



OREGON REVIEW OF INTERNATIONAL LAW

VOLUME 11 • NUMBER 1 • 2009

ARTICLES

- Reclaiming Indian Civil Rights: The Application of
International Human Rights Law to Tribal Disenrollment Actions
Greg Rubio 1
- Law and Policy Issues on Sexual Harassment in China:
Comparative Perspectives
D. K. Srivastava and Minkang Gu 43
- The WTO System of Trade Governance: The Stale NGO Debate
and the Appropriate Role for Non-state Actors
Seema Sapra 71
- DEBATE: The Future of Immigration Reform** 109
- Advocating for Control with Compassion: The Impacts of Raids
and Deportations on Children and Families
Marcela Mendoza and Edward M. Olivos 111
- Introduction: The Ethics of Illegality
Jose Jorge Mendoza 123
- The Future of Immigration Reform
Most Reverend Jaime Soto 129
- COMMENT**
- The Liberty Rights of Resident Aliens: You Can't Always Get
What You Want, But if You Try Sometimes, You Might Find,
You Get What You Need
Robert T. Senh 137
- NOTES**
- In Search of Accountability: Attributing the Conduct of
Private Security Contractors to the United States
Under the Doctrine of State Responsibility
Amanda Tarzwell 179
- Why Cutting Down Trees Is Part of the Problem, but
Planting Trees Isn't Always Part of the Solution: How
Conceptualizing Forests as Sinks Can Work Against Kyoto
Geoffrey J. Aguirre 205
-

UNIVERSITY OF OREGON SCHOOL OF LAW

Advocating for Control with Compassion: The Impacts of Raids and Deportations on Children and Families

I.	Growth and Expansion of Immigration Enforcement Operations	113
II.	Impacts of Raids and Deportations on Children, Families, and Communities.....	116
	Conclusion.....	121

Immigration is ingrained in our nation’s history. It is a dominant feature of who we are as a country in all social, cultural, economic, and political domains. Yet, the topic of immigration is often misrepresented or partially portrayed in the media and in the national political discourse. Rather than viewed as a multifaceted phenomenon influenced by complex existing global geopolitical and economic practices, current patterns of immigration (and by extension immigrants) are instead frequently depicted in the nightly news or on the talk shows as an attempt to “re-conquest” by Mexico or as infiltrations by terrorists who are determined to do harm to the United States. Given this tendency to simplify the complexity of the “push-pull” factors that drive people to leave their countries of origin to settle in the United States, it is not surprising to find propositions and policies that equally simplify solutions to remedy this perceived problem. This simplified mindset is most evident in the long laundry list of national and local enforcement-only policies and practices

* Adjunct Assistant Professor, Department of Anthropology, University of Oregon.

** Assistant Professor, Teacher Education Department, University of Oregon.

aimed at targeting immigrants through intimidation, harassment, and ultimately, deportation.¹

The current focus on enforcement-only tactics for dealing with immigration-related violations (i.e., unauthorized entries, over-extended stays, charges of “identity theft,” etc.) also reflects the absence of a comprehensive national policy on immigration. In this absence, U.S. Immigration and Customs Enforcement (ICE), the branch of the Department of Homeland Security (DHS) responsible for enforcing immigration laws, is conducting increasingly severe operations with little congressional oversight.² ICE is overextending its authority, enacting what has been considered an administrative enactment of immigration policy.³ These enforcement operations by ICE officers (also called raids) are conducted at worksites and residences and frequently result in the arrest of not only individuals with immigration convictions, but also immigrants labeled as “ordinary status violators” who have never been charged before an immigration judge, but are arrested on the presumption that they are unlawfully present in the country. These latter arrests are sometimes referred to as “collateral arrests” because these individuals are not the originally intended targets of ICE agents.⁴ They nonetheless suffer the same consequences as those who were targeted—they are also detained and often deported. For immigrants, said Rachel Ida Bluff,

¹ See DEP’T OF HOMELAND SEC., ANNUAL REPORT, IMMIGRATION ENFORCEMENT ACTIONS: 2007 (2008), *available at* http://www.dhs.gov/xlibrary/assets/statistics/publications/enforcement_ar_07.pdf. See also LAUREEN LAGLAGARON ET AL., MIGRATION POLICY INST., REGULATING IMMIGRATION AT THE STATE LEVEL: HIGHLIGHTS FROM THE DATABASE OF 2007 STATE IMMIGRATION LEGISLATION AND THE METHODOLOGY (2008), *available at* <http://www.migrationpolicy.org/pubs/2007methodology.pdf>; MARK HUGO LOPEZ & MICHAEL T. LIGHT, PEW HISPANIC CTR., A RISING SHARE: HISPANICS AND FEDERAL CRIME (2009), *available at* <http://pewhispanic.org/files/reports/104.pdf>.

² NAT’L NETWORK FOR IMMIGRANT AND REFUGEE RIGHTS, OVER-RAIDED, UNDER SIEGE: U.S. IMMIGRATION LAWS AND ENFORCEMENT DESTROY THE RIGHTS OF IMMIGRANTS (2008), *available at* http://www.nnirr.org/resources/docs/UnderSiege_web2.pdf.

³ Statement of Dr. Erik Camayd-Freixas, Federally Certified Interpreter, at the U.S. District Court for the Northern District of Iowa, July 24, 2008, *available at* <http://judiciary.house.gov/hearings/pdf/camayd-freixas080724.pdf> (regarding a hearing on “The Arrest, Prosecution, and Conviction of 297 Undocumented Workers in Postville, Iowa, from May 12 to 22, 2008” before the Subcomm. on Immigration, Citizenship, Refugees, Border Sec., and Int’l Law).

⁴ MARGOT MENDELSON ET AL., MIGRATION POLICY INST., COLLATERAL DAMAGE: AN EXAMINATION OF ICE’S FUGITIVE OPERATIONS PROGRAM 4 (2009), *available at* http://www.migrationpolicy.org/pubs/NFOP_Feb09.pdf.

“the deportation terror creates a culture of fear, which in turn, constitutes de facto immigration policy.”⁵

In this Article we review recent data on immigration enforcement operations and address its effects on immigrant communities. We develop our discussion from cases described by journalists, information in research reports, and our own experiences in conversations with members of the Latino immigrant community. We devote special attention to the impacts of enforcement operations in schools and their effect on children.

I

GROWTH AND EXPANSION OF IMMIGRATION ENFORCEMENT OPERATIONS

In 2007, the Department of Homeland Security (DHS) made a total of 960,756 apprehensions.⁶ ICE’s Office of Investigations made 53,562 administrative arrests of aliens charged with an immigration violation, and ICE’s National Fugitive Operations Program made 30,407 arrests of fugitive and non-fugitive aliens.⁷ Mexican nationals accounted for 89% of all aliens apprehended in 2007, followed by Hondurans, Guatemalans, Salvadorans, Cubans, and Brazilians.⁸

National Fugitive Operations Program is the DHS enforcement program that has experienced the most dramatic increase in congressionally mandated funding since 2003. It has grown more rapidly in staffing and operations than any other ICE program. Conducted by the Office of Detention and Removal Operations (which is responsible for interior enforcement of immigration laws), the National Fugitive Operations Program is intended to improve national security by locating and removing dangerous fugitive aliens.⁹ Some fugitives—individuals who have been ordered deported, excluded, or removed by an immigration judge, but did not leave the country, or failed to report to the DHS as required—have a criminal history; however many other immigrants detained do not. This is because Fugitive Operations Teams (FOT) cast a large net when they are dispatched to workplace and residential operations across the country to arrest fugitives. As a result, FOT agents also arrest other

⁵ Rachel Ida Bluff, *The Deportation Terror*, 60 AM. Q. 523, 531 (2008).

⁶ DEP’T OF HOMELAND SEC., *supra* note 1, at 3.

⁷ *Id.*

⁸ *Id.*

⁹ See MENDELSON, *supra* note 4, at 3.

immigrants who are presumed to be unlawfully in the country. According to researchers with the Urban Institute, about 73% of the individuals apprehended by FOT from 2003 through February 2008 had no criminal conviction.¹⁰

During residential operations, agents with the FOT carry warrants which specify the names of individuals with outstanding removal orders issued by ICE staff (not search or arrest warrants approved by a judge). Their administrative warrants of deportation do not allow entry into dwellings without consent. However, if the agents are allowed inside a home by an occupant, they can question anyone present. Agents can also question other persons that they encounter during an operation, and if these individuals are deemed to be immigration violators (i.e., not in the United States legally), they may be arrested without warrant.¹¹ The majority of the arrests of ordinary status violators presumably occur because such individuals happen to be nearby when the agents conduct their operations.¹²

From 2003 to 2005, ordinary status violators represented an average of 22% of annual arrests.¹³ In 2006, this occurrence was exacerbated when FOT were required to meet an annual quota of one thousand arrests per team. Since then, ordinary violators have accounted for 35% of total arrests in 2006, and 40% in 2007.¹⁴ For example, the arrest of a female worker with an undocumented status who is a mother with no criminal history or removal order counts towards the team's annual quota as much as the arrest of a fugitive alien who disregarded a previous removal order or poses a serious risk to national security.¹⁵ Critics say that under pressure to meet their quotas, ICE's agents are arresting more "soft targets" instead of

¹⁰ *Id.* See also Nina Bernstein, *Effort on U.S. Immigrant Raids Cast Wider Net*, N.Y. TIMES, Feb. 4, 2009, at A1; DORIS MEISSNER & DONALD KERWIN, MIGRATION POLICY INST., DHS AND IMMIGRATION: TAKING STOCK AND CORRECTING COURSE (2009), available at http://www.migrationpolicy.org/pubs/DHS_Feb09.pdf. Increased enforcement of immigration laws has altered the ethnic composition of offenders sentenced in federal courts. Latinos, who are 13% of the U.S. population, accounted for 40% of all sentenced federal offenders in 2007. Immigration offenses now represent about one-quarter of all federal convictions, compared with 7% in 1991. Most Latinos with federal sentences are not U.S. citizens. LOPEZ & LIGHT, *supra* note 1.

¹¹ See Nina Bernstein, *Hunts for 'Fugitive Aliens' Lead to Collateral Arrests*, N.Y. TIMES, July 23, 2007, at B5.

¹² See MENDELSON, *supra* note 4, at 20.

¹³ *Id.* at 2.

¹⁴ *Id.* at 10 n.44.

¹⁵ See *id.*

focusing on fugitives, the purpose for which the program was initially intended.

ICE's National Fugitive Operations is a national security program. FOT officers are armed, appear at residences late at night or early in the morning, and undertake operations secretly without previously contacting local social services agencies. These procedures are appropriate for an operation that intends to apprehend dangerous fugitives, but when the same approach is followed to arrest immigrants without a criminal history it could lead to use of excessive force, overuse of weapons, and danger to the suspect and the agents. Indeed, "no matter how professional ICE agents are in executing these operations, ethnic profiling and human rights violations are likely to occur during the process of identifying and apprehending suspects."¹⁶ Thus, the risks of human and community hardship are high, as are the economic costs of these operations.¹⁷

Also, ICE agents depend on the cooperation of local law enforcement agencies for logistical support, and civic institutions and individual community members for other forms of assistance. The public perception that ICE agents are abusive towards immigrants, however, jeopardizes the relationship of the agency with local Latino residents. Moreover, researchers and advocates are beginning to understand that the impact of an ICE raid continues well after it happens and extends far beyond the workplace and the immigrant families involved by unsettling neighbors, students in schools, church congregations, and local business.

The activities of the National Fugitives Operations Program and ICE in general, have been the subject of intense criticism for their apparently indiscriminate form of enforcing immigration policies. On September 26, 2008, for example, Senators Robert Menendez (D-NJ) and Edward Kennedy (D-MA) proposed the Protect Citizens and Residents from Unlawful Raids and Detention Act to establish at the

¹⁶ Erik Camayd-Freixas, *Call for Moratorium on Worksite Enforcement Raids*, Aug. 5, 2008, <http://iscte.pt/~apad/ACED/oficios08/Call%20for%20Moratorium%20on%20Worksite%20Enforcement%20Raids.docx>.

¹⁷ Researchers have reported on the high cost to taxpayers of enforcement raids and incarcerations. For example, the cost of a workplace raid in Postville, Iowa, on May 12, 2008, has been estimated at five million dollars. William Petroski, *Taxpayers' Costs Top \$5 Million for Raid at Postville*, DES MOINES REGISTER, Oct. 14, 2008. ICE estimated that a bed space for a single unauthorized immigrant costs taxpayers ninety-seven dollars per night. MENDELSON, *supra* note 4, at 23 n.93. Regarding the expansion of the detention network and its growing cost to taxpayers, see Nina Bernstein, *Dependent of Jail, City of Immigrants Fills Cells with Its Own*, N.Y. TIMES, Dec. 27, 2008, at A12.

very least a minimum set of standards for the treatment of U.S. citizens, lawful permanent residents, and immigrants who are impacted by immigration enforcement operations—which have been accused of wrecking havoc in low-income communities, racial profiling, and terrorizing lawfully documented immigrant families “with no real payoff.”¹⁸ To date, however, there has been no immediate relief for local immigrant communities.

II IMPACTS OF RAIDS AND DEPORTATIONS ON CHILDREN, FAMILIES, AND COMMUNITIES

The immigrant family in the United States is a complex structure in that it can consist of family members who are of “mixed” immigration status.¹⁹ For example, an adult in the family may be a citizen, permanent resident, documented immigrant, or undocumented immigrant, while the children themselves can be either native-born citizens or immigrants (documented or undocumented) like their parents. Recent estimates indicate that about 3 million children in the U.S. are native-born citizens with undocumented immigrant parents and another 1.6 million children under the age of eighteen are undocumented immigrants,²⁰ although Capps, Castañeda, Chaudry, and Santos estimate that the actual number is 5 million.²¹

Regardless of this discrepancy in numbers, it is evidently clear that today these children in immigrant families are increasingly vulnerable and defenseless as ICE enforcement operations become common practice in immigrant communities nationwide. For advocates concerned with the consequences of these raids on children, Greely, Colorado; Grand Island, Nebraska; Postville, Iowa; and New Bedford, Massachusetts, and other sites provide significant documentation as to

¹⁸ Press Release, Am. Immigration Law Found., Senate Act Would Restore Rule of Law to Immigration Enforcement American Immigration Law: Foundation Lauds Menendez-Kennedy Raids Bill (Sept. 26, 2008) (on file with author).

¹⁹ JEFFREY S. PASSEL ET AL., URBAN INST., UNDOCUMENTED IMMIGRANTS: FACTS AND FIGURES (2004), available at <http://www.urban.org/ url.cfm?ID=1000587>.

²⁰ See Susan C. Morse & Frank S. Ludovina, *Responding to Undocumented Children in the Schools*, EDUC. RESOURCES INFO. CTR. DIG., Sept. 1999, <http://www.eric.ed.gov> (ERIC Identifier: ED433172). See also Julia Preston, *Case of Mother Torn From Baby Reflects Immigration Quandry*, N.Y. TIMES, Nov. 17, 2007, at A13.

²¹ RANDY CAPPS ET AL., NAT’L COUNCIL OF LA RAZA, PAYING THE PRICE: THE IMPACT OF IMMIGRATION RAIDS ON AMERICA’S CHILDREN 1 (2007).

how ICE practices negatively impact children, particularly those who are native-born U.S. citizens.²²

For U.S. born children with at least one immigrant parent who has an undocumented status, the costs of immigration enforcement pose a significant psychological burden.²³ Since 2003, ICE's callous enforcement of immigration laws has created a situation in which families have been forced apart and thousands of children have been separated from an immigrant parent.²⁴ In the aftermath of worksite and residential enforcement operations, children, family members, and communities are distressed, while schools, early childhood centers, child welfare agencies, churches, and community-based organizations are left to play the role of first responder in helping with the fallout. Providing immediate response can place great strain on those institutions, and divert them from their primary missions. For those institutions that have not planned for such an event, ICE raids greatly extend the duties of teachers, priests, and social workers to children and immigrant family members distressed in the absence of information from ICE about their loved ones.

A recent report by DHS indicates that 108,434 parents of U.S. citizens have been deported on immigration violations between 1998 and 2007.²⁵ However, this data may be faulty due to the fact that not all immigrant parents who were detained would disclose that they had children living with them because of fear that ICE or child welfare agencies would take their children into custody. If statistics on the undocumented immigrant population are somewhat accurate, however, then for every two people deported, about one child is affected in the process.²⁶

Exacerbating the problem of parental deportation is the fact that, according to DHS, about 10% of the immigrants detained by ICE are

²² *Id.*

²³ Anna Gorman, *U.S.-born Children Feel Effects of Immigration Raids*, L.A. TIMES, June 8, 2008, at B1.

²⁴ See OFFICE OF THE INSPECTOR GEN., DEP'T OF HOMELAND SEC., REMOVALS INVOLVING ILLEGAL ALIEN PARENTS OF UNITED STATES CITIZEN CHILDREN, OIG-09-15 (2009), available at http://www.dhs.gov/xoig/assets/mgmt/rpts/OIG_09-15_Jan09.pdf. See also HUMAN RIGHTS WATCH, FORCED APART, FAMILIES SEPARATED AND IMMIGRANTS HARMED BY UNITED STATES DEPORTATION POLICY (2007), available at <http://www.hrw.org/en/reports/2007/07/16/forced-apart>; Preston, *supra* note 20.

²⁵ Suzanne Gamboa, *Report: 100,000 Parents of U.S. Citizen Children Deported*, HOUSTON CHRON., Feb. 13, 2009, <http://www.chron.com/disp/story.mpl/moms/6262927.html>.

²⁶ Randy Capps et al., *The Impact of Immigration Enforcement Strategies on Infants and Toddlers*, 29 ZERO TO THREE 47, Nov. 2008.

women. The characteristics of these women are complex, some are single mothers, others are working mothers, and still others are housewives, dependent on their husbands and extended family for support. The large scale detention of women in immigration facilities is a fairly new phenomenon and there is little information available as to the effects of women's detention on the family or about the treatment these women receive while in custody. Of those studies that are available, the findings are not surprising: the majority of the women in custody are mothers of children under ten years of age, the majority of women are transferred out of their state of apprehension posing a significant hardship for familial visits and contact with their children, and there is inadequate due process such as access to communication (i.e., phones) and legal advice.²⁷

The short-term impacts of ICE raids on children and families are family separation, economic hardship (because families may have lost the adult with the better paying job), psychological trauma, fear, and stigma. The long-term impacts on immigrant communities, however, are less understood, but scholars point to enduring mistrust of law enforcement and child welfare agencies, development of a "culture of fear," and social isolation. Nonetheless, life goes on for immigrant families after a raid and children have to go to school or to early childhood centers, but the increased presence of federal immigration officials in communities has a chilling effect on parents' and children's perceptions of their protected access to Head Start and public education.²⁸

For immigrant parents, schools are the one institution that they *must* have contact with if they have school-aged children. As a nation of compulsory education, keeping children home from school would only draw suspicion to the family by school and/or immigration authorities. Moreover, consistent parental contact is an expected behavior in U.S. schools in the form of parent conferences and school social events. However, U.S. public schools have fallen significantly short in assuring immigrant parents about their children's and even their own safety and rights. Moreover, public schools in low-income immigrant communities often appear unprepared for the very real likelihood of an ICE raid.

²⁷ NINA RABIN, SOUTHWEST INST. FOR RESEARCH ON WOMEN, UNSEEN PRISONERS, A REPORT ON WOMEN IN IMMIGRATION DETENTION FACILITIES IN ARIZONA 14–16 (2009), available at <http://sirow.arizona.edu/files/UnseenPrisoners.pdf>.

²⁸ See Gorman, *supra* note 23.

For example, in March 2007 the students and staff at San Pedro Elementary School were disturbed by an immigration raid in San Rafael, California. For three days following this ICE operation, teachers rode buses to ensure that children were delivered safely to homes. The after-school program at San Pedro turned into counseling sessions, absentee rates soared, and test scores dropped. Students who did make it to school remained distracted as they worried about whether their families would be at home when they returned.²⁹ In testimony before a congressional subcommittee in May 2008, school Principal Kathryn Gibney (2008) reported:

On a day when we were scheduled to administer the state exams, forty students were absent—seven times the normal absentee rate. Through the day, muted and trembling voices asked teachers if agents would come to the school and take them away, what would happen to their mommy or daddy or aunt or uncle, and what would happen to them.³⁰

Similarly, a workplace raid at an Agriprocessor's meatpacking plant in Postville, Iowa, on May 12, 2008, resulted in significant disruption to the students in the school district. Many children from immigrant families were left at school while their parents were in custody. Most of the school system's Latino children were absent the day after the raid, though many later returned.³¹ The immediate effects of this particular raid are better known thanks to the personal account written and made public by Erik Camayd-Freixas, a professor at Florida International University, who participated as Certified Court Interpreter during the judicial process.³² We excerpt a portion of his account below, in reference to school attendance after the immigration enforcement operation.

This was the immediate collateral damage. Postville, Iowa (pop. 2,273), where nearly half the people worked at Agriprocessors, had lost 1/3 of its population by Tuesday morning. Businesses were empty, amid looming concerns that if the plant closed it would become a ghost town. Beside those arrested, many had fled the

²⁹ Mary Ann Zehr, *Immigration Raids' Impact on Children Focus of Congressional Hearing*, EDUC. WK., May 20, 2008, www.edweek.org (subscription required).

³⁰ Verbal Testimony of Kathryn M. Gibney Before the Subcomm. on Workforce Projections of the H.R. Educ. and Labor Comm. (May 20, 2008), available at edlabor.house.gov/testimony/2008-05-20-KathrynGibney.pdf; MENDELSON, *supra* note 4, at 24 n.95.

³¹ Mary Ann Zehr, *Iowa School District Left Coping with Immigration Raid's Impact*, EDUC. WK., May 14, 2008, www.edweek.org (subscription required).

³² Julia Preston, *An Interpreter Speaking Up for Migrants*, N.Y. TIMES, July 11, 2008, at A12.

town in fear. Several families had taken refuge at St. Bridget's Catholic Church, terrified, sleeping on pews and refusing to leave for days. Volunteers from the community served food and organized activities for the children. At the local high school, only three of the 15 Latino students came back on Tuesday, while at the elementary and middle school, 120 of the 363 children were absent. In the following days the principal went around town on the school bus and gathered 70 students after convincing the parents to let them come back to school; 50 remained unaccounted for. Some American parents complained that their children were traumatized by the sudden disappearance of so many of their school friends. The principal reported the same reaction in the classrooms, saying that for the children it was as if 10 of their classmates had suddenly died. Counselors were brought in. American children were having nightmares that their parents too were being taken away. The superintendent said the school district's future was unclear: "This literally blew our town away." In some cases both parents were picked up and small children were left behind for up to 72 hours. Typically, the mother would be released "on humanitarian grounds" with an ankle GPS monitor, pending prosecution and deportation, while the husband took first turn in serving his prison sentence. Meanwhile the mother would have no income and could not work to provide for her children. Some of the children were born in the U.S. and are American citizens. Sometimes one parent was a deportable alien while the other was not. "Hundreds of families were torn apart by this raid," said a Catholic nun. "The humanitarian impact of this raid is obvious to anyone in Postville. The economic impact will soon be evident."³³

The magnitude of the effects of an ICE raid on local schools cannot be understated, given that Latino students now represent one in five of all public school students.³⁴ However, to date, it appears that very few school districts or local schools are taking this matter seriously. While states like Washington and cities like San Francisco have been proactive in putting forth official positions on what schools can and can't do to make immigrant populations less vulnerable for harassment or undue scrutiny,³⁵ very few other districts in the nation have stepped forward to provide a comprehensive policy on the protection of immigrant students in their schools or immigrant families in their communities.

³³ Camayd-Freixas, *supra* note 3, at 8.

³⁴ RICHARD FRY & FELISA GONZALES, PEW HISPANIC CTR., ONE-IN-FIVE AND GROWING FAST: A PROFILE OF HISPANIC PUBLIC SCHOOL STUDENTS (2008), available at <http://pewhispanic.org/files/reports/92.pdf>.

³⁵ See S.F. Bd. of Educ. Res. No. 74-24A2, S.F. Bd. of Educ. Commitment to Education of All Immigrant Children and Opposition to Recent ICE Raids, Apr. 24, 2007, available at <http://portal.sfusd.edu/data/board/pdf/memberreso/Mar%20%20%20IMMIGRATION%20%204%2024%2007.pdf>.

The National Education Association (NEA) has provided some general direction for educators to consider in their professional interactions with immigrant students.³⁶ NEA's 2007 resolution, NBI 2007-B, begins by reaffirming the organization's support for an "effective and equitable immigration process that, among other things, protects the integrity of the family unit and assures that every child, regardless of his or her immigration status or the immigration status of his or her parents, has the right to a free public education in a safe and supportive environment."³⁷ It further states its desire to work with state- and local-level affiliates to "ensure that states and school districts adopt and vigorously enforce policies that protect the right of undocumented immigrant children and the children of undocumented immigrant parents to obtain a free public education in a safe and supportive environment."³⁸ The extent of this endeavor is, however, at the present time, unknown. While policies such as these are certainly welcomed news to immigrant children or children of immigrants and their parents, operationalizing and instituting such policies at the school-level has thus far been either elusive or of minor concern to district officials.

CONCLUSION

In absence of a reformed and improved immigration law,³⁹ enforcement has been left to a federal agency whose primary purpose is to protect national security. Immigration and Customs Enforcement frames all its worksite and residential enforcement operations in terms of security, either personal (identity theft), or national. Since 2006, ICE has been stepping up raids and targeting criminals and "ordinary status violators" alike. However, the extent and magnitude of the social and personal costs of immigration enforcement, particularly when the individuals who are detained are ordinary status violators with no criminal conviction, are poorly understood. Therefore we advocate for the need to evaluate the total human costs of raids, and study the length and scale of their aftermath. We are just beginning to understand that the impacts of raids extend beyond employers and immigrant families to their

³⁶ NAT'L EDUC. ASS'N, IMMIGRATION STATUS AND THE RIGHT TO A FREE PUBLIC EDUCATION (2007).

³⁷ *Id.* at 1.

³⁸ *Id.*

³⁹ GODFREY Y. MUWONGE, IMMIGRATION REFORM, WE CAN DO IT, IF WE APPLY OUR FOUNDERS' TRUE IDEALS (2009).

communities and the institutions that serve them. Based on the information at hand, we believe that the benefits of these operations are outweighed by the harm to children, families, and communities. Moreover, when immigrants are detained and deported based solely on behavior related to their unlawful presence and unauthorized employment, researchers say, this vilifies immigrants and conflates unauthorized employment and terrorism.⁴⁰

We strongly believe that immigration enforcement operations should be used only after other, possible equally effective alternatives to achieve the same goal have been evaluated, and that the broad social impact of raids should be given a substantial weight in those considerations. We advocate for a legitimate conversation about these issues to get insight into the impacts on institutions and civil society, and ultimately produce ideas about how to protect children and immigrant families while still enforcing immigration laws.

⁴⁰ See MEISSNER & KERWIN, *supra* note 10.