



Legal Violence in the Lives of Immigrants

How Immigration Enforcement Affects Families, Schools, and Workplaces

Cecilia Menjivar and Leisy Abrego

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Documenting the Undocumented Series

This report is the fourth in a Center for American Progress series that looks at the daily lives, struggles, and strategies of undocumented immigrants who must live through the assault of harsh laws designed to make their lives unbearable. Throughout 2012 we have released reports that lift the veil on our nation's undocumented, providing a window into the lives of the 11 million who live in the United States without papers and how our nation's immigration policies impact us all—documented or not.

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Introduction and summary

Even as the number of undocumented immigrants in the United States has plateaued at around 11.1 million people,¹ federal enforcement of immigration law has intensified over the last decade. Close to 400,000 people have been detained and deported each year since 2009, and an estimated 34,000 detention beds are available every day.² New initiatives such as the Secure Communities program, which checks the status of people booked into county jails in participating jurisdictions,³ have added another layer to the web of Border Patrol, Immigration and Customs Enforcement, and other immigration agents operating across the country.

On top of these federal efforts, some states and localities have passed their own anti-immigrant laws, such as Arizona's S.B. 1070—the Support Our Law Enforcement and Safe Neighborhoods Act—and Alabama's H.B. 56—the Beason-Hammon Alabama Taxpayer and Citizen Protection Act. These laws seek to criminalize all aspects of undocumented immigrants' life and behavior.⁴

But while proponents of harsh enforcement policies or so-called attrition through enforcement feel that making life as difficult as possible for undocumented immigrants will push them to “self-deport,”⁵ the reality of immigration policy today is far more complicated. Separating the documented from the undocumented is not as simple as it seems, since undocumented immigrants do not live in walled-off families, buildings, neighborhoods, or even cities.

Instead, undocumented immigrants live, work, and go to school alongside the documented. While there are 11.5 million undocumented immigrants, for example, a total of 16.6 million people live in mixed-status families, where members have various legal status, including undocumented immigrants and U.S. citizens.⁶ Immigration enforcement affects far more than just undocumented immigrants—it touches the lives of all people living in the United States.

As we illustrate in this report, it is not simply enforcement actions themselves—detentions, deportations, raids, or traffic stops under S.B. 1070, for example—that

affect undocumented immigrants and their communities, but it is also the ever-present *fear* of enforcement actions. The expansion of immigration enforcement, and the concurrent stigmatization of immigrant status that comes with it, pushes even those with legal status to fear that their loved ones could be deported. Those with temporary legal statuses, such as deferred action or Temporary Protected Status,⁷ also fear that they too could be victims of detention or deportation.

This fear can take many forms, such as a community refusing to leave their houses or take their children to school because of an impending raid, or an unwillingness to speak out against abuse in the workplace. After the Supreme Court struck down much of S.B. 1070—while leaving in place the infamous section 2(B), the “papers please” provision—a Latino Decisions/Center for American Progress Action Fund/America’s Voice poll found that 79 percent of Latinos nationwide believed that Latinos who are *legal* immigrants or U.S. citizens “will get stopped or questioned by police.” This poll speaks directly to the deep-seated worries within the entire Latino community that state laws like S.B. 1070 will target even those born and raised in the United States.⁸

In studying the effects of immigration enforcement, this report looks at the three primary sectors of everyday life—the family, the workplace, and the school—to examine how the cumulative effects of harsh immigration laws, increased enforcement actions, and a negative stigmatization of immigrants build upon one another to harm immigrant and citizen alike. We argue that the fear created by this enforcement—both real and perceived—creates the conditions for what we call “legal violence,” harming immigrant incorporation into the United States.

The family, the workplace, and the school are the key social institutions that gave previous waves of immigrants a strong foothold in this country, allowing their children and their children’s children to prosper.⁹ We know that today’s immigrants are already integrating into public life—learning English, going to school, and buying homes, among other things—but increased legal violence directly threatens future integration efforts.¹⁰

Simply put, when everyone living in the United States is able to fully integrate, our communities are better off. A more thorough process of immigrant integration will result in: more upward mobility over time, more educational opportunities to train the workforce of tomorrow, a stronger sense of belonging, greater investment in the collective future of the country, and a more cohesive society.¹¹

Immigrants who integrate economically—whose wages increase enough to buy a home, for example—not only increase their contributions to the economy in the short term but are also more likely to care deeply about the future of their neighborhood. This, in turn, may prompt them to integrate politically to improve and care for their neighborhoods, schools, and cities.

Without these kinds of contributions, and as long as the reality of immigration in the United States is the status quo of attrition-through-enforcement policies and a large undocumented population with no possibility of achieving permanent legal status, *all* Americans lose out, regardless of their status.¹²

- Within the **family**, legal violence causes people to live in constant fear of being separated from loved ones—something that affects even U.S. natives with relatives at risk of deportation. This same fear and stigma of immigration status keeps parents from accessing social services, even those to which their citizen children are legally entitled. Harsh enforcement regimes cause even those with legal status to withdraw from public life, jeopardizing community integration.
- Within the **workplace**, increased enforcement has led to employers having more control over the exploitation and mistreatment of their workers. Many of these workers feel that they cannot stand up for their rights for fear of retribution. This type of exploitation hurts not only immigrant workers but also the native born as well, who have to contend with lower wages and less safe working situations.
- Within the **school**, legal violence makes young people and their families fear schools as a place where family members may be detained. Immigration and Customs Enforcement officers in October 2012, for example, detained parents after they dropped their children off at two Detroit-area schools.¹³ Other students underperform or exit school early based on fears of detention or the knowledge that without legal status, higher education and a good job are inaccessible.

The research for this report is based on more than a decade of observation and more than 200 in-depth interviews conducted between 1998 and 2010 in Los Angeles and Phoenix with immigrant youth and adults and with relatives of migrants in El Salvador, Guatemala, Honduras, and Mexico. During our attendance at community meetings, press conferences, and other organized events, we also spoke with advocates, community members, and officials. The interviewees' words and experiences reveal that current immigration policies are not only excluding immigrants from contributing more broadly or positively in society,

but because immigrants are perceived and treated as criminals, these policies have sweeping negative consequences for entire families, places of work, schools, and, by extension, entire communities.

To mitigate the harsh effects of legal violence and to ensure that all residents of the United States—immigrant or not, documented or not—have the ability and opportunity to integrate and prosper, we offer the following recommendations.

Most importantly, both Congress and the Obama administration must address the communitywide anxieties and vulnerabilities related to immigration. The fears that undergird legal violence will never go away while there are 11.1 million undocumented immigrants living in the United States. Congress must pass a comprehensive immigration reform bill that includes a pathway to citizenship for undocumented immigrants and includes specific provisions for immigrant youth, such as the provisions of the DREAM Act, which provides a pathway to citizenship for young undocumented immigrants who complete high school and some college or military service. The administration should target enforcement practices on serious criminals rather than low-level offenders. Finally, immigration must be decoupled from local enforcement efforts so that immigrants and their families can regain trust in authorities.

In addition, in the realm of the **family**:

- Congress should pass legislation to ensure that children are not unnecessarily separated from their families and mandate minimum standards for immigration enforcement when children are involved. This legislation should ensure that parents are able to continue making decisions about their family's well-being and take the interests of the children into account in enforcement decisions. Bills such as the Help Separated Families Act and the Human Enforcement and Legal Protections for Separated Children Act would go a long way to achieving these goals.¹⁴
- The government should allow family members who are adjusting to legal status and subject to the provisions of immigration law that bar undocumented immigrants from reentering the United States for 3 or 10 years (depending on how long they were in the country without status) to remain in the United States, rather than having to leave the country to apply for a waiver of the bar (known as a waiver of inadmissibility). The administration should also reinstate provisions that allow legal permanent residents (green card holders) with a criminal conviction to

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receive a hearing prior to being placed in deportation proceedings. Both changes would ensure greater flexibility when it comes to keeping families together.¹⁵

In the realm of the **workplace**:

- The government should ensure that all people in the United States, regardless of status, have strong worker protections, and go after employers that exploit immigrant workers. Solutions to legal violence in the workplace should ensure, as organizations such as the National Employment Law Project have argued, “that workers know their rights, have full status under the law to assert them, have access to sufficient legal resources, and do not fear retaliation.”¹⁶

In the realm of the **school**:

- The government should ensure that the right to K-12 education regardless of immigration status, enshrined in the 1982 *Plyler v. Doe* decision, is neither watered down nor legislated away.¹⁷
- The government should also ensure that schools are safe places, free of Immigration and Customs Enforcement intrusion. Parents must not fear that they could be detained or deported for bringing their children to school.
- Finally, Congress should support legislative changes that can give undocumented students who want to pursue higher educational degrees access to in-state tuition and the opportunity to apply for financial aid.

In the meantime, there are other things that can be done to mitigate the harshest effects of legal violence:

- First and foremost, the Obama administration should expand its usage of prosecutorial discretion to ensure that immigrants who have committed no crimes and are settled in our communities, workplaces, and schools do not face the ever-present threat of enforcement.
- Likewise, on the state and local levels, officials and nongovernmental organizations should continue their work communicating with immigrant communities to explain their rights and to allay fears of unwarranted arrest or detention.

With appropriate policy changes, the United States can ensure that all people are able to incorporate and fully contribute to our nation.

Background

In this report we examine the experiences of Central American and Mexican immigrants—those with and without legal status—as well as the wider communities in which they live. We are in an era of increasingly overarching immigration enforcement on the federal, state, and local levels, which complicates families, workplaces, and schools in the United States. The changing immigration laws and the rise in harsher enforcement practices add up to “legal violence” in immigrants’ lives.¹⁸

Legal violence refers to the cumulative effects of punitive immigration laws, increased enforcement actions, and the negative stigmatization of immigrants. Together, these actions harm immigrants in both the short and long term, in ways that are easily missed by policymakers and the general public.

Media portrayals of immigrants and legal violence

Beyond physical enforcement, an increase in hate speech against immigrants normalized even in mainstream media outlets helps create a negative stigma associated with immigrant status—regardless of legal status—and a fear among immigrants that they could be subject to violence or discrimination, even those with legal status.¹⁹ These increasingly vocal anti-immigrant and xenophobic groups can have damaging consequences for the overall fabric of society, even beyond immigrant communities.

Research shows that the media plays an active role in framing immigration issues for the public, with direct effects on the tenor of

the political discourse around immigration in the country.²⁰ Spanish-language news sources, for example, spend more of their time on immigration and enforcement issues than English-language outlets, leading their viewers to see the issues of detentions and deportations as a part of everyday life, even if the viewers themselves haven’t witnessed immigration enforcement firsthand.²¹ Notably, the largest Spanish-language television networks have assumed a role of advocacy, regularly airing information on how viewers can help influence the political debate surrounding immigration.²²

Social inclusion, economic mobility, and a general sense of belonging among immigrants benefit each and every American; we all reap the rewards of increased innovation, energy, and creative spirit in our towns and cities. But by impeding immigrants' incorporation into the United States, the current immigration system affects nonimmigrants and U.S. citizens as well. When immigrants have equal opportunities to upward mobility, educational opportunities, well-paid jobs, and work environments where their rights are protected, local communities and neighborhoods across the country are empowered because of the added possibilities for social cohesion and a strengthened social fabric.

The enforcement context

Over the past two decades a combination of new programs, legislation, and administrative policies have led to the creation of a muscular immigration enforcement system in the United States. This system spans border and interior law enforcement personnel; programs such as Secure Communities, which checks the immigration status of anyone booked into a county jail; and state and federal statutes. All of these elements have expanded the ways in which—and reasons for which—immigrants come in contact with immigration enforcement.

Beginning in 1993 with Operation Hold the Line in El Paso, Texas, the United States began cracking down on unauthorized immigration across the southern border, particularly on those crossing through urban areas such as the Tijuana-San Diego or Ciudad Juárez-El Paso borders. By 1994 the United States increased the number of border patrol agents by 5,000 and increased the physical barriers to entry across California, Texas, and Arizona. This precedent marked the beginning of the large-scale militarization of the southern border, leading to the construction of 650 miles of border fencing, the use of advanced detection technologies such as unmanned aerial vehicle surveillance, and mobile surveillance systems.²³

The number of immigration enforcement officials has also risen significantly over the past few years. In 2004 there were 10,000 Border Patrol agents, but by 2012 that number more than doubled, to more than 21,000. Immigration and Customs Enforcement has also more than doubled the number of people assigned to its Border Enforcement Security Task Forces and there are currently 1,200 National Guard troops stationed at the southern border.²⁴ Congressional appropriations have facilitated this increase: In 2001 the U.S. government spent \$4 billion on immigration and border enforcement agencies—by 2012 that amount rose to \$17 billion.²⁵

And as the physical infrastructure for enforcement has increased since the early 1990s, the legislative infrastructure has increased as well. Congress passed two bills in 1996 that changed the landscape of enforcement. The first—the Illegal Immigration Reform and Immigrant Responsibility Act²⁶—stiffened the penalties for unauthorized entry and increased the number of crimes that made someone deportable. Most prominently, it made even legal permanent residents, or green card holders, eligible for deportation for the first time and created bars to (re)admissibility for immigrants removed from the United States.²⁷ The second bill—the Personal Responsibility, Work Opportunity Reconciliation Act²⁸—significantly limited the ability of noncitizens (even those with legal status) to access nonemergency social services. Both changes increased the reasons for which an immigrant might encounter the enforcement system.²⁹

The 9/11 terrorist attacks and the ensuing drive toward domestic security also reformed the landscape for immigration policy. Most importantly, the government created the Department of Homeland Security in 2002, bringing together 22 federal agencies—including what was previously the Immigration and Naturalization Service—into a new enforcement system split between U.S. Citizenship and Immigration Services and two enforcement agencies: Immigration and Customs Enforcement and Customs and Border Patrol.³⁰

In the past decade, the USA PATRIOT Act (2001), the Enhanced Border Security and Visa Entry Reform Program (2002), the Intelligence Reform and Terrorism Prevention Act (2004), and the REAL ID Act (2005), all worked to toughen standards for identification, detention, and prosecution of immigrants and potential security threats.³¹ As Council on Foreign Relations scholar Edward Alden has pointed out, in the wake of 9/11, immigration and terrorism became intertwined, with federal administration officials using the powers of immigration enforcement (especially the power of detention,) for counterterrorism. This drive toward ferreting out internal threats only strengthened the apparatus and appropriations for immigration enforcement.³²

The increases in legislation and appropriations for immigration enforcement have resulted in a significantly greater number of immigrants detained and deported each year. The numbers of immigrants removed from the country has steadily risen over the last decade, from around 160,000 people in 2002 to close to 400,000 people per year since President Obama took office in 2009.³³ Likewise the number of people in immigration detention has risen significantly, almost doubling from around 209,000 people per year in 2001 to 392,000 people in 2010. Current funding levels support 34,000 detention beds per day.³⁴

The Department of Homeland Security has also stepped up its interior enforcement. The Secure Communities program, for example, expanded from 14 jurisdictions in 2008 to more than 3,000 jurisdictions in 2012, and will be fully implemented across the country by 2013.³⁵

Even with a stated policy of prosecutorial discretion—whereby the administration focuses on the most serious offenders rather than family members, DREAM Act-eligible youth, or other longtime residents of the United States—roughly 52 percent of all people deported in fiscal year 2011 were deported for noncriminal offenses such as traffic stops.³⁶ The continued emphasis on deporting people who have not committed a crime feeds directly into the fears at the heart of the legal violence system.

And over the past decade, some states and localities have stepped into the breach and passed their own harsh anti-immigrant laws. Following in the failed footsteps of California's Proposition 187, which barred state benefits to unauthorized immigrants,³⁷ Arizona began to use ballot initiatives to crack down on undocumented life, beginning with the 2004 Arizona Taxpayer and Citizen Protection Act. The bill required proof of eligibility to receive social services, mandated that state and local authorities report immigration violations to federal authorities in writing, and required people to prove their citizenship both when registering to vote and when voting.³⁸ Hazelton, Pennsylvania passed a law in 2006 that made it illegal to rent to or hire an undocumented immigrant.³⁹ Other locales such as Prince William County, Virginia; Fremont, Nebraska; Riverside, New Jersey; and Farmers Branch, Texas, all passed similar statutes.⁴⁰

Arizona surpassed all these efforts in 2010 by passing S.B. 1070—the Support Our Law Enforcement and Safe Neighborhoods Act. This comprehensive anti-immigrant bill made it a state crime to be without status or seek employment in the state. Most notably, it gave police the power to ask any person with whom they come in contact for proof of their legal status, provided the authorities have reasonable suspicion to believe the person is in the country without status.⁴¹

In the wake of S.B. 1070, five other states—Utah, Indiana, South Carolina, Georgia, and Alabama—passed similar laws. Though the Supreme Court struck down most of the Arizona law in July 2012, it allowed its most controversial piece to stand: the “papers please” provision, which allows law enforcement to check the status of anyone they believe to be undocumented.⁴² That provision, by virtue of the fact that no one can tell who is documented or not just by looking at them, has raised serious concerns about racial profiling among the advocacy and legal community.

The continued emphasis on deporting people who have not committed a crime feeds directly into the fears at the heart of the legal violence system.

The Latino community fears the provision, with 79 percent of Latinos surveyed in Arizona believing that even people with status and the native born will be stopped under S.B. 1070.⁴³ This type of apprehension is at the heart of legal violence.

The Maricopa County sheriff's office, Sheriff Joe Arpaio, and local enforcement violations

Among the most aggressive local advocates of immigration enforcement are Sheriff Joe Arpaio and the Maricopa County (Arizona) Sheriff's Office. Arpaio became the Maricopa County sheriff in 1992,⁴⁴ and in two decades he and the sheriff's office have amassed a record of immigration-enforcement violations, as well as civil rights violations, rivaling that of any other law enforcement officer in the United States.⁴⁵ Arpaio and the sheriff's office brag about their "get tough policies," such as:

- Making men, women, and even children work in chain gangs
- Housing detained immigrants in the sheriff's office's outdoor "tent city," where temperatures soar to 125 degrees in the summer
- Forcing immigrants to wear degrading pink underwear⁴⁶

The Maricopa County Sheriff's Office also boasts of the ever-present threat of raids, which strike fear into Latinos throughout the county. Arpaio and his office have also been chief proponents of the 287(g) program, by which the federal government deputizes local officials to act as immigration enforcement personnel.

In late December 2011, however, the Department of Justice announced the findings of a longstanding probe into racial profiling and civil rights violations by Arpaio and his deputies. Among the most damning findings, the Justice Department found that Latino drivers in Maricopa

County were four times as likely to be pulled over as non-Latinos, and that police officers routinely detained Latino citizens who had committed no civil or criminal violations. The Justice Department also found that the sheriff's office routinely discriminated against people who did not speak English and used racial epithets when referring to Latino detainees. Beyond racial profiling, the report stated that the sheriff's office prioritized going after low-level immigration offenders while ignoring more than 400 cases of reported sex crimes.⁴⁷

These actions led the federal government to cut off the Maricopa County Sheriff's Office's access to the 287(g) program and to sue them for a "pattern and practice" of civil rights violations.⁴⁸ The revocation of 287(g) access, however, did not stop the raids. The sheriff's office continues to conduct raids by invoking the Legal Arizona Worker's Act of 2007, conducting these raids in places of employment with the stated objective of arresting workers who are working with either false documents or with documents that belong to someone else, utilizing criminal law (using false documents) rather than the civil penalties of immigration law.⁴⁹

Despite the Justice Department's findings and pending lawsuit, Arpaio recently won reelection to his sixth term in office, telling Reuters just before the election, "When you try to do your job, and you are a little controversial, some people don't like it. That's the way it is."⁵⁰

Legal violence and life in the United States

In the following three sections, we examine how legal violence affects daily life in the family, the workplace, and the school. The issues discussed in this paper come from the words of the immigrants themselves, and the themes discussed here arose again and again in the course of the research, without prompting from the authors.

We first turn to the effects of immigration enforcement on the family.

The family

The family is the fundamental building block of life in the United States. Some of the most basic effects of legal violence are felt at this level, from lengthy and uncertain family separations due to raids and deportations, to fears of having a loved one taken away, to children being cut off from basic services such as access to health care and education, to worries about not having enough money to buy food or pay rent. With 16.6 million people living in mixed-status families—consisting of at least one undocumented immigrant and one U.S. citizen—the effects of legal violence on the family go far beyond undocumented immigrants.⁵¹

Some of these situations may be more recognizable as “violent” because they evoke strong immediate emotions, such as the case of Saída Umazor, a Honduran mother taken into custody during an immigration raid at her Ohio home. The mother was pictured in newspapers, distraught and in tears, as she was separated from her 9-month-old daughter who had only been breastfed until that day. Although the agents were at her home to detain another immigrant, when they did not find him, they checked their records and instead detained Ms. Umazor. She was eventually released 11 days later, after protests from immigrant and women’s rights organizations, but not before suffering much physical and emotional pain.⁵²

Other effects are subtler, such as when a U.S.-born child grows up having to hide the secret of their parents’ undocumented status. 20-year-old Mayra, for example,

typically a confident, thoughtful, and articulate young woman, fidgets and avoids eye contact whenever she talks about her mother. As she explained:

Talking about my mom is hard. It's like there's this whole cloud of, like, a whole heaviness [motions as though she is carrying weight on her shoulders and above her head], I don't know, of things that I was never allowed to say out loud. If she was ever late, if she wasn't back from church or from work right on time, we all worried. ... nobody said anything, but we were all thinking it: what if she got caught? ... that weight, it's just fear, I guess. ... it really sucks to grow up like that.

Despite being a U.S. citizen, Mayra grew up with the heavy weight of fear because even though she was not the intended target of the immigration law, its implementation would have a direct and painful impact on her. In the case of both Umanzor and Mayra, immigration enforcement led to both immediate and long-term suffering in the lives of those affected.⁵³

Deportations and fears of deportations

At a gathering in Los Angeles in 2008, Marta, a Salvadoran college student, shared with her peers that once, while at a clinic talking to another patient, a young undocumented woman received a phone call with news that her parents had been detained and would likely be deported.⁵⁴

That experience brought home for Marta the persistent threat of deportation. “Now, every day,” she says, “I leave the house and I don't know if me [sic] or my parents will be back. It could be any of us, any of these days, and it's so scary.” This fear pervades her daily experience any time she leaves her home. Her family members' experiences exemplify how the threat of deportation is present every day. Because several of them are in uncertain legal statuses, they may be detained and later deported at any moment, at risk in any public space.⁵⁵

As a result of witnessing the young woman's horror, Marta discussed the issue with her own family: “We started to talk about what will happen with my little sister because she's a U.S. citizen, but who is she going to stay with if we get deported?”⁵⁶ Families have to worry about the very real possibility that individual members can be taken away at any given time. These families must also carry the weight of understanding in detail who will take over responsibilities and what plans will be executed as a result of family members' detention and deportation.

With 16.6 million people living in mixed-status families—consisting of at least one undocumented immigrant and one U.S. citizen—the effects of legal violence on the family go far beyond undocumented immigrants.

This is a notable burden for entire families and individual members, whether or not all of them are undocumented.⁵⁷

Cases of undocumented families planning ahead have become more common in the wake of state laws like Alabama's H.B. 56. Anecdotal evidence illustrates that immigrants in places like Alabama are signing powers of attorney to ensure that in cases of detention or deportations their U.S.-born children are placed with relatives instead of into foster care.⁵⁸

And in neighborhoods that have experienced home raids, even private spaces are unsafe for immigrants. Estela, a Mexican undocumented college student in Los Angeles, cried as she shared the emotional repercussions of knowing that two of her friends' parents were detained after being taken away from their homes in her neighborhood: "I want to be strong ... but sometimes I just think about how they could come knock at my house and you just realize that you're not even safe in your own home."⁵⁹

In Phoenix, families living in an apartment complex that recently experienced a home raid—only Latino residents lived in the complex—were all afraid that their home would be raided sooner or later. Whenever they heard an unfamiliar knock on a door in the complex—louder than normal, for instance—all of the renters would get nervous and wonder if their turn had come.⁶⁰ This vulnerability, made possible by immigration laws and their implementation practices, instills perpetual fear in immigrants and their families who live with the very real possibility of forced separation.

Such feelings affect how immigrants perceive their current place in U.S. society and how they are able to incorporate into society over the longer term. Maricela is an undocumented Salvadoran immigrant who has lived in Los Angeles for 15 years. Although she qualified for Temporary Protected Status—a temporary legal status for immigrants who cannot return to their home country because of conflict, environmental disaster, or other extreme conditions—she was unable to apply because she was a live-in domestic worker with little time and money to file the paperwork, which currently costs \$515.⁶¹

In general, Maricela considers herself an upstanding person whose main goal in life is to do her best to provide for her family. She has three children—the oldest still lives in El Salvador with Maricela's mother, and the two others are in elementary school and live with Maricela and her partner. Despite her strong work ethic and her children's many achievements in school, Maricela worries that she will

never feel safe in this country. When asked why she felt this way, she explained, “You watch the news and you learn. Nobody is safe. They take people from work. ... for these people [officials], it doesn’t matter that we’ve lived here for 15 years, that we’ve been raising children who are good people, that we are buying houses. All they see is that we are ‘illegal.’”⁶²

Even though she qualified for Temporary Protected Status, Maricela takes her cues from the media and understands that her residency is reduced to a label—“illegal.” For Maricela, illegality taints her self-image and makes her contributions to her family and society invisible. Much like many undocumented immigrants, she experiences severe exclusion from a society where by most measures, she should have earned a place.

Changes to everyday family life

Legal violence through immigration enforcement changes how immigrants live their daily lives. Clara, a Salvadoran woman in Phoenix, shared the strategies she and her husband adopted in their daily lives to plan for “the worst,” as she put it. The couple works together cleaning model homes at night in a suburb of Phoenix—he is undocumented and she has a temporary work permit through Temporary Protected Status. Both fear the possibility of detention or deportation and, deeply cognizant of the frailty of their legal situation, they never ride together in the same car:

We don't drive together. What if we are stopped and we get deported? We'll be taken to jail, and the kids, what? Who's going to take care of them? Who's going to stay with them? We worry; we live anguished. So he goes in one car, with our neighbor, and I go in another one, with my cousin. The same when we go to the market. He goes in one car and I go in another. ... who knows what can happen. ... we must take precautions.

Clara’s story aligns with the stories of respondents to the University of California’s Mexican Migration Field Research Project, who told researchers that they took extra care to “blend in”—changing into clean clothes after work, or taking extra care to stay calm and relaxed in public, for example—to avoid drawing attention to themselves.⁶³

Clara and her husband live in Phoenix, under the jurisdiction of the Maricopa County Sheriff’s Office. The sheriff’s office conducts regular raids—and used to

conduct traffic stops, until the federal government terminated the office's practices of "crime-suppression sweeps" (traffic stops)⁶⁴—throughout Maricopa County, leading to an ever-present threat of deportability. The round-the-clock threat of raids—sometimes announced on Spanish-language radio stations to alert listeners so they can take precautions—can happen any time, keeping the immigrants on constant alert. Indeed, Clara telephoned one of this report's authors, Cecilia Menjivar, a few occasions in 2008 to ask if she knew where a "crime suppression sweep" might next take place.

A Mexican couple that has lived in Phoenix for more than a decade had a similar view. The wife mentioned that for the first time in years, she switched bus routes and has been walking to work in order to avoid spots in the city where the "sheriff's people" might set up checkpoints.⁶⁵ This was not an isolated case—several community workers mentioned similar activity among immigrants with whom they work in the greater Phoenix metro area, as raids have taken place at car washes, restaurants, shuttle businesses, dry cleaners, and similar workplaces where mostly Latino immigrants work.⁶⁶

Like the Mexican immigrants in Roberto Gonzales and Leo Chavez's Los Angeles study,⁶⁷ immigrants in Phoenix alter their daily routines and change their behaviors in order to avoid detection by law enforcement authorities. Though immigrants and organizers are well aware of these raids and the damage they cause, the general public is rarely informed of the brutality of the raids or the violations of rights that they involve. For the most part, the public perceives these raids as a response to a problem that law enforcement needs to address.

Children and legal violence

The wide-ranging effects of deportations also emerge in the lives of the U.S.-born children who are left in the United States when their parents are forcibly removed. Many of the children left behind are placed in foster homes. A 2011 report from the Applied Research Center found that approximately 5,100 children currently live in foster homes nationwide as a result of their parents' detention or deportation.⁶⁸

One example comes from Phoenix, where a team of federal immigration and drug enforcement agents entered a home and arrested two sisters in August 2010. While they were being handcuffed, they pleaded with the agents, asking where they were taking the children. One agent replied, "We're taking them where we take all the

kids.” Despite being victims of a botched drug bust, because the sisters were undocumented, they were not allowed to make a phone call to a friend so their children could stay at the friend’s home. The sisters were taken to a local jail, transferred to a federal detention center at the U.S.-Mexico border a few weeks later, and eventually deported to Mexico. Their children were put into foster care, where they remained for more than a year until they were finally able to reunite with their mothers in Mexico.⁶⁹

Legal violence also significantly affects children’s development and cognition. Children’s fears about what may happen to their parents are perhaps best illustrated by a second-grade student in a Silver Spring, Maryland school, who told First Lady Michelle Obama in May 2010, “My mom ... says that Barack Obama is taking everybody away that doesn’t have papers. ... my mom doesn’t have any papers.”⁷⁰

Young children in particular face significant behavioral changes after the removal of a parent, especially if the child was present at the time of detention. The Urban Institute, for example, documented a range of issues including crying, loss of appetite, insomnia, and increased fear and anxiety in the wake of the detention of a family member.⁷¹

Indeed, the human stories of suffering are becoming ever more common. In a recent campaign to release an undocumented immigrant named Henry Yañez Arias from detention, his U.S.-born 9-year-old son shared his experience on film, and is seen visibly distraught after witnessing immigration-enforcement agents take his father away while the two were out shopping.⁷² The emotional trauma suffered by the family, including by Arias’s two U.S.-citizen children, is likely to linger long past Arias’s release from detention.

Research by Joanna Dreby of the University of Albany finds that the ever-present possibility of the detention or deportation of family members leads even documented children to grow up fearing the police as people who could take away family members, and leads children to feel ashamed of and dissociate with their immigrant heritage.⁷³

Families and social services

Legal violence particularly shapes the experiences of immigrant families living in the United States by hampering their links to everyday institutions. In much the same way that these families avoid contact with law enforcement officials, they also report

going to great lengths to avoid contact with social service providers, even when some native-born, (U.S. citizen) family members are eligible to receive social services.⁷⁴

A Guatemalan mother in Phoenix, for example, said that although she needed aid for her two U.S.-born toddlers, she would not apply for supplemental nutrition assistance (also known as food stamps) because she heard that workers in government offices can and do report undocumented immigrants to the immigration authorities.⁷⁵ Due to the recession and to employers' fears of being sanctioned for hiring unauthorized immigrants, her family's income sources were very limited. Like this mother, other parents in uncertain legal statuses who are expected to ensure the well-being of children refrain from contacting government bureaucracies when deportation and family separation are real possibilities.

Research by Harvard professor Hirokazu Yoshikawa uncovered a widespread fear of utilizing benefits and found the fear was prevalent in both documented and undocumented immigrants. These fears partially reflected misunderstandings about the programs—either misunderstandings about their children's eligibility or misunderstandings about the way that benefits work. Some believed, for example, that if they were to enroll their children in welfare, they would be ineligible later on in life for things like student loans. Other immigrants feared that using social services might hinder an eventual transition to legal status. By not taking advantage of programs for which their children were eligible, the families in Yoshikawa's study lost out on “the range of policies that can help families make ends meet and improve children's early cognitive development and health,” which can follow a child through to adulthood.⁷⁶

Families and community policing

Examples of immigrants avoiding contact with anyone who might put them at risk are indicative of a larger set of issues associated with a lack of community integration. At community meetings, for example, several undocumented immigrants raised issues of insecurity in their neighborhoods and helplessness when they know they cannot count on police to protect them.⁷⁷ Individuals shared stories of common crime and violence that went unreported in their neighborhoods because people were worried about the police questioning their legal status. Several people at these meetings made comments to the effect of, “Oh well, there's nothing we can do,” while those around them merely shrugged their shoulders, nodding in defeat and agreement.

Parents in uncertain legal statuses who are expected to ensure the well-being of children refrain from contacting government bureaucracies when deportation and family separation are real possibilities.

Norma, an undocumented immigrant from Mexico, summed it up: “We are here and we know this is not our country. They don’t want us here, so you have to be careful. Always be careful.”⁷⁸ Legal violence makes immigrants feel constantly insecure, unaware of who they can trust, and unable to rely even on institutions that should represent safety for all. Breaking down the social cohesion and safety net has repercussions for everyone in those communities.⁷⁹ Any family would have a difficult time thriving in these conditions, whether or not all their members were undocumented.

But the fear of contacting the police goes beyond simply the family level—it affects community safety as well. Immigrants living in North County, San Diego, for example, expressed a reluctance to report crime, especially if they were undocumented, believing that they could be arrested and deported because of it.⁸⁰ The police chiefs of major cities such as San Francisco and Raleigh, North Carolina have warned that state-level anti-immigrant bills would, in the words of Raleigh Chief of Police Harry Dolan, “Distract police from combating other crimes and would foster distrust among immigrants and minorities.”⁸¹ Policing works best when all members of the community believe law enforcement is there to keep them safe, and when all members are willing to come forward, report crimes, and cooperate.

Many interviewees described feeling as if they were under siege. Within the family, legal violence frames everyday lives, changing the calculus for even basic activities like leaving the house for work or grocery shopping—basic family functions for economic and physical survival. The accumulated pressure of persistent vulnerability and the threat of deportation makes basic family needs difficult to meet, with the potential to thwart these immigrants’ paths to successful integration into U.S. society, leaving an entire group of people disenfranchised. Everyone loses when a certain group of people in society—who are not likely to return to their countries of origin because they have spent many years in the United States and have created strong ties here—are blocked from participating as full members of our society. This is particularly damaging when they belong to a group—Latinos—projected to comprise 29 percent of the U.S. population by 2050.⁸²

The workplace

Aside from immigration enforcement’s widespread effects on families, legal violence also shapes immigrants’ work experiences. Studies have found that many immigrants earn low wages in jobs with no benefits, and that undocumented immigrants are especially prone to experiencing wage, hour, safety, or other work-

place violations.⁸³ And as the National Employment Law Project found in a major survey of Chicago, New York, and Los Angeles working conditions, foreign-born Latino workers were the most likely to have experienced minimum-wage violations, while 80 percent of immigrant workers experienced overtime violations, with even higher rates for unauthorized workers.⁸⁴

Legal violence occurs in the workplace when unscrupulous employers hold their workers' immigration status over their heads and to enable workplace abuse. More often than not, immigrant workers are affected less by overt threats from their employers but rather by the unstated assumptions that their employers know about their precarious statuses. Thus, workers fear causing any issue that could endanger their situation.⁸⁵

Such was the case of Graciela, who worked in downtown Los Angeles in retail. Although she came to the United States with a college degree from her native El Salvador, as an undocumented immigrant, she was only able to get an undesirable job through the informal market.

Under her employers, who never asked for proof of residency when they hired her, she suffered severe exploitation. Not only did they pay her \$20 total for nine-hour days—well below the federal minimum wage—she also witnessed the sexual exploitation that several local business owners practiced on their mostly young and vulnerable female employees. Graciela cried daily after witnessing and experiencing the harassment. “For those women,” she said, “a work contract doesn’t just mean during work hours, but it often means having sex, too.” Despite the pressures and humiliations, Graciela worked there for a few months because she had no other options: “I didn’t have papers or anything, and I needed to eat.”⁸⁶

Legal violence manifests itself in this kind of behavior by unscrupulous employers. When the media persistently portrays immigrant workers as undeserving and less than human, and when legal language simultaneously suggests they are criminals, employers, who are rarely targets of enforcement, have little reason to abide by labor laws. Indeed, the situation is in employers' favor and their unpunished abuse speaks loudly and clearly to all workers, documented or not.

Scholars have also found that even in situations where immigrant workers have legitimate workplace grievances, they are less likely to come forward than nonimmigrant workers and are less likely to know their rights as workers.⁸⁷

Recent Supreme Court decisions—particularly the *Hoffman Plastic Compounds, Inc. v. National Labor Relations Board* decision of 2002, which ruled that undocumented workers unfairly terminated for union organizing are not eligible for typical remedies such as reinstatement and back pay—have eroded even basic worker protections for undocumented immigrants, making their situation in the United States even worse.⁸⁸ And by facilitating the abuse of undocumented workers, legal violence takes the floor out from under all workers, hurting the wages and safety of workplaces for all Americans, documented and undocumented, native and foreign born.⁸⁹

Workplace raids

Under the George W. Bush administration, immigration officials pursued a strategy of large-scale raids against employers hiring undocumented immigrants, swooping in to arrest undocumented immigrants in highly publicized raids. The most prominent and the largest of its kind, at the Agriprocessors meatpacking plant in Postville, Iowa in 2008, received immense media attention not simply for the raid itself but for the manner in which the immigrants swept up in the raid were prosecuted.⁹⁰

All in all, more than 300 people were detained—many of them having lived in the United States for a decade or longer—with the vast majority being charged with a serious felony: “aggravated identify theft.” Those that agreed to take a plea deal—which witnesses including court interpreter Erik Camayd-Freixas described as rushed and not containing adequate counsel or even time for the immigrants to understand the charges before them or their options—would serve five months in jail and then be deported. Though the Supreme

Court unanimously held the following year that the government overstepped its authority by bringing the more serious identity theft charges, the raid itself struck immense fear throughout the immigrant community.⁹¹

These types of large-scale raids have, under the Obama administration, largely been replaced with “silent raids” or I-9 raids, where the government informs an employer that they believe that undocumented immigrants are employed in the workplace. These silent raids often lead employers to preemptively fire immigrant workers, especially if they believe the employees could be undocumented.⁹²

Overt raids do still occur on the local level, however, especially in places like Maricopa County, and the fear of such raids still haunts the immigrant community.⁹³ Still, the focus of workplace enforcement has changed over the past few years, so in this section we will focus primarily on issues of wage, hour, and labor abuses.

Legal violence and overt threats to undocumented workers

Legal violence and tenuous legal status make it less likely that immigrants will come forward to report workplace abuse. Workers feel powerless, doubt that they have rights as workers, and are generally more exploitable.⁹⁴

Manuel, a Salvadoran who has had Temporary Protected Status on and off for 17 years, is meticulous about renewing his work permit even before the deadline, keeping him in legal status. He has always been outspoken and “tells it like it is.” Lately, however, he has changed his views and now prefers not to complain at work. Having lived in Phoenix since 1991, he has experienced the increasing criminalization of immigrants at the federal level and sees what recent state laws like S.B. 1070 mean for workers like him in Arizona.⁹⁵

A victim of abuse by a foreman, Manuel asked Menjívar to help him write a letter of complaint to the owner of the company. But he never sent the letter. A bit surprised, Menjívar asked him why. “Because these days,” Manuel said, “you can’t say anything. [A] couple of years ago, in another time, I would have sent it in. But now I’m afraid, you know, with the times now, we all live afraid.”⁹⁶

Even though Manuel realizes it is “not OK” for his employer to fail to pay him overtime, to give him only one 15-minute break a day, to refer to him using ethnic slurs, and to regularly threaten to call the feared “migra”—immigration officials—Manuel is now afraid to speak up. His case typifies the type of fear that allows unscrupulous employers to hold the legal status of their workers over their heads and use it to abuse and exploit them.⁹⁷

In such difficult conditions, where basic safety standards are overlooked, workers will likely get injured. These fears are not simply theoretical: According to the Bureau of Labor Statistics, foreign-born Latinos have the highest rates of death on the job of any population group in the United States.⁹⁸ Nelson, an undocumented Salvadoran immigrant in Los Angeles earning less than minimum wage, described his predicament working at a warehouse:

That is hard work because they don't care if one is tired, if one needs to rest, or if [the temperature inside the warehouse] is too hot or too cold. And so, since they didn't even let us rest, I messed up my back and when I told them, they pretended not to hear me, they didn't do anything.⁹⁹

Employers know that they can be unscrupulous toward undocumented workers with little to no consequences. Rather than remedy the situation, they can afford to ignore it because they know that the workers feel unprotected. Nelson, for example, spoke up to demand his paycheck from the employers but had only limited success negotiating with them:

I kept complaining and in the end they told me that if I couldn't do the work anymore, I should look for another job because they needed someone who could stay on schedule. And after that I still had to fight with them to get my last paycheck because they were saying that I worked too slowly.

Nelson at least got his last paycheck, but only after pushing his employers. It is noteworthy that because he was paid piecemeal—depending on the number of boxes he loaded and unloaded—his earnings often added up to less than minimum wage. Beyond that, however, he must continue to deal with the repercussions of his injury. “Up until now,” he said, “I still can’t carry anything too heavy, so I haven’t been able to find a steady job.”¹⁰⁰

Due to his undocumented status, Nelson was afraid to apply for worker’s compensation or to denounce the employer who fired him when he complained of back pain. Since losing his steady job, he spends most of his time at a day-labor site, trying to get short-term jobs. Unfortunately, as he said, “In this kind of work, you don’t earn enough.”¹⁰¹

The current legal system—with new immigration laws at the federal, state, and local levels increasing immigrant workers’ fear of deportation and diminishing the effectiveness of their workplace rights—makes it possible for employers not only to pay immigrants low wages but also to withhold health benefits and other basic, legally mandated provisions, such as bathroom breaks and protective gear when necessary for the job. Here the law directly creates conditions under which immigrant workers’ rights are diminished.¹⁰²

Employers know that even if they look the other way and hire unauthorized immigrants, they can still use the power of immigration law to keep their employees in line. Studies have found that employers threaten to call Immigration and Customs Enforcement on their own employees as a way to keep them from challenging unsafe worksites or wage abuses, or to keep them from unionizing. But it is not simply employers’ actions that lead to fear among workers; it is also the immigration laws themselves, which provide a structure for abuse and lack adequate protections for unauthorized workers.¹⁰³

The current legal system makes it possible for employers not only to pay immigrants low wages but also to withhold health benefits and other basic, legally mandated provisions, such as bathroom breaks and protective gear when necessary for the job.

The current legal system also has direct, long-term effects, demonstrating how legal violence shapes immigrants' futures. Nelson goes on to explain how the current system thwarts his American Dream: "One comes here thinking that life will be better ... but without papers, one's life is not worth much. Look at me; I have always been a hard worker ... but I messed up my back working, carrying heavy things without any protection ... and I can't do anything about it."

For Nelson, the long-term consequences include blocked access to medical care and survival for his family: "What doctor is going to help me if I can't pay? And the worst part is, who's going to hire me now? How will I support my family?"¹⁰⁴

Hoffman Plastic, legal violence, and subtle threats in the workplace

In 2002 the Supreme Court ruled in the case of *Hoffman Plastic Compounds, Inc. v. NLRB*¹⁰⁵ that undocumented workers who had been unfairly terminated—in this case under the provisions of the National Labor Relations Act for engaging in union organizing—were not subject to the same remedies available to other workers, such as back pay or reinstatement. The Court based its decision on the fact that the Immigration Reform and Control Act of 1986 explicitly operated to stop undocumented workers from being hired, and that providing such remedies would go against this goal.¹⁰⁶

Even in the face of the *Hoffman* decision, as legal scholar Ming Hsu Chen pointed out, the main regulatory agencies that enforce employment law—the National Labor Relations Board, the Department of Labor, and the Equal Employment Opportunity Commission—all interpreted the decision narrowly, refusing to consider immigration status when it comes to workplace violation investigations.¹⁰⁷

These agencies argued during the *Hoffman* litigation that the only way to prevent workplace abuses for all workers—including nonimmigrant workers—is to go after all unscrupulous employers. Negating claims of workplace abuse based on immigration status would, in Chen's words, create "perverse incentives and a double harm for the immigrant workers and nonimmigrant workers who became more burdensome to hire by comparison."¹⁰⁸ But while administrative agencies have mostly kept protections for unauthorized workers, courts in states such as Kansas, Pennsylvania, Michigan, New York, and New Jersey have used the *Hoffman* decision to limit workplace protections.¹⁰⁹

As Chen’s work illustrates, agencies like the National Labor Relations Board understand that the only way to stop wage, hour, and labor abuses is to aggressively go after all bad-apple employers. But with such a large undocumented population, and with decisions like *Hoffman* limiting the overall remedies for a portion of the workforce—especially those working in states whose courts have subsequently limited protections for unauthorized workers—workplace abuses of undocumented immigrants continue, and scholars continue to find evidence of wage and hour, paycheck, and health and safety violations for immigrant workers.¹¹⁰

Moreover, as sociologist Shannon Gleeson illustrates, it is not simply overt abuses that keep undocumented workers from speaking up—it is also the fact that their very status actually contributes to their self-identity as not being legitimately protected workers in the United States. In her study of restaurant workers, Gleeson found that even respondents who knew their rights and the laws on workplace violations still felt, in the words of one of her interviewees, that they “just have to obey” their employers. Other respondents also feared other co-workers who could be just as hostile as their employers about immigration status.¹¹¹

Gleeson concludes that many workers actively choose to keep their heads down and “avoid problems,” even where no overt—only implicit—threats exist to their well-being as undocumented immigrants. These unspoken concerns often limit immigrants’ rights—claiming as much as the outright threats—and contribute to the overarching structure of legal violence.¹¹²

Employer sanctions and legal violence: E-Verify and the Legal Arizona Workers Act of 2007¹¹³

The final portion of legal violence in the workplace stems from the very efforts to crack down on undocumented workers in the first place. As with *Hoffman*, courts have ruled that remedies for unscrupulous employers that conflict with explicit attempts to remove undocumented immigrants from the workplace cannot be used. But even before the *Hoffman* decision in 2002, researchers found that the very presence of laws designed to discourage employers from hiring undocumented workers had resulted in discrimination against—in the words of researchers B. Lindsay Lowell, Jay Teachman, and Zhongren Jing —“foreign-appearing and potentially unauthorized persons,” namely Latinos. In these cases employers are less likely to hire a Latino worker, under the assumption that they would be better off hiring people who, in their minds, could not fall afoul of immigration laws in the first place.¹¹⁴

Many workers actively choose to keep their heads down and “avoid problems,” even where no overt—only implicit—threats exist to their well-being as undocumented immigrants.

In the past few years, employer sanctions have taken the form of laws to enhance electronic verification of worker status, through state laws like the Legal Arizona Workers Act.¹¹⁵ Like the earlier cases of employer sanctions, this push has contributed to fears within the Latino community—documented and undocumented—that they could lose their jobs if they speak up against workplace abuses.

In 2007 Arizona passed the Legal Arizona Workers Act, a law that went into effect on January 1, 2008.¹¹⁶ The law targets businesses that intentionally or knowingly hire undocumented immigrants by suspending or revoking their business licenses, and mandates that all employers use E-Verify, the government’s Internet-based work authorization system, to check the status of their hires.¹¹⁷

Although its purported objective was to reduce the number of undocumented immigrants in the state,¹¹⁸ the law mainly exacerbated this population’s already-vulnerable living situations and gave employers yet another tool to lord the status of their workers over them. Fearful employers began to fire workers who could not produce proof of work eligibility even before the law officially went into effect. Floridalma, for example, is a Guatemalan immigrant who initially worked at a furniture factory in the Phoenix area when she arrived in 2004. She said that the factory owners fired everyone “just in case,” because they were fearful that some workers might be using fake IDs to work.¹¹⁹

Anecdotal evidence illustrates that those who stayed in their jobs are more susceptible to unpaid hours, increased workloads, and dismissal without cause, as was Floridalma’s case. Fired soon after the 2008 law went into effect, she now earns a living by cleaning houses. She started working as an assistant to another undocumented woman who “owns” the route of houses they clean, and even though the woman charges \$70 per house, Floridalma only gets \$15 per house. She said this change of career is a direct result of the 2008 law, but also blamed her “boss” for not paying her enough. Rather than leaving the state altogether, as Floridalma’s case illustrates, the Legal Arizona Workers Act pushes immigrants to the informal economy and further underground.¹²⁰

Legal violence harms all workers, even the native born

Whether explicit or implicit, threats to immigrant workers and the prevalence of unscrupulous employers contribute to lower wages and greater uncertainty and safety issues in the workplace for all American workers, documented and undocumented, native born and immigrant alike.

On the macro level U.S. employment law is based on the premise that all workers have the right to challenge workplace abuses, and that doing so not only helps reform their own workplaces but also every worksite across the country. Employers need to see that claims are being made against the bad apples among them and need to feel that there are consequences to their actions. Limiting the ability and the willingness of undocumented immigrants to challenge unscrupulous employers tells employers that they can get away with workplace abuses.¹²¹

But equally so, on the micro level, as the Immigration Policy Center has documented, when unauthorized immigrants have no choice but to accept pay below minimum wage and unsafe working conditions, it “makes it difficult for law-abiding employers to compete with those employers who hire unauthorized workers in order to make a bigger profit.”¹²² In this case it is not the presence of unauthorized immigrants to work in below-minimum-wage jobs that open the door to unscrupulous employers—indeed, as the National Employment Law Project found, more than two-thirds of low-wage workers regardless of status experience wage abuses¹²³—but rather it is the lack of adequate legal protections.

Blocked opportunities for job mobility harm not only the individuals who have no viable options but they harm these individuals’ families as well, with ramifications for schools, communities, and institutions. Immigrants who earn low wages or are victims of wage theft pay less in taxes, cannot buy a home or purchase goods to further strengthen the economy, and their stressful conditions may prevent them from contributing in other ways through local institutions. Truncated paths of integration for one group reverberate, sooner or later, to the rest of society.

The school

Manifestations of legal violence affect immigrants at all ages and levels, particularly in school-related matters. Education is another key dimension in the path of immigrant integration and an area where today’s legal system leaves an indelible and long-lasting mark.

Schools are the main social institutions with which young immigrants interact, and education is especially influential in determining their day-to-day realities and their long-term incorporation into the United States.¹²⁴ When immigrants arrive as children, as soon as they are school age, much of their time is spent in school, where they share educational and social experiences with other children, whether

they are documented, undocumented, or U.S. citizens. It is in school these children learn and often internalize U.S. societal values and norms, including some that denigrate their parents for being undocumented.¹²⁵

The 1982 Supreme Court case *Plyler v. Doe*¹²⁶ guarantees access to K-12 public schooling regardless of immigration status. Yet undocumented students still speak of feeling unwelcome during their time in school and especially after high school, when their access to higher education is not guaranteed, nor even a possibility in some states.¹²⁷ Legal violence manifests itself in schools through blocked paths to mobility and intense stigmatization of youth who otherwise feel a strong sense of belonging in U.S. society.

Some youth, particularly those whose parents are undocumented, learn early on that their undocumented status makes them different, vulnerable, and even suspect. This is especially driven home by nervous parents who, when fearful of deportation, may not take their children, including U.S.-born children, to school.¹²⁸ Even though research by the Urban Institute found that schools provide a “safe haven” for children who have lost a family member to immigration enforcement, helping these students cope and adjust, the schools can only provide these functions when parents feel comfortable enough to send their children, not fearing immigration reprisals.¹²⁹

The recent cases of immigration officials tracking and arresting undocumented immigrants at school sites in Ohio is but one example of the perils of schooling for undocumented and mixed-status families.¹³⁰ Another prime example is borne out by Alabama: On the first day after Alabama’s anti-immigrant law, H.B. 56, went into effect in the fall of 2011, 2,285 Latino children were absent from the state’s public schools because of parental fears.¹³¹

Afraid of being apprehended and separated, families avoid interacting with officials in social service agencies, even when this means denying children the social, medical, and educational services they need and are entitled to. In the process, children learn to be fearful of authorities who may, at any moment during a regular activity such as attending school, separate them from their families or send them to a country they do not remember or simply do not know.

Jorge, a Salvadoran college student in Los Angeles, for example, recalled being scared in high school:

Legal violence manifests itself in schools through blocked paths to mobility and intense stigmatization of youth who otherwise feel a strong sense of belonging in U.S. society.

*There would be fights and the cops would come and I would stay away, but I would think, “What if immigration comes and tries to find those of us who don’t have a social security [number]?” ... you try to go through your day like nothing, but in the back of your head, you’re always scared.*¹³²

And while the Obama administration’s recent announcement of the Deferred Action for Childhood Arrivals program offers a glimmer of hope for certain youth—in the form of a two-year renewable reprieve from deportation and a work permit for people brought to the United States prior to age 16—it does nothing to protect their parents or, in some cases, their siblings who might be too old to receive the status. So while deferred action can grant up to 1.76 million people the peace of mind, even if only temporarily, of knowing they will not be deported, it does nothing to take away the fear that their families could be deported—a fear at the heart of legal violence.¹³³

Legal status and altered educational expectations

Although the *Plyler* decision bars K-12 schools from excluding undocumented students, nothing guarantees their access to higher education—a fact many undocumented students are painfully aware of. Though there is much variation in policy from state to state, only 12 states grant undocumented students in-state tuition, and out of the 12, only Texas, New Mexico, California, and Maryland allow students access to state financial aid.¹³⁴ Given the high likelihood that these students are members of low-income families, the cost of attending college is prohibitive.¹³⁵ The cumulative stress of being stigmatized and fearing deportation paired with the knowledge that life will change radically after high school leads to trumped aspirations and little motivation for many youth.

Many formerly high-achieving students explain their poor academic performance as a result of lack of desirable opportunities. The daughter of a Guatemalan couple in Phoenix, for instance, managed to keep a high grade-point average all four years of high school while working alongside her parents cleaning houses and offices on weekends. As her high school graduation approached, however, she confided in her mother, “I don’t want to leave school. I want to flunk. I want to stay in school. I know that after this [finishing school], I will have nothing; I feel like my life will be over. I want to stay back a grade so at least I’ll continue going to school.”¹³⁶ With few or no opportunities to regularize their status, and knowing that there is “no future” for them in U.S. society, these students’ situations exemplify the effects of legal violence in their lives.

David, a Guatemalan high school student in Los Angeles, shared the following during a personal interview:

Leisy Abrego: *Do you find that it's common at your school that there are people who talk about this, about not having their papers?*

David: *Yeah. ... a lot of people want to go to college.*

LA: *And they know that they can't?*

D: *Yeah.*

LA: *What do you think that does to people?*

D: *It makes them give up. Like, why try? ... when they find out they can't go to college because they don't have papers.*

LA: *Do you know a lot of people who have gone through that?*

D: *Some of my friends ... yeah, they give up. ... they say, "Why bother if I can't continue?"¹³⁷*

David is quick to make the connection between his legal status and his desire “to go to college.” In schools with large populations of students with various uncertain statuses, the knowledge that such statuses will keep them from attending college quickly lowers their aspirations.

This is the case of a Salvadoran mixed-status family in Phoenix, in which all five members have different legal statuses.¹³⁸ The mother, who has legal status and a work permit and attended two years of law school in El Salvador, explained that each of her children had to quit their educational objectives due to their legal statuses. In her case, she adds, “I was a very good student. I have taken 38 credits at the community college, but when will I finish? When will I transfer and get my degree? We’re not even talking about law school anymore ... that’s gone. I don’t aspire to that anymore.” In this way, legal violence keeps individuals in difficult situations by blocking their paths to upward mobility and keeping them on the margins of society.

In addition, many undocumented youth only first learn of their status in high school, when they have to fill out applications for internships, summer jobs, or college admission.¹³⁹ Unable to provide a Social Security number for the applications, their parents are forced to explain the situation to them, often for the first time. By the time they learn they are undocumented, many have been socialized in the United States where, having had legal access to schools, they develop a strong sense of belonging. This finding parallels a study of undocumented youth in Los Angeles, where the realization of their undocumented status affected the youth physically, emotionally, and biologically, stunting their development.¹⁴⁰

From that moment of realization on, however, their legal status becomes a central obstacle in their lives and an effective barrier to their incorporation into U.S. society. As Alex, a Salvadoran junior in high school, described it, before he learned of his status: “[I] used to leave my house to go to school every day and I didn’t know anything. I didn’t know I was undocumented. ... I just went to class, hung out with my friends, you know, whatever normal things.” After learning of his status, Alex tried to keep pursuing his goals, but he lived with constant reminders of his vulnerability.¹⁴¹

In his worldview, as well as that of other youth in a similar situation, undocumented status is an anomaly because they have lived in the United States all their lives. Informed by the same media and public debates, just like their peers around them, they may internalize the notion that being undocumented is a negative and unacceptable characteristic. As a result, they feel stigmatized in the very society that they previously considered home.¹⁴²

Once these youth learn about their legal status, many develop an awareness of the negative connotations associated with their illegality. Astrid, a Salvadoran undocumented high school student, recalled feeling uncomfortable at school when the classroom topic turned to immigration. “I hate how they call us ‘illegal aliens,’” she said. “I feel like telling them that I don’t have antennae, I’m not a weirdo like they think.” Concerned with the potential repercussions, however, she never shared these feelings with her peers.¹⁴³

Similarly, Brenda, an undocumented Guatemalan high school student, said, “They call us ‘illegals’ and they think we’re committing crimes all the time and we’re not.” The undocumented label weighs heavily on these youth who, like any other U.S. teenager, often want nothing more than to fit in.¹⁴⁴

The stigma that youth experience as a result of the legal labels and anti-immigrant discourse can stand in the way of their long-term incorporation into U.S. society. Youth in uncertain legal statuses must interact and share their status with gatekeepers and school officials to transition to higher education. Among other things, they have to request letters of recommendation and proof of school attendance to apply to college.

Many students expressed the mental—and sometimes physical—distress they experienced whenever they disclosed their status to a new school official. Unsure about teachers’ and counselors’ stances on immigration, they worried about being publicly ridiculed and targeted. Alisa, a Guatemalan high school student in Los Angeles,

fidged with her fingers and looked away as she described this process: “I would get really nervous, but I had to tell them [teachers] because I just thought that they could help me. ... It’s stressful, you don’t know if they will treat you different.”¹⁴⁵

In effect, fear and shame affect the students who must rely on teachers and other school officials to access various educational opportunities. Moreover, even when they overcome the stigma of the legal label, those who excel academically are often unable to attend college or claim scholarships awarded to them, effectively being barred from traditional means to upward mobility.

Younger students and legal violence

During formative years in adolescence, even awareness of restrictive laws impacts one’s identity development, with potential long-term repercussions. A survey conducted among 726 middle school students in the Phoenix metro area found that even awareness of Arizona’s S.B. 1070¹⁴⁶—even while the bill’s more controversial portions were still on hold—was positively linked to perceptions of discrimination and negatively impacted the youths’ perceptions of being American. The more they were aware of this law and its ramifications, the more discrimination they perceived, and the less American they felt.¹⁴⁷ These findings echo the work of Joanna Dreby of the University of Albany, who found that even U.S.-born children of immigrants were dissociating from their immigrant heritage, and that young children grew up learning to associate immigrant with undocumented, and associate a stigma with immigrant status as a whole.¹⁴⁸

What is even more telling of the ripple effects of these state level anti-immigrant laws is that in this survey, even nonimmigrant children felt the effects of S.B. 1070: Nonimmigrant white students felt “less American,” perhaps concerned for their friends and peers who at any moment may be removed from school if apprehended and deported or removed by fearful parents who experience the full force of “attrition through enforcement” practices. Although it is too early to tell, it would not be surprising to find a similar situation in states like Georgia and Alabama, where equally or more severe immigration laws quickly followed the passing of the Arizona law.¹⁴⁹

Legal violence in the everyday lives of youth

Legal violence also manifests itself in these youths' lives in ways similar to adults. Although *Plyler v. Doe* bars public schools from excluding undocumented children in grades K-12, these students are not protected from deportation outside of school grounds.

Like their adult counterparts, undocumented youth may be targeted, detained, and deported for minor infractions, such as driving without a license. As more police departments nationwide work in conjunction with Immigration and Customs Enforcement through 287(g) agreements or the Secure Communities program, students in tenuous legal statuses increasingly fear the possibility of being deported for minor offenses. And although they are largely protected while in school, the fear of deportation extends into other extracurricular activities such as part-time work and group field trips. Legal violence emerges outside school for these youth, as they are more likely to be exposed to discriminatory treatment and stigmatization and have fewer, if any, opportunities for advancement.

These limitations are particularly evident when undocumented youth try to get a job. Jovani, a Guatemalan high school student, described his experiences as he became aware of his limitations to help his low-income family pay bills: "When I want to get a job, I can't. I want to drive, but I can't. ... so yeah, it's kind of hard for me. ... I get mad because my parents brought me. I didn't tell them to bring me, but I get punished for it, for not having the papers." The legal violence that his parents experience limits their wages, stands in Jovani's way of higher education, and blocks him from contributing through employment to improve his family's living conditions.¹⁵⁰

As with adults, children can also live with a deep fear of deportation that permeates all aspects of their lives. Lorena, a Mexican graduate student, shared at a meeting that she was very outgoing as a child. But when Proposition 187 passed in California in 1994, when she was in elementary school, her mother told her she must not tell anyone the secret of her family's immigration status. From that point forward the fear of accidentally sharing that secret turned her into a painfully shy child. It was not until almost a decade later, when she received legal permanent residency, that she began to heal and let go of the fear.

The damage, an expression of legal violence in her life, continues to shape her decisions and her feelings of exclusion in the United States, even though she is

As with adults, children can also live with a deep fear of deportation that permeates all aspects of their lives.

now a naturalized U.S. citizen.¹⁵¹ In this way, legal violence's consequences are likely to persist long into the future, thereby shaping immigrants' and entire communities' integration processes into the United States.

Equally important, legal violence hurts native-born citizens as well as immigrants. Nayeli grew up in the outskirts of an affluent city in Southern California, where the majority of inhabitants are white. Throughout her childhood, Nayeli's mother, a documented Mexican immigrant, reminded her and her siblings about the need to keep their father's undocumented status a secret. A vocal anti-immigrant group in the area instilled great fear in Nayeli and she grew up very aware of her family's vulnerability in the face of the consequences of illegality.

When asked what the hardest part of the situation was, Nayeli described:

*The silence. ... when it comes to talking about it with people that I trust, it's hard just to even talk about it. It's hard for me to even admit that my father is undocumented. I've kept it a secret for so long, and I feel like it's my secret and I don't want to tell people about it. It's the way I internalize it.*¹⁵²

Nayeli's burden was heavy and constant—her neighbors' hostility exacerbated the potential for harm against her father if her family's secret were revealed. Emotionally, this crushed Nayeli, who cried throughout the interview. “Just my dad period is an emotional subject for me,” she said. “If he took long to get home from work, I feared that he was caught. It's a scary feeling.” To this day, in her early 20s, she has difficulty discussing anything related to her father and her childhood more generally.

Legal violence in higher education

The American Dream is founded on the idea that if you work hard you can succeed. But even undocumented students who play by the rules and excel in school can be blocked from college—either legally or financially—depending on the state in which they reside.

An estimated 65,000 undocumented students graduate from high schools in the United States every year.¹⁵³ Although undocumented college students are eligible to pay in-state tuition in 12 states,¹⁵⁴ most states bar them from federal and state financial aid—including grants, loans, and work-study programs. With little or no financial resources—because most rely on their undocumented or partially

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documented parents' low wages—these students are often priced out of higher education. This makes achieving goals and upward mobility extremely difficult.

The case of Phoenix's Carl Hayden High School's robotics team illustrates the loss of talent incurred in the United States because of the nation's immigration laws. In 2004 the robotics team managed to win a national competition, beating out even an entry from the Massachusetts Institute of Technology. But all four members of the team were undocumented. Four years later, one of the team's members was pursuing a career in catering while another was working as a carpenter. Only one of the members was still pursuing engineering.¹⁵⁵

Camilo, a high-achieving Guatemalan student in Los Angeles, shared his frustrations:

Teachers always tell you not to worry about where the school is or how much it costs. They tell us we have so many options. But we [undocumented students] don't have those decisions. Our decision is only if we can or can't go to college. Our decision is whether or not we can pay for college.

Once they get into college, moreover, depending on where they live, they may or may not have access to financial aid. In California, even after undocumented students were allowed to pay in-state tuition, college can remain unaffordable without financial aid. Molly, for example, applied for scholarships, held several fundraisers, and worked as a caregiver to an elderly woman to raise money for tuition. "I have my money for my first year," she said, "but now I'm facing the problem that my scholarship money is running out and as of right now I don't really have money for next year. ... so that's something that's haunting me."¹⁵⁶

Indeed, in meeting after meeting with undocumented student groups, one of their most common sources of stress is their lack of funds. It is not uncommon, for example, to hear stories about students experiencing hunger because they had to use all their funds on tuition instead of food. Although California recently passed two bills granting undocumented college students greater access to various sources of financial aid—AB 130 and AB 131¹⁵⁷—undocumented college students are much more financially restricted throughout the country.

Even the students who have Temporary Protected Status, have received deferred action, or are in the process of obtaining legal permanent residence, are barred from receiving financial aid. Alex, a Salvadoran high school student in Los Angeles whose father qualified for legalization through the Nicaraguan Adjustment and

Central American Relief Act,¹⁵⁸ was in his senior year when he received his work permit—one of the first steps in the process of obtaining legal residency.¹⁵⁹

As he explained, “I’m so happy, I cried, I cried when I saw the letter. ... and most likely I’m not going to get my papers by the time I graduate next year. ... but it means I can apply to college. I can’t apply for financial aid until I have the green card, but now at least I can work.”¹⁶⁰ Even in California, where state laws now permit undocumented students to access state financial aid, students with Temporary Protected Status are still ineligible.¹⁶¹

As doors to higher education and their dreams close, many college students experience great stress. After doing everything in their power to work toward their goals, it is disheartening to feel that structurally, it is very difficult to complete college. Even for those who find ways to raise money for tuition and continue on each semester or quarter, they often are also involved in leadership positions in various campus and regional groups to find paths for legalization.¹⁶²

The persistent stress of worrying about possible detention, dire financial problems, finding employment, paying tuition, and organizing to push for policy changes on top of being a regular student takes its toll. In 2012, for example, the UCLA Labor Center developed a new program called The CIRCLE Project to begin to address the emotional health of undocumented college students.¹⁶³

Conclusion and recommendations

Immigrants represent progress and the future well-being of U.S. society. But the confluence of immigration enforcement, fear of today's enforcement strategies, and a general stigma of immigration status—the combination of which we have termed legal violence—has the potential to hinder the incorporation of generations of immigrants.

The unprompted references of our study participants in Los Angeles and Phoenix to the immigration laws that govern their lives demonstrate the power of these laws. Designed to modify migratory practices and behaviors—for example, by making life so difficult for immigrants that they will either “self-deport” or not come into the country at all—these laws make immigrants suspect in the eyes of others and create significant fear among the entire immigrant population.

But equally so, the effects of the contemporary enforcement strategies—at the federal, state, and local levels—do not solely affect undocumented immigrants. They also envelop the lives of documented immigrants as well as the U.S. born, as all these groups live, work, and go to school together. In this way legal violence affects all Americans and mitigating its harsh effects is an imperative. To do so, we offer the following recommendations.

Most importantly, both Congress and the Obama administration must address the communitywide anxieties and vulnerabilities related to immigration. The fears that undergird legal violence will never go away while there are 11.1 million undocumented immigrants living in the United States. Congress must pass a comprehensive immigration reform bill that includes a pathway to citizenship for undocumented immigrants and includes specific provisions for immigrant youth, such as the provisions of the DREAM Act, which provides a pathway to citizenship for young undocumented immigrants who complete high school and some college or military service. The administration should target enforcement practices on serious criminals rather than low-level offenders. Finally, immigration

must be decoupled from local enforcement efforts so that immigrants and their families can regain trust in authorities.

In addition, in the realm of the **family**:

- Congress should pass legislation to ensure that children are not unnecessarily separated from their families and mandate minimum standards for immigration enforcement when children are involved, such as ensuring that parents are able to continue making decisions about their family's well-being, and taking the interests of the children into account in enforcement decisions. Bills such as the Help Separated Families Act and the Human Enforcement and Legal Protections for Separated Children Act would go a long way to achieving these goals.¹⁶⁴
- The government should allow family members who are adjusting to legal status and subject to the provisions of immigration law that bar undocumented immigrants from reentering the United States for 3 or 10 years (depending on how long they were in the country without status) to remain in the United States, rather than having to leave the country to apply for a waiver of the bar (known as a waiver of inadmissibility.) The Obama administration should also reinstate provisions that allow legal permanent residents (green card holders) with a criminal conviction to receive a hearing prior to being placed in deportation proceedings. Both changes would ensure greater flexibility when it comes to keeping families together.¹⁶⁵

In the realm of the **workplace**:

- The government should ensure that all people in the United States, regardless of status, have strong worker protections, and go after employers that exploit immigrant workers. Solutions to legal violence in the workplace should ensure, as organizations such as the National Employment Law Project have argued, “that workers know their rights, have full status under the law to assert them, have access to sufficient legal resources, and do not fear retaliation.”¹⁶⁶

In the realm of the **school**:

- The government should ensure that the right to K-12 education regardless of immigration status, enshrined in the 1982 *Plyler v. Doe* decision, is neither watered down nor legislated away.¹⁶⁷

- The government should also ensure that schools are safe places, free of Immigration and Customs Enforcement intrusion. Parents must not fear that they could be detained or deported for bringing their children to school.
- Finally, Congress should support legislative changes that can give undocumented students who want to pursue higher educational degrees access to in-state tuition and the opportunity to apply for financial aid.

In the meantime, there are other things that can be done to mitigate the harshest effects of legal violence:

- First and foremost, the Obama administration should expand its usage of prosecutorial discretion to ensure that immigrants who have committed no crimes, who are settled in our communities, our workplaces, and our schools do not face the ever-present threat of enforcement.
- Likewise, on the state and local levels, officials and nongovernmental organizations should continue their work communicating with immigrant communities to explain their rights and to allay fears of unwarranted arrest or detention.

With appropriate policy changes, the United States can ensure that all people are able to incorporate and fully contribute to our nation.

Appendix: Methodology

The information in this report comes from several studies over the course of a decade of research. Cecilia Menjívar draws on a series of studies of Latin American origin immigrants in the Phoenix metropolitan area that she conducted between 1998 and 2010.¹⁶⁸ Together with a team of assistants, Menjívar conducted 93 interviews with 64 Guatemalan, Salvadoran, Mexican, and Honduran immigrants. She re-interviewed about half of the study participants and has followed a core of study participants for more than a decade.¹⁶⁹

Leisy Abrego draws on two separate studies.¹⁷⁰ Between June 2004 and September 2006, she conducted 130 in-depth interviews with Salvadoran parents, children, and caregivers who are members of transnational families that have been separated continuously for 3 years to 27 years. Through a snowball sample approach in which she asked interviewees to introduce her to others in similar situations, she also interviewed nonstudent participants in their homes and at their places of work.

Abrego also draws from a longitudinal study that she conducted between 2001 and 2006, focused on access to higher education for Guatemalan, Mexican, and Salvadoran undocumented high school and college students in Los Angeles. This project consisted of 43 interviews with 27 informants, some of whom she interviewed a total of three times.¹⁷¹

Both authors heavily supplemented interview data with participant observation conducted over the course of several years in the neighborhoods where the immigrants live, at community organizations, and in numerous meetings and events. Spending time in places where immigrants conduct their lives—such as schools, supermarkets, health clinics, and churches—gave the authors valuable opportunities to gain a deeper understanding of the immigrants' lives. In the course of conducting this research, the authors also spoke with many other immigrants than those formally interviewed, and conducted interviews, often more than once, with dozens of community workers, religious leaders, teachers, consuls, and social workers in each research site.

About the authors

Cecilia Menjivar is Cowden Distinguished Professor in the T Denny Sanford School of Social and Family Dynamics at Arizona State University. Her research focuses on the social aspects of immigration, including gender and intergenerational relations, family dynamics, social networks, religion and church in the lives of immigrants. She examines the effects of immigration laws in various aspects of immigrants' lives, as well as the effects of migration on the nonmigrants who stay in sending countries. She just completed the co-edited book, with Daniel Kanstroom, *Producing Illegality: Immigrants' Experiences, Critiques and Responses*, to be published by Cambridge University Press.

Leisy Abrego is an assistant professor in the César E. Chávez Department of Chicana and Chicano Studies at UCLA. Her expertise is in the area of families, Central American migration, and the lived experiences of immigrants as mediated through immigration policies. She earned her PhD in sociology from UCLA in 2008 and will be a Ford Foundation postdoctoral fellow at Arizona State University in 2012–2013. She is completing a book manuscript about immigrants' well-being in the United States and the well-being of their families in El Salvador, with a focus on how experiences vary by migrants' gender and immigration status. She has also written award-winning articles about the social, educational, and political incorporation of undocumented youth.

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