



THE EVOLVING RIGHTS OF DEPORTABLE IMMIGRANTS AS SEEN IN THE CASE OF RAVI RAGBIR

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Foreign nationals with removal orders are in an extremely vulnerable situation. Even if they are asked to report on a regular basis under an order of supervision, there is no guarantee that a whimsical ICE officer the next they show up to an interview may decide to apprehend this person with handcuffs and expel them from the country. ICE may also decide to make a pre-dawn arrest of an undocumented person at home in front of family members [including children](#), arrest those who are attempting to [regularize this status](#), or even [victims of domestic violence](#) seeking to escape their abusers.

Or if this person is an activist protesting against ICE's tactics and fighting for the rights of immigrants, ICE could retaliate by arresting him or her with the goal of removing this so called "irritant" from the United States. Indeed, no one appears to be beyond the reach of ICE's heavy handedness in the Trump era.

At issue is whether a removable person has been allowed to stay in the US, and regularly report to ICE, can this person one day be suddenly apprehended without the chance to say goodbye to his family?

This was the very issue raised in [Ragbir v. Sessions](#) before Judge Katherine B. Forrest in a petition for habeas corpus in the United States District Court for the Southern District of New York. Ravi Ragbir has lived in the US for over 25 years, but in the last ten years was subject to a final order of removal based on a deportable criminal conviction. Because of his special contributions to the community as the Executive Director of New Sanctuary Coalition of New York City, ICE until recently allowed him to remain in the US with his citizen wife and daughter, granting him an order of supervision and four administrative stays of

removal. On January 11, 2018, however, while the administrative stay was still in place, ICE suddenly and inexplicably detained him during a routine check in.

Mr. Ragbir's petition for habeas corpus was granted. The decision in *Ragbir v. Sessions* is astounding as it acknowledged the right of a removable person to say goodbye to loved ones and leave in an orderly and dignified fashion, especially one who did not pose a flight risk, was not a danger to the community and who was routinely checking in with ICE. The Court wrote that "t ought not to be – and it has never before been – that those who have lived without incident in this country for years are subjected to treatment we associate with regimes we revile as unjust."

Although the Court's decision granting the habeas corpus petition was thin on legal authority, it broadly relied on the Fifth Amendment's liberty and due process guarantees. "In such circumstances, the Fifth Amendment's liberty and due process guarantees are North Stars that must guide our actions," the Court eloquently stated. Although Mr. Ragbir had a final order of removal, "his interest in due process, required that we not pluck him out of his life without a moment's notice, remove him from his family and community without a moment's notice." He should have at the very minimum been given to understand that he must organize his affairs and leave by a due date.

As this victory was being celebrated, Mr. Ragbir was still required to report to ICE for removal on February 10, 2018. This would have possibly been in compliance with Judge Forrest's order that he be asked to leave by a due date in an orderly fashion rather than suddenly arrested and separated from his family. However, Mr. Ragbir, together with New Sanctuary Coalition of New York City, CASA de Maryland, Detention Watch Network, the National Immigration Project of the National Lawyers Guild, and the New York Immigration Coalition filed suit on February 9, 2018, [*Ragbir v. Homan*](#), in the Southern District of New York to challenge the recent targeting of immigrant rights activists by federal immigration officials. The government has agreed to stay Mr. Ragbir's deportation temporarily pending further briefing in this action. The lawsuit seeks, among other forms of relief, a preliminary and permanent injunction restraining the government from taking further action to effectuate a deportation order against Mr. Ragbir, while also seeking a preliminary and permanent injunction restraining the government from selectively enforcing immigration laws against individuals based on protected political speech.

It is hoped that Mr. Ragbir's case will shine the torch on the draconian impact of deportation on the individual and the family that is left behind in the US. There have been far too many instances where removable persons have been suddenly and abruptly plucked from their families without giving them a chance to leave in an orderly and dignified fashion, or to consider allowing them to remain while they collaterally challenge their deportation orders or seek to reopen them. And as was done under the President Obama administration, allow such people to remain in the US if they have family members and have lived a life without incident apart from the ground that caused their deportation order. It is important for all of us to examine our collective morality when the government preys upon the most vulnerable populations among us.

As early as 1945, the Supreme Court in [Bridges v. Wixon](#) held:

Though deportation is not technically a criminal proceeding, it visits a great hardship on the individual, and deprives him of the right to stay and live and work in this land of freedom. That deportation is a penalty -- at times, a most serious one -- cannot be doubted. Meticulous care must be exercised lest the procedure by which he is deprived of that liberty not meet the essential standards of fairness.

Under our immigration system, people may be removed for a number of reasons. In Mr. Ragbir's case, although he was a lawful permanent resident, his order of deportation was based upon a felony conviction for wire fraud in 2001. Mr. Ragbir paid his dues for that conviction under the criminal justice system. If Mr. Ragbir had been a citizen, he would not have been in this predicament. But because of his non-citizen status, he was also put in removal proceedings and thus was punished further for his criminal conviction even though as a citizen he would not be. A deportation proceeding is a civil proceeding, and the purpose is to remove the non-citizen rather than to punish, and yet it ironically results in a far greater punishment than the criminal proceeding.

Others are removed simply for not being in lawful status. It is a [myth that undocumented immigration can be controlled or eliminated](#). Indeed, undocumented immigration is an inexorable outcome of restrictive immigration policy, a situation bound to worsen under the Trump Administration's proposals to severely limit legal pathways. No matter how many more ICE agents that the Trump administration may add to enforce

immigration law, there will always be undocumented immigrants who will desperately try to stay in the US to be with loved ones.

If ICE enforces the law harshly and egregiously, they will be even less effective as law suits like Mr. Ragbir has filed will push them back, as we have already begun to see in courts in [Southern California](#) and [New Jersey](#). Judge André Birotte in Los Angeles, ruling on the unconstitutionality of ICE detainers (requests to local law enforcement to detain an individual for an additional 48 hours so ICE may decide whether or not to place the individual into removal proceedings), [wrote](#) "The LASD officers have no authority to arrest individuals for civil immigration offenses, and thus, detaining individuals beyond their date for release violated the individuals' Fourth Amendment rights." Judge Esther Salas in New Jersey temporarily halted the deportation of Indonesian Christians with "[administratively final orders of removal predating 2009 and were subject to an order of supervision,](#)" pending further adjudication of their claims. As the ACLU has argued, "[This case involves life-and-death stakes and we are simply asking that these longtime residents be given opportunity to show that they are entitled to remain here.](#)"

No amount of cruel and egregious enforcement measures can eliminate undocumented immigration. Rather, having sensible immigration laws that allow foreign nationals to more easily legalize their status will be more effective in solving the undocumented immigration problem in America, and would be more consistent with its values. This would be a better way to deal with the issue rather than to cruelly pluck people away from their families in violation of their rights and liberties enshrined in the Constitution.