

ACCESS TO JUSTICE IN A WARMING WORLD: CRISIS AND OPPORTUNITY IN RURAL AMERICA

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INTRODUCTION

In 1964, President Lyndon B. Johnson declared “an unconditional war on poverty in America,” which famously paved the way for many social programs still in existence, including what would later become the Legal Services Corporation (LSC)—the nation’s largest provider of civil legal services to low-income folks.¹ To generate the necessary support for his ambitious war, Johnson took a highly publicized trip to eastern Kentucky, choosing Martin County as poverty’s quintessential face.² In 2022, more than 50 years later, that same rural Kentucky county, among several others, was devastated by a flash flood event that claimed 44 innocent lives.³ Those who managed to survive the tragic event were left with homes and vehicles that were badly damaged or, worse, completely washed away.⁴ And today, even after a robust statewide effort to provide victims with legal assistance, many residents remain displaced—some still live in tents or campers—and numerous officials across the Commonwealth fear these once tight-knit communities will never truly recover.⁵ Despite a significant rise in extreme weather events and the need—even requirement—for legal guidance in the aftermath thereof, sustained legal assistance is still inaccessible in rural areas like Martin County throughout the country.⁶ This dearth calls into question the practical implications for victims of disaster and the communities in which they recover.

Scholars have immersed themselves in the puzzle that is *access to*

* I am grateful to my mom and dad for their unconditional love, to my husband for his unwavering support, and to my siblings for believing in me. This Note is dedicated to my little hometown for teaching me that one can only live fully in this world by living responsibly in some small part of it.

¹ Pam Fessler, *Kentucky County That Gave War On Poverty A Face Still Struggles*, NAT’L PUB. RADIO (Jan. 8, 2014), <https://www.npr.org/2014/01/08/260151923/kentucky-county-that-gave-war-on-poverty-a-face-still-struggles>; *The Founding of LSC*, LEGAL SERVS. CORP., <https://www.lsc.gov/about-lsc/who-we-are/our-history/>.

² *Id.*

³ Aya Elamroussi, Sharif Paget & Jennifer Feldman, *Months After disastrous Flooding in Eastern Kentucky, the Death Toll Has Risen to 43, Governor Says*, CNN (Oct. 14, 2022) <https://www.cnn.com/2022/10/14/weather/kentucky-flooding-death-roll-rises>.

⁴ *Id.*

⁵ Justice Hicks, *Legal Advocates Applaud FEMA Changes in Kentucky, But Say Transparency Needed*, LOUISVILLE PUB. MEDIA (Aug. 17, 2022), <https://wfpl.org/legal-advocates-applaud-fema-changes-in-kentucky-but-say-transparency-needed/>.

⁶ See generally Lisa R. Pruitt, Amanda L. Kool, Lauren Sudeall, Michele Statz, Danielle M. Conway & Hannah Haksgaard, *Legal Deserts: A Multi-State Perspective on Rural Access to Justice*, 13 HARV. L. & POL’Y REV. 15, 16 (2018).

justice for some time now.⁷ But historically, their efforts to define the problem and develop its solutions have been limited to the urban context; whether and to what extent prevailing initiatives are applicable to rural regions confronted with the same broad problem has been the subject of much less inquiry.⁸ Fortunately, a growing body of scholarship finally works to challenge the preexisting narrative that access to justice is either a uniquely urban issue or represents a homogenous problem for all low-income populations across the urban-rural divide.⁹ By separating the issue into its geographic sub-components, scholars have begun to understand the inherent limits of extending traditional access to justice initiatives to rural places.¹⁰

One major product of this renewed focus is defined by mounting concern over what experts have dubbed “rural legal deserts,” a term that refers to the growing lawyer shortage in many small towns and rural counties.¹¹ Research highlighting the phenomenon confirms that legal deserts represent an issue of access to justice for rural populations different from those their urban counterparts experience.¹² Namely, myriad unique and compounding barriers characterize rural America’s access to justice landscape; these considerations both complicate attempts to deliver needed legal assistance to rural communities and exacerbate the harms legal deserts inflict on those same populations.¹³ Together, these barriers merit specialized attention insofar as practical solutions are concerned.

Thankfully, several scholars—though an admittedly small cohort—have addressed many such uniquely rural barriers to legal access. But no sustained attention has been devoted to the burgeoning vulnerability of rural populations to more frequent and destructive natural disasters.¹⁴ Put simply, disasters pose an existential threat to many already-struggling small towns.¹⁵ Rather than bouncing back from repeated hurricanes, floods, and wildfires, these communities are “unraveling”: residents and employers move, the tax

⁷ E.g., Elliot E. Cheatham, *The Availability of Counsel and Group Legal Services: A Symposium: Availability of Legal Services: The Responsibility of the Individual Lawyer and of the Organized Bar*, 12 UCLA L. REV. 438 (1965).

⁸ See generally Michele Statz, Hon. Robert Friday, & Jon Bredeson, “*They Had Access, But They Didn’t Get Justice*”: *Why Prevailing Access To Justice Initiatives Fail Rural Americans*, 28 GEO. J. POVERTY L. & POL’Y. 321, 321 (2021).

⁹ See, e.g., *id.*

¹⁰ See generally *id.*; see *infra* Section I.A.2.

¹¹ *Legal Deserts Threaten Justice for All in Rural America*, AM. BAR ASS’N (Aug. 3, 2020), <https://www.americanbar.org/news/abanews/aba-news-archives/2020/08/legal-deserts-threaten-justice/>.

¹² See generally ABA PROFILE OF THE LEGAL PROFESSION 2020, AM. BAR ASS’N (July 2020), <https://www.americanbar.org/content/dam/aba/administrative/news/2020/07/potlp2020.pdf>; See *infra* Section I.A.3.

¹³ Pruitt et al., *supra* note 6, at 18–19.

¹⁴ See *infra* Section I.B.4 for a discussion on legal implications of disaster.

¹⁵ E.g., A. Jerolleman, *Building Resilience in Rural America*, EOS (Feb. 23, 2021), <https://doi.org/10.1029/2021EO154546>.

base dries up, and it becomes exceedingly difficult to fund basic services.¹⁶

Despite the rising recognition of rural legal deserts, existing scholarship largely excludes the interplay between legal deserts and natural disasters. Dealing with both issues discretely when they in fact bleed into each other, however, precludes the kind of cross-disciplinary solutions rural challenges call for and undermines the documented importance of building resilience in communities across the country that are least prepared but most exposed to the worst impacts of disaster.¹⁷ Viewed in this necessarily broader context, rural natural disasters exacerbate social inequities,¹⁸ which, in turn, compounds the harmful impact of legal deserts on these already-vulnerable populations—the result being new or additional legal problems for a growing number of people who lack the resources to address them.¹⁹

This Note argues for a solution to rural legal deserts that appreciates the rural lawyer’s necessary role in addressing local threats posed by climate change. This Note’s primary aim is to present preliminary scholarship connecting two known issues—rural legal deserts and natural disasters—in a novel way. A combined understanding of this context will lend necessary insights to both fields of research.²⁰ And as a practical exercise, this Note proposes an amended framework for rural attorney recruitment that is receptive to the importance of resilience-building and sensitive to the urgent risks posed by disaster.²¹

To those ends, this Note proceeds in three parts. Part I lays the groundwork by describing each of the two problems on which this Note focuses. Proceeding topically, it first situates legal deserts as an access to justice issue of predominantly rural concern. It then discusses the consequences of more frequent and destructive natural disasters on rural populations to demonstrate how disaster creates new legal needs and worsens unresolved existing ones.

Part II proceeds, in the same topical manner, to identify and critically analyze the assortment of existing legal assistance available to rural populations. It posits that measures deployed in either context—legal desert initiatives or disaster legal services—fail to acknowledge the problem sought

¹⁶Christopher Flavelle, *Climate Change Is Bankrupting America’s Small Towns*, N.Y. TIMES (Sept. 2, 2021), <https://www.nytimes.com/2021/09/02/climate/climate-towns-bankruptcy.html>.

¹⁷See *infra* Section II.B and accompanying text for a discussion on the shortcomings of current approaches.

¹⁸See *infra* Section II.B.1.

¹⁹Jerolleman, *supra* note 15.

²⁰See Justin Worland, *The Pandemic Remade Every Corner of Society. Now It’s the Climate’s Turn*, TIME MAGAZINE (Apr. 15, 2021), <https://time.com/5953374/climate-is-everything/> (implying a need for public reimagining of formerly stagnant disciplines to account for climate change, Worland says, “[t]he intertwining of the economy and climate change promises to shape global politics and society for the foreseeable future.”).

²¹To be clear, this Note does not attempt to lay out a comprehensive or generalizable policy plan to address the interaction between rural legal deserts and rural vulnerability to disaster throughout the natural disaster cycle. Nor does this Note attempt to tackle the issue of natural disaster beyond the role lawyers can and should play in relation.

to be addressed by the other context. It contends, in turn, that curing the lawyer shortage will make rural America more resilient to natural disaster, but that even the most ambitious attempts to address rural legal deserts are limited to the extent they disregard implications of natural disaster for the legal profession.

Finally, with this untapped potential in mind, Part III crafts a model, albeit rudimentary, framework for rural attorney recruitment that incorporates relevant concerns posed by natural disaster. The result constitutes an approach to rural legal deserts that prioritizes the holistic needs of all three relevant parties: the apprehensive young lawyer, the resource-strapped rural institution, and the struggling rural resident.

I. BACKGROUND

A. *Rural Legal Deserts: An Issue of Access to Justice*

Rural legal deserts are a new manifestation of an all too familiar American affliction.²² Though familiar in kind, today's rural issues of access to justice are more complex than yesterday's and play out much differently than urban manifestations of the same problem.²³ These differences notwithstanding, most access to justice measures are tailored to urban populations, with the result being an array of well-meaning initiatives that tend to the problem where it is most concentrated (in the cities) but are of little or no utility to rural Americans.²⁴ Not surprisingly, then, legal deserts represent a rural issue that, like many others, is ripe for neglect by scholars, practitioners, and policymakers who—for utilitarian reasons or mere political expediency—approach access to justice with urban beneficiaries at the top of mind.²⁵

This section provides necessary context to the phenomenon by couching it within the broader constellation of access to justice issues and then examining how access to justice presents a more complicated problem for rural communities than traditionally understood. Finally—against that

²² See generally AM. BAR ASS'N, *supra* note 11.

²³ See *infra* Section I.A.2.

²⁴ *Id.*

²⁵ See, e.g., Olugbenga Ajilore & Caius Z. Willingham, *The Path to Rural Resilience in America*, CTR FOR AM. PROGRESS (Sept. 20, 2021), <https://www.americanprogress.org/article/path-rural-resilience-america/> (“Despite the importance of rural communities to the health of the nation overall, federal policy has left many rural communities behind.”); see, e.g., Nick Bowlin, *Joke’s on Them: How Democrats Gave up on Rural America*, THE GUARDIAN (Feb. 22, 2023), <https://www.theguardian.com/us-news/2022/feb/22/us-politics-rural-america> (“Lower-income people and the poorest rural Americans tend not to vote at all. And with both parties, each in its own way, taking rural areas for granted, can you blame them?”).

backdrop—this section contours the particular problem of rural legal deserts.

1. Access to Justice Generally

In the broadest sense, rural legal deserts are but one symptom of a more ubiquitous issue: access to justice.²⁶ Across the country, most people living in poverty and even a majority of moderate-income individuals do not receive adequate legal help.²⁷ Indeed, though all individuals living in poverty qualify for free legal services, 80% of them are still “unrepresented in matters involving basic life needs.”²⁸ Many moderate-income individuals, on the other hand, have even fewer options because they can neither afford to enter the legal system on their own dime nor take advantage of subsidized programs that target the poor.²⁹ But while moderate- and low-income individuals face similar barriers to entry, people who are socially disadvantaged report more serious legal problems and more adverse consequences therefrom.³⁰ In fact, diminished legal capability often creates and perpetuates the inequalities that give rise to it in the first instance; that is, diminished capability increases one’s exposure to legal problems, and that added exposure whittles down one’s legal capability even further.³¹ Thus, in place of tried-and-true intervention measures, a negative feedback loop takes shape, resulting in a vicious cycle of worsening outcomes for those less capable of getting help.³²

Why issues of access to justice endure in the face of steadfast efforts is, like everything else, up for debate. One scholar reasons that solving the problem simply does not comport with America’s winner-take-all economy.³³ Making headway, he suggests, would require elevating the problem to a national movement and re-envisioning access to justice as a

²⁶See generally AM. BAR ASS’N, *supra* note 11 (“But I hope that we can have a broader understanding of what access to justice means . . . Not just by looking at justice as sort of this binary do-you-have-a-lawyer-or-not question.”).

²⁷*Report On the Future of Legal Services in the United States*, AM. BAR ASS’N, 48 (Aug. 2016), https://www.americanbar.org/content/dam/aba/images/abanews/2016FLSReport_FNL_WEB.pdf.

²⁸*Id.* (The LSC is an organization that provides funding to independent nonprofit legal aid programs in every state).

²⁹*Id.*

³⁰Pasco Pleasence & Nigel J. Balmer, *Justice & the Capability to Function in Society*, DAEDALUS 140, 140 (Winter 2019), https://www.amacad.org/sites/default/files/publication/downloads/19_Winter_Daedalus_Pleasence_Balmer.pdf

³¹*Id.*

³²*Id.*; see, e.g., Darryl Bloodworth, *Civil Legal Aid Breaks the Cycle of Poverty, Benefits Taxpayers*, ORLANDO SENTINEL (Sept. 18, 2015), <https://www.orlandosentinel.com/2015/09/18/civil-legal-aid-breaks-the-cycle-of-poverty-benefits-taxpayers/> (“Often, the one intervention that can prevent this cycle from continuing is civil legal aid. And just as is in medicine, when dealing with legal problems, an ounce of prevention is worth a pound of cure.”)

³³Lincoln Caplan, *The Invisible Justice Problem*, DAEDALUS, 19, 25 (Winter 2019), https://www.amacad.org/sites/default/files/publication/downloads/19_Winter_Daedalus_Caplan.pdf.

fundamental American value.³⁴ Similarly, another scholar argues that growing income inequality expands the justice gap by “reducing public funds available for legal aid in real terms” while increasing the number of people who need those services.³⁵

For the American Bar Association’s Commission on the Future of Legal Services, the problem is straightforward: people do not obtain effective legal assistance because of insufficient financial resources or a lack of awareness about when problems can be reconciled through legal representation.³⁶ The latter demonstrates what some experts refer to as a ‘latent legal market’—that is, a currently untapped market for legal services.³⁷ Without more data to inform its normative analysis, the Commission expressed confidence that advancements in technology would yield promising returns for those working to close the justice gap.³⁸ Innovations like remote services, online legal resource centers, and online dispute resolution were a few of those mentioned.³⁹

In sum, access to justice problems span the United States, impacting residents of urban and rural geographies alike.⁴⁰ Of those most affected, the defining feature is largely socio-economic: low-income and otherwise disadvantaged populations comprise the majority of those who need legal assistance but cannot obtain it.⁴¹ Existing literature on the issue reflects a diverse array of normative perspectives, but in terms of practical solutions, experts appear poised to bet all their chips on technology.⁴²

2. Access to Justice in Rural America

Neither urban nor rural populations are immune to issues of access to justice. But addressing those issues as though they find uniform expression across the urban-rural divide represents an inherently flawed premise from

³⁴ *Id.*

³⁵ Robert H. Frank, *How Rising Income Inequality Threatens Access to the Legal System*, DAEDALUS, 10, 15 (Winter 2019), https://www.amacad.org/sites/default/files/publication/downloads/19_Winter_Daedalus_Frank.pdf.

³⁶ AM. BAR ASS’N, *supra* note 11; Pleasence & Balmer, *supra* note 30, at 144 (explaining that the “ability to recognize the legal dimensions of problems strongly links to the use of legal services.”).

³⁷ Will Hornsby, *Tapping into the Latent Legal Market: Guest of the Chair Q&A with Will Hornsby*, AM. BAR ASS’N (Mar. 2, 2018), https://www.americanbar.org/groups/legal_services/publications/dialogue/volume/21/winter-2018/lris-guest-qa/.

³⁸ *Report On the Future of Legal Services in the United States*, *supra* note 27 (arguing that the legal profession can expand the ways in which legal services are delivered and accessed by implementing new technologies and related innovations, including remote access, online legal resource centers, and online dispute resolution).

³⁹ *Id.*

⁴⁰ *See id.*

⁴¹ *Id.*

⁴² *See supra* notes 34–40 and accompanying text.

which to formulate effective policy.⁴³ So broad a conception fails to account for rural differences in experience, capability, and causation.⁴⁴ Compared to their urban counterparts, rural populations suffer disproportionately from poverty, poor health outcomes, the opioid epidemic, educational deficits, and environmental degradation, among other disparities.⁴⁵ These disparities represent obstacles to legal access in themselves, but the rural setting in which they persist functions as an additional barrier to accessing the legal system—one that solidifies the need for policymakers and the like to differentiate between geographic contexts when contemplating solutions.⁴⁶

Namely, the physical characteristics that define rural landscapes work to camouflage legally significant social problems in several ways.⁴⁷ Most obviously, accessing the legal system frequently requires rural individuals to overcome physical deterrents like “vast distances and insufficient (or nonexistent) public transit.”⁴⁸ Superimposed on this obstacle lies another that reinforces it: rural communities are regularly characterized by scarce means of communication, such as little or no cell phone service and unreliable or unavailable broadband internet.⁴⁹ So, even rural individuals who qualify for legal aid or are sufficiently motivated to enter the legal system through online self-help resources can be hindered from doing so by virtue of where they live.⁵⁰ And to add insult to injury, the sheer number of obstacles between rural populations and legal services can prevent impacted residents from recognizing their legal rights in the first place;⁵¹ likewise, those who have tried but failed to engage the legal system are more likely to view the law as irrelevant to them thereafter.⁵²

Together, these distinctively rural hurdles converge to separate “vulnerable populations from justice both cognitively and practically,” which

⁴³ See generally Pruitt et al., *supra* note 6.

⁴⁴ Derek Beach & Sandrino Smeets, *Once Bitten, Twice Shy: The Overgeneralization Trap and Epistemic Learning After Policy Failure*, POL. & POL’Y, 1, 1–29 (2022), <https://doi.org/10.1111/polp.12509> (“[W]hen policy makers face a new crisis, there is a significant risk of falling into an “overgeneralization trap” that involves imposing the abstracted causal lessons learned from the dramatic failure case onto the new crisis with little consideration of whether the lessons actually fit the new crisis.”).

⁴⁵ Pruitt et al., *supra* note 6, at 18–19.

⁴⁶ *Id.*

⁴⁷ *Id.* at 20.

⁴⁸ *Id.* at 22.

⁴⁹ *Id.* (naturally, this barrier also includes not knowing about the availability of free legal services when they are available.); Michele Statz et al., *supra* note 8, at 346.

⁵⁰ See Pruitt et al., *supra* note 6, at 22; see also Robin Runge, *Addressing the Access to Justice Crisis in Rural America*, AM. BAR ASS’N (July 1, 2014), https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/2014_vol_40/vol_40_no_3_poverty/access_justice_rural_america/ (“Although each state has a nonprofit legal assistance organization that receives federal funding to provide free legal services to the poor, their offices and attorneys are primarily based in ... urban communities ... and they have seen consistent, drastic cuts in funding over the past 20 years”).

⁵¹ See generally Pruitt et al., *supra* note 6.

⁵² *Id.* at 127.

effectively precludes wholesale export of urban initiatives to rural settings.⁵³ Nonetheless, prevailing access to justice measures have been developed with primarily urban populations in mind and, thus, absent these indispensable considerations of rural life.⁵⁴ As a result, solutions are “often premised on technological, professional, and infrastructural capacities that simply do not exist in many rural regions.”⁵⁵ Such urban-oriented approaches are profoundly incompatible with rurality not only in theory but also in practice; certain of them, when applied in rural communities, have exacerbated existing stress and even left rural residents with humiliating experiences.⁵⁶

For all these reasons, it is incumbent on those who endeavor to make “equal justice under the law” a reality to differentiate between geographic settings; workable approaches will acknowledge both “the limits of rural infrastructural capacity” and the multifaceted barriers low-income rural residents regularly confront.⁵⁷ Otherwise, well-meaning initiatives risk working additional hardships on rural residents.⁵⁸

3. Rural Legal Deserts

Having demonstrated the need for rural-tailored solutions, one of the greatest threats to adequate legal representation in rural America—the most important consideration yet—is exhibited by a growing shortage of lawyers.⁵⁹ An exploration of the problem and its causes follow.

a. The Problem Defined

In 2020, the ABA profiled the legal profession and presented a nationwide compilation of trends and statistics vis-à-vis legal deserts.⁶⁰ Among its findings, the ABA learned that approximately 1,300 counties (40% of all counties and county-equivalents) in the United States have fewer than one lawyer per 1,000 residents.⁶¹ And though almost every state has counties with a shortage, the problem is amplified in states with large swaths of rural land.⁶² Indeed, most active lawyers practice in America’s cities while many small towns and rural counties have few or no lawyers to help residents

⁵³ *Id.*

⁵⁴ Michele Statz et al., *supra* note 8, at 326.

⁵⁵ *Id.* at 322.

⁵⁶ *Id.* at 327.

⁵⁷ *Id.* at 322.

⁵⁸ *Id.*

⁵⁹ See generally AM. BAR ASS’N, *supra* note 11.

⁶⁰ Report On the Future of Legal Services in the United States, *supra* note 27.

⁶¹ *Id.*

⁶² *Id.*

navigate the legal system.⁶³

Regrettably, the ABA even qualified its findings by noting that a lawyer’s “presence” in a given area does not equate to public access because many lawyers work for the government—prosecutors, public defenders, city and county attorneys—and many others work for corporations and nonprofits.⁶⁴ An unspecified number of “active” attorneys might also be working in non-legal roles, functionally retired, or “not practicing law in an area of expertise required by prospective clients.”⁶⁵ To top it off, lawyers in small towns and rural counties are more likely to be precluded from undertaking a given representation due to conflicts of interest.⁶⁶

Though the emergence of legal deserts admittedly coincides with a general trend of rural depopulation, unmet legal needs have only grown larger in the wake of this exodus; simply put, individuals with access to justice problems are not generally among those leaving.⁶⁷ In as recent as 2017, an annual survey conducted by the LSC found that three-quarters of America’s low-income rural residents faced at least one civil legal problem and nearly a quarter of rural residents faced six or more.⁶⁸ In that same year, only 14% of the population at issue received adequate legal assistance for their problems, a rate less than half the national average.⁶⁹

Accordingly, this much is clear: legal deserts plague rural communities in particular.⁷⁰ Many of them are grappling with a fundamental mismatch between the need for legal services and the available resources to meet that need.⁷¹ Moreover, that rural problems implicate areas of expertise in which some rural attorneys do not practice underscores the importance of developing particularized approaches tailored to the specific problems likely to face rural residents.⁷²

⁶³ See generally AM. BAR ASS’N, *supra* note 11; see also *Eliminate Barriers to Justice*, RURAL JUSTICE COLLABORATIVE, <https://www.ruraljusticecollaborative.org/areas-of-focus/eliminate-barriers-to-justice> (last visited Oct. 11, 2023) (“Nearly 20% of Americans reside in rural areas while a mere 2% of law practices in the United States are located in or serve these areas.”).

⁶⁴ *Report On the Future of Legal Services in the United States*, *supra* note 27.

⁶⁵ Pruitt et al., *supra* note 6, at 22.

⁶⁶ *Id.* at 49.

⁶⁷ Georgeanne Artz, *Rural Area Brain Drain: Is It a Reality?*, CHOICES (2003), <https://dr.lib.iastate.edu/server/api/core/bitstreams/74852a3d-61d3-4ed4-9cbf-452116645e99/content> (presenting evidence that those leaving rural America are young, college-educated workers); see also *Immigration Can Reverse Rural Population Decline*, FWD.US (Aug. 22, 2023), <https://www.fwd.us/news/rural-decline/#:~:text=Those%20leaving%20are%20often%20in,2020%20from%2019%20in%202010.>

⁶⁸ *The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-Income Americans*, LEGAL SERVICES CORP. (June 2017), <https://www.lsc.gov/sites/default/files/images/TheJusticeGap-FullReport.pdf>

⁶⁹ *Id.*

⁷⁰ *See id.*

⁷¹ *See id.*

⁷² See generally Olugbenga Ajilore & Caius Z. Willingham, *The Path to Rural Resilience in America*, CTR FOR AM. PROGRESS (Sept. 20, 2021), <https://www.americanprogress.org/article/path-rural-resilience-america/>

b. The Causes Espoused

To understand, much less solve, this problem, it is necessary to take stock of its underlying causes. At the most basic level, rural attorney shortages are driven by the “graying bar,” a colloquialism that refers to “attorneys who are retiring but not being replaced.”⁷³ That they are retiring is but a natural conclusion to every lawyer’s career. Why they are not being replaced, however, is more significant. Like with a growing number of other previously stable professions, the graying bar is most prevalent—and its impacts most pernicious—in rural areas because of the difficulty inherent to persuading new attorneys to locate and remain in communities with “struggling local economies and under-resourced educational and health care systems.”⁷⁴

Specifically, emerging lawyers regard rural legal practices as financially unfeasible, whereas their urban counterparts are thought to offer greater professional opportunities and higher incomes.⁷⁵ The allure of higher salaries elsewhere makes sense in view of what a law degree costs, in addition to the corresponding burden of student loan debt.⁷⁶ But the perception that rural practice is associated with lower remuneration also implicates concerns about professional support—that is, the perception suggests “a lack of preparedness for what rural and solo legal practices entail.”⁷⁷ Other reasons law students cite for their reluctance to practice in rural communities include anxieties about finding a life partner, feelings of isolation, assumptions of racial and gender bias, and a preference for more amenities and social activities than rural places offer.⁷⁸

All this apprehension, some of which notably lacks substantiation, raises an important question about the composition of today’s young lawyers. And not surprisingly, research proves that the young people who grow up in rural America are less likely to go to law school.⁷⁹ In fact, only 29% of rural

(recommending for policymakers a shift in “the rural development paradigm from a top-down approach to a bottom-up strategy by directly funding rural communities and facilitating an asset-based approach to rural development.”).

⁷³Michele Statz & Paula Termuhlen, *Rural Legal Deserts are a Critical Health Determinant*, AM. J. OF PUB. HEALTH (Sept. 9, 2020) (explaining that nationwide declining law school enrollment is partly to blame for the problem’s growing prevalence).

⁷⁴*Id.*

⁷⁵Pruitt et al., *supra* note 6, at 122–23.

⁷⁶*Id.*

⁷⁷*Id.* at 123.

⁷⁸See Lisa R. Pruitt, J. Cliff McKinney & Bart Calhoun, *Justice in The Hinterlands: Arkansas as a Case Study of the Rural Lawyer Shortage and Evidence-Based Solutions to Alleviate It*, 37 U. ARK. LITTLE ROCK L. REV. 537, 646 (2015); Pruitt et al., *supra* note 6, at 124.

⁷⁹Pruitt et al., *supra* note 6, at 147.

Americans aged 18–24 are currently enrolled in colleges or universities.⁸⁰ Studies also show that children either with lawyers in their family or who interact with lawyers on a regular basis are more likely to see themselves as one.⁸¹ Hence, as the subset of rural lawyers continues to shrink, the shortage of rural-raised law students—those most apt to return home after law school—is likely to grow in kind.⁸² All in all, then, the challenge of getting young attorneys to rural regions doubtless is exacerbated by the fact that so few law students are familiar with the positive aspects of rural life.⁸³

Though incorporating all the concerns just highlighted would exceed the scope of any one policy, a realistic solution to the rural lawyer shortage nonetheless requires a willingness to seriously entertain them. After all, a solution depends for its success on young lawyers' acquiescence in filling the documented void.

B. Rural Natural Disaster: A Problem with Rising Implications for the Legal Profession

So, what do legal deserts have to do with natural disasters? The question would have been difficult to parse many years ago: disasters were few and far between then.⁸⁴ And to borrow from the familiar force majeure provision in contract law, natural disasters have traditionally been characterized as mere acts of God over which humans have no control.⁸⁵ But over time, our position has changed⁸⁶—the lag in contract law notwithstanding. Far from expressions of divine judgment, we now know that, historically speaking, much of the attendant death and destruction has been well within human control.⁸⁷ How one fares in the midst of a disaster is not a function of luck but of one's ability to protect themselves.⁸⁸ And the

⁸⁰ See Anne Dennon, *College Attendance Among Rural Students Takes a Dive*, BEST COLLEGES (Nov. 10, 2021) <https://www.bestcolleges.com/blog/rural-students-college-enrollment-decline/>.

⁸¹ Pruitt et al., *supra* note 6, at 147.

⁸² *Id.*

⁸³ E.g., Dayle Sharp, Maritza Bond, Kelly Cheek & Holly Wolff, *Quality of Life Impacts the Recruitment and Retention of Rural Health Care Providers*, NAT'L RURAL HEALTH ASS'N (2015), <https://www.ruralhealth.us/getattachment/Advocate/Policy-Documents/QualityofLifeRecruitmentRetentionProvidersFeb2015.pdf.aspx?lang=en-US> (in the similar context of rural physician shortages, studies have shown that students with rural backgrounds, rural training, rural-oriented medical curriculum, and those with family in the rural area—among other factors—are most likely to be successfully recruited to rural practice).

⁸⁴ See generally TED STEINBERG, *ACTS OF GOD: THE UNNATURAL HISTORY OF NATURAL DISASTER IN AMERICA* (2000).

⁸⁵ See e.g., John C. McBride & Thomas J. Touhey, *Government Contracts: Law, Admin & Proc.* § 39.50 (2023).

⁸⁶ Steinberg, *supra* note 84.

⁸⁷ See generally *id.* (discussing how decision-makers in the United States have literally paved the way for greater loss of life and property from floods, earthquakes, hurricanes, etc.).

⁸⁸ *Id.*

ability to do that, like the ability to obtain appropriate legal assistance, depends on a host of socio-economic factors, which are always in the purview of local, state, and federal decision-makers. This Note posits not only that vulnerability to natural disasters and issues of access to justice result from many similar inputs but also that the presence of either in a rural community exacerbates the other.

To that end, this section explores rural natural disasters. It first outlines the factors that expose rural individuals and their communities more broadly to natural disasters by considering the local conditions that increase rural susceptibility to risk. The second part of this section summarizes rural coping capacities by examining whether and to what extent rural individuals and their local institutions can improve their odds by resorting to outside resources. The third part of this section unites the first two by explaining how high vulnerability and low coping capacity make for less resilient rural communities. And because an appropriate intervention necessarily involves the legal profession, this section concludes by delineating the relevant legal implications of rural natural disasters.

1. High Vulnerability

In disaster literature, social vulnerability identifies populations that are less likely to respond to, cope with, and recover from a disaster.⁸⁹ In fact, a given community's predisposition to extreme weather events is dictated in large part by its social vulnerability.⁹⁰ Most rural communities are characterized as highly vulnerable.⁹¹ The reasons are many. More people live in poverty, older individuals represent a disproportionate share of the population, historically marginalized groups constitute a large and growing share of the population, and rural communities are geographically isolated.⁹²

When disaster strikes in rural America, these and countless other risk factors play out in diverse ways.⁹³ Exploring the nuanced incarnations are beyond the scope of this Note, but some examples will suffice to convey the

⁸⁹Susan L. Cutter & Christina Finch, *Temporal and Spatial Changes in Social Vulnerability to Natural Hazards*, 105 PROCS. OF THE NAT'L. ACAD. OF SCIS. 2301 (Feb. 19, 2008).

⁹⁰Kevin Manuele & Mark Haggerty, *How FEMA Can Build Rural Resilience Through Disaster Preparedness*, CTR. FOR AM. PROGRESS (Oct. 6, 2022) <https://www.americanprogress.org/article/how-fema-can-build-rural-resilience-through-disaster-preparedness/>.

⁹¹*Id.*

⁹²*Id.*

⁹³See United Nations Office for Disaster Risk Reduction, *Components of Risk: Vulnerability*, PREVENTIONWEB, <https://www.preventionweb.net/understanding-disaster-risk/component-risk/vulnerability#> (last visited Oct. 10, 2023) (clarifying that “[v]ulnerability is complex. It has many dimensions, it is driven by different factors at different levels, from local to global, and it is dynamic as it alters under the pressure of these driving forces. Furthermore, the complex factors that make people vulnerable are not always immediately obvious.”).

stakes. A higher proportion of elderly individuals results in a longer recovery process for the community.⁹⁴ Likewise, extreme depopulation—a cited concern among many rural leaders—negatively influences the impact of and recovery from disaster in a host of ways.⁹⁵ The existence of fewer people means fewer social services before, during, and after a disaster; it also means shallow economies that typically depend on one or two economic drivers such that a hit to one results in a slower recovery for the community at large.⁹⁶ As other examples, a higher incidence of persistent poverty in rural America translates to more mobile and manufactured homes, issues with proving residence post-disaster, and an inability to rebuild or buy a new home after disaster destroys a previous one; this is especially true when, in the wake of disaster, new housing codes are adopted without due consideration of local poverty.⁹⁷ Most generally, communities with greater social vulnerability are often located in areas that are simply more prone to disaster—think NIMBYism.⁹⁸ Other notable impacts reach further. Historically, recovery efforts have perpetuated inequities by imposing more burdens on some families than on others and by making those who were already most at risk more vulnerable—like people living below the poverty line.⁹⁹ Simply put, social vulnerabilities both contribute to and result from natural disasters.

If disaster impacts are preventable and many rural residents lack control over the means necessary to prevent them, then the scope of this inquiry must expand to consider other potential sources of control—or responsibility—for rural outcomes. Local decision-makers thus present the next logical consideration. But here, too, there exists a problem. Rural institutions, faced with the difficult task of improving outcomes for their increasingly vulnerable residents, are, themselves, increasingly vulnerable.¹⁰⁰ In fact, many rural institutions are virtually defenseless. Paralyzed by local resource scarcity and decades of disinvestment, a growing number of rural governments are unable to offset local vulnerabilities or manage an effective disaster response and recovery on behalf of their constituents.¹⁰¹ Specifically, fiscal pressure, a declining tax base from population loss, staffing shortages, and limited institutional knowledge preclude local efforts to provide adequate

⁹⁴ Cutter & Finch, *supra* note 89.

⁹⁵ *Id.* (tracing the impacts on social vulnerability of population change and density).

⁹⁶ *See id.*

⁹⁷ *Rural Resilience: Before and After Natural Disasters*, HOUS. ASSISTANCE COUNCIL, <https://ruralhome.org/rural-resilience-in-face-of-disaster/before-and-after-natural-disasters/> (last visited Jan. 21, 2023).

⁹⁸ Cutter & Finch, *supra* note 89; *see NIMBY*, BRITANNICA.COM, <https://www.britannica.com/topic/NIMBY> (last visited Feb. 19, 2024).

⁹⁹ Jerolleman, *supra* note 15.

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

goods and services to citizens before a disaster—not to mention after one.¹⁰² Indeed, rural institutions struggle to provide even those services for which they are legally required.¹⁰³ And though essential, rural nonprofits generally do not fill the gap left by local governments because they, too, are notoriously underfunded.¹⁰⁴ In short, rural decisionmakers face a multitude of challenges that are “difficult to navigate without the added strain of a disaster on aging infrastructure and a vulnerable population.”¹⁰⁵

In light of such immense pressure, rural governments are doing the best they can with what they have—after all, these scrappy populations are known for thrift and conservation.¹⁰⁶ In response, overextended local decision-makers have tempered their lacking capacity with “privatization and consolidation”—reactions characterized by placing personnel in dual roles and relying on volunteers and local partners to step in when necessary.¹⁰⁷ With few able-bodied individuals to assist in local efforts, disaster management staff in rural areas often have multiple jobs, and there is an increased dependence on volunteer firefighters and emergency medical services.¹⁰⁸ Regrettably, research indicates that capacity is only further impaired when governments over-rely on local and regional partners who are not always available.¹⁰⁹ That is, these reactions work to mask the already-limited capacity of local governance in rural America.¹¹⁰ So, while this highly adaptive response has proven sound enough in non-disaster times, disasters often—indeed devastatingly—will bring to bear on rural populations the sheer inadequacies lurking just beneath the surface.¹¹¹

In sum, rural individuals are particularly vulnerable to natural disasters.¹¹² These particularly vulnerable individuals often live in communities that lack sufficient local resources to mitigate hazards before a disaster, to effectively respond during a disaster, and to appropriately recover after a disaster.¹¹³

¹⁰² Manuele & Haggerty, *supra* note 90.

¹⁰³ Alessandra Jerolleman, *Chapter 11: Challenges of Post-Disaster Recovery in Rural Areas* in LA.’S RESPONSE TO EXTREME WEATHER 285–310 (Laska, S, eds., 2020).

¹⁰⁴ Manuele & Haggerty, *supra* note 90.

¹⁰⁵ Jerolleman, *supra* note 103.

¹⁰⁶ See, e.g., Jean Hardy, *How Rural America is Saving Itself*, BLOOMBERG (Dec. 20, 2018), <https://www.bloomberg.com/news/articles/2018-12-20/-can-rural-america-be-saved-is-the-wrong-question> (“While rural regions may not be swimming in investment capital, they are awash in local pride and tight-knit communities.”).

¹⁰⁷ Jerolleman, *supra* note 103.

¹⁰⁸ *Rural Populations*, CTR. FOR DISASTER PHILANTHROPY, <https://disasterphilanthropy.org/resources/rural-populations/> (last visited Sept. 28, 2022).

¹⁰⁹ Jerolleman, *supra* note 103.

¹¹⁰ *Id.*

¹¹¹ See generally *id.*

¹¹² *Id.*

¹¹³ *Id.*

2. Low Capacity

Surely, despite these resource constraints from within, there is outside help? The answer is complicated. For a growing number of rural communities, local limitations are so severe that they impede efforts to obtain needed help from state and federal sources, too.¹¹⁴ Some of these obstacles arise on account of low population density and small size.¹¹⁵ For instance, FEMA uses a “per capita indicator to create a baseline for financial assistance,” and rural places regularly fail to meet the minimum damage requirements.¹¹⁶ Similarly, rural areas are often a lower priority for state or federal initiatives to restore and repair local infrastructure.¹¹⁷ Though unfortunate, these size and density obstacles pale in comparison to a more significant issue: rural communities, at both the individual and institutional levels, lack the requisite capacity to navigate *available* federal funding sources throughout the disaster cycle.¹¹⁸ As a result, they can neither adequately prepare for a disaster nor equitably recover from one even though the federal government sets money aside for those tasks.¹¹⁹ This lack of capacity manifests in several ways.

Rural residents with “less experience navigating federal disaster assistance processes often struggle to understand the particularities of regulations, including when and how to appeal agency decisions and seek additional funds.”¹²⁰ In fact, federal aid for recovery most often reaches “prosperous, white, educated people.”¹²¹ Rural governments, on the other hand, typically have little or no in-house expertise and limited resources to hire outside consultants for assistance in planning or other stages of disaster.¹²² As one example, studies show that *recovery committees*—a crucial component of the national disaster recovery framework—are much harder to establish in communities that “lack a lot of manpower and are already reeling from the resources required to navigate complex governmental recovery processes.”¹²³ These committees are meant to serve as the primary mechanism for the receipt of both funds and technical

¹¹⁴ Jerolleman, *supra* note 15.

¹¹⁵ See *Rural Area*, NAT’L GEOGRAPHIC, <https://education.nationalgeographic.org/resource/rural-area/#> (last visited Dec. 2, 2023).

¹¹⁶ *Rural Populations*, *supra* note 108.

¹¹⁷ *Id.*

¹¹⁸ See generally Manuele & Haggerty, *supra* note 90; see also Jerolleman, *supra* note 15.

¹¹⁹ See generally Manuele & Haggerty, *supra* note 90; see also Jerolleman, *supra* note 15.

¹²⁰ Jerolleman, *supra* note 15.

¹²¹ Suzanne Arnarde, *The Rural Difference in Natural Disasters*, SHELTERFORCE (May 15, 2019) <https://shelterforce.org/2019/05/15/the-rural-difference-in-natural-disasters/>.

¹²² Jerolleman, *supra* note 103.

¹²³ *Id.*

assistance.¹²⁴ Even when the committees can be established, findings show their effectiveness comes with a steep learning curve—a challenge that is, of course, complicated by limited pre-disaster capacity.¹²⁵

Beyond recovery, there are numerous federal funding opportunities that directly or indirectly bear on other stages of disaster, but so far, these opportunities have proven inaccessible for most rural governments.¹²⁶ Many of these programs, like FEMA's Building Resilient Infrastructure and Communities (BRIC) program, are defined by a competitive grant process for which local leaders may apply to obtain funding for various disaster measures.¹²⁷ But due again to limited institutional capacity, federal funds rarely reach rural governments in the way legislation intends.¹²⁸ Convolved and costly application processes, especially when competitive, sideline most of these communities from participation: "They do not have the people, the financial resources, the expertise, or the time to do so."¹²⁹ These federal processes would require an increase in rural capacity if such communities are to be included.¹³⁰

An effective state and federal process, scholars observe, requires equal access to resources and programs for all communities, urban and rural alike.¹³¹ Implicit in this equality, they contend, is the participation of small rural communities—"on equal footing" with urban cities—in state-level decision-making processes that determine "resource allocation, disaster recovery plans, and future risk reduction."¹³² As it stands, however, rural institutions and their residents have been excluded from meaningful participation in any broader strategy,¹³³ the result being something akin to survival of the fittest where 'fitness' is measured by the very resources rural governments lack.¹³⁴

3. A Less Resilient Rural America

High vulnerability and lacking institutional capacity factor into what experts have termed *resilience*.¹³⁵ Resilience is the comprehensive metric

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ Manuele & Haggerty, *supra* note 90.

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ Jerolleman, *supra* note 15.

¹³² *Id.*

¹³³ See *supra* notes 128–132.

¹³⁴ See e.g., Hardy, *supra* note 106 (arguing that "[a] major problem here is that urban-based commenters think about rural areas and their unique features as deficits.").

¹³⁵ See O.D. Cardona, et. al., *Chapter 2 – Determinants of Risk: Exposure and Vulnerability*, in MANAGING THE

used to define a local community's ability to adapt to, withstand, and recover from a disaster or otherwise hazard, shock, or stress.¹³⁶ Naturally, "communities with greater capacity – as defined by their access to human, social, political and economic capital – and greater capabilities in developing, acquiring or exchanging these resources, are more likely to be resilient in the face of a disaster."¹³⁷ In rural populations, scholars observe an interesting juxtaposition—one they aptly characterize as a "dual perspective" that is comprised of two views about rural resilience, one negative and the other positive.¹³⁸

The first of these two perspectives was discussed at length above: resource-strapped rural communities are particularly vulnerable and lack the means to reduce their vulnerabilities, adapt to climate change, and recover from disaster.¹³⁹ This perspective highlights relevant weaknesses to forecast a less resilient disaster response for rural regions.¹⁴⁰ The second perspective, however, emphasizes the important benefits rurality confers by pointing to, principally, the remarkable measure of self-reliance rural populations exhibit.¹⁴¹ They are, says this perspective, intrinsically more adaptive because of "strong social capital, a coherent sense of identity, and long-standing relationships based on reciprocity among community members."¹⁴² From this, research reveals that for rural places, "community ties," common goals, and other such intangible assets can be just as important to a successful long-term recovery as public infrastructure.¹⁴³ For that reason, there is a positive correlation between the number of active social groups in a rural community and post-disaster population retention.¹⁴⁴ But proceeding from that same premise, the inverse also holds true and is arguably bolder. Failed disaster responses have proven detrimental to community bonds, raising the specter of eventual collapse for fragile communities that have only these bonds to show for their resilient traits.¹⁴⁵

Together, the two views that make up the dual perspective just described provide a blueprint for enhancing rural resilience.¹⁴⁶ Often, the

RISKS OF EXTREME EVENTS AND DISASTERS TO ADVANCE CLIMATE CHANGE ADAPTATION

(2012), https://www.ipcc.ch/site/assets/uploads/2018/03/SREX-Chap2_FINAL-1.pdf (a special report on working groups I and II of the Intergovernmental Panel on Climate Change (IPCC)).

¹³⁶ Columbia Climate School National Center for Disaster Preparedness, *Recovery and Resiliency*, RSCH. PORTAL <https://ncdp.columbia.edu/research/recovery-resiliency/> (last visited Nov. 4, 2022).

¹³⁷ *Id.*

¹³⁸ Jerolleman, *supra* note 15.

¹³⁹ *Id.*

¹⁴⁰ Jerolleman, *supra* at 103.

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ *Id.*

¹⁴⁴ *Id.*

¹⁴⁵ *Id.*

¹⁴⁶ See e.g., Hardy, *supra* note 106 ("But an economic growth perspective—largely a result of neoliberal

resilient characteristics rural communities are more apt to possess are those their urban counterparts are less apt to possess, and vice versa. Regrettably, the consequences of ignoring this blueprint are presently unfolding, and as a result, the predictive value of the first perspective is gradually eclipsing that of the second.¹⁴⁷ Namely, while the second perspective reflects the strengths inherent to tightly knit communities with long records of adapting to environmental change, “it does not account for the struggles being keenly felt across much of rural America or the disparate outcomes seen among such communities.”¹⁴⁸ In the absence of policies that are equally sensitive to their strengths and weaknesses, rural communities have grown less resilient while natural disasters have grown more frequent and destructive.¹⁴⁹

To demystify this notion, numerous articles and news reports—the *New York Times* most thoroughly—have detailed the devastating ways in which climate disasters are destabilizing America’s small towns.¹⁵⁰ Together, these published accounts reveal how imperative, though inadequate, federal and state responses currently are for rural communities.¹⁵¹ Such inadequacies disrupt the social fabric of rural life, often indefinitely.¹⁵² As demonstrated by one piece, climate shocks are effectively bankrupting small towns.¹⁵³ Instead of bouncing back, they are hollowing out: residents and employers move away—taking with them what is left of the tax base—and it becomes harder for local governments to provide basic services.¹⁵⁴ Loss of history, identity, and community are among some of the intangible consequences.¹⁵⁵

Most notably, these existential crises are undeterred by a growing patchwork of federal assistance.¹⁵⁶ Owing to delayed or uncoordinated federal efforts, community leaders across the country are routinely caught between a rock and a hard place: help residents build back or encourage them

economic policies—makes assumptions about what success looks like. And while the growth prospects of rural America may come across as dire, [many accounts] largely ignore the work being done on the ground by rural communities to save themselves.”).

¹⁴⁷ Jerolleman, *supra* note 15.

¹⁴⁸ *Id.*

¹⁴⁹ *See generally id.*

¹⁵⁰ E.g., Tricia Fulks Kelley, Rick Rojas & Campbell Robertson, ‘We Keep Getting Hit’: Flooded Kentucky Grows Weary After Another Natural Disaster, N.Y. TIMES (July 30, 2022), [https://www.nytimes.com/2022/07/30/us/kentucky-flooding-natural-disasters.html#:~:text=New%20York%20Times-,We%20Keep%20Getting%20Hit%3A%20Flooded%20Kentucky%20Grows%20Weary%20After,and%20require%20substantial%20outside%20help;see%20also%20Christopher%20Flavelle,How%20the%20Government%20Is%20Failing%20Americans%20Uprooted%20by%20Calamity,N.Y.%20TIMES%20\(July%2023,%202022\),https://www.nytimes.com/2022/07/23/climate/climate-disaster-relief-fema.html](https://www.nytimes.com/2022/07/30/us/kentucky-flooding-natural-disasters.html#:~:text=New%20York%20Times-,We%20Keep%20Getting%20Hit%3A%20Flooded%20Kentucky%20Grows%20Weary%20After,and%20require%20substantial%20outside%20help;see%20also%20Christopher%20Flavelle,How%20the%20Government%20Is%20Failing%20Americans%20Uprooted%20by%20Calamity,N.Y.%20TIMES%20(July%2023,%202022),https://www.nytimes.com/2022/07/23/climate/climate-disaster-relief-fema.html).

¹⁵¹ *Id.*

¹⁵² Flavelle, *supra* note 150.

¹⁵³ *Id.*

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*

¹⁵⁶ Flavelle, *supra* note 16.

to move away from worsening threats.¹⁵⁷ The federal government regularly takes years to provide disaster relief, one article found, and those funds often work at “cross purposes,” paying some residents to rebuild while paying their neighbors to leave.¹⁵⁸ In Fair Bluff, North Carolina, the Economic Development Administration responded to the town’s disaster by funding a new commercial business center while other federal agencies paid for residents to move away—residents who might have otherwise patronized those new businesses.¹⁵⁹

Harsh accounts like these have implored some commentators to question whether rural America can—or worse yet, should—be saved. Peddling a false dilemma, however, evades responsibility for a problem the federal government should have prevented and must now solve. Indeed, these case studies simply bring to life what disaster resilience research makes clear: opportunities for federal assistance, even when accessible, substantially lack the coordination and local input necessary to move the needle in rural communities.¹⁶⁰ Current federal policy consists largely of one-size-fits-all approaches rural communities struggle to retrofit for their unique needs.¹⁶¹ This strategy, or rather lack thereof, militates against resilience and entrenches the kind of inequities that compel government intervention to begin with.¹⁶²

Logically, the dual perspective of rural resilience must take precedence over other considerations when developing initiatives to address rural problems, access to justice included.¹⁶³ Wendell Berry, a longtime advocate for rural America,¹⁶⁴ marries the two views that comprise rural resilience rather harmoniously. Consider his accounting of rurality. Reflecting on the internal strengths and external difficulties, Berry says of his own rural community:

Such a place—rural, small, ‘backward,’ and ‘underdeveloped’—was, in fact, invisible, virtually non-existent to that [urban-industrial] system, and thus mortally endangered by it. I could see that, as it was, its days were

¹⁵⁷ *Id.*

¹⁵⁸ *Id.*

¹⁵⁹ *Id.*

¹⁶⁰ See generally Ajilore & Willingham, *supra* note 72.

¹⁶¹ See generally *id.*

¹⁶² See NAT’L RSCH. COUNCIL, DISASTER RESILIENCE: A NAT’L IMPERATIVE 160 (The Nat’l Acads. Press, 2012) (“[I]mprovement of national resilience relies on collections of coordinated and integrated policies at multiple levels rather than a single comprehensive government policy.”).

¹⁶³ *Id.* at 159 (“Policies and programs at all levels of government require examination to assess their impact on the long-term resilience of communities and the nation.”); Jerolleman, *supra* note 15.

¹⁶⁴ WENDELL BERRY, THE NEED TO BE WHOLE: PATRIOTISM AND THE HISTORY OF PREJUDICE 12, 39 (2022).

numbered. But I could see also that, as it was, its human community was taking respectable care of itself and of the local countryside that supported it. It was clear to me that this good keeping, if it could survive and be cherished, held the possibility of better keeping.¹⁶⁵

Berry's point is not to invoke nostalgia but to underscore the preservationist tendency of tight-knit communities; members are bound by loyalty to one another and to the physical landscape they call "home."¹⁶⁶ This preservationist tendency, when nurtured, provides needed security in times of disaster.

4. Legal Implications of Rural Natural Disaster

What, then, might the legal profession offer in view of this increasingly fraught reality? Put otherwise, against this backdrop, how might lawyers take some of the burden off rural America? This section provides those answers. Because rural individuals and their institutions are often *both* handicapped by lacking capacity, relevant legal implications are bifurcated accordingly.

a. Individual Provisions

Disaster's sweeping effect on whole communities typically results in "large populations in immediate need of legal assistance on a number of topics."¹⁶⁷ As one expert describes, "virtually all forms of economic relief made available for victims of disasters will involve multiple administrative hurdles where legal representation is often required."¹⁶⁸ There is also widespread acknowledgment that "[l]ow-income people who confront civil legal issues in the wake of natural disasters face an uphill battle."¹⁶⁹ Between 2014 and 2018, FEMA was almost twice as likely to deny housing assistance

¹⁶⁵ *Id.*

¹⁶⁶ *See id.*

¹⁶⁷ *Disaster Relief Legal Assistance*, AM. BAR ASS'N (last updated Mar. 2020), <https://www.americanbar.org/groups/center-pro-bono/resources/disaster-relief-legal-assistance/>.

¹⁶⁸ April Faith-Slaker, *10 Years After Hurricane Katrina: Lessons Learned and Opportunities for Change*, AM. BAR ASS'N (Oct. 15, 2015), https://www.americanbar.org/groups/legal_services/publications/dialogue/volume/18/fall-2015/10-years-after-hurricane-katrina--lessons-learned-and-opportunit/.

¹⁶⁹ Leann Fuller, *Kentucky Legal Aid to Receive More Than \$3M to Help December Tornado Survivors* (June 22, 2022), <https://wfp.org/legal-advocates-applaud-fema-changes-in-kentucky-but-say-transparency-needed/>; Manuele & Haggerty *supra* note 90 (explaining that communities and their residents often require years to fully recover—*when* recovery is an option).

to low-income victims of disaster.¹⁷⁰ Consequently, legal advocates suggest that people applying for federal relief should expect a protracted process;¹⁷¹ victims are told to “think about this as an ongoing conversation between [the victim] and FEMA.”¹⁷² FEMA applications and appeals are just the tip of the iceberg for obstacles to relief and recovery rural residents face.¹⁷³ In essence, disasters create new legal needs and entrench unresolved existing ones for those residents who lack the social safety net of their urban neighbors.

Like a canary in the coal mine, Hurricane Katrina—one of the costliest disasters in history¹⁷⁴—exposed many gaps in our nation’s approach to disaster and brought with it many lessons that have been carried forward, some by the legal profession.¹⁷⁵ In one assessment, an ABA staff attorney explained that “[e]ven with an outpouring of help from sympathetic pro bono attorneys and law students, without the infrastructure of a disaster-specific legal services plan, the response was largely reactive and underscored the value of planning ahead.”¹⁷⁶ A more specific lesson experts underscored is that legal problems following a disaster are not immediate but emerge in waves—different needs arise at different times.¹⁷⁷ As many as 10 years after Katrina, pro bono projects continued to deal with issues like contractor fraud.¹⁷⁸ As another important lesson, experts emphasized that “physically placing attorneys in the locations where people in need are most likely to congregate is imperative, especially when communication technologies are not available.”¹⁷⁹ This suggestion is more applicable to rural communities where technological issues can be presumed and residents often depend on in-person services for many basic needs, even in times of relative stability.¹⁸⁰

As for whether rural governments can erect the kind of post-disaster legal infrastructure Katrina called for, legal deserts collide with capacity constraints to create the perfect storm. Fortunately, in the immediate

¹⁷⁰Jasmine Demers, *Here’s how to apply for FEMA disaster relief, and what to avoid*, LOUISVILLE PUB. MED. (Dec. 16, 2021), <https://www.lpm.org/investigate/2021-12-16/heres-how-to-apply-for-fema-disaster-relief-and-what-to-avoid> (explaining one of the reasons for so many denials being because low-income residents often have homes in poor condition before the weather event, rendering the resulting damage “insufficient.”).

¹⁷¹*Id.*

¹⁷²*Id.*

¹⁷³See generally Jerolleman, *supra* note 103.

¹⁷⁴Eric S. Blake, Christopher W. Landsea, & Ethan J. Gibney, *The Deadliest, Costliest, and Most Intense United States Tropical Cyclones From 1851 to 2005*, NOAA TECH. MEMORANDUM NWS TPC-6 1, 7 (Aug. 2011), <https://repository.library.noaa.gov/view/noaa/6929>.

¹⁷⁵Faith-Slaker, *supra* note 168.

¹⁷⁶*Id.*

¹⁷⁷*Id.*

¹⁷⁸*Id.*

¹⁷⁹*Id.*

¹⁸⁰See, e.g., *CFPB Releases Report on Financial Challenges Facing Rural Communities*, CONSUMER FINANCIAL PROTECTION BUREAU (Apr. 19, 2022), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-releases-report-on-financial-challenges-facing-rural-communities/> (“Rural Americans depend on physical bank branches and smaller banks.”).

aftermath of a disaster, governments, nonprofits, and volunteers are usually swift to provide a rush of resources to reduce urgent risks and aid in early recovery efforts.¹⁸¹ Immediate legal needs, then, have the highest likelihood of being met.¹⁸² Long-term needs, however—legal or otherwise—are typically not considered because rural communities often lack the time, capacity, or opportunity to engage in ample analysis or local debate about the proper balancing of short- and long-term needs.¹⁸³

Because their only resort is comprised of reactive rather than proactive problem-solving, Hurricane Katrina’s warning for a deliberately planned legal services infrastructure with long-term provisions for victims of disaster remains out of reach for a growing number of rural communities, almost two decades later.¹⁸⁴ As a result, rural residents navigating relief and recovery are largely at the mercy of sympathetic outsiders who naturally frontload their efforts.¹⁸⁵ A model framework would ensure appropriate and sustained legal assistance from beginning to end of a disaster, which necessarily requires significant prior planning.¹⁸⁶

b. Institutional Assistance

To keep their communities intact, rural institutions also need help navigating legally relevant parts of the recovery process.¹⁸⁷ Their needs extend past the short-term stages of recovery and into the medium- and long-term stages.¹⁸⁸ Likewise and most importantly, rural decisionmakers need a lawyer’s help during other stages of disaster management since building community resilience is a holistic endeavor.¹⁸⁹

Scholarship on crisis management proves that expanding social capital strengthens resilience. Social capital represents the ties that bind individuals together and serve as the “base for a community response.”¹⁹⁰ One evidence-based method of organizing social capital requires differentiating between “bonding, bridging, and linking” forms.¹⁹¹ *Bonding*

¹⁸¹ Melissa L. Finucane, Joie Acosta, Amanda Wicker & Katy Whipkey, *Short-Term Solutions to a Long-Term Challenge: Rethinking Disaster Recovery Planning to Reduce Vulnerabilities and Inequities*, INT’L J. ENV’T RSCH PUB. HEALTH (2020), <https://pubmed.ncbi.nlm.nih.gov/31940859/>.

¹⁸² *See id.*

¹⁸³ *Id.*

¹⁸⁴ *See* NAT’L RSCH. COUNCIL, *supra* note 162, at 9.

¹⁸⁵ *See generally* Finucane et al., *supra* note 181.

¹⁸⁶ *See* Faith-Slaker, *supra* note 168.

¹⁸⁷ *See* NAT’L RSCH. COUNCIL, *supra* note 162, at 7.

¹⁸⁸ *See id.*

¹⁸⁹ Manuele & Haggerty, *supra* note 90.

¹⁹⁰ Dean Kyne & Daniel P. Aldrich, *Capturing Bonding, Bridging, and Linking Social Capital through Publicly Available Data*, RISKS, HAZARDS AND CRISIS IN PUB. POL’Y. 1, 4 (2019), http://explorer.bee.oregonstate.edu/Topic/InfluenceNetworks/Documents/Kyne_Aldrich_2019.pdf.

¹⁹¹ *Id.*

social capital delineates the closest connections between individuals, encompassing ties with friends, family, and neighbors bound in a social unit by ideals like goodwill, communion, and mutual sympathy.¹⁹² *Bridging* social capital comprises weaker ties to those with whom we spend less time and have fewer similarities, such as religious groups or classmates.¹⁹³ Bonding and bridging social capital serve as horizontal frameworks for connection.¹⁹⁴

The final category of *linking* social capital, on the other hand, is inherently vertical and “sits between regular people and someone in power or authority.”¹⁹⁵ Linking social capital is essential for connecting disaster victims and “those who control resources and knowledge about access to various available resources in different levels of governmental organizations.”¹⁹⁶ While rural populations thrive at leveraging horizontal connections, they traditionally lack capital in this final category and thus confront obstacles to resilience once resources between and among them are exhausted or overwhelmed.¹⁹⁷ Indeed, what many rural communities lack at the local government level is a middle person with the knowledge and ability to connect them to needed resources from state and federal sources.¹⁹⁸

Moreover, even when rural communities possess enough capacity to engage in federal processes, subsequent legal obstacles arise with respect to how leaders can, as one state official put it, “implement the grant and not find themselves in all kinds of trouble [for] not following federal regulations or not being accustomed to [them].”¹⁹⁹ To illustrate, compliance requirements are typically the same for all funding applicants no matter the grant size, and rural communities rarely have access to the kind of technical expertise—lawyers, engineers, and accountants—that federal compliance demands.²⁰⁰ Urban governments, in comparison, have sufficient tax bases to build these functions in, often with full-time staff positions.²⁰¹

One legal scholar reconceptualizes rural private practice as public interest work. She describes a rural practitioner’s typical workload as “mixed

¹⁹² *Id.* at 5.

¹⁹³ *Id.*

¹⁹⁴ *Id.*

¹⁹⁵ *Id.*

¹⁹⁶ *Id.*

¹⁹⁷ See Jerolleman, *supra* note 15.

¹⁹⁸ See generally Manuele & Haggerty, *supra* note 90.

¹⁹⁹ Aallyah Wright, *Rural Leaders Fear They’ll Miss Out on Infrastructure Money*, PEW TRUSTS (Nov. 22, 2021), <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2021/11/22/rural-leaders-fear-theyll-miss-out-on-infrastructure-money>.

²⁰⁰ Anthony F. Pipa & Natalie Geismar, *Reimagining Rural Policy: Organizing Federal Assistance to Maximize Rural Prosperity*, BROOKINGS INST. (Nov. 2020), at 4-5, <https://www.brookings.edu/wp-content/uploads/2020/11/Rural-Dev-Assistance-Brief.pdf>.

²⁰¹ *Id.*

practice.”²⁰² By this, she means that rural attorneys engage in “a multitude of legal services, including government work, pro bono work, and traditional private practice work.”²⁰³ This observation suggests that rural attorneys have the unique ability—the business interest, too—to undertake multiple roles at multiple levels within their communities.²⁰⁴ The rural lawyer, then, is well positioned to assist with community resilience-building efforts by acting as linking capital where the local government lacks adequate capacity to engage with state or federal processes and by ensuring that funds, once obtained, are implemented in compliance with abstract community goals and concrete regulations.²⁰⁵

On the whole, rural residents face numerous challenges to relief and recovery. Such challenges either require or could greatly benefit from a lawyer’s sustained assistance. At the same time, when preparing for, responding to, and recovering from a disaster, rural governments encounter difficulties in their own right, many of which also implicate a lawyer’s expertise. This exposes a gap in legal assistance not typically conceived of when deliberating access to justice.²⁰⁶

II. ANALYSIS

Having articulated in previous sections rural America’s growing need for more legal provisions both generally and in the context of disaster, this part delineates and then evaluates those provisions that are available, including some creative, even if impracticable, initiatives designed to promote legal access in rural regions. This part argues that provisions offered in either context—to address rural legal deserts or provide disaster legal services—are limited to the extent they disregard considerations inherent to the other context. Though scholars have tended to view each of the two problems discretely, rural legal deserts and rural natural disasters find common ground in the broader notion of resilience.²⁰⁷

Current provisions for disaster legal services are temporary, limited by subject matter, or otherwise insufficient.²⁰⁸ Indulging the urban-centric

²⁰² Hannah Haksgaard, *Rural Practice as Public Interest Work*, 71 ME. L. REV. 210, 218 (2019).

²⁰³ *Id.*

²⁰⁴ *See id.*

²⁰⁵ *See id.* (“Private practice lawyers in rural communities ‘assist[] the infrastructure of these rural counties to vibrantly expand and grow, rather than wither away and ultimately become uninhabited with only remnants of courthouses and what once was a thriving rural society.’”).

²⁰⁶ *See, e.g.,* Leonard Wills, *Access to Justice: Mitigating the Justice Gap*, AM. BAR ASS’N, (Dec. 3, 2017), <https://www.americanbar.org/groups/litigation/committees/minority-trial-lawyer/practice/2017/access-to-justice-mitigating-justice-gap/> (access to justice consists of the “ability of individuals to seek and obtain a remedy through formal or informal institutions of justice for grievances.”).

²⁰⁷ *See infra* Section II.B.

²⁰⁸ *See infra* Section II.B.2.

presumption that legal services so constrained are nonetheless sufficient, however, avoids reckoning with the reality that rural communities lack adequate legal provisions in non-disaster times, too.²⁰⁹ From this observation, it becomes clear that the current framework for disaster legal services embraces a reactive approach to natural disaster; enhancing rural resilience requires proactive risk management.

Conversely, initiatives designed to tackle rural legal deserts fail to appreciate how disasters rehash the very inequities that undergird efforts to equalize access to justice.²¹⁰ Current initiatives likewise embrace a narrow concept of access to justice that focuses exclusively on the individual. Once again, this narrow focus is appropriate for urban settings but only represents a partial solution for rural settings. Resilience considerations would broaden that focus to include community development as a worthwhile object of rural access to justice.

A. Outline of Current Approaches

Efforts either to advance rural access to justice or provide disaster-specific legal services have been undertaken by a range of parties.²¹¹ This section identifies relevant approaches in each context.

1. Approaches to Address Rural Legal Deserts

The South and North Dakota programs—both promulgated by state legislatures²¹²—constitute the most ambitious attempts to mitigate rural legal deserts. These programs are treated first. Other current efforts are detailed thereafter.

a. The South and North Dakota Approaches

To date, only South Dakota and North Dakota have enacted state legislation that expressly addresses rural attorney recruitment.²¹³ As the first in time, South Dakota established its Rural Attorney Recruitment Pilot

²⁰⁹ See *infra* Section II.B.2.

²¹⁰ See *infra* Section II.B.1.

²¹¹ See *Rural Justice Task Force*, LEGAL SERV. CORP., <https://www.lsc.gov/initiatives/lsc-task-forces/rural-justice-task-force> (last visited Nov. 21, 2023); Dan Kittay, *Success On the Horizon? New Efforts to Increase Rural Access to Justice*, AM. BAR ASS'N (May 1, 2022), https://www.americanbar.org/groups/bar-leadership/publications/bar_leader/2021_22/may-june/success-on-the-horizon-new-efforts-to-increase-rural-access-to-justice/.

²¹² S.D. CODIFIED LAWS § 16-23-1 (2022); N.D. CENT. CODE §§ 27-02.2-01–27-02.2-13 (2021).

²¹³ S.D. CODIFIED LAWS § 16-23-1 (2022); N.D. CENT. CODE §§ 27-02.2-01–27-02.2-13 (2021).

Program to assist rural counties and municipalities in recruiting attorneys.²¹⁴ The process requires each interested county or municipality to apply to the state's Unified Judicial System for a determination of eligibility.²¹⁵ Participating attorneys satisfy their obligation by agreeing, among other terms, to practice in an eligible rural municipality or county for at least five years; in return, participating attorneys receive an incentive payment in five annual installments, each in an amount equal to 90% of the University of South Dakota School of Law's annual tuition and fees.²¹⁶ As for who foots the bill, participating counties and municipalities must agree to provide 35% of the total incentive payment to the attorney(s) serving them.²¹⁷ The State Bar of South Dakota pays 15%, and the Unified Judicial System provides the remaining balance each year.²¹⁸ Attorneys in breach of their agreement are required to repay all received funds.²¹⁹ Beyond what has been mentioned here, South Dakota's legislation does not specify any other relevant requirements participating attorneys must comply with.

Like South Dakota, North Dakota established its own Attorney Recruitment Program to curb rural legal deserts.²²⁰ First, each interested county or municipality must apply to the North Dakota Supreme Court for a determination of eligibility.²²¹ Like in South Dakota, participating attorneys in North Dakota fulfill program requirements by practicing in an eligible rural municipality or county for at least five years; in return, the attorneys receive an incentive payment of \$45,000 paid in five equal annual installments.²²² Participating counties and municipalities must provide 35% of the total incentive payment to the attorney(s) serving them.²²³ The State Bar pays 15%, and the Supreme Court pays the remaining balance each year.²²⁴

No federal legislation has expressly addressed rural legal deserts, but it is worth pointing out that the LSC is funded by congressional appropriations, and this funding is meant to trickle down to civil legal aid

²¹⁴ S.D. CODIFIED LAWS § 16-23-1 (2022).

²¹⁵ *Id.* § 16-23-2 (2022).

²¹⁶ *Id.* §§ 16-23-4–16-23-5, 16-23-2.1–16-23-2.2 (2022) (for size requirements, eligible counties must have a population below 10,000 and eligible municipalities must have a population below 3,500; tuition is paid, as determined in 2013).

²¹⁷ *Id.* § 16-23-6 (2022).

²¹⁸ *Id.*

²¹⁹ *Id.*; *See also id.* § 16-23-4 (2022) (the program also allows for no more than thirty-two attorneys to participate at any given time).

²²⁰ N.D. CENT. CODE §§ 27-02.2-01–27-02.2-13 (2021).

²²¹ *Id.* § 27-02.2-01 (2021).

²²² *Id.* §§ 27-02.2-04–27-02.2-05, 27-02.2-02–27-02.2-03 (2021) (eligible counties must have a population of 16,000 or less and eligible municipalities must have a population of 5,000 or fewer).

²²³ *Id.* § 27-02.2-06 (2021).

²²⁴ *Id.*, 27-02.2-04 (2021) (attorneys in breach are similarly required to repay all received funds, and the program allows for no more than four attorneys to participate at any given time).

providers across the country.²²⁵ It is also worth mentioning that any federal legislation that provides for rural workforce training or infrastructure investments potentially impacts the calculus by offsetting vulnerabilities that expose people to legal problems.²²⁶

b. Other Approaches

States—particularly state bar associations—legal aid providers, and law schools have propelled most other initiatives to address rural lawyer shortages.²²⁷ Courts in Washington devised “limited license legal technicians,” who are non-lawyer advocates trained to help individuals with basic family law issues.²²⁸ New Mexico is considering a comparable initiative.²²⁹ Texas, on the other hand, is trialing two different approaches: one urges urban attorneys to launch “satellite offices” in rural communities and the other conceives of “virtual legal clinics” to connect rural clients with lawyers using tablets.²³⁰

Additionally, several state bar associations are experimenting with initiatives to forge connections between established rural firms and emerging lawyers.²³¹ The Illinois State Bar Association started a Committee on the Rural Practice Initiative. So far, it has developed two programs: the Rural Practice Summer Fellows program provides mentoring and a \$5,000 stipend to law students with an interest in rural practice, and the Rural Practice Associate Fellows program sets up one-year arrangements between participating lawyers and rural firms where the firms pay a salary to the participating lawyer and the ISBA supports that lawyer with a stipend of \$5,000 at the beginning and end of the year.²³² The Maine State Bar Association’s Rural Practice Committee has been working to connect rural

²²⁵*Quick Facts*, LEGAL. SERVS. CORP., <https://www.lsc.gov/about-lsc/who-we-are/what-we-fund/quick-facts> (last visited Feb. 2 2024).

²²⁶F.V. Shahidi, C. Ramraj & O. Sod-Erdene, et al., *The impact of social assistance programs on population health: a systematic review of research in high-income countries*, BMC PUB. HEALTH 19, 2 (2019), <https://doi.org/10.1186/s12889-018-6337-1> (“Socioeconomic disadvantage is a fundamental cause of morbidity and mortality. One of the most important ways that governments buffer the adverse consequences of socioeconomic disadvantage is through the provision of social assistance.”); Kittay, *supra* note 211 (opining that although reliable internet access can prevent people in rural areas from using self-help portals and other online tools, the recent federal Infrastructure Investment and Jobs Act of 2021 could significantly reduce, if not eliminate this as a barrier. It is unclear precisely how or when that objective would be achieved, however, especially if unaccompanied by training for residents).

²²⁷ Aburiyeba Amaso, *Equality Before the Law: Ending Legal Deserts in Rural Counties*, GEO. J. ON POVERTY L. & POL’Y (2020).

²²⁸ *Id.*

²²⁹ *Id.*

²³⁰ *Id.*

²³¹ Kittay, *supra* note 211.

²³² Kittay, *supra* note 211.

firms with recent law school graduates through career fairs and the like.²³³ And since 2013, the Nebraska State Bar Association has directed the Rural Practice Initiative, a program that matches rural firms with lawyers and law students who are interested in becoming associates or summer clerks.²³⁴ So far, the NSBA has placed 32 associates and 31 summer clerks through the program.²³⁵

Finally, law schools and legal aid providers are meeting the problem with efforts of their own. Several schools have incubator programs to promote small rural legal practices with the support of stipends.²³⁶ Drake University, for example, runs an incubator program; notably, however, its first two participants pulled out because of financial concerns.²³⁷ As for legal aid initiatives, the LSC, in conjunction with Equal Justice Works, rolled out a summer fellowship program wherein selected law students work with LSC-funded entities in rural regions to provide direct legal services to qualifying clients.²³⁸ Participants also engage in “community outreach and education.”²³⁹

2. Approaches to Address Disaster Legal Problems

Without exception, the nation’s current infrastructure for disaster legal services is limited to individual victims.²⁴⁰ It does not provide for institutional assistance. There are, however, a couple of capacity-enhancing initiatives that do not provide legal assistance but merit attention nonetheless. Relevant individual and institutional provisions are outlined below.

a. Individual Provisions

To complement the patchwork of state and federal disaster responses, there is a growing network of legal assistance to help victims navigate recovery. The most vigorous program, Disaster Legal Services (DLS), is one that FEMA developed alongside the Young Lawyers Division of the ABA.²⁴¹

²³³*Id.* (pointing out that the Committee signaled support for legislation that will provide tax credits for lawyers practicing in rural areas).

²³⁴*Id.*

²³⁵*Id.*

²³⁶*Id.*

²³⁷*Id.*

²³⁸*Id.*

²³⁹Zuhra Aziz, *Meet the 2022 Rural Summer Legal Corps Student Fellows*, EQUAL JUST. WORKS, https://www.equaljusticeworks.org/news_type/blog-post/page/3/ (last visited Dec. 20, 2023).

²⁴⁰See *Programs to Support Disaster Survivors*, FEMA, <https://www.fema.gov/assistance/individual/disaster-survivors#:~:text=Through%20the%20Individuals%20and%20Households,expenses%20or%20clean%20Dup%20items> (last visited Nov. 21, 2023).

²⁴¹*Disaster Legal Services (DLS): Program Description*, DEP’T. OF HOMELAND SEC.

To qualify, victims must be low-income survivors of a presidentially declared disaster.²⁴² From there, DLS provides free advice and assistance with certain non-fee generating cases.²⁴³ Those cases must relate to insurance claims for medical bills; loss of life and property; new wills, powers of attorney, and other legal documents displaced by disaster; home repair contracts and contractors; landlord problems; proof of home ownership; and FEMA appeals.²⁴⁴ To supplement these services, the ABA runs a disaster legal hotline webpage.²⁴⁵ The website compiles contact information for programs providing legal assistance in the aftermath of disaster.²⁴⁶ Currently, the website includes information for 29 states, all of which have recently experienced disaster in its various forms.²⁴⁷

Among nonprofit responses, Equal Justice Works formed the Disaster Resilience Program to mobilize law students to provide free civil legal aid in disaster-prone areas.²⁴⁸ Fellows work at legal services organizations where they “engage in outreach and education, help provide direct legal services to disaster survivors, and foster important relationships within the community.”²⁴⁹ Current host sites include Sacramento and Los Angeles, California; New Orleans and Baton Rouge, Louisiana; St. Louis, Missouri; Albuquerque, New Mexico; Nashville and Jackson, Tennessee; Galveston, Houston, and Austin, Texas; Orlando and Fort Myers, Florida; Jonesboro and Newport, Arkansas; and Bowling Green, Kentucky.²⁵⁰

b. Institutional Assistance

<https://www.disasterassistance.gov/get-assistance/forms-of-assistance/4464> (last visited Sept. 28, 2022).

²⁴² *Id.*

²⁴³ *Id.*

²⁴⁴ *Id.*

²⁴⁵ *Disaster Legal Hotlines*, AM. BAR ASS'N, https://www.americanbar.org/groups/committees/disaster/resources/disaster_legal_hotlines/ (last visited Nov. 4, 2022).

²⁴⁶ *Id.*

²⁴⁷ *Id.*

²⁴⁸ *Disaster Resilience Program*, EQUAL JUST. WORKS, <https://www.equaljusticeworks.org/become-a-fellow/fellowship-program/disaster-resilience-program/> (last visited Sept. 27, 2022).

²⁴⁹ *Id.*

²⁵⁰ *Host Organizations*, EQUAL JUST. WORKS, https://www.equaljusticeworks.org/host-organizations/?s-program=disaster-resilience-program&s-is_hiring=0 (last visited Jan. 19, 2023); *Disaster Recovery Legal Corps*, EQUAL JUST. CORPS, <https://www.equaljusticeworks.org/become-a-fellow/fellowship-program/disaster-recovery-legal-corps/> (last visited Sept. 27, 2022) (additionally, the Equal Justice Works, through its Disaster Recovery Legal Corps (DRLC), mobilized twenty three Fellows to deliver critical legal assistance to disaster-affected communities in Texas and Florida after Hurricanes Harvey, Irma, and Maria. Fellows were hosted at legal services organizations for a two-year term, where they provided legal assistance on issues related to housing, public benefits, employment, disability rights, immigration, and other disaster-related legal issues. The Disaster Recovery Legal Corps program was funded with support from national programs like the American Red Cross and regional organizations like the Texas Access to Justice Foundation. The program has now ended.).

Though not legal provisions per se, some emerging programs are notable for acknowledging rural capacity constraints.²⁵¹ Led by AmeriCorps, the Disaster Services Unit (DSU) provides critical resources to federal, state, local, and nonprofit partners throughout the disaster cycle.²⁵² DSU's role, according to the organization, ensures Americorps's commitment to disaster is "appropriate, consistent, and coordinated."²⁵³ Namely, DSU provides technical assistance before, during, and after a disaster.²⁵⁴ That technical assistance includes, for example, managing volunteers and donations, helping with disaster response and recovery planning, building disaster partnerships, and training local support staff.²⁵⁵ On balance, DSU constitutes the kind of systemic approach resilience considerations demand.²⁵⁶

Finally and of most recent import, the Biden-Harris Administration announced the Rural Partners Network (RPN) in 2022 to complement historic federal funding opportunities made available by "the American Rescue Plan, Bipartisan Infrastructure Law, Inflation Reduction Act, and annual appropriations."²⁵⁷ RPN's stated goal is to help rural communities unlock needed federal funds through technical assistance.²⁵⁸ And as a new whole-of-government approach, RPN is designed to capitalize on lessons learned about rural barriers to federal program access to inform future policy.²⁵⁹

To carry out its comprehensive mission, RPN involves coordination between and among the following actors, each with differing roles: community networks, community liaisons, federal agency rural desk officers, and the Rural Prosperity Interagency Council. Community networks form the program's foundation. To craft its initial cohort of networks, RPN representatives met with selected rural communities where research suggested funds were needed but not being delivered. From there, RPN carved out 14 "community networks."²⁶⁰ The program's first expansion came at the end of 2022 when 22 more community networks were added to RPN's repertoire.²⁶¹ The other roles operate as follows: community liaisons help

²⁵¹ *E.g.*, *Disaster Services*, AMERICORPS, <https://americorps.gov/about/what-we-do/disaster-services-unit> (last visited Sept. 27, 2022).

²⁵² *Id.*

²⁵³ *Id.*

²⁵⁴ *Id.*

²⁵⁵ *Id.*

²⁵⁶ *Id.*

²⁵⁷ Rural Partners Network, *Building Rural Prosperity Annual Report 2022*, USDA (Jan. 20, 2023), https://www.rural.gov/sites/default/files/2023-02/RuralPartnersNetworkAnnualReport02_15_23.pdf.

²⁵⁸ *Id.*

²⁵⁹ *Id.*

²⁶⁰ *Id.* (the communities were selected based on "data and qualitative analysis of levels of economic distress, social vulnerability, persistent poverty, low participation in federal programs, local capacity, readiness to participate" and an amalgam of other factors.).

²⁶¹ *Id.* (the networks were launched with the express mission to provide "dedicated federal staffing support and technical assistance through the [RPN].").

with technical assistance and serve as an intermediary with federal partners; federal agency desk officers coordinate with RPN staff to bring programs to community networks; and the Rural Prosperity Interagency Council is responsible for “unifying federal agency actions.”²⁶² The White House Domestic Policy Council rounds out the program by lending its support to all RPN’s efforts.²⁶³ At this time, legal assistance is not a listed infrastructural priority of the program.²⁶⁴

B. Evaluation of Current Approaches

The existing assortment of rural legal desert initiatives fails to account for the growing frequency and devastation of natural disasters; this undermines the vast role rural lawyers can and should play in building local resilience to future impacts. Likewise, with few narrow exceptions, the current infrastructure for disaster legal assistance fails to fill, let alone acknowledge, the vacuum created by rural legal deserts. And finally, approaches in either context are without concerted efforts to provide needed guidance to rural institutions—a missed opportunity to reverse rural decline.

But first, a disclaimer: because the primary focus of this Note is on maximizing potential, the criticisms that follow should be regarded as serving that end alone.

1. Approaches to Address Rural Legal Deserts

As it stands, much of rural America is increasingly vulnerable yet entirely unprepared for disaster, and solutions to rural legal deserts do not appreciate this fact.²⁶⁵ Several creative attempts even ignore noted rural barriers to legal assistance or otherwise result in dubious legal access for rural communities.²⁶⁶ Washington’s strategy of using limited license legal technicians is limited by practice area, resulting in only partial access for family law issues.²⁶⁷ One of Texas’s experimental approaches depends on technology and its other encourages urban lawyers to offer their services to rural communities on a part-time basis.²⁶⁸ But unless technological limitations recede or interested lawyers are willing to get creative in developing out the rural leg of their practices, it remains to be seen how

²⁶² *Id.*

²⁶³ *Id.*

²⁶⁴ *Id.*

²⁶⁵ *Rural Populations*, *supra* note 108.

²⁶⁶ *See supra* Sections I.A.2–3.

²⁶⁷ Amaso, *supra* note 227.

²⁶⁸ *See id.*

services would be delivered to those Texas residents most in need, especially at a rate they can afford.²⁶⁹

The LSC's approach only provides short-term assistance—the duration of summer—to potential clients who qualify for legal aid.²⁷⁰ Short-term assistance to a populous conditioned by time and circumstance to ignore its own legal needs leaves much to be desired.²⁷¹ Further, students are hosted by existing legal aid organizations—legal aid providers serve rural communities but often at a distance.²⁷² At that, legal aid offices are notoriously short-staffed because of insufficient funding to meet the immense and growing needs of qualifying beneficiaries.²⁷³ These drawbacks are but a natural product of attempting to extend urban services to the rural countryside, absent the hard work of persuading young professionals to relocate.²⁷⁴ That hard work requires taking stock of emerging students' cited concerns about practicing in rural communities, foremost among which is financial apprehension.²⁷⁵

Indeed, financial enticement is necessary, but even so, it must be adequate.²⁷⁶ Drake University's incubator program is illustrative—financial concerns appear to be derailing its success despite stipend provisions and doubtless other support.²⁷⁷ Some of the state bar initiatives that fuse financial incentives with mentoring opportunities are destined to fare better.²⁷⁸ But those initiatives do not go far enough.²⁷⁹ With regard to those, the time commitment is too shallow, and there is no incentive for the participating lawyer to extend free or reduced services to low-income individuals.²⁸⁰ Moreover, rural firms looking for new hires—a prerequisite of these programs—will only grow scarcer as existing attorneys retire and the legal desert problem intensifies.²⁸¹

²⁶⁹ See *id.*

²⁷⁰ Kittay, *supra* note 211 (Recall the LSC approach where selected law students work with LSC-funded entities in rural regions to provide direct legal services to qualifying clients).

²⁷¹ See Michele Statz et al., *supra* note 8, at 332; Pleasence & Balmer, *supra* note 30.

²⁷² See Kittay, *supra* note 211.

²⁷³ See Runge, *supra* note 50.

²⁷⁴ See Pruitt et al., *supra* note 6, at 122–23.

²⁷⁵ *Id.*

²⁷⁶ See, e.g., Aimee Picchi, *Rural America's "Brain Drain": How Student Debt Is Emptying Small Towns*, CBS NEWS (Jan. 21, 2019), <https://www.cbsnews.com/news/rural-americas-brain-drain-how-student-debt-is-emptying-small-towns/> (citing a \$21,000 difference in earnings between urban and rural residents with college degrees after confirming that “[a]dults with student loans are less likely to remain in rural areas than those without it, and adults with the highest student loan balances are the most likely to migrate to cities . . .”).

²⁷⁷ See Kittay, *supra* note 211.

²⁷⁸ See *id.*

²⁷⁹ See *id.*

²⁸⁰ See *id.*

²⁸¹ See Heath Hamacher, *Legal Deserts: Scarcity of Lawyers Threatens Justice in Many Rural Areas*, S.C. LAWYERS WEEKLY (Oct. 18, 2023), <https://sclawyersweekly.com/news/2023/10/18/legal-deserts-scarcity-of->

Because of the immense financial incentives provided, the mandatory time commitment involved, and the physical relocation required, the country's most ambitious approaches are defined by the South and North Dakota statutes (The "South Dakota Model").²⁸² The South Dakota Model appreciates emerging lawyers' financial concerns about practicing in rural regions. Upon closer inspection, however, its design is inconsiderate of the institutional limitations from which a growing number of rural communities now suffer.²⁸³ A cursory look at its stipulations begs the important question resilience literature rightly raises: if expanded to other states, how would struggling rural economies in many parts of the country either front the money or clear the administrative obstacles associated with participating?²⁸⁴ The prospect of expanding the South Dakota Model throughout the United States would theoretically involve a choice, on the part of local governments, between providing basic public services and delivering needed legal guidance to constituents who have gotten this far without it.²⁸⁵ And as scholarship confirms, meeting immediate basic needs will always take precedence.²⁸⁶ Thus, if the South Dakota Model were implemented throughout the country without revision, many rural communities would be precluded from participation.

Moreover, the South Dakota Model furnishes participating lawyers with neither the necessary resources nor the concomitant expectations to assist in local resilience-building efforts and, thus, ignores growing threats posed by rural natural disasters.²⁸⁷ Choosing not to obligate participating lawyers beyond the five-year time commitment—as in the South Dakota

lawyers-threatens-justice-in-many-rural-areas/.

²⁸² See e.g., S.D. Codified Laws § 16-23-6; N.D. Cent. Code §§ 27-02.2-04–27-02.2-05.

²⁸³ S.D. Codified Laws § 16-23-6.

²⁸⁴ See generally Manuele & Haggerty, *supra* note 90; Wright *supra* note 199 ("In Doraville, Georgia, for example, Mayor Joseph Geierman said his staff is too small to have a dedicated grant writer, which might hurt the town's chances to get federal money. And because Doraville's tax base is so small, Geierman worries the town, which has about 10,000 residents, will miss out on any money that requires cost-sharing or matching funds.")

²⁸⁵ See *id.*; see NAT'L RSCH COUNCIL, *supra* note 162, at 167 ("Communities realize that stronger infrastructure and institutions would make their population less vulnerable to disasters, but they generally lack the resources or political will to make capital-intense short-term investments even if they believe that those investments will reap long-term benefits.")

²⁸⁶ Jerolleman, *supra* note 103 (describing that "lower capacity for planning and program management related to hazards" is typical of rural communities because "more immediate and pressing concerns . . . eclipse[] efforts to plan for longer-term issues such as disaster recovery.")

²⁸⁷ See Hanna Love & Mike Powe, *Creating a Shared Vision of Rural Resilience Through Community-Led Civic Structures*, THE BROOKINGS INST. (Dec. 1, 2020), <https://www.brookings.edu/research/creating-a-shared-vision-of-rural-resilience-through-community-led-civic-structures/> (explaining that while local leaders, organizations, and other civic institutions engaged in "efforts to address structural challenges and enhance quality of life for residents" are indicators of civic capacity in themselves, successful resilience-building would require them to "support the growth of and collaboration between organizations, institutions, and networks that connect people with one another, address shared concerns, and solve public problems.")

Model—may represent a recruitment strategy in and of itself.²⁸⁸ It likely also reflects funding concerns.²⁸⁹ But a lack of substance risks defining the lawyer’s role within a rural community as merely transactional.²⁹⁰ Engaging in mixed practice work—helping individuals, assisting local institutions, and undertaking pro bono and/or low bono work—is not only feasible, but also increasingly vital to these regions’ survival.²⁹¹ Thus, a most successful program would likely include additional support to, in exchange for a greater commitment from, participating lawyers; such revisions would reflect both the heightened potential of and the pressing need for assistance with local resilience-building efforts.²⁹²

To be sure, concentrating any additional amount of developed human capital—like doctors, engineers, and lawyers—in rural areas increases the likelihood of a resilient disaster response.²⁹³ After all, resilience is in many ways a function of equality.²⁹⁴ But natural disaster presents a progressively *existential* challenge for rural communities.²⁹⁵ And because of disaster’s multiplying effect on inequality, the measure of a rural lawyer’s success in improving local outcomes through legal access is destined to become entwined with the resilience profile of the community in which they practice.²⁹⁶ Failing to incorporate resilience into programs that recruit lawyers to rural practice risks rendering rural access to justice an increasingly Sisyphean pursuit, though no less worthy.²⁹⁷

Ultimately, by drawing in other disciplines of study with overlapping

²⁸⁸ See Pruitt et al., *supra* note 6, at 106 (“[T]he Rural Attorney Recruitment Program quickly attracted young lawyers.”).

²⁸⁹ *Id.* at 106, 110–11 (describing participating counties as initially critical of having to pay for the presence of a lawyer with some funding their commitment with donations and describing fundraising events to raise the state bar’s funding commitment).

²⁹⁰ See generally David Frank Levi, Dana Remus & Abigail Frisch, *Reclaiming the Role of Lawyers as Community Connectors*, *DAEDALUS*, 30, 30 (Winter 2019), https://www.amacad.org/sites/default/files/publication/downloads/19_Winter_Daedalus_Levi_Remus_Frisch.pdf.

²⁹¹ See generally Haksgaard, *supra* note 202.

²⁹² See generally Pruitt et al., *supra* note 6, at 143–44.

²⁹³ Office of the Assistant Secretary for Preparedness and Response, *Community Resilience*, U.S. DEPT. OF HEALTH AND HUM. SERVS. (recommending as a strategy to build resilient communities “Strengthen[ing]—and promot[ing] access to—public health, healthcare, and social services”); see Ajilore & Willingham, *supra* note 72; *Equal Access to Justice: OECD Expert Roundtable Background notes*, ORG. FOR ECON. COORDINATION AND DEV. 3 (Oct. 7, 2015), <https://www.oecd.org/gov/Equal-Access-Justice-Roundtable-background-note.pdf> (“Improving access to justice is increasingly recognised as a critical dimension of inclusive growth and as a mean for tackling inequality. The inability to access legal and justice services can be both a result and a cause of disadvantage and poverty.”).

²⁹⁴ See NAT’L RSCH COUNCIL, *supra* note 162, at 118.

²⁹⁵ See generally Flavelle, *supra* note 16.

²⁹⁶ See Pruitt et al., *supra* note 6, at 19 (“Pervasive rural social problems are also clearly interconnected with law, justice systems, and—by extension—lawyers.”).

²⁹⁷ NAT’L RSCH COUNCIL, *supra* note 162, at 209 (“Federal agencies should incorporate national resilience as a guiding principle to inform the mission and actions of the federal government and the programs it supports at all levels.”).

aims, practitioners and policymakers can promote the goals of access to justice in two ways: first, by bringing more direct legal assistance to underserved populations to target the supply problem and, second, by working to eliminate social disparities that give rise to unmet demand.²⁹⁸ Current solutions, while highly commendable and greatly beneficial, do not fully appreciate the character of rural regions and the exacerbation of their plight in a warming world.²⁹⁹

2. Approaches to Address Disaster Legal Issues

The current assortment of disaster legal provisions serves a critical role in restoring affected communities to the point of socio-economic functioning.³⁰⁰ Indeed, any effective disaster response must account for an immediate lapse on the government's part—local leaders, including local lawyers, are among potential victims.³⁰¹ But while necessary, the current infrastructure for disaster legal services is far from sufficient to address the growing needs of rural residents and their institutions.³⁰²

Most glaringly, the current infrastructure does not embrace lawyer shortages where they exist, the result for rural regions being an assortment of assistance that is inappropriately limited by time, beneficiary, and subject matter.³⁰³ In the traditional sense, these shortcomings impair recovery on an individual level.³⁰⁴ Take the largest framework, DLS, as an example. It provides assistance but only to qualifying victims with qualifying legal needs as a result of qualifying disasters—victims must be low-income, the disaster must be presidentially declared, and the cases must be non-fee generating, in

²⁹⁸ See Fatos Selita, *Improving Access to Justice: Community-Based Solutions*, 6 ASIAN J. OF LEGAL ED. 83, 83–90 (2019) <https://doi.org/10.1177/2322005819855863>; see also Rebecca L. Sandefur, *Access to What?*, DAEDALUS 49, 54 (2019), <https://www.amacad.org/publication/access-what> (“Resolving the access-to-justice crisis requires that justice professionals shift their understanding of the access problem, and share the quest for solutions with others: other disciplines, other problem-solvers, and other members of the American public whom the justice system is meant to serve.”).

²⁹⁹ See generally Naim Kapucu, Christopher V. Hawkins & Fernando I. Rivera, *Disaster Preparedness and Resilience for Rural Communities*, 4 RISK, HAZARDS & CRISIS IN PUB. POL’Y. 215 (2013), <https://doi.org/10.1002/rhc3.12043> (“It is critical to assess how the needs and vulnerabilities in rural communities impact the creation of resilience, especially in states that have a large expanse of rural regions. Rural areas present different opportunities and challenges from their urban counterparts for disaster managers.”).

³⁰⁰ Finucane et al., *supra* note 181.

³⁰¹ See *Emergency Management in the United States*, FEMA, https://training.fema.gov/emiweb/downloads/is111_unit%204.pdf (last visited Jan. 15, 2023).

³⁰² See Manuele & Haggerty, *supra* note 90; see also NAT’L RSCH COUNCIL, *supra* note 162, at 191 (“Building a resilient community requires thoughtful and strategic long-term investments in multiple aspects of the physical and social fabric of communities that contribute to resilience.”).

³⁰³ E.g., *Disaster Assistance*, THE DEP’T OF HOMELAND SEC., <https://www.dhs.gov/disaster-assistance> (last visited Dec. 2, 2023).

³⁰⁴ Jerolleman, *supra* at 103.

addition to other subject matter constraints.³⁰⁵ Moreover, the program is transitory by definition because it only provides “immediate temporary legal assistance” rather than on a continuing basis so to satisfy the lifespan of a victim’s legal issue, not to mention all the disaster-related legal problems a single victim is likely to confront.³⁰⁶

The Disaster Resilience Program offers more sustained assistance and incorporates some important resilience measures³⁰⁷—a step in the right direction—but it is not without drawbacks either. Currently, participating lawyers are hosted by existing legal services organizations that are located in more densely populated areas.³⁰⁸ This stipulation does not prevent participants from extending services to rural communities where practicable.³⁰⁹ But it likely does prevent rural communities from accessing many, if not most, of the program’s benefits—especially those towns or counties most in need (i.e. those not located within a reasonable distance of a larger populous with more robust social services).³¹⁰ In a few words, “[a]ccess is equal when the probability of lawful resolution is the same for” everyone, not when society’s most disadvantaged groups have the same abstract ability to seek help.³¹¹ Without sustained access to lawyers who are physically present in the communities they serve, rural residents are sure to encounter the barriers to legal assistance outlined earlier—physical and technological limits that often accrue over time to produce a citizenry less apt to engage lawyers.³¹²

Finally, the current disaster legal services infrastructure fails to appreciate other rural resource constraints as well, rendering resilience an afterthought (or, in most cases, a never-thought).³¹³ Specifically, it is bereft of needed institutional assistance, and because most available services are

³⁰⁵ See *Disaster Assistance*, *supra* note 303.

³⁰⁶ *About Disaster Legal Services*, AM. BAR ASS’N, https://www.americanbar.org/groups/young_lawyers/projects/disaster-legal-services/about/ (last visited Jan. 15, 2023).

³⁰⁷ *Disaster Resilience Program*, *supra* note 248.

³⁰⁸ *E.g., id.*

³⁰⁹ See Michele Statz et al., *supra* note 8, at 332.

³¹⁰ *Community Lawyering/Grassroots*, HARV. L. SCH., <https://hls.harvard.edu/bernard-koteen-office-of-public-interest-advising/about-opia/what-is-public-interest-law/public-interest-work-types/community-lawyering-grassroots/> (last visited Feb. 26, 2023) (“While there are different variations on “community lawyering,” the core elements are the integration of the lawyer into the community the lawyer serves, the use of multifaceted approaches to problem solving, and the investment and empowerment of community members in the lawyering process.”).

³¹¹ Rebecca L. Sandefur, *supra* note 305.

³¹² Michele Statz et al., *supra* note 8, at 330 (These “legal deserts” significantly hinder the efficacy and reach of civil legal aid provision.”).

³¹³ See Susan L. Cutter, Kevin D. Ash & Christopher T. Emrich, 106 *Urban–Rural Differences in Disaster Resilience*, ANNALS OF THE AM. ASS’N OF GEOGRAPHERS, 1236, 1236 (2016) (“ . . . attempts to enhance resilience cannot be approached using a one-size-fits-most strategy given the variability in the primary drivers of disaster resilience at county scales.”).

both triggered by the happening of a specific event and limited in duration, already-struggling rural residents and their institutions have no option but to simply brace for impact—this despite national recognition that much of the attendant loss can be avoided through resilience measures undertaken before current services are made available and after they are withdrawn.³¹⁴ This represents the kind of reactive approach to natural disaster that most literature on the subject cautions against.

As for the couple of programs that *are* sympathetic to lacking rural capacity, the preeminent limitation here is clear: no individualized legal assistance.³¹⁵ But from the perspective of under-resourced rural institutions, other shortcomings deserve emphasis. These programs validate the systemic approach resilience scholarship demands, but on closer inspection, they primarily work to *improve* existing capacity of rural leadership rather than equip that leadership with new localized personnel.³¹⁶ This is yet another instance where provisions, though necessary, are likely insufficient.³¹⁷

While DSU has the potential to forge necessary partnerships, its success in a given community is likely conditioned on a degree of institutional capacity that may not accord with rural realities.³¹⁸ Rural communities lack more than coordination and disaster expertise.³¹⁹ Even their most proactive local leaders may be unable to devote the resources required to engage with a sophisticated outside organization at arm's length or manage a successful disaster response that does not compromise community character in the process.³²⁰ Many rural communities, therefore, demonstrate an additional need for localized human capital with—among other resources—the adequate time, skill, and dedication necessary for the development and maintenance of relationships among partners in and outside of the community, in addition to a general understanding of state and federal funding bureaucracies.³²¹

³¹⁴ See Manuele & Haggerty, *supra* note 90; see also NAT'L RSCH COUNCIL, *supra* note 162, at 191 (“Building a resilient community requires thoughtful and strategic long-term investments in multiple aspects of the physical and social fabric of communities that contribute to resilience.”); Beverly A. Cigler, *Meeting the Growing Challenges of Rural Local Governments*, 9 RURAL DEVELOPMENT PERSPECTIVES 159, 159 (1993) (“Policies and programs at all levels of government require examination to assess their impact on the long-term resilience of communities and the nation.”).

³¹⁵ See, e.g., *AmeriCorps Disaster Services Framework*, AMERICORPS (Jan. 2021), <https://americorps.gov/sites/default/files/document/Disaster%20Response%20Framework.pdf>.

³¹⁶ *Id.*; see also Manuele & Haggerty, *supra* note 90 (“Technical assistance, temporary consultants, and one-time grants are not capacity; capacity is local and long-term staffing, resources, and expertise.”).

³¹⁷ See *id.*

³¹⁸ See generally AMERICORPS, *supra* note 289; AMERICORPS, *supra* note 233.

³¹⁹ See Manuele & Haggerty, *supra* note 90 (“For example, a small-town mayor may sit on multiple local boards, run a small business, and be the community’s primary grant writer and advocate.”).

³²⁰ See *id.* (“A common truth behind most of these success stories, however, is that a small group—or even just one remarkable individual leader—often drives this progress in their community, despite overwhelming odds.”).

³²¹ *Id.*; see NAT'L RSCH COUNCIL, *supra* note 162, at 6.

Newly minted RPN³²² provides much needed assistance to *some* rural institutions that either are unacquainted with available funding opportunities or are apprehensive about choosing the right one for their communities.³²³ RPN is a great resource, and some hired community liaisons even hail from the rural communities they serve.³²⁴ The program, however, is very young and boasts only 57 current employees across 50 states and Puerto Rico.³²⁵ A long record of underinvestment in rural America leaves a lot to be done in terms of resilience, and time is quite literally of the essence.³²⁶ Beyond these observations, a more comprehensive analysis of RPN would be premature, if even ascertainable.

In sum, rural resilience is incompatible with this current infrastructure that prioritizes immediate needs.³²⁷ Because disasters will only prove more frequent and catastrophic for the less resilient³²⁸ and, more broadly, because rural America continues to face compounding social and economic afflictions unrelated to disaster, there is only so much time before the devastation experienced overcomes the combined relief these reactionary responses provide.³²⁹ To render short-term solutions useful within a framework for post-disaster legal services, resilience must occupy the forefront of state and federal rural policy.³³⁰ Achieving resilience requires taking a long view over short-term fixes and, in practice, pledging equal

³²² Recall that RPN stands for Rural Partners Network.

³²³ Ximena Bustillo, *Rural Communities Want to Tap Federal Funding. But It's Hard to Know Where to Start*, NPR (Mar. 8, 2023), <https://www.npr.org/2023/03/08/1161284053/biden-rural-funding>.

³²⁴ *See, e.g., id.*

³²⁵ *Rural Partners Network Staff Directory*, USDA (last updated Mar. 27, 2023), <https://www.rural.gov/sites/default/files/2023-03/USDA-RD-Rural-Partners-Network-Community-Liaisons-Contact-List-03.27.23.pdf>.

³²⁶ Bustillo, *supra* note 323; Faith-Slaker, *supra* note 168 (discussing the need for a robust legal services infrastructure with long-term provisions); *see also* Cigler, *supra* note 314, at 36 (“ . . . the solutions to rural government problems are often different because rural communities are typically characterized by part-time and volunteer public officials, low population density, and large numbers of small governments. Recognizing the differences between rural and urban governments is essential to formulation of effective policies and programs aiding local governments.”).

³²⁷ *See id.* at 159 (“[P]olicies and programs at all levels of government require examination to assess their impact on the long-term resilience of communities and the nation.”).

³²⁸ *See* Penny Gusner, *Natural Disaster Facts and Statistics 2023*, FORBES ADVISOR (June 7, 2023), <https://www.forbes.com/advisor/homeowners-insurance/natural-disaster-statistics/#:~:text=Jefferson%20Parish%2C%20Louisiana,How%20Many%20Natural%20Disasters%20Occur%20Each%20Year%3F,dollar%20climate%20disasters%20per%20year>.

³²⁹ *See* Manuele & Haggerty, *supra* note 90; NAT'L RSCH COUNCIL, *supra* note 162, at 191 (“When a community’s capacity to respond to a disaster is overwhelmed, its very survival depends on how recovery is conducted. If resources are delayed or curtailed during the critical recovery phase of a disaster, it is possible that states, local communities, businesses, and neighborhoods may be unable to rebuild in a resilient way (or not at all) and even greater costs will result over the long-term.”).

³³⁰ *See* NAT'L RSCH COUNCIL, *supra* note 162, at 159 (“A key role of policies designed to improve national resilience is to take the long-term view of community resilience and to help avoid short-term expediencies that can diminish resilience.”).

resources to all stages of disaster.³³¹ As a systemic approach, resilience also rests on the premise that all aspects of a given community are strong.³³² Naturally, this includes equitable access to justice at all times and not just in the immediate aftermath of a disaster.³³³

III. PROPOSAL

This final part combines the lessons fleshed out in all the preceding ones to put forth a rudimentary solution to rural legal deserts that incorporates what scholars know about building rural resilience to natural disasters. Specifically, it contemplates a program for rural attorney recruitment that builds upon the South Dakota Model outlined above.³³⁴ The result is composed of three parts. The program's basic structure is defined first. Then, features related to attorney recruitment, retention, and professional success are described. Finally, resilience-building components are incorporated in a manner that recognizes a local lawyer's potential to fortify rural communities against systemic stresses like disaster.

A. Federal Rural Attorney Recruitment and Resilience Program

As the current gold standard in rural attorney recruitment, the South Dakota Model provides the best template from which to formulate a successful initiative.³³⁵ With that in mind, this Note proposes an expansion of the South Dakota Model to all 50 states—with important revisions and additions to be outlined below.

Because the South Dakota Model is effective in two states, it is important to briefly consider why other states have yet to develop similar initiatives of their own.³³⁶ Political and geographic realities provide one explanation: nearly half of South Dakota's population is rural and those rural constituencies carry considerable weight in state decision-making.³³⁷ Moreover, the buy-in from various stakeholders is calculated to limit political pushback—the state bar, state supreme court, and participating counties and municipalities are each responsible for a share of the cost.³³⁸

³³¹ See *id.* at 28 (explaining that “some tools or actions that can reduce short-term risk may increase long-term risk, requiring careful evaluation of the risk management strategies employed.”).

³³² *Id.* at 7.

³³³ See Ajilore & Willingham, *supra* note 72 (recommending legal clinics as one possible service for which qualifying rural investments should apply).

³³⁴ S.D. CODIFIED LAWS § 16-23-1 (2022); N.D. CENT. CODE §§ 27-02.2-01–27-02.2-13 (2021).

³³⁵ S.D. CODIFIED LAWS § 16-23-1 (2022); N.D. CENT. CODE §§ 27-02.2-01–27-02.2-13 (2021).

³³⁶ Pruitt et al., *supra* note 6, at 102.

³³⁷ *Id.* at 129.

³³⁸ *Id.*

Unfortunately, these unique features cannot be replicated in other states; more obviously, these programs have not been replicated in other states despite recognized needs.³³⁹ To stimulate widespread implementation in the sustained fashion necessary, this Note argues that the federal government must take charge of administering the program described below.³⁴⁰ The USDA's Rural Development sector, in conjunction with officials promulgating RPN, should develop and implement the proposed program with the vital help of state bars.³⁴¹

B. Program Features: Recruitment, Participation, and Success

From the participating lawyer's perspective, a successful recruitment and retention strategy requires considerable financial incentives, adequate support in the form of preparation and practice assistance, acknowledgment of their freedom to relocate after putting in the requisite time, and recognition of their quality-of-life concerns.³⁴² From the participating rural community's perspective, a successful strategy emphasizes the need for sustained and in-person legal assistance, appreciates financial constraints at both the government and individual levels, and is committed to developing trust between participating lawyers and the communities they serve.³⁴³

The following features cohesively integrate these essential considerations by devoting equal attention to emerging lawyers' cited concerns about rural practice and the corresponding needs of rural communities.

1. Participation

Program participation requires the acquiescence of two parties: the rural county or municipality and the participating attorney. As to the former, this framework would extend automatic qualification to rural counties and

³³⁹ *See id.*

³⁴⁰ *See* Hunter Blair, *What is the ideal mix of federal, state, and local government investment in infrastructure?*, ECON. POL'Y INST. (2017), <https://files.epi.org/pdf/133917.pdf> ("The ups and downs of the business cycle can make it difficult for states to maintain stable levels of infrastructure investment. . . . Because the federal government can run deficits—even quite large ones over the short run—it is well positioned to help states maintain stable or increasing infrastructure investment over the course of a business cycle."); *see also* NAT'L RSCH COUNCIL, *supra* note 162, at 68 ("Particularly during times of economic hardship, competing demand for many societally relevant resources (education, health, and social services) can be a major barrier to making progress in building resilience in communities.").

³⁴¹ Katharine Ferguson & Anthony F. Pipa, *Redesign Required: 4 Ideas for Reimagining Federal Rural Policy in the Covid-19 Era*, THE BROOKINGS INST. (June 11, 2020) <https://www.brookings.edu/research/redesign-required-4-ideas-for-reimagining-federal-rural-policy-in-the-covid-19-era/> (noting, however, that research suggests the federal government's own rural strategy needs significant streamlining).

³⁴² *See infra* Section I.A.3.ii.

³⁴³ *See infra* Sections I.A.2, I.B.3–4.

municipalities with fewer than 10,000 residents, in recognition of rural capacity constraints.³⁴⁴ Thus, qualifying rural governments would not be responsible for seeking out the program for their community members' benefit (or satisfying any related financial obligations, as detailed below) seeing how administrative hurdles often work to deter rural participation.³⁴⁵ The USDA should approach leaders in qualifying locales about the opportunity. And because county and county equivalents vary in size from one state to the next, an additional provision should afford non-qualifying rural governments the opportunity to participate—an application and subsequent assessment of need by the USDA or state bars, for instance, might suffice.³⁴⁶

As for participating rural lawyers, the program proposed here would develop a target profile; doing so will increase the likelihood of successful recruitment and retention beyond the program's duration.³⁴⁷ To be sure, the application process should be open to all emerging lawyers in the United States. Preference, however, should be given first to applicants raised in rural regions, second to applicants with demonstrated familial connections to the area of application—this may include those who have spouses or partners with relevant connections—and third to applicants who demonstrate prior work with rural regions.³⁴⁸ Finally, to retain existing lawyers, the program should provide a limited route to participation for young lawyers who have already returned to rural practice but have undeveloped or struggling professional prospects.³⁴⁹

2. Financial Incentive

The financial enticement at the program's core must provide no less than the equivalent of full tuition reimbursement as a threshold.³⁵⁰ Such an expenditure acknowledges the overwhelming reluctance of emerging lawyers to work in rural areas.³⁵¹ These incentives must be provided yearly.³⁵² A

³⁴⁴ See S.D. CODIFIED LAWS §§ 16-23-2.1–16-23-2.2 (2022).

³⁴⁵ Tony Pipa, *A Policy Renaissance Is Needed for Rural America to Thrive*, THE N.Y. TIMES (Dec. 27, 2022), <https://www.nytimes.com/2022/12/27/opinion/rural-america-left-behind-places.html>.

³⁴⁶ See Pruitt et al., *supra* note 6, at 26 (“In South Dakota, Pennington County is so vast, stretching 100 miles from east to west, that officials have re-visited the parameters of the state's Rural Attorney Recruitment Program to account for the fact that attorneys are clustered at one end of the county, leaving the other end an attorney desert.”).

³⁴⁷ See generally Sharp et al., *supra* note 83.

³⁴⁸ *Id.*

³⁴⁹ Kelley Arredondo, Hilary N. Touchett, Sundas Khan, Matthew Vincenti & Bradley V. Watts, *Current Programs and Incentives to Overcome Rural Physician Shortages in the United States: A Narrative Review*, 38 J. GEN. INTERNAL MED. 916 (2023), <https://pubmed.ncbi.nlm.nih.gov/37340266/>.

³⁵⁰ See e.g., Picchi, *supra* note at 276.

³⁵¹ Pruitt et al., *supra* note 6, at 122–23.

³⁵² See *id.* at 105 (“The legislature arrived at this funding amount hoping it would allow participants to make

provision analogous to the federal government's loan forgiveness process—where the right to forgiveness, rather than payment, accrues over a lengthy period of time—would be incompatible with the high demand and limited supply of rural lawyers.³⁵³ These incentives are especially necessary in view of otherwise certain financial difficulties and the free or reduced services participants are expected to extend to residents who cannot afford to pay.³⁵⁴

Moreover, unlike the funding sources outlined by the South Dakota Model,³⁵⁵ participating counties and municipalities would not bear financial responsibility for these steep disbursements. Otherwise, many rural communities would be excluded from participation, especially those most in need. Instead, payments should be federally subsidized by the USDA to ensure inclusion and continuity across the United States.³⁵⁶

3. Time Commitment

Resilience scholarship confirms that rural America is built on trust and mutuality; logic thus dictates that the program's success in a given rural community may require, as a precondition, the building of such trust and mutuality.³⁵⁷ As participating attorneys become a vital and respected part of rural communities, so too will their services.³⁵⁸ Conversely, as participants come to know and appreciate the character of communities in which they work, they will become better acquainted with local needs.³⁵⁹ As a result, those lawyers will be able to better resolve local needs and advocate for them in an institutional setting—more on this later.³⁶⁰

student loan payments and cover basic operating expenses.”).

³⁵³See *Public Service Loan Forgiveness (PLSF)*, FED. STUDENT AID, <https://studentaid.gov/manage-loans/forgiveness-cancellation/public-service> (last visited Feb. 26, 2023).

³⁵⁴See Haksgaard, *supra* note 202, at 212–19.

³⁵⁵S.D. CODIFIED LAWS § 16-23-7 (2022).

³⁵⁶See e.g., Pipa, *supra* note 341.

³⁵⁷See Jerolleman, *supra* at 103 (describing that rural communities are more resilient when it comes to social capital because of, among other factors, longstanding relationships and mutual care).

³⁵⁸See Alicia Alvarez, Susan Bennett, Louise Howells & Hannah Lieberman, *Symposium Rebellious Lawyering at 25: Teaching and Practicing Community Development Poverty Law: Lawyers and Clients as Trusted Neighborhood Problem Solvers*, 23 CLINICAL L. REV. 577, 578–79 (“Our common aspiration is that we serve as a ‘trusted neighborhood problem-solver.’ This is how we want our clients and community members to think of us. It is how we want our students to envision their [...] roles as future practitioners.”).

³⁵⁹Janerick Holmes & Nick Allen, *The Power of Community Lawyering to Make Real Change, Even During a Pandemic*, POVERTY L. (Dec. 16, 2020), <https://www.povertylaw.org/article/power-of-community-lawyering/#:~:text=Effective%20advocates%20garner%20and%20activate,This%20is%20community%20lawyering> (discussing the benefits of community lawyering by emphasizing one program's “near constant interaction and relationship-building”).

³⁶⁰See Pruitt et al., *supra* note 6, at 30 (“The richness of these qualitative data reflect another characteristic associated with rural America: the great value placed on interpersonal relationships. Such relationships can be . . . a challenge when attorneys must learn the idiosyncrasies of remote regional courts in northern Wisconsin in order to advocate effectively for their clients.”).

A five-year time commitment, as a term of this framework, would take into account both participating attorneys' future interest in potentially relocating and participating communities' interest in ensuring several years of sustained legal assistance.³⁶¹ Additionally, this length of time appreciates the necessary time required to build resilience and promotes belongingness on the part of participating lawyers—a sentiment that has been proven to enhance rural retention in other professional fields.³⁶²

4. Practice Assistance

To ensure the program's substantive success, participating lawyers must be provided more than tuition repayment.³⁶³ This additional support should be calculated to quell other concerns cited by young lawyers about rural practice.³⁶⁴ The most pertinent concerns are defined by apprehension about professional success: law students perceive an absent or lacking legal market and, relatedly, feel ill-equipped to operate a solo practice.³⁶⁵

Concerns rooted in inexperience should be met with mentorship pairings between participating lawyers and lawyers who are firmly established in or near participating communities.³⁶⁶ These mentors would serve as a go-to for business-related or other questions in an effort to familiarize participating lawyers with how to market their services and navigate unfamiliar or rural-specific problems—like peculiar ethics issues that only arise in a tight-knit setting.³⁶⁷ Naturally, mentors will also

³⁶¹ The Public Service Loan Forgiveness Program (PSLF) typically requires 10 years of qualifying payments for forgiveness to kick in. Five years would appropriately signify rural legal deserts as a particularly urgent problem for access by requiring half the time commitment and no qualifying payments. *Public Service Loan Forgiveness (PSLF)*, *supra* note 353.

³⁶² Devin Deaton, *Better Results: What Does it Take to Build Capacity in Rural and Native Nations Communities?*, ASPEN INSTITUTE (May 19, 2022), <https://www.aspeninstitute.org/blog-posts/better-rural-capacity-building/#A> (“One trust-building strategy shared was to be there in person . . . One participant shared that “[too] often, people from outside come in with good intentions while based in a city an hour away, and then leave, without longevity of thought or taking time, and not increasing [our] capacity. It has led to burn out for many in the community.”); *Rural Practice, Keeping Physicians In (Position Paper)*, AM. ACAD. OF FAM. PHYSICIANS (2020), <https://www.aafp.org/about/policies/all/rural-practice-keeping-physicians.html>.

³⁶³ See Pruitt et al., *supra* note 6, at 143–44.

³⁶⁴ *Id.* at 123 (“Concern about income instability, as articulated in the Maine survey, also hints at insecurity about one’s skills fresh out of law school. It suggests that a lack of preparedness for what rural and solo legal practices entail, and not merely the size of one’s income, is of concern to recent graduates considering their next career moves.”).

³⁶⁵ Amaso, *supra* note 227; Pruitt et al., *supra* note 6, at 120, 123 (whether the noted perception is accurate or just illusory is likely up for debate. As far as the residents themselves are concerned, the legal market appears to exist but simply is not accessed due to financial considerations and because legally relevant problems are not realized.).

³⁶⁶ Pruitt et al., *supra* note 6, at 143 (“States might also offer incentives to rural lawyers who contribute to activities that support other attorneys in rural practice.”).

³⁶⁷ See, e.g., *id.* at 30.

familiarize participating attorneys with other practitioners and leaders in the region.³⁶⁸

To supplement mentorship arrangements, participating attorneys should be given training opportunities and legal resources free of charge and for Continuing Legal Education (CLE) credit.³⁶⁹ These trainings or courses could aid participating attorneys in subjects like low bono and help them develop creative ways to assist local residents in identifying actionable or previously unknown legal issues.³⁷⁰ For example, one training could help participating attorneys create community-specific legal checklists for distribution to local residents.³⁷¹ Checklists are a great tool for starting conversations with potential clients, generating a market where there might not otherwise be one, and helping rural residents realize the full range of services offered by the legal system.³⁷² Relatedly, trainings should also emphasize burgeoning programs and potential funding sources that may compensate participating lawyers for providing free or discounted legal services to low-income residents.³⁷³ Here, RPN should be highly engaged as it retains valuable knowledge about federal programming. And when funding sources are deficient or nonexistent, RPN officials can relay relevant information up the federal chain of command to develop new programs or adjust existing ones.³⁷⁴

Notably, some of these trainings or courses assume the existence of a rural-specific source of legal knowledge that may, at present, be niche or premature.³⁷⁵ As it stands, there are various rural-related courses offered by law school catalogs across the country.³⁷⁶ There are also a number of scholars who focus specifically on rural issues, like Lisa Pruitt and Hannah

³⁶⁸ *Id.* at 30, 98 (in the Maine Rural Lawyer Project, “rural attorney mentors, as well as each county’s bar association, are asked to identify regional points of contact, all of whom are responsible for linking Fellows to community organizations for the purpose of connecting the Fellows to social networks in each of the counties.”).

³⁶⁹ *See id.* at 143–44 (“Examples of such supportive services include formal mentoring arrangements, teaching continuing legal education classes that equip lawyers for rural practice, or participating in regional networks of attorneys, perhaps with different types of expertise, who share the work of rural clients. In particular, regional attorney networks can bring a breadth and depth of legal experience to the rural client, far exceeding what any one attorney could provide.”).

³⁷⁰ *Id.* at 75 (“Lawyers for Equal Justice, a legal incubator program established by the Georgia Supreme Court, the State Bar of Georgia, and the five ABA-accredited law schools in Georgia, trains and supports recent law graduates to develop low-bono practices that can ‘provide quality legal services that are accessible and affordable.’”).

³⁷¹ Hornsby, *supra* note 37.

³⁷² *Id.*

³⁷³ *See, e.g., Pro Bono Innovation Fund*, LEGAL SERVS. CORP., <https://www.lsc.gov/grants/pro-bono-innovation-fund> (last visited Feb. 10, 2023).

³⁷⁴ *See* Pruitt et al., *supra* note 6, at 148–51.

³⁷⁵ *Id.* at 146.

³⁷⁶ *Id.* at 123–24.

Haksgaard.³⁷⁷ Key educators should be identified and a task force formulated to develop a curriculum and related tools for training purposes.³⁷⁸ The idea would not be to standardize rural practice—every rural community is unique—but to help participating lawyers realize success so the program can achieve its underlying goals, too.³⁷⁹ Lastly, a most effective solution would assist with startup costs to help participating attorneys obtain needed software licensing, office space, and other prospective needs.³⁸⁰ This will make the program more attractive to a wider range of participants.

C. Program Features: Local Resilience Measures

Finally, and most germane to this Note’s objective, the program must include a strong component for building local resilience to disaster at the individual, community, and institutional levels.³⁸¹ Here, participating attorneys would, alongside community leaders and RPN liaisons—where applicable—complete a mandatory and federally subsidized program with a national partnership organization (like Americorps) in disaster planning and policy each year.³⁸² This program would emphasize pre-disaster risk reduction and establish a robust community approach to understanding and enhancing resilience.³⁸³

The result for each participating community would be a broad-based resilience coalition to assess its exposure and vulnerability to risk.³⁸⁴ From that assessment, each coalition would develop a comprehensive framework to evaluate and expand the community’s capacity to handle disaster risk.³⁸⁵ Participating attorneys, for their part, would aid in local policy where practical to enhance local resilience.³⁸⁶ Moreover, participating lawyers

³⁷⁷ See e.g., *id.* (the cited piece was produced by several scholars who have long worked on rural issues of access).

³⁷⁸ *Id.* at 124 (“Law schools could teach such skills to more would-be rural lawyers during law school; in fact, a few schools have already taken this proactive step.”).

³⁷⁹ *Id.* at 138 (“Among rural sociologists, it is often said that if you’ve seen one rural place, you’ve seen one rural place. The same probably holds true regarding access solutions. We should expect some similarities, but also many differences, regarding what is effective from place to place.”).

³⁸⁰ *Id.* at 144 (“Finally, the federal government could operate a program similar to South Dakota’s Rural Attorney Recruitment Program in that it could provide an incentive payment or stipend to cover a fixed cost, e.g., rent for office space or a subscription to a legal research database.”).

³⁸¹ See NAT’L RSCH COUNCIL, *supra* note 162, at 210.

³⁸² See NAT’L RSCH COUNCIL, *supra* note 162, at 212–14.

³⁸³ See *id.*

³⁸⁴ See *id.* at 214–16.

³⁸⁵ See *id.*

³⁸⁶ Taylor Healy & Aja Taylor, *Making the Case for Community Lawyering*, DISABILITY RTS. EDUC. & DEF. FUND (DREDF) (2016), <https://dredf.org/wp-content/uploads/2019/08/Materials-CommunityLawering-HealyAndTaylor-Clearinghouse-2016Nov.pdf> (“The Community Lawyering Project defines ‘community lawyering’ as ‘using legal advocacy to help achieve solutions to community-identified issues in ways that develop local leadership and institutions that can continue to exert power to effect systemic change.’”).

would be responsible for addressing local gaps in the infrastructure for post-disaster legal services.³⁸⁷ Participating rural counties and towns would bear no financial obligation for their participation in this coalition or for any assistance they receive from attorney participants.³⁸⁸ The following describes with more precision this hypothetical coalition, including the specific measures for which each participating lawyer would be responsible.

1. Risk and Resilience Profiling

As the first order of business, the resilience coalition would develop a community risk and resilience profile that identifies at risk individuals and structures in order to accurately quantify local risk.³⁸⁹ The participating lawyer's role would not exceed their own capacity; rather, their legal expertise and experiences working on issues within the community would supplement input from local leaders and other stakeholders.³⁹⁰ Community forums should be encouraged at this stage to ensure expansive local involvement.³⁹¹

Necessary data relevant to this undertaking should be compiled with substantial help from the disaster planning and policy organization working with each rural community.³⁹² During this stage, stock must be taken of all local resources and capabilities to gather information on public services most likely to be overwhelmed by disaster, legal services included.³⁹³ RPN may also have vital information to contribute as a result of its initial work in covered rural communities.³⁹⁴

The risk and resilience profile, created with the participation of all stakeholders and community leaders, would eventually inform the coalition's

³⁸⁷ See generally Faith-Slaker, *supra* note 168.

³⁸⁸ See generally Manuele & Haggerty, *supra* note 90.

³⁸⁹ See *id.* at 215–16.

³⁹⁰ See *id.*

³⁹¹ Tony Pipa & Natalie Geismar, *Community Development across Borders: How International Development Policy and Practice Can Inform U.S. Rural Policy*, BROOKINGS (Nov. 15, 2021), <https://www.stlouisfed.org/-/media/project/frbst/stlouisfed/files/pdfs/community-development/investing-rural/chapters/chapter41.pdf> (emphasizing that rural development depends on “strong local leadership, governance, . . . and a shared common vision among policymakers, practitioners and residents on how policy and public investments can maximize the human, natural and entrepreneurial capital that exists in rural America today.”).

³⁹² See e.g., AMERICORPS, *supra* note 315; AMERICORPS, *supra* note 251.

³⁹³ See AMERICORPS, *supra* note 315; AMERICORPS, *supra* note 251.

³⁹⁴ See USDA, *supra* note 257 (explaining that data and qualitative analysis on various factors were compiled prior to coordination with rural communities); Anthony Pipa & Natalie Geismar, *Will Biden Deliver for Rural America? The Potential of the Proposed Rural Partners Network?*, BROOKINGS (June 24, 2021), <https://www.brookings.edu/articles/will-biden-deliver-for-rural-america-the-potential-of-the-proposed-rural-partnership-program/> (arguing that “RPP is an opportunity to rethink how successful, equitable rural development is measured. The standard focus of federal economic development programs on jobs created and retained, infrastructure projects completed, or funds and financing invested does not provide a full picture of rural well-being nor creates healthy incentives.”).

settlement on an overarching set of annual resilience goals tailored to the specific community's strengths and weaknesses.³⁹⁵

2. Implementing Resilience Goals

With a set of agreed-upon goals established, each coalition would make decisions on what assortment of pre-disaster risk reduction measures are most likely to increase the community's potential for a resilient response.³⁹⁶ At this stage, participating attorneys would attend mandatory training courses comprised of information about both the availability and navigation of federal funds with regard to implementing community resilience measures in preparation for and in response to natural disasters.³⁹⁷

RPN could conduct or greatly contribute to these trainings, at least in regions in which RPN is present.³⁹⁸ Such trainings would teach participating attorneys how to identify, apply for, and implement available funds to address social and infrastructural vulnerabilities that heighten risks before and after a disaster.³⁹⁹ Trainings must also emphasize the numerous funding opportunities that are less related to disaster but still fundamentally tied to resilience.⁴⁰⁰ Namely, projects that fortify communal bonds, maintain local culture, and strengthen—rather than do away with—the distinctive character of participating rural communities will support resilience goals like population retention.⁴⁰¹

Crucially, to incentivize time spent on building resilience, participating attorneys should be compensated for their efforts.⁴⁰² This Note suggests the creation of a rural-specific pool of funds to reward them for their time spent obtaining and administering federal resources.⁴⁰³ Ideally, this fund would follow the model of *Judicare*—a system through which private lawyers “aid in the delivery of legal services” at a reduced fee that the state, or another

³⁹⁵ See USDA, *supra* note 257, at 214–16.

³⁹⁶ See *id.*

³⁹⁷ See Ajilore & Willingham, *supra* note 72.

³⁹⁸ See generally USDA, *supra* note 257.

³⁹⁹ See *id.*

⁴⁰⁰ NAT'L RSCH COUNCIL, *supra* note 162, at 138 (“Norris et al. (2008) identify social linkages and a sense of community—characterized by high concern for community issues, respect for and service to others, and a sense of connection—as attributes of resilience.”); *id.* at 151 (“Resilience requires reinforcement of our physical environment—the buildings and critical infrastructure that support the communities in which we live. It also requires the strengthening of our social infrastructure—the local community networks that can mobilize to plan, make decisions, and communicate effectively.”).

⁴⁰¹ Jerolleman, *supra* note 15 (“Creating strategies that build upon existing social capital in designing preparedness and recovery efforts. For example, disaster risk reduction efforts that account for a shared vision of the community and shared commitments to retain connections valued by the community, as well as efforts that use tools such as storytelling, have been very successful.”).

⁴⁰² See NAT'L RSCH COUNCIL, *supra* note 162, at 210.

⁴⁰³ See *id.*

source, funds.⁴⁰⁴ RPN could streamline the creation of this funding pool through its interagency coordination.⁴⁰⁵

3. Disaster Relief and Recovery Planning

Finally, to expand the community's capacity to handle disaster relief and recovery, the coalition would develop extensive plans to strengthen what local resources the community has and decide how best to increase those resources consonant with community needs, values, and character.⁴⁰⁶ To manage recovery, each community coalition would develop contingency plans to ensure governance and business continuity and to provide public services in times of disaster.⁴⁰⁷

Here, each participating attorney would be charged with developing a local infrastructure for post-disaster legal services to accommodate short-, medium-, and long-term needs. Thanks to programs like DLS, current short-term responses are somewhat sufficient, though there are clear gaps.⁴⁰⁸ For instance, participating attorneys should supplement existing services where affected residents may not otherwise qualify for them.⁴⁰⁹ For medium- and long-term provisions, participating attorneys would take on some of the work themselves, but the framework proposed here advocates for equitable access to legal services from beginning to end in the recovery process, which necessarily requires additional resources.⁴¹⁰

Participating attorneys would be required to coordinate with local and regional partners willing to provide free or reduced legal services and obtain dates of availability, relevant practice areas, and other key information.⁴¹¹ State bar associations could simplify this task by creating statewide repositories of lawyers and firms committed to volunteering an annually specified number of hours in particular practice areas—the participating attorneys could merely reach out to lawyers and firms for commitments at various disaster stages.⁴¹²

⁴⁰⁴ Michael A. Milleman, *Symposium: Diversifying the Delivery of Legal Services to the Poor by Adding a Reduced Fee Private Attorney Component to the Predominantly Staff Model, Including Through a Judicare Program*, 7 U. MD. L. J. RACE RELIG. GENDER & CLASS 227, 236 (describing Judicare as a system “involving private lawyers to aid in the delivery of legal services to the poor at a reduced fee funded by the state or another source.”).

⁴⁰⁵ See USDA, *supra* note 257.

⁴⁰⁶ See NAT'L RSCH COUNCIL, *supra* note 162, at 214–16.

⁴⁰⁷ See *Id.* at 210–11.

⁴⁰⁸ See *supra* Section II.B.2.

⁴⁰⁹ See e.g., Kittay, *supra* note 211 (“A key group of people whom the ISBA is concerned about is those whose income level is just high enough to prevent them from qualifying for legal aid.”); see DEP'T. OF HOMELAND SEC., *supra* note 241.

⁴¹⁰ See NAT'L RSCH COUNCIL, *supra* note 162, at 192.

⁴¹¹ See *Id.* at 210–11.

⁴¹² See generally Pruitt et al., *supra* note 6, at 84, 111 (describing the many responsibilities undertaken by state

To ensure an airtight framework, participating attorneys should work on ways to bring relevant information to residents who might desire or otherwise be capable of operating certain aspects of relief and recovery on their own.⁴¹³ Participating attorneys would work with local leaders on how to distribute information to all community members, especially those without broadband internet access.⁴¹⁴ This could be accomplished through handouts, local tutorials, and even home visits, where necessary.⁴¹⁵

Lastly, each participating attorney should build into their framework legal services for local businesses that may be severely impacted in the aftermath of disaster but lack the resources to retain counsel.⁴¹⁶ Doing so would likely require participating attorneys to obtain commitments from regional lawyers and firms in other practice areas.⁴¹⁷ Here, too, RPN could assist, as small rural businesses are typically—at least currently—eligible for many forms of federal assistance.⁴¹⁸

CONCLUSION

Natural disasters are devastating rural communities across the country. Delivering a more equitable future for these struggling regions requires reconfiguring yesterday's solutions to reflect today's challenges.⁴¹⁹ Rural access to justice presents one challenge for which a reconfigured solution is needed. Historically, access to justice initiatives have been developed with primarily urban populations in mind, but in rural America, the issue constitutes a different problem and, therefore, necessitates different

bars to address rural attorney shortage and access to justice issues more broadly).

⁴¹³ *Id.* at 76–7 (“Renewed energy and support to increase the resources available to rural communities—including information, services, and self-help tools to address their legal needs—can narrow that gap and provide a clearer path to justice...”); See NAT’L RSCH COUNCIL, *supra* note 162, at 142–43 (discussing the importance of communicating risk and spurring dialogue about how to address it).

⁴¹⁴ *Rural Barriers to Emergency Preparedness and Response*, RURAL HEALTH INFO. HUB, <https://www.ruralhealthinfo.org/toolkits/emergency-preparedness/1/rural-barriers> (last visited Feb. 10, 2023) (“Rural communities can support information sharing by designating a liaison or point of contact who will communicate with others during an emergency or disaster.”).

⁴¹⁵ See e.g., *Building Legal-Community Partnerships*, JUSTLEAD WASHINGTON 1, 9–14 (2020), <https://justleadwa.org/wp-content/uploads/2020/09/JustLead-Community-Guide-Summer-2020-1.pdf> (providing a full range of community engagement tools to create and maintain a legal-community partnership in disadvantaged communities).

⁴¹⁶ See NAT’L RSCH COUNCIL, *supra* note 162, at 61, 118.

⁴¹⁷ See *id.* at 118.

⁴¹⁸ *FACT SHEET: Biden-Harris Administration Announces the Rural Partners Network to Empower Rural Communities to Access Federal Resources*, THE WHITE HOUSE (Apr. 20, 2022), <https://www.whitehouse.gov/briefing-room/statements-releases/2022/04/20/fact-sheet-biden-harris-administration-announces-the-rural-partners-network-to-empower-rural-communities-to-access-federal-resources/> (explaining plans for the RPN to work with small businesses seeing that “The President’s American Rescue Plan provided billions of dollars to rural workers, local governments, and small businesses...”).

⁴¹⁹ See *id.*

solutions.⁴²⁰ Rural legal deserts constitute one such difference.⁴²¹ The phenomenon, defined by a growing shortage of rural lawyers, exacerbates individual inequities in a traditional sense. But by expanding the scope to capture broader notions of community health, the impacts of attorney shortages reach further.

As this Note detailed, the consequences of rural attorney shortages are multiplied in an age of more frequent and more destructive natural disasters. Rural populations are among the most vulnerable to the worst impacts of disaster; for this reason, they have more legal consequences to deal with in the aftermath. And unlike their urban counterparts, rural governments exhibit unmet needs for legal expertise of their own when it comes to planning, preparing, and responding resiliently in the face of disaster. Together, then, rural residents and their governments represent a sweeping deficit in legal assistance. Such a void deprives rural residents of the ability to get sustained help for legal problems both generally and in the context of disaster; it simultaneously undermines protective measures rural governments might otherwise deploy before, during, and after disaster to lessen the blow and ensure a resilient response.

Couched in this context, disaster frustrates the purpose of access to justice initiatives by perpetuating social inequalities those initiatives are designed to eliminate. Since rural lawyers are well-positioned to assist with community efforts to build local resilience to disaster, current solutions to rural legal deserts must be amended and expanded to reflect that heightened potential. At base, access to justice initiatives designed for rural populations must continue to diversify by embracing holistic approaches to access that maximize the returns on rural lawyering. This Note argues for a rural attorney recruitment program similar to those developed by South and North Dakota but with important revisions: the program must be promulgated by the federal government and offered to rural regions in every state, propped up by far greater financial and otherwise incentives, and reconfigured to suit emerging climate-related threats.

Some decision-makers may view the federal commitment required to embrace this approach as an unnecessary expenditure. They would be wrong. Analysis shows that over the next 50 years, inadequate action on climate change could cost the U.S. economy \$14.5 trillion.⁴²² A loss of this measure is equivalent to approximately 4% of the nation's GDP.⁴²³ Nearly

⁴²⁰ Michele Statz et al., *supra* note 8, at 326.

⁴²¹ AM. BAR ASS'N, *supra* note 11.

⁴²² *Inaction on Climate Change Could Cost the US Economy \$14.5 Trillion by 2070*, DELOITTE (Jan. 25, 2022), <https://www2.deloitte.com/us/en/pages/about-deloitte/articles/press-releases/deloitte-report-inaction-on-climate-change-could-cost-the-us-economy-trillions-by-2070.html>.

⁴²³ *Id.*

900,000 jobs could disappear each year as a result.⁴²⁴ Alternatively, if the U.S. elects to adopt an ambitious, holistic track toward decarbonization and invests in durable infrastructure to deal with the irreversible impacts of climate change, it could see net economic *gains* by 2048.⁴²⁵ Every region of the nation would benefit.⁴²⁶ Climate resilience and disaster risk reduction are central to this investment.⁴²⁷ In fact, making infrastructure more climate-resilient can have a cost-benefit ratio of about one to six—for every dollar invested, six dollars are saved.⁴²⁸ Thus, investing in climate resilience creates jobs and saves money.

If the federal government wants to avoid incurring the rural portion of these extraordinary losses, it must deal with rural communities on their terms, in light of their realities. Because rural America possesses many unique strengths, more precise and flexible policies that take proper stock of rurality would render it the dominant case study in disaster resilience rather than systemic failure. Unfortunately, what passes as rural policy today is little more than an incoherent patchwork of economic and community development programs.⁴²⁹ Rural governments have access to over 400 programs straddling 13 departments, 10 independent agencies, and more than 50 offices and sub-agencies.⁴³⁰ In theory, this dizzying array is a welcomed reminder of more robust federal involvement that has accompanied the 21st century. But in practice, rural governments usually lack the capacity required to access the federal opportunities they so desperately need. An overhaul of federal programming is necessary, but in the meantime, lawyers can and should be recruited to fill the void. All things considered, this option is a bargain.

⁴²⁴ *Id.*

⁴²⁵ *Id.*

⁴²⁶ *Id.*

⁴²⁷ *For Every Dollar Invested in Climate-Resilient Infrastructure Six Dollars Are Saved*, Secretary-General Says in Message for Disaster Risk Reduction Day, UNITED NATIONS: MEETINGS COVERAGE AND PRESS RELEASES (Oct. 10, 2019), <https://press.un.org/en/2019/sgsm19807.doc.htm>.

⁴²⁸ *Id.*

⁴²⁹ Anthony F. Pipa & Natalie Geismar, *Reimagining Rural Policy: Organizing Federal Assistance to Maximize Rural Prosperity*, BROOKINGS INST. (Nov. 2020), at 4–5, <https://www.brookings.edu/wp-content/uploads/2020/11/Rural-Dev-Assistance-Brief.pdf>.

⁴³⁰ *Id.*