

SYMPOSIUM

A LIVING LEGACY: THE KATZMANN STUDY GROUP ON IMMIGRANT REPRESENTATION

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INTRODUCTION.....	811
I. REMEMBERING JUDGE ROBERT A. KATZMANN.....	813
II. MARKING FIFTEEN YEARS OF THE STUDY GROUP’S EFFORTS....	817
III. LAYING GROUNDWORK FOR THE FUTURE	819

INTRODUCTION

On March 9, 2023, hundreds of individuals—including immigration lawyers, advocates, government officials, academics, journalists, and philanthropists—gathered for a symposium at Fordham University School of Law entitled *Looking Back and Looking Forward: Fifteen Years of Advancing Immigrant Representation*.¹ The symposium was organized by the *Fordham Law Review* and sponsored by law school centers and clinics, nonprofit organizations, and the Katzmann Study Group on Immigrant

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1. The success of the symposium, which attracted more than 700 registrants both in-person and online, was due to the tireless efforts of the planning committee. I am grateful to the editors and staff of the *Fordham Law Review*, especially Volume 91’s Executive Symposia Editor, Maya McGrath; to the administration and faculty of Fordham University School of Law, especially Dean Matthew Diller; and to our planning committee members, Hon. Lewis Liman, Hon. Noel Brennan, Jojo Annobil, Dora Galacatos, Nancy Morawetz, Lindsay Nash, Maureen Schad, Patrick Hornbeck, and Tatiana Hyman. Special thanks are due to Jennifer Callahan for her extraordinary commitment to furthering the work that Judge Katzmann began.

Representation (the “Study Group”). For members of the Study Group, the day was particularly poignant because several sessions at the symposium honored the life and accomplishments of the Hon. Robert A. Katzmman, the Study Group’s founder and former Chief Judge of the U.S. Court of Appeals for the Second Circuit. Among the speakers who paid tribute to Judge Katzmman were Elizabeth Fine, counsel to New York Governor Kathy Hochul, and Alejandro N. Mayorkas, Secretary of the Department of Homeland Security. Fordham University School of Law posthumously awarded Judge Katzmman the Fordham-Stein Prize.² His wife, Jennifer Callahan, accepted both the prize and the honorary doctorate that Fordham had bestowed on Judge Katzmman in 2020.

I had the privilege of working alongside Judge Katzmman after he issued a clarion call on behalf of the immigrant poor and as he convened leaders from the public, private, and nonprofit sectors.³ Like Judge Katzmman’s family, my grandfather and later my parents, with me and two siblings in tow, came to the United States in search of greater freedom and new opportunities. My grandfather was sworn in as a U.S. citizen, I believe, in the courthouse where I now sit as a circuit judge.⁴ Not least for these reasons, when I learned fifteen years ago that Judge Katzmman was putting together a group to explore ways to enhance legal representation for immigrants in need, I immediately wanted to join in the effort.

This year’s symposium was the fourth that the Study Group has played a role in organizing. In 2009, as I describe in greater detail below, Judge Katzmman was invited to deliver the Robert L. Levine Distinguished Lecture at Fordham University School of Law.⁵ He brought together a diverse set of colleagues to brainstorm solutions to the immigrant representation crisis. In 2011, we met at Benjamin N. Cardozo School of Law, where the Study Group unveiled the preliminary findings of the New York Immigrant Representation Study and announced a pilot project to create what was then known as the New York City Immigrant Representation Fellows Program.⁶ In 2018, we convened again at Fordham to mark ten years of the Study Group’s work.⁷

2. The Stein Prize “is presented annually to a member of the legal profession whose work embodies the highest standards of the legal profession.” *Fordham Stein Prize*, FORDHAM L., <https://www.fordham.edu/school-of-law/centers-and-institutes/stein-center-for-law-and-ethics/fordham-stein-prize/> [https://perma.cc/QN6C-RLYE] (last visited Nov. 3, 2023).

3. Robert A. Katzmman, *The Legal Profession and the Unmet Needs of the Immigrant Poor*, 21 GEO. J. LEGAL ETHICS 3 (2008). As discussed further below, the Study Group was convened shortly after Judge Katzmman’s Marden Lecture.

4. See Denny Chin, *Representation for Immigrants: A Judge’s Personal Perspective*, 78 FORDHAM L. REV. 633, 637 (2009).

5. See Robert A. Katzmman, *Deepening the Legal Profession’s Pro Bono Commitment to the Immigrant Poor*, 78 FORDHAM L. REV. 453 (2009).

6. See Robert A. Katzmman, *Innovative Approaches to Immigrant Representation: Exploring New Partnerships*, 33 CARDOZO L. REV. 331, 335 (2011).

7. See Robert A. Katzmman, *Study Group on Immigrant Representation: The First Decade*, 87 FORDHAM L. REV. 485 (2018).

As the title that the planning committee chose suggests, this year's symposium sought to celebrate the Study Group's accomplishments and to examine current trends and continuing pressing needs. Because the COVID-19 pandemic had kept us from gathering since we lost Judge Katzmman on June 9, 2021, a further purpose of the symposium was to honor our late colleague's achievements.

This brief Foreword, which introduces a collection of Essays by those who spoke on March 9, 2023, provides an overview of the symposium's proceedings, which unfolded across six sets of panels and conversations.

I. REMEMBERING JUDGE ROBERT A. KATZMANN

As a judge, my favorite activity is presiding over naturalization ceremonies. I see the joy in their faces, and I think about the journeys that they have taken. My father lost his father on Kristallnacht in November of 1938. He immigrated in March of 1941, at the age of fourteen. My mother is from Brooklyn; her parents came from Russia. Being in this country is something that they cherished. They wanted to be part of America—a legacy that has stayed with me.⁸

Robert A. Katzmman was born in New York City in 1953, the son and grandson of Jewish refugees from Germany and Russia.⁹ He pursued his undergraduate studies at Columbia University, earned master's and doctoral degrees in government from Harvard University, and received his J.D. from Yale Law School.¹⁰ He clerked for the Hon. Hugh H. Bownes of the U.S. Court of Appeals for the First Circuit and, prior to becoming a judge himself, taught law at Georgetown University; the University of California, Los Angeles; and the University of Oregon.¹¹ His academic writings include the seminal books *Courts and Congress*¹² and *Judging Statutes*.¹³ In 1999, President William J. Clinton appointed Judge Katzmman to the U.S. Court of Appeals for the Second Circuit, where he served until his death.¹⁴ From 2013 to 2020, he led his colleagues as Chief Judge.¹⁵

As for me, I first met Judge Katzmman thirty years ago. In 1993, I applied to Senator Daniel Patrick Moynihan's judicial screening panel for an appointment to the bench in the Southern District of New York. Bob, not yet a judge, was on the screening panel and a member of the subcommittee that

8. *Robert A. Katzmman: 2020 Vilcek Prize for Excellence in Administration of Justice*, VILCEK FOUND., at 0:14, <https://vilcek.org/prizes/prize-recipients/robert-a-katzmann> [https://perma.cc/F4PV-EBG3] (last visited Nov. 3, 2023).

9. This brief biography is drawn largely from the dedication in the *New York University Annual Survey of American Law*, which honored Judge Katzmman during his final year of service as Chief Judge. *See Judge Robert A. Katzmman*, 75 N.Y.U. ANN. SURV. AM. L. viii (2019).

10. *Id.*

11. *Id.*

12. ROBERT A. KATZMANN, *COURTS AND CONGRESS* (1997).

13. ROBERT A. KATZMANN, *JUDGING STATUTES* (2014).

14. Anthony M. Crowell, *In Memoriam: The Honorable Robert A. Katzmman*, 66 N.Y.L. SCH. L. REV. 71, 72 (2021).

15. *See id.*

interviewed me. Bob apparently took a liking to me. He was very close to Senator Moynihan, for whom he was a teaching assistant in graduate school, and the Senator recommended me to the White House—surely in part at Bob’s urging.

Fifteen years later, in 2007, Judge Katzmman delivered his stirring Orison S. Marden Memorial Lecture at the New York City Bar Association.¹⁶ I was then a district judge. Peter Eikenberry, who recited excerpts from Judge Katzmman’s Marden Lecture at this year’s symposium, called to tell me that Judge Katzmman was putting together a group to explore ways to increase legal representation for immigrants who could not afford counsel. Few turned down Judge Katzmman’s invitation, and the Study Group’s meetings started soon thereafter. Eventually, we would have forty or more people gathering at the Thurgood Marshall Courthouse on Foley Square as early as 7:30 in the morning. Members included immigration judges, big-firm lawyers, solo practitioners, academics, clinicians, and legal services providers. Judge Katzmman inspired us to join together in a common cause: addressing the unmet legal needs of the immigrant poor. Unlike many committees I’ve been on over the years, and despite our name, we did a lot more than simply study and talk about the problems. We took concrete steps to address the issues.

After I was appointed to the Second Circuit in 2010, I got to see Judge Katzmman in action, up close, as a colleague. He was a wonderful judge and a wonderful person, caring and considerate, brilliant but modest and humble, savvy and acutely sensitive to political nuances, and always looking to involve and credit others. He cared deeply about justice and the true administration of justice. Even after he took on the many duties of Chief Judge in 2013, he continued to make time for the Study Group and similar projects. For example, at the Second Circuit, he established the civic engagement program Justice for All: Courts and the Community.¹⁷ Like many of the Study Group’s initiatives, that program has also spawned a national movement and is being replicated in other courts around the country.¹⁸

When Judge Katzmman died in June 2021, the tributes to his life of service and achievement were as numerous as they were effusive.¹⁹ *The New York*

16. See *The Orison S. Marden Memorial Lectures*, N.Y.C. BAR, <https://www.nycbar.org/about/awards-and-special-lectures/the-orison-s-marden-memorial-lectures> [https://perma.cc/9AGA-RQNE] (last visited Nov. 3, 2023).

17. See JUST. FOR ALL: CTS & CMTY. INITIATIVE, <https://justiceforall.ca2.uscourts.gov/> [https://perma.cc/P9S7-AWB7] (last visited Nov. 3, 2023).

18. See *Our Mission*, JUST. FOR ALL: CTS & CMTY. INITIATIVE, https://justiceforall.ca2.uscourts.gov/mission_home.html [https://perma.cc/5KXL-RKTA] (last visited Nov. 3, 2023).

19. Among countless others, see Joseph White, *Remembering and Appreciating Judge Robert A. Katzmman*, 72 CASE W. RES. L. REV. 1 (2021); Crowell, *supra* note 14; Martin Flumenbaum & Brad S. Karp, *Remembering Chief Judge Robert A. Katzmman*, LAW.COM: N.Y.L.J. (June 22, 2021, 12:30 PM), <https://www.law.com/newyorklawjournal/2021/06/22/remembering-chief-judge-robert-a-katzmann> [https://perma.cc/R9ZS-HMPH]; David Lat, *In Memoriam: Judge Robert A. Katzmman (1953-2021)*, ORIGINAL JURISDICTION (June 10,

Times eulogized him as a “judge with a reach beyond the bench,” quoting Judge Jed S. Rakoff, who declared that “[n]o judge ever took a broader view of the role of a judge in promoting justice in our society, or was more successful in turning those views into practical accomplishment.”²⁰ A memorial service held in Damrosch Park just days after Judge Katzmann passed drew hundreds of mourners, including judges, former clerks, and legal educators. Justice Sonia Sotomayor of the U.S. Supreme Court was among the speakers, as was Judge Katzmann’s twin brother, Gary, himself a judge on the U.S. Court of International Trade.

I have already mentioned Judge Katzmann’s extensive body of scholarly and public writings. In the field of immigrant representation, he delivered a trilogy of major lectures that compellingly made the case for accessible and effective counsel for immigrants in financial hardship. In February 2007, his Marden Lecture began with these words:

My subject is a pressing one, the unmet legal needs of immigrants, a vulnerable population of human beings who come to this country in the hopes of a better life, who enter often without knowing the English language and culture, in economic deprivation, often in fear. I think we can all imagine our own ancestors or ancestors of friends and relate to the anxieties of today’s newcomers. We are a nation of immigrants, whose contributions have been vital to who we are and hope to be. All too often immigrants are deprived of adequate legal representation, essential if they and their families are to live openly and with security. This failure should be a concern for all of us committed to the fair and efficient administration of justice.²¹

Judge Katzmann described the numerous hurdles that poor immigrants confront. He stressed that nearly two-thirds of the individuals “whose cases were completed in immigration courts during [fiscal year] 2005 were unrepresented.”²² Surveying the work of nonprofit organizations, bar associations, law firms, government initiatives, law schools, advocacy groups, pro bono attorneys, and the media, Judge Katzmann also identified what still needed to be done to make legal representation more accessible to immigrants.²³ He concluded with an expression of hope, “that we might come together periodically to assess the progress we have made and the challenges we still face in meeting the unmet needs of our immigrant poor.”²⁴ Thus the Study Group was born.²⁵

2011), <https://davidlat.substack.com/p/in-memori-am-judge-robert-a-katzmann> [<https://perma.cc/6WZF-M57P>].

20. Sam Roberts, *Robert Katzmann, U.S. Judge with Reach Beyond the Bench, Dies at 68*, N.Y. TIMES (June 10, 2021), <https://www.nytimes.com/2021/06/10/us/robert-katzmann-dead.html> [<https://perma.cc/ZR9E-WEDS>].

21. Katzmann, *supra* note 3, at 3.

22. *Id.* at 20.

23. *See id.* at 10–29.

24. *Id.* at 29.

25. Some may wonder whether it is appropriate for sitting federal judges to engage publicly in efforts to improve the legal system. The Code of Conduct for United States Judges and its official commentary not only permits but in fact encourages such involvement. *See*

Two years later, in 2009, Fordham University School of Law invited Judge Katzmann to deliver the annual Levine Lecture.²⁶ Rather than give a traditional lecture, however, Judge Katzmann conceived of a program of panel discussions and breakout sessions to discuss improvements in immigrant representation. Subcommittees of the Study Group considered the ideas that emerged from those conversations and published a series of reports on topics including pro bono representation,²⁷ the more effective delivery of legal services,²⁸ and the quality of immigrant representation.²⁹ Reporting on the Levine Lecture, the *New York Times* commented that Judge Katzmann had ignited a “movement” that attracted “high-powered lawyers, judges, academics, and city officials who talked bluntly about a dysfunctional system and brainstormed into the night.”³⁰

Then, in 2012, Judge Katzmann received the Learned Hand Medal from the Federal Bar Council.³¹ Again, he chose as his topic “an urgent, pressing need—the need for adequate representation for a vulnerable population of human beings—immigrants.”³² In the lecture, Judge Katzmann noted that Judge Learned Hand, six decades prior, had remarked with frustration and anguish about “the harsh system of immigration adjudication” as it existed in his day.³³ Judge Katzmann enumerated ten of the Study Group’s initiatives,

CODE OF CONDUCT FOR U.S. JUDGES Canon 4 (JUD. CONF. OF THE U.S. 2019). “As a judicial officer and a person specially learned in the law, a judge is in a unique position to contribute to the law, the legal system, and the administration of justice, including revising substantive and procedural law . . .” *Id.* Canon 4 cmt. Subject to limitations necessary to protect judges’ impartiality, the code specifically authorizes judges to “speak, write, lecture, teach, and participate in other activities concerning the law, the legal system, and the administration of justice.” *Id.* Canon 4. As Judge Katzmann repeatedly stressed, “[w]hether in fact immigrants can secure justice depends on all of us involved in the administration of justice.” Katzmann, *supra* note 3, at 29; *see also* Bridget Mary McCormack, *Staying off the Sidelines: Judges as Agents for Justice System Reform*, 131 *YALE L.J.F.* 175, 178 (2021) (“[J]udges are not only permitted to engage in reform efforts, but also have an ethical obligation to do so. That is, a judge cannot ignore inequities once she becomes aware of them.”).

26. Katzmann, *supra* note 5, at 453.

27. Jennifer L. Colyer, Sarah French Russell, Robert E. Juceam & Lewis J. Liman, *The Representational and Counseling Needs of the Immigrant Poor*, 78 *FORDHAM L. REV.* 461 (2009).

28. Jojo Annobil, *The Immigration Representation Project: Meeting the Critical Needs of Low-Wage and Indigent New Yorkers Facing Removal*, 78 *FORDHAM L. REV.* 517 (2009); Peter L. Markowitz, *Barriers to Representation for Detained Immigrants Facing Deportation: Varick Street Detention Facility, a Case Study*, 78 *FORDHAM L. REV.* 541 (2009).

29. Careen Shannon, *Regulating Immigration Legal Services Providers: Inadequate Representation and Notario Fraud*, 78 *FORDHAM L. REV.* 577 (2009).

30. Nina Bernstein, *In City of Lawyers, Many Immigrants Fighting Deportation Go It Alone*, *N.Y. TIMES* (Mar. 13, 2009), <https://www.nytimes.com/2009/03/13/nyregion/13immigration.html> [<https://perma.cc/4M9C-64HJ>].

31. *See Robert A. Katzmann*, U.S. CT. APP. FOR SECOND CIR., <https://www.ca2.uscourts.gov/judges/bios/rak.html> [<https://perma.cc/2Z98-SADE>] (last visited Nov. 3, 2023).

32. Robert A. Katzmann, *Bench, Bar, and Immigrant Representation: Meeting an Urgent Need*, 15 *N.Y.U. J. LEGIS. & PUB. POL’Y* 585, 586 (2012).

33. *Id.* at 586–88. Ten years after Judge Katzmann, I too invoked Judge Hand’s words about new immigrants to this country:

Some of us have chosen America as the land of our adoption; the rest have come from those who did the same. For this reason we have some right to consider

including conferences, studies, meetings with leaders in the legislative and executive branches, and pilot projects.³⁴ He summarized the “striking findings” of the New York Immigrant Representation Study, including statistics illustrating the barriers facing unrepresented and detained immigrants in particular.³⁵ Toward the end of his remarks, Judge Katzmann again called on members of the bar to become involved in the Study Group’s work. He named dozens of lawyers who had already contributed their time and talents, remarking that “[t]hey can tell you of the profound impact of their experiences” on immigrants and their families as well as on the lawyers’ own practices.³⁶ He concluded with these words: “The challenges are formidable. I often think of the Breton Fisherman’s prayer, that the sea is so great, and our boats are so small. But, row we must.”³⁷

II. MARKING FIFTEEN YEARS OF THE STUDY GROUP’S EFFORTS

The Study Group’s work has focused on three areas: (1) increasing pro bono activity of firms, especially at the outset of immigration proceedings; (2) improving mechanisms of legal-service delivery; and (3) rooting out inadequate counsel and improving the quality of representation available to noncitizens.³⁸

The first panel at this year’s March 9 symposium surveyed the Study Group’s accomplishments during its first fifteen years. An Essay in this volume by Jojo Annobil and Elizabeth Gibson³⁹ describes some of the Study Group’s initiatives. The Essay focuses on the history and early successes of the Immigrant Justice Corps, one of Judge Katzmann’s signature projects.

As Judge Katzmann noted in his Learned Hand Lecture, the Study Group’s starting point was to commission research into the scope and possible solutions to the challenges of immigrant representation in New York City.⁴⁰ Judge Katzmann drew inspiration from a favorite saying of his mentor, Senator Moynihan: “you’re entitled to your own opinion, but not to your own facts.”⁴¹

ourselves a picked group, a group of those who had the courage to break from the past and brave the dangers and the loneliness of a strange land. What was the object that nerved us, or those who went before us, to this choice? We sought liberty—freedom from oppression, freedom from want, freedom to be ourselves.

Remarks of the Honorable Denny Chin in Response to the Award of the Learned Hand Medal for “Excellence in Federal Jurisprudence,” in *FED. BAR COUNCIL, SECOND CIRCUIT REDBOOK 2022–2023*, at 329, 332 (quoting *LEARNED HAND, THE SPIRIT OF LIBERTY: PAPERS AND ADDRESSES OF LEARNED HAND* 189 (Irving Dilliard ed., 1952)).

34. See Katzmann, *supra* note 32, at 589–92.

35. *Id.* at 592–94.

36. *Id.* at 595–96.

37. *Id.* at 597.

38. Katzmann, *supra* note 7, at 490.

39. Jojo Annobil & Elizabeth Gibson, *Improving Lawyers & Lives: How the Immigrant Justice Corps Built a Model for Quality Representation While Empowering Recent Law and College Graduates and the Immigrant Communities That They Serve*, 92 *FORDHAM L. REV.* 823 (2023).

40. See *id.* at 824–25.

41. Katzmann, *supra* note 32, at 592.

In 2011, the study, *Accessing Justice: The Availability and Adequacy of Counsel in Removal Proceedings*, was unveiled at Cardozo Law School and published in the *Cardozo Law Review*.⁴² It found that “striking” proportions of immigrants appearing before the immigration courts in New York lacked legal representation.⁴³ Detention and transfer policies enacted by the U.S. Department of Homeland Security created “significant obstacles for immigrants facing removal to obtain counsel.”⁴⁴ The study concluded that “[t]he two most important variables affecting the ability to secure a successful outcome in a case (defined as relief or termination) are having representation and being free from detention.”⁴⁵ Unfortunately, it reported, “[g]rave problems persist in regard to deficient performance by lawyers providing removal-defense services.”⁴⁶ A second study published the following year, *Accessing Justice II: A Model for Providing Counsel to New York Immigrants in Removal Proceedings*, recommended “the creation of a system of institutionally provided counsel for those facing deportation.”⁴⁷

Other accomplishments during the Study Group’s formative years included meetings with then–Attorney General Eric Holder, members of Congress, and other leaders in government; a pilot project to stimulate law firms’ pro bono activity on behalf of applicants for asylum; the foundation of what was first called the Immigrant Representation Fellows Program, now rechristened the Immigrant Justice Corps (IJC); the establishment of law school clinics; and the development of training programs for non-immigration lawyers to learn immigration law.⁴⁸ These efforts garnered widespread coverage in the national press.⁴⁹

Two projects deserve particular attention. First, the New York Immigrant Family Unity Project (NYIFUP) is “the nation’s first public defender system for immigrants facing deportation.”⁵⁰ With financial support from the Vera

42. Peter L. Markowitz, Jojo Annobil, Stacy Caplow, Peter v.Z. Cobb, Nancy Morawetz, Oren Root, Claudia Slovinsky, Zhifen Cheng & Lindsay C. Nash, *Accessing Justice: The Availability and Adequacy of Counsel in Removal Proceedings*, 33 *CARDOZO L. REV.* 357 (2011); see also Kirk Semple, *In a Study, Judges Express a Bleak View of Lawyers Representing Immigrants*, *N.Y. TIMES* (Dec. 18, 2011), <https://www.nytimes.com/2011/12/19/nyregion/judges-give-low-marks-to-lawyers-in-immigration-cases.html> [https://perma.cc/EL28-VZWU].

43. Katzmman, *supra* note 32, at 593.

44. *Id.*

45. *Id.*

46. *Id.* at 594.

47. Katzmman, *supra* note 7, at 491 (citing N.Y. IMMIGRANT REPRESENTATION STUDY STEERING COMM., *ACCESSING JUSTICE II: A MODEL FOR PROVIDING COUNSEL TO NEW YORK IMMIGRANTS IN REMOVAL PROCEEDINGS* (2012)).

48. Katzmman, *supra* note 32, at 590–92.

49. See, e.g., Kirk Semple, *Judge Proposes a National Lawyers Corps to Help Immigrants*, *N.Y. TIMES* (Mar. 19, 2013, 12:49 PM), <https://cityroom.blogs.nytimes.com/2013/03/19/judge-proposes-a-national-lawyers-corps-to-help-immigrants> [https://perma.cc/S4Y-3VSN]; Kirk Semple, *Seeking Better Legal Help for Immigrants*, *N.Y. TIMES* (Jan. 28, 2014), <https://www.nytimes.com/2014/01/29/nyregion/service-program-will-recruit-law-school-graduates-to-help-represent-immigrants.html> [https://perma.cc/8PDV-GQEX].

50. Katzmman, *supra* note 7, at 491. Today, NYIFUP “is implemented jointly by three public-defender organizations: The Bronx Defenders, The Legal Aid Society, and Brooklyn

Institute and other partners, NYIFUP “has pioneered universal representation for detained indigent immigrants in deportation proceedings in New York.”⁵¹

Second, the IJC recruits and trains young lawyers who intend to make immigration law their careers. As a “solution to the representation crisis,” IJC’s mission “is to populate the immigration bar with well-trained and high-caliber attorneys, creating a generation of leaders with a lifelong commitment to immigrant justice.”⁵² The corps includes both Community Fellows, “recent college graduates working as paralegals and accredited representatives,” and Justice Fellows, “recent law school graduates filing complex immigration applications and defending people in immigration court.”⁵³ With funding from the Robin Hood Foundation, other philanthropies, and municipalities, the corps welcomed its inaugural class in 2014.⁵⁴ In the ensuing years, IJC fellows have assisted more than 100,000 individuals and their family members, saved clients more than \$4.6 million by requesting fee waivers, and trained and mentored hundreds of lawyers and accredited representatives.⁵⁵ The corps has also strengthened the advocacy community and built a pipeline of well-trained immigration advocates at a time when the need for quality representation is only increasing.⁵⁶ Despite the many challenges ahead, IJC continues to strive toward “[a]chieving universal representation, shrinking the deportation machine, and eliminating detention.”⁵⁷

III. LAYING GROUNDWORK FOR THE FUTURE

Much as has been done, there is much still to do. Our purpose today is not to rest on what has been accomplished, but rather to take stock of what has been done and discuss innovative proposals so that we can better meet the challenges of still-large unmet needs.⁵⁸

When Judge Katzmann died, a number of colleagues, including Justice Sotomayor, said that it was important that we continue the Study Group’s work. We had our next meeting a few months later, in October 2021. One of our first orders of business was to formally rename the Study Group as the Katzmann Study Group on Immigrant Representation.

The March 9, 2023 symposium was an important step in carrying forward the mission of the Study Group, not just to honor Judge Katzmann, but also because of the ongoing importance of the work. Breakout sessions in the

Defender Services.” *See New York Immigrant Family Unity Project*, BRONX DEFS., <https://www.bronxdefenders.org/programs/new-york-immigrant-family-unity-project> [<https://perma.cc/T4RE-ENZY>] (last visited Nov. 3, 2023).

51. Katzmann, *supra* note 7, at 491.

52. *Id.* at 491–92.

53. Annobil & Gibson, *supra* note 39, at 828. Accredited representatives are nonlawyers permitted by the Board of Immigration Appeals to represent immigrants. *See id.* at 835 n.72.

54. *See id.* at 836.

55. *See id.* at 842.

56. *See id.*

57. *See id.* at 864.

58. Katzmann, *supra* note 7, at 502.

afternoon addressed three pressing topics: needs in the representation of asylum-seekers, the impact of transfers and virtual adjudication, and the prospect of mobilizing the bar to provide counseling and representation for mass application needs. Essays in this volume that build on these conversations are those by Professor Michele Pistone, who stresses the need to increase the number of accredited representatives and draws an analogy to the roles of physician assistants and nurse practitioners in the healthcare sector,⁵⁹ and Professor Nancy Morawetz, who highlights three areas of recent structural upheaval in immigration law.⁶⁰ Professor Morawetz's Essay describes litigation that has resulted in unpredictability about immigration agency rules, changes in detention law that have made it more difficult for lawyers to obtain release for their clients, and uncertainty about choice of law rules.⁶¹ Both Professors Pistone and Morawetz call for continued creativity on the part of those who represent noncitizens.⁶²

A highlight of the symposium was the keynote conversation between Secretary Mayorkas and Professor Ahilan Arulanantham, codirector of the Center for Immigration Law and Policy at UCLA School of Law. The conversation, which reprised a 2021 discussion between Secretary Mayorkas and Professor Arulanantham, was a model of candid exchange between government officials and advocates. Professor Arulanantham subsequently observed that "[t]ransparency in government of this kind is crucial."⁶³ His discussion with Secretary Mayorkas ranged over such topics as the under resourcing of the immigration system, the large numbers of children ordered deported without a hearing, new policies affecting asylum seekers who have transited through third countries, and the practical challenges that immigrants and immigration officers face.⁶⁴

The symposium concluded with a discussion between Muzaffar A. Chishti of the Migration Policy Institute and Charles Kamasaki of the Migration Policy Institute and UnidosUS, moderated by Jojo Annobil, Executive Director of the IJC. An Essay by Chishti and Kamasaki, joined by Laura Vasquez of UnidosUS, rounds out this series.⁶⁵ Like other authors, they

59. See generally Michele R. Pistone, *The Number of Unrepresented Immigrants Is a Crisis; Vastly Increasing the Number of Accredited Representatives Offers the Best Hope for Resolving It*, 92 FORDHAM L. REV. 893 (2023).

60. See generally Nancy Morawetz, *Representing Noncitizens in the Context of Legal Instability and Adverse Detention Precedent*, 92 FORDHAM L. REV. 873 (2023).

61. See *id.* at 873–74.

62. See *id.* at 874. See generally Pistone, *supra* note 59.

63. CILP's Ahilan Arulanantham, *DHS Secretary Alejandro Mayorkas Broach Child Deportations, Immigration Representation, Temporary Protected Status and More*, UCLA L. (Mar. 15, 2023), <https://law.ucla.edu/news/cilps-ahilan-arulanantham-dhs-secretary-alejandromayorkas-broach-child-deportations-immigrant-representation-temporary-protected-status-and-more> [<https://perma.cc/B6X7-LA4F>].

64. See *id.* A video of the conversation was also made available by the Center for Immigration Law and Policy. *Looking Back and Looking Forward: Fifteen Years of Advancing Immigrant Representation*, YOUTUBE (Mar. 15, 2023), <https://www.youtube.com/watch?v=Ns7XCYY7JYk> [<https://perma.cc/LDG4-CZY6>].

65. See generally Muzaffar Chishti, Charles Kamasaki & Laura Vasquez, *Advancing Immigrant Legal Representation: The Next Fifteen Years*, 92 FORDHAM L. REV. 865 (2023).

describe the growing gap between need and capacity in the field of immigrant representation.⁶⁶ But they also identify steps that state and local governments and philanthropic organizations have taken to increase the legal resources available to immigrants in financial need. Programs have taken root in states whose legislatures are situated across the political spectrum.⁶⁷ In addition to new roles for nonlawyers and renewed momentum for policy changes at the federal, state, and local levels, Chishti and his coauthors highlight technological solutions that promise more effective representation for immigrants.⁶⁸ They conclude with a call to action, that practitioners should adopt Judge Katzmann’s “approach combining pragmatism and idealism” to “assure the right to legal representation for every indigent immigrant in this, a nation of immigrants.”⁶⁹

The Essays in this series reflect urgency as well as hope. In the five years since the Study Group’s last major symposium, challenges in the field of immigrant representation have only multiplied as the United States has weathered the COVID-19 pandemic and reckoned anew with its history of racism. In recent months, migrants have been sent to New York City from jurisdictions that are less friendly to newcomers from abroad.⁷⁰ With shelters in the city at or above capacity, authorities have detained many new arrivals and transferred them upstate (or elsewhere) before legal service organizations are able to screen them or assign them counsel.⁷¹ The wait for initial check-in appointments has only grown longer, increasing the risk that immigrants will miss urgent deadlines to seek relief.⁷² Yet during that same period, initiatives spearheaded by the Study Group and its members have continued to bear fruit. IJC has rapidly expanded, in both size and geographic reach, and NYIFUP has striven to ensure universal representation for immigrants in detention.

66. *Id.* at 868.

67. *Id.* Chishti, Kamasaki, and Vazquez chronicle examples including these: In California, the state legislature has appropriated millions of dollars each year since 2015 for legal services for immigrants. In 2021, Colorado created a publicly funded immigration legal services program, the Immigration Legal Defense Fund. In Tennessee, the Tennessee Immigrant and Refugee Rights Coalition and Tennessee Justice for Our Neighbors were awarded American Rescue Plan grants to provide free legal services to hundreds of immigrants. *See id.* at 868–69.

68. *See id.* at 870.

69. *Id.* at 872.

70. See Andy Newman & Raúl Vilchis, *Seeking Asylum in Texas; Sent to New York to Make a Political Point*, N.Y. TIMES (Aug. 6, 2022), <https://www.nytimes.com/2022/08/06/nyregion/migrant-bus-texas-ny.html> [<https://perma.cc/DUG7-M7MT>].

71. See Andy Newman, *Migrants Sleep on the Sidewalk, the Face of a Failing Shelter System*, N.Y. TIMES (Aug. 1, 2023), <https://www.nytimes.com/2023/08/01/nyregion/nyc-migrants-homelessness.html> [<https://perma.cc/3U99-YMPP>].

72. See Steven Nelson, *NYC ICE Office “Fully Booked” for Migrant Appointments Through Late 2032: Document*, N.Y. POST (Mar. 13, 2023), <https://nypost.com/2023/03/13/nyc-ice-office-fully-booked-for-migrant-appointments-through-late-2032/> [<https://perma.cc/QC5Y-TSQU>] (noting that New York’s immigration office is “the most clogged” in the country and reporting that the next busiest offices—in Florida, Georgia, and Texas—are fully booked through at least February 2027).

Judge Katzmann would be proud of the Study Group's achievements yet would surely remind us that where "the sea is so great, and our boats are so small," there is but one response: "row we must."⁷³

I look forward to working with colleagues in the years to come, as we continue to honor Judge Katzmann's legacy and build on what the Study Group has accomplished.

73. Katzmann, *supra* note 32, at 597.