

EXECUTIVE SUMMARY

OVER-RAIDED, UNDER SIEGE **U.S. Immigration Laws and Enforcement Destroy the Rights of Immigrants**

A report on human rights violations perpetrated against immigrant and refugee families, workers and communities in the U.S.

From the Human Rights Immigrant Community Action Network, an initiative of the National Network for Immigrant and Refugee Rights

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Over-Raided, Under Siege: U.S. Immigration Laws and Enforcement Destroy the Rights of Immigrants, the first annual report produced through NNIRR's Human Rights Immigrant Community Action Network (HURRICANE), finds that the Department of Homeland Security (DHS) is leading a new type of assault on the rights, lives and wellbeing of immigrant families, workers and communities in the United States: DHS is subjecting immigrant and refugee communities to a deliberate and distinct form of scapegoating, resembling "collective punishment,"¹ resulting in widespread violations of basic constitutional and human rights. *Over-Raided, Under Siege* analyzed over 100 stories of human rights violations and 188 incidents of immigration raids, interviewed community leaders and sifted through numerous reports and data to better understand the patterns of recent violations.

Over-Raided, Under Siege demonstrates how the U.S. government continues to build new programs, policies, strategies and laws that systematically violate the human rights of immigrant and refugee members of our communities. Working in tandem with local, county and state governments, law enforcement agencies, employers and private citizen groups, the U.S. government has advanced hundreds of new measures that deny immigrants and refugees due process rights, a living wage, housing, labor protections, and proper health and safety.

The U.S. government's strategies range from justifying immigration enforcement as a national security measure, to directing billions of dollars into private security firms. U.S. immigration services and enforcement are shaped by the drive to expand policing and prison-building to criminalize, detect, jail and deport immigrants with impunity.

As a result, U.S. immigration enforcement and border control policies and strategies are fueling a humanitarian crisis that disproportionately impacts immigrant communities. Instead of upholding the rights of immigrants or providing safe and legal means to immigrate, U.S. immigration and border control strategies deliberately force migrants to risk their lives, causing untold suffering and the death and disappearance of hundreds of migrants every year on the U.S.-Mexico border. This crisis follows migrants wherever

they go on their journey to interior communities. They face escalating attacks fueled by the Department of Homeland Security's strategy of almost exclusive reliance on exclusion, detention and removal to "solve" the undocumented problem.

Over the last two years, immigrants have been increasingly marginalized and denied public services in a new way, scapegoated and collectively blamed for many of the U.S.'s social and economic ills. Immigrants, especially the undocumented, are blamed for the fiscal crisis. Then, under the guise of immigration control and national security, federal, state, county, and local governments propose and approve policies and ordinances to cut back and privatize public services and gut civil liberties.

With the DHS's ICE, CBP and other law enforcement agencies operating without accountability or effective oversight, immigrants have become especially vulnerable to abuse and violence. Now, immigrants, whether they are documented or undocumented, are the almost exclusive scapegoat for the faltering economy, the threat of terrorism, the deterioration of services and the social problems afflicting the U.S. In this officially condoned anti-immigrant climate, racial profiling, exploitation in the workplace, hate violence and multiple public policies are being used to deliberately force immigrants to leave or exist in the shadows.

Over-Raided, Under Siege: U.S. Immigration Laws and Enforcement Destroy the Rights of Immigrants **concludes that:**

- 1) **The U.S. Department of Homeland Security (DHS) and its Bureau of Immigration and Customs Enforcement (ICE) have broadened its raids strategy and uses immigration sweeps as a political response to immigrant rights efforts.**

ICE deliberately carries out high profile raids in workplaces, stores and other public spaces, in neighborhoods and homes to instill fear in communities and push back on policies and initiatives that protect rights. For example in New Haven, Connecticut, immigration authorities swept up 31 undocumented immigrants just two days after the city approved a municipal identification card that will all allow city residents, regardless of their citizenship status, to access basic city services.ⁱⁱ

These raids are often conducted without warrants or consent, trampling the constitutional rights of entire communities. In collaboration with other law enforcement officials, ICE carried out warrants and deliberately swept up additional people as "collateral" arrests and deportations. ICE raids have become deliberate actions meant to strike fear in families, disrupting workplaces and communities. And as ICE has launched more aggressive raids, an alarming number of children are being left behind without their parents.

Increasingly, the workplace has become the preferred raid location. ICE agents arrested 4,000 people in workplace raids between October 2006 and September 2007.ⁱⁱⁱ

2) Immigrants are being incarcerated at increasing rates, becoming the fastest growing prison population.^{iv}

Detentions have increased 400 percent from 5,532 in 1994 to 27,500 in 2006.^v In October 2007, ICE was holding 14,764 immigrants in detention facilities throughout the nation.^{vi} The dramatic growth in immigrant prisons is rooted in the expansion of U.S. policies and strategies criminalizing immigration status and making jail mandatory for all immigrants while their cases are pending.

The DHS continues building more jail bed space exclusively for immigrants, in public facilities and those contracted out to private prisons corporations, like the Geo Group (formerly Wackenhut) and Haliburton, representing an alarming shift to the privatization of facilities in construction and operation. Furthermore, even government audits have found multiple instances of non-compliance with detention standards related to health care, environmental health and safety, general conditions of confinement, and the reporting of abuse.^{vii}

3) DHS is intensifying workplace enforcement by using employers as enforcement agents through Social Security No-Match Letters and other measures, as legislators continue pushing for temporary worker programs reminiscent of failed past initiatives.

The Department of Homeland Security's current effort to expand immigration law enforcement in the workplace by using SSA "no-match" letters further criminalizes immigrant workers and undermines labor protections and unions. Immigrant workers are now being charged with "identity theft," a felony crime that allows the DHS to jail them instead of citing them for being out of status, or working without authorization, which is a minor civil offense.

Simultaneously, DHS Secretary Michael Chertoff supports increasing guest worker programs as part of a program to invest more resources in enforcement as the solution. DHS's proposed expansion of using "no-match" letters as an immigration enforcement tool gives employers power over workers, particularly immigrant workers, who affirm their rights or seek to unionize.

Employers use the no-match letters and other official policies and measures to harass and intimidate immigrant workers or indiscriminately fire them when they demand living wages or to stop union organizing.

4) The humanitarian crisis at the border has reached new heights as migrant deaths hit record numbers and the federal government pours billions of dollars into further militarizing the region.

The U.S.-Mexico border has become the epicenter of the humanitarian crisis impacting immigrant and refugee communities, resulting from official immigration services and enforcement policies and strategies.

To reduce and eventually stop unauthorized migration, in 1993, the U.S. government began implementing a militarization strategy called “prevention through deterrence” at the U.S.-Mexico border. This strategy deliberately forces migrants, who are seeking to reunite with their loved ones or work, to risk their lives by crossing into the U.S. through the most dangerous and isolated desert and mountainous regions of the U.S.-Mexico border. Some 5,000 migrant bodies have been recovered since 1994 at the border.

While various non-partisan and research institutes have declared this strategy a failure at stopping unauthorized migration and that causes more migrant deaths, the U.S. has continued to expand the militarization of the border. In fact, by the end of 2008, DHS aims to increase the number of border patrol agents from 15,000 to 18,300 (this figure represents a doubling of border patrol agents under the Bush administration). DHS also plans to add 370 miles of “fencing,” border walls; 300 vehicle barriers, 105 camera and radar towers and three unmanned aerial vehicles.^{viii}

5) The dramatic growth in local and state police collaboration with ICE immigration law enforcement severely undermines community safety and further marginalizes immigrants. Local, county and state government collaboration with immigration enforcement further exposes immigrants to abuse at the hands of unscrupulous police, employers, hate groups and others who believe immigrants will not report crimes to avoid detection or deportation.

As a result, immigrants, or anyone who “looks or sounds” foreign, are being subjected to new forms of racial, ethnic/nationality and religious profiling and “mapping.” For example, on November 9, 2007, the Los Angeles police department announced plans to map the city’s Muslim communities in order to identify which might become susceptible to extremism.^{ix} The plan was dropped a week later after Muslim and civil rights groups denounced the measure, arguing it would do the opposite of its intent by making Muslims less willing to work with authorities.^x

Across the nation, 597 officers in 34 state and local law enforcement agencies have joined the 287(g) program, which allows the Department of Homeland Security to enter into agreements with local law enforcement agencies. Of those 34, 26 joined the program in FY 2007.^{xi}

Key Recommendations

In order to prevent further human rights violations against immigrant communities, families and workers, *Over-Raided, Under Siege* recommends that:

- The U.S. Bureau of Immigration and Customs Enforcement (ICE) end immigration raids and collaboration with local, county and state police, as well as other government agencies.
- The Department of Homeland Security (DHS) end the practice of jailing persons for immigration status offenses and restore immigrants' full due process rights and access to the courts.
- The Social Security Administration stop sending Social Security no-match letters to employers. To get updated information, simply send letters to employees at their home addresses.
- The federal government ensure that labor laws protecting all workers, regardless of citizenship or immigration status, are enforced.
- DHS stop and rollback border militarization policies and strategies that have caused thousands of migrant deaths and countless violations of the human and civil rights of migrants, workers, people of color, youth, communities and Indigenous peoples at the border.

In addition, *Over-Raided, Under Siege* also recommends that:

- Congress pass an immigration reform bill to strengthen worker rights, expand civil rights, provide options and access to citizenship and legal permanent residency, clear the visa backlog, reunify families and stop the expansion of guest worker programs.
- The U.S. Bureau of Citizenship and Immigration Services increase options for legal immigration and issue sufficient visas so that migrants can enter safely into the U.S. with full rights protections.
- DHS re-direct and prioritize funding for immigration services to clear the backlog of pending applications for family reunification visas, green cards, citizenship and services for immigrant integration.
- Local law enforcement agencies end collaboration with ICE on enforcement operations.
- DHS, ICE, CBP and other local, county and state law enforcement agencies stop the practice of racial, religious, ethnic and nationality profiling, monitor their progress and end other discriminatory practices.

- Local, county and state governments identify the needs of their immigrant and refugee communities, and implement laws, policies, and procedures to integrate them as full participating members. A human rights framework and adequate budget should be part and parcel of these measures.

i “Collective punishment” is a term developed by the United Nations High Commission on Human Rights in “Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts.” Of 1977. Human Rights Watch defines “Collective Punishment” as *“any form of punitive sanctions and harassment, including but not limited to judicial penalties, that are imposed on families or other targeted groups for actions that they themselves did not personally commit.”*

See Human Rights Watch. “Israel/Lebanon Persona Non Grata: The Expulsion of Civilians from Israeli-Occupied Lebanon.” 1999. http://www.hrw.org/reports/1999/lebanon/lsrlb997-07.htm#P758_185123 (accessed December 17, 2007).

ii Andrew Mangino, “Feds arrest dozens of illegal immigrants in New Haven raids,” Yale Daily News, June 6, 2007, available at <http://www.yaledailynews.com/articles/view/21076>

iii Oskar Garcia, “Study: Raids risk kids' mental health,” The Associated Press, October 31, 2007, Available at <http://www.oregonlive.com/newsflash/national/index.ssf?/base/national-94/119385324413780.xml&storylist=national>

iv *New York Times*, “Justice Dept. Numbers Show Prison Trends,” by Solomon Moore, December 6, 2007

v National Immigration Justice Center, Web page: “Detention Center Documentation Collection,” September 19, 2007, available at <http://www.immigrantjustice.org/detentioncenterdocuments.html>

vi List of the number of detainees with final orders of removal received by the American Bar Association from ICE in October 2007 through a Freedom of Information Act (FOIA) request.

vii Department of Homeland Security Office of Inspector General, “Treatment of Immigration Detainees Housed at Immigration and Customs Enforcement Facilities,” December 2006, available at http://www.dhs.gov/xoig/assets/mgmt/rpts/OIG_07-01_Dec06.pdf

viii Fact Sheet: “Improving Border Security and Immigration Within Existing Law,” Department of Homeland Security, August 10, 2007, available at

http://www.dhs.gov/xnews/releases/pr_1186757867585.shtm

ix “Los Angeles Police Plan to Map Muslims.” Associated Press, November 9, 2007.

x “LA Police Drop Plans to Map Where Muslims Live.” Associated Press, November 16, 2007.

xi Eleanor Stables, “State, Local Police Slowly Warming to Immigration Enforcement,” CQ Politics, November 7, 2007, available at <http://cqpolitics.com/wmspage.cfm?parm1=5&docID=hsnews-000002623700>