as we seek a more just application of laws.

In assisting clients with their immigration cases, we may sometimes lack understanding or lose patience when they are late or skip appointments, or when phone calls or letters go unanswered for a time. It is important for us to understand the client’s circumstances and how different they may be from our own — the cost of coming to a client-attorney meeting where the travel expense constitutes a significant portion of a client’s weekly earnings, the difficulty of traveling to a downtown appointment from a neighborhood not serviced regularly by public transportation, the lack of resources needed to pay a phone bill or maintain a residence. Often the family may be struggling with the financial challenges of survival on an income at or below federal

59 Violence Against Women Act amendments enacted on 9 January 2006, expand benefits for survivors of domestic violence, victims of crimes, and trafficking and provide for additional work benefits for certain nonimmigrant survivors of domestic violence. However, the absence of implementing regulations means these provisions remain open to interpretation and are a source of confusion and sometimes misinformation in immigrant communities.
poverty income guidelines.\[^{60}\] Vincent, having experienced and embraced poverty, was keenly aware of the difficult conditions in which the poor lived, and he recognized that if the hearts and souls of the poor were to be won, “there must be a soul worth saving” — the individual’s material as well as spiritual needs must be addressed.

In our work with low-income immigrants and refugees, we hope that through helping them improve their immigration status we might also improve their security, safety, and material circumstances. If, with our assistance, a client is able to obtain work authorization and access to a valid Social Security number, he or she might also have a wider choice of housing, schools, and — rather than being relegated to industries that are notorious for lack of workplace safety protections, substandard wages, and deplorable conditions — employment opportunity.\[^{61}\] Moving from undocumented to documented status has also been shown to lead to improved skills and earning power.\[^{62}\] Documented status allows immigrants to fully access federal benefits programs that they already support financially through income and Social Security taxes regardless of their immigration status.\[^{63}\] In contrast, a “shadow population of illegal migrants... raises the specter of a permanent caste of undocumented resident aliens, encouraged to remain here as a source of cheap labor, but nevertheless denied the benefits that our society makes available to citizens and lawful residents. The existence of such an underclass presents most difficult problems for a nation that prides itself on adherence to principles of equality under the law.”\[^{64}\] While the holding of Plyer v. Doe no longer allows for tolerance of this underclass in the context of public education for undocumented children, the nation continues to tolerate a class of undocumented persons existing in these shadows without protections. As a client expressed it: “I am a ghost.” While a client may personally find it painful to relate the history of what brought her to the United States or the reasons she seeks to remain, through the telling she and her story are made visible and her human experience dignified.

\[^{60}\] The federal poverty income guideline for 2008 for a family of four is $21,200. Federal Register: 23 January 2008 (Volume 73, Number 15), 3971-3972.


The tired, the poor, and the tempest-tossed have all found refuge and charity through the work of Saint Vincent de Paul. While the promise of light and hope for the exiled on our shores is fading, the influence of humility and charity persists, and with it a promise to recognize the dignity of the foreign-born poor.

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65 From the poem, "The New Colossus" by Emma Lazarus.
66 "Today there are over forty thousand Daughters of Charity scattered over five continents. Wars, riots, prisons, epidemics, refugee camps, shanty towns, the aged, the orphaned, the abandoned, the poor, the sick, the insane, the sinful, pagan and uncivilized peoples — all have known the Sister in the white head-dress and deep blue habit." Purcell, *World of Monsieur Vincent*, 134.