

Illegality at Work: Deportability and the Productive New Era of Immigration Enforcement

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Abstract: Our goal in this paper is to identify how recent escalations in immigration enforcement and changes in migration practices affect the ability of the state to continue to serve two of its key “productive” functions: protecting capital accumulation within industry and ensuring the state’s own political legitimacy in the eyes of the public. We draw on our ethnographic research on Latino migrant dairy farm workers in Wisconsin to examine the ways in which a group of migrant workers experiences the process of being enforced as “illegal” bodies. We find that migrant dairy workers’ palpable sense of “deportability” articulates with the specific structure of dairy work in ways that make the economically and politically “ideal” migrant: compliant at work and invisible otherwise.

Keywords: illegality, immigration enforcement, US–Mexico border, agriculture, dairy, migrant workers

The New Era of Immigration Enforcement

On 12 May 2008, the US Immigration and Customs Enforcement agency (ICE) raided the largest kosher slaughterhouse and meatpacking plant in the United States, run by Agriprocessors, Inc and located in Postville, Iowa. ICE arrested nearly 400 employees in the raid. Several top company officials have been convicted of immigration violations and fraud, and many undocumented workers were charged with felony counts of identity theft because of their alleged use of fraudulent social security numbers to gain employment at the plant. Agriprocessors was the largest employer in the town of about 2000 people and has since declared bankruptcy.¹

Although the Postville case is exceptional for the amount of publicity it received, it has come to epitomize the new era of immigration enforcement in and beyond the United States. Immigration policing in the interior of the nation-state in general and workplace-targeted enforcement in particular have increased dramatically in the past 10 years in the United States, Canada, and Europe. Part of what makes the Postville and other similar cases so noteworthy is the fact that workplace raids and criminal prosecutions of employers directly threaten industry productivity. This signals a dramatic shift from past US immigration policing, which, historical variations notwithstanding, has targeted the geographic border areas, focused exclusively on unauthorized migrant workers rather than their employers, and thus consistently served to *bolster* capital accumulation in industry (Calavita 1989; Coleman 2007; Mitchell 2007; Purcell and Nevins 2005). Additionally, the leveling of criminal

charges against unauthorized migrants constitutes a dramatic intensification of the ways that immigration laws are interpreted and a radical departure from the “catch-and-release” performance that historically has posed relatively little hardship to either employers or workers.

Additionally, the unauthorized workers in the Postville case are notably different from the temporary, solitary male migrant that tends to dominate the public imagination of what constitutes a migrant worker. Many of the foreign-born employees lived in the United States on a year-round basis with their families and called Postville their home for an extended period. This “settling out” of unauthorized migrant families is not unique to this case and is a growing phenomenon, particularly as the militarization at the US–Mexico border compels migrant workers to remain in the US year round and to bring their families to the US rather than returning home seasonally to visit them (Angelucci 2005; Massey, Durand and Malone 2003; Reyes 2004). Yet critical scholars have long argued that part of what made the preponderance of foreign-born workers in certain labor markets—such as harvest work in agriculture—so politically palatable to the US public is the fact that immigration and border policies largely displaced the costs of the reproduction of labor (ie medical care and education) to migrants’ sending communities to which they regularly return (Chavez 2001; Mitchell 2007).

In this paper, our goal is to identify the ways in which these new trends—the increasing policing of the workplace and the growing year-round presence of unauthorized migrant workers and their families—affect the state’s ability to protect industry and to ensure its own political legitimacy in the eyes of the public. To do so, we examine the ways that unauthorized migrant workers and their family members experience the process of being enforced as “illegal” bodies. We conceptualize the embodied experience of living and working in the USA without legal authorization both as partially determined by shifting immigration policing practices and also as a lens through which to understand the degree to which the state’s enforcement practices serve “productive” ends. Thus, the question that drives our analysis is: How do changing immigration enforcement practices shape migrants’ experience of “illegality”, and how do these embodied experiences of “illegality” shape the “productivity” of immigration policy?

We investigate this question in the context of Wisconsin’s dairy industry, where Latino immigrant workers have rapidly grown to account for nearly half of the year-round, full-time hired labor force in just the past 10 years. Through analyzing the results of our structured survey of dairy workers and employers and ethnographic interviews with migrant workers, we find that escalations in immigration policing create a pervasive fear of deportation within migrant communities in the USA and do relatively little to threaten their employers’ or industry productivity. Migrant dairy workers’ palpable sense of “deportability” articulates with the specific structure of dairy work in ways that make the economically and politically “ideal” migrant: compliant at work and invisible otherwise. Although immigration policies and migration patterns in some ways have changed qualitatively, immigration policy enforcement practices continue to serve the productive (and oppressive) goals of accumulation and legitimization very well.

Immigration Policy Enforcement: Producing and Managing Illegality

For the undocumented, the displaced, and the stateless, for people of color with tenuous legal status, the border is everywhere (Mountz 2004:342).

Unauthorized Migrants in the United States

Millions of international migrants live and work without legal status by overstaying their legal visas or crossing borders without legal authorization. Like many immigrants elsewhere around the world, the “illegal” migrants in our study do not have legal authorization to live or to work in the United States. Fifty-nine percent of the estimated 12 million unauthorized migrants living in the USA are from Mexico, and citizens from other Latin American countries constitute another 22% (Passel and Cohn 2009:i).

The strong presence of unauthorized migrants from Latin America in the USA is a consequence of the fact that many factors compel migration between the two countries at the same time that the opportunities for legal migration have become increasingly restricted. Unchecked direct recruitment of migrant workers by US agribusinesses since the early 1900s and the US Bracero Program (1942–1964) effectively institutionalized mass migration of temporary workers from Mexico to the USA (Calavita 1992; De Genova 2005). Migration has continued to grow between Mexico, Central America, and the USA, as migrants’ social networks developed, the US 1986 *Immigration Reform and Control Act’s* legalization provisions stimulated further unauthorized migration among migrants hoping to legalize, NAFTA and other neoliberal trade policies have destabilized life for many people in Mexico and in turn prompted outmigration from rural Mexico in search of economic survival, and residents of Central American countries fled political violence and sought refugee status in the USA.

At the same time that these migrant networks and drivers have proliferated and accelerated, US immigration laws of 1965 and subsequent reforms severely and increasingly restricted the opportunities for migrating legally into the USA—including both temporary work visas and permanent residency, especially for people from Mexico and elsewhere in the Western Hemisphere (De Genova 2005). Millions of people migrate without legal authorization because it “may be the best alternative from a very limited set of options available to improve their lives” or even to simply survive (Ruhs and Anderson 2007:4).

Changes in Immigration Enforcement Practices

States respond to migration in complex and often contradictory ways. As Mountz reminds us, “the state’ does not contain or enact a unified series of agendas, objectives, or actors. State practices encompass, rather, a series of diverse interests and bodies that are often themselves in conflict” (2004:325). Accordingly, at the same time that the USA, Canada, and the European Union fund numerous programs to integrate immigrants into their receiving communities, promote diversity, present themselves as welcoming havens for political refugees, and liberalize economically,

they also have dramatically intensified their policing of suspected unauthorized migrants at the edges and interiors of the nation-state (Andreas and Nadelmann 2006; Werbner 2002).

The USA has increasingly “militarized” the border it shares with Mexico in the past 20 years, a responsibility that is now administered by the Department of Homeland Security (DHS) and legitimized by the post-9/11 flurry of institution-building conducted in the name of the “war on terror”. These changes include the massive increases in Border Patrol personnel (from around 3000 agents in 1985 to over 20,000 in 2009), expansion of various walls (now covering 520 miles of the border), expanded investment in traditional border technologies (trucks, helicopters, night-vision equipment), as well as a new generation of surveillance technologies (unmanned aircraft, underground sensors) that cover the landscape (Cornelius 2001; DHS 2009a). The selective hardening of the border at several high-traffic urban border crossings in the 1990s through Operations Gatekeeper and Hold-the-Line effectively pushed migrants to cross into the USA through remote deserts and mountains. As Andreas (2001), Cornelius (2001), and others have shown, these new geographies of border enforcement directly generated a more organized, sophisticated, expensive, and violent migrant smuggling industry, which, Andreas argues, reciprocally justifies and propels DHS’s policing efforts.

Recently, DHS’s Immigration and Customs Enforcement (ICE) branch has escalated its immigration policing beyond the border zone itself. ICE’s funding for residential arrests of immigration violators skyrocketed from \$9 million in 2003 to \$218 million by 2008 (Mendelson, Strom and Wishnie 2009). At the same time, ICE’s worksite arrests for immigration violations increased seven-fold between 2004 and 2008 (DHS 2009b).

Though immigration policing was historically a responsibility of the US federal government, DHS has recently begun to train and certify local law enforcement agencies to help enforce federal immigration policy (Coleman 2009; Varsanyi 2008a, 2008b). While local law enforcers widely and informally assist in immigration policing, the most widely known form of such devolution of authority is referred to as the “287(g)” program. Through the 287(g) program, local and state law enforcement agencies can become authorized to enforce federal immigration law. As of December 2009, 66 local and state law enforcement agencies have 287(g) agreements with ICE (up from five in 2005), and at least that many more have applied and are awaiting approval (Coleman 2009:908; DHS 2010). By “multipl[y]ing the number of interior spaces subject to immigration oversight ... [and] prompt[ing] a generalization in the forms that immigration enforcement takes”, such devolution deliberately increases vulnerability, uncertainty, and “insecurity” in migrants’ daily lives (Coleman 2009:911). Arizona’s 2010 law directing local law enforcement agencies to enforce federal immigration law and requiring apparent immigrants to carry documentation at all times, however draconian and perhaps unconstitutional, is best understood as yet one more law that will increase the insecurity and vulnerability of Mexicans and other Latinos (Archibold 2010).

For unauthorized immigrants, the consequences of being apprehended for immigration violation have also increased in recent years. Unauthorized migrants

face a greater risk of being “removed” from the USA and of being charged with criminal rather than civil violations (Coleman 2007). Persons charged with immigration violations face increasingly long waits to work through the immigration judicial system, which is currently burdened by a tremendous backlog of cases and a decreasing amount of time that judges can spend on each case (Heath 2009; Lustig et al 2008). Immigration courts’ overwhelming workloads stem in part from the fact that their resources have not kept pace with the resources being devoted to immigration enforcement. For example, the ratio between Border Patrol agents and immigration judges has more than doubled in the last decade, from 40:1 in 1999 to 81:1 in 2008 (TRAC 2009). Because of these changes, detention of unauthorized immigrants is now at record levels; ICE boasts that it now “operates the largest detention system in the country” (DHS 2009c:6).

Scholars of US–Mexico border policy have pointed to a number of factors that have driven or at least legitimized these changes. For example, Joe Nevins attributes increases in US–Mexico border enforcement to public anxieties that escalated in the context of high-profile arrivals of refugees from Haiti and China, recurring economic downturns in the USA, several violent events by suspected unauthorized immigrants, and Bill Clinton’s anti-immigrant politicking as part of his efforts to win California votes in his bid for the US presidency (Nevins 2002, 2005). Mat Coleman (2009) emphasizes the role played by federal lawmakers, who, in the wake of the 9/11 terrorist attacks, effectively increased anti-immigrant sentiment and fear of “invasions” through “porous” borders by publicly “suturing immigration enforcement to the war on terror” (907). Andreas and Nadelmann (2006) argue the increases in border securitization in the USA and Europe in the wake of 9/11 and the subsequent bombings in Madrid and London—the “further collapsing of distinctions between internal and external security”—are best understood as a “rapid acceleration and deepening of preexisting trends” (189) rather than a qualitatively new phenomenon. Generalizing beyond these historical specificities, Ruhs and Anderson (2007:6) explain that a wide range of factors shape states’ approaches to policing and managing unauthorized migrants, including public opinion on immigration and surveillance, industry lobbying, judiciary constraints, and human rights frameworks.

These accelerations in immigration enforcements have not been universally embraced. Local law enforcement officials widely reject the value of enforcing federal immigration law, expressing concerns about costs and the fact that performing immigration enforcement will likely make unauthorized residents and their family members hesitant to call police when in need of help or to report a crime (Varsanyi 2008b). Additionally, the US Government Accountability Office (GAO) and the Office of Inspector General (OIG) have recently criticized the 287(g) program’s lack of controls and documentation (GAO 2009; OIG 2010), and ICE currently is the subject of numerous lawsuits with allegations of wrongful arrest, illegal search and seizure, racial profiling, and unreasonable entry (Mendelson, Strom and Wishnie 2009). Although ICE’s mission is to find and arrest dangerous fugitives, an increasing percentage of people it arrests in residential raids are undocumented immigrants who have no criminal record or reason to be considered “dangerous” (Mendelson, Strom and Wishnie 2009). Human rights observers have raised a number of concerns

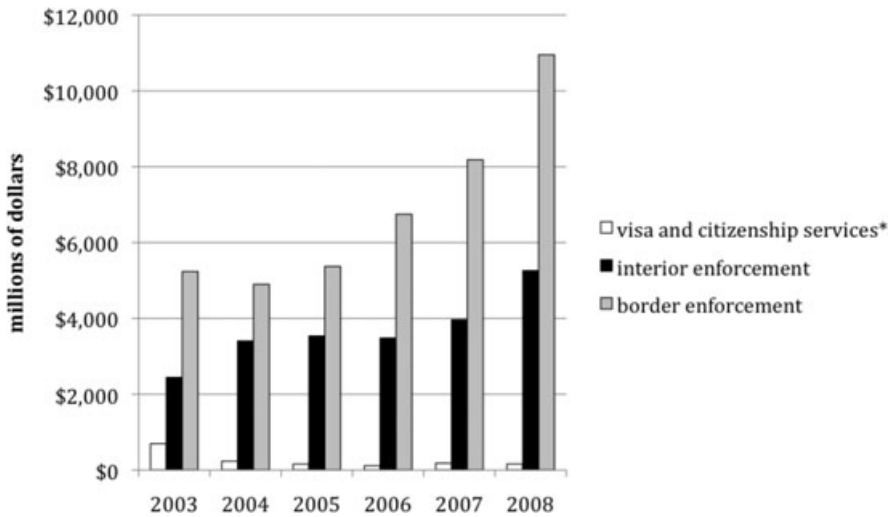


Figure 1: Net federal immigration appropriations (using data from Shahani and Greene 2009:46). Note: Visa and citizenship services offered through the Citizenship and Immigration Services have been primarily and increasingly funded by service fees paid by applicants, which explains in part the relatively small and decreasing appropriations compared with enforcement

about ICE's detention centers and processing protocol, finding that suspected immigration violators are often detained for extraordinarily long periods, denied due process, imprisoned in inhumane conditions, and released arbitrarily (Clemente 2009; United Nations 2008). DHS's own recent investigation admitted that ICE detention facilities' reliance on correctional incarceration standards imposes undue restrictions on most of its detainees, who pose low risks (DHS 2009c).

Moreover, scholars have shown that the increasingly militarized border does not actually achieve its purported objective of reducing migration into the USA. Researchers have found that migrants' attitudes about the relative costs and dangers of migration have no statistically significant effect on their decisions about whether or not to migrate (Cornelius and Lewis 2007). Increasing border enforcement practices in recent years apparently have no effect on the ability of migrants to successfully cross the border, with the percentage of migrants who successfully cross the border hovering near 100% since the mid 1990s (Cornelius and Salehyan 2007). As a result, migration across the US–Mexico border has shifted to less visible spaces (notably, remote mountains and deserts), and migrants are increasingly dependent on exploitative smugglers (Andreas 2001). Consequently, migration has become more dangerous, as evidenced by the hundreds of migrants who die in the deserts and mountains of the US–Mexico border zone every year and the estimate that such deaths doubled between 1995 and 2005 (GAO 2006; see also Cornelius 2001; Eschbach et al 1999; Mitchell 2001, 2007; Nevins 2008).

At the same time that both border and interior enforcement increased, funding for immigration services—the institutions that process applications for work visas, legal residency, and citizenship—declined (see Figure 1). Consequently, legal pathways that were already limited became even more cumbersome, and life for unauthorized

immigrants became more tenuous and dangerous. All the while, the factors that drive migration have not declined.

Productive Functions of Immigration Enforcement

Critical geographers have played a crucial role in identifying how these increasingly militarized and spatially expanded immigration policy enforcement practices are not just oppressive but also tremendously “productive” in that they serve two key functions of the state: ensuring capital accumulation in industry and maintaining the political legitimacy of the state in the eyes of the public. Much of this research has focused on the realm of agriculture, where scholars have shown how US immigration and labor policies have protected and expanded “capital’s capacity to organize labor as it sees fit” (Mann 2001:70) by generating an oversupply of workers, limiting those workers’ rights and mobility, suppressing union organizing, pushing down agricultural wages, creating lasting migration networks, enabling growers to industrialize their farms into production systems that required large numbers of workers for short periods of time, and deepening workers’ vulnerability and thus exploitability (Andreas 2000; De Genova 2005; Mann 2001; McWilliams [1939] 1999; Mitchell 1996, 2001, 2007; Nevins 2002; Purcell and Nevins 2005). The US immigration enforcement state has more recently created a new sector of capital accumulation through justifying and funding the “migrant detention industrial complex”, where municipal jails, state prisons, and private prison firms profit from carrying out the overwhelming majority of immigrant detention (Kerwin and Lin 2009; Welsh 2002). Immigration and labor policies that enable and compel foreign workers to return to their home countries seasonally further protect capital accumulation by displacing the costs of reproducing labor to other places geographically removed from the territory of the nation, thereby absolving both industry and the state of the task of supporting those reproductive costs (Mitchell 2007).

Additionally, these policies have also contributed to the state’s quest for political legitimacy by staging a performance of hardening the actual borders. Such “border games” calm public concerns about the threat migrants pose to national “security” and public services such as health care and education (Andreas 2000; Coleman 2005, 2007, 2009; Massey, Durand and Malone 2003; Nevins 2002). Purcell and Nevins emphasize the cultural project at work here, arguing that the increasingly militarized border zone serves to uphold the appearance of legitimacy and control over “the threat immigrants posed to a nationalist, racialized, and territorial notion of ethno-cultural stability” (Purcell and Nevins 2005:229).

The ability of ever-shifting immigration enforcement to serve productive functions is, of course, not unique to the USA and its relationship with Mexico. In addition to Mountz’s (2004) work on Chinese refugees seeking asylum in Canada, Ruhs and Anderson (2007) critically interrogate the political economy of immigration enforcement and policy in the case of Eastern European worker migration to the UK (Ruhs and Anderson 2007), Samers (2004) examines such changes in the European Union, and Andreas and Nadelmann (2006) characterize the global nature of these situated tensions.

Two recent changes seem to challenge immigration enforcement's productive contributions to capital accumulation and political legitimacy. First, workplace raids and criminal prosecutions of employers have increased in the past few years, a dramatic break from previous enforcement that was targeted primarily in the geographic border areas and focused exclusively on unauthorized migrants rather than their employers (Calavita 1989; Coleman 2007). Second, many migrants deviate from the seasonal return migration pattern that has historically characterized work in industries heavily reliant on migrant labor, such as agriculture and forestry. Specifically, the militarization at the border increasingly compels migrant workers to remain in the USA year-round and to bring their families to the USA rather than returning home seasonally to visit them (Angelucci 2005; Massey, Durand and Malone 2003; Reyes 2004). Additionally, some labor markets that have become served by unauthorized immigrant workers in recent years are year-round, in contrast to the seasonal labor markets typically analyzed by critical geographers. To what extent do these new trends—increasing policing of the workplace and the growing year-round presence of unauthorized migrant workers and their families—affect the state's objectives of capital accumulation and political legitimization?

To answer this question, we draw on a recent body of scholarship that argues that, to understand the impacts of immigration enforcement, we must examine the processes through which "illegality" is produced and how migrants themselves actually experience "illegality" (Coutin 2000; De Genova 2005). Scholars of "illegality" view the lack of legal status as having consequences that are neither static nor given, identify the ways that unauthorized migrants experience the ever-shifting and variable practices by state institutions, and emphasize the need to study rather than assume its "nature, origins, processes, perceptions, experiences and impacts" (Ruhs and Anderson 2007:1). Drawing implicitly and explicitly on a Foucauldian notion of power, these scholars direct our attention to the diffuse, often oppressive, and embodied work of state power in everyday life.

Accordingly, in this paper, we examine how recent escalations in immigration enforcement shape migrants' experience of "illegality", and we reflect upon that analysis to discuss the degree to which immigration policies and their associated enforcement practices serve not only oppressive outcomes but also the productive ends described above. We follow Mountz (2004) and Coutin (2000) in their attention to the daily, lived experience of immigration policing. This attention to the embodiment of immigration policing "reveals processes, relationships, and experiences otherwise obscured" by national and global scale analysis (Mountz 2004:325). We examine a group of migrant workers' embodied experiences of *being enforced* as "illegal" bodies. This perspective of migrants' experiences of "illegality" enables us to illustrate how the "active deployment of insecurity" (Coleman 2009:905) works out on the ground in migrants' lives, and how, in turn, those changes produce a specific form of marginality (Wacquant 2008; or "precarity" per Waite 2009) that De Genova refers to as "deportability" that shapes the "productive" functions of immigration policing. We take on this task through a case study of migrant dairy farm workers in Wisconsin. Working year-round and full-time, accompanied by their families, often living in the USA without legal

authorization, and returning to their home countries very rarely, they constitute an excellent case for examining “illegality” at work and the impacts of a new era of immigration enforcement.

Research Methods

In early 2008, we conducted a survey of dairy farmers ($n = 83$) throughout Wisconsin and many of their non-family employees (103 US-born workers and 270 immigrant workers). The surveys were designed to gather basic data about dairy labor force demographics, wages and other benefits, the organization of work on dairy farms, worker aspirations, and for immigrant workers, their basic migration histories. To recruit the participants, we constructed a list of all dairy farms with at least 250 cows in Wisconsin’s four major dairy regions. (Knowing that large farms have larger numbers of hired workers, we deliberately oversampled large farms in order to survey as many immigrant workers as possible. Later, we weighted our findings by farm size in order to represent the entire dairy farm sector.) For each region, we contacted a random sample of farmers by telephone to request participation in our brief on-farm survey about hired labor issues. The on-farm visits were conducted by a bilingual, Latino researcher with personal experience in dairy farming, who conducted a brief (5–10 min), structured questionnaire in person with the farmer or lead manager and all employees working at the time of the visit. To increase participation and maximize our limited time and funding, the researcher conducted those surveys with workers while they were working. The immigrant worker participants were predominantly Latino (89% from Mexico and 8% from elsewhere in Latin America). Ninety-two percent of our immigrant survey participants were male; after adjusting our results for farm size (because the female workers tended to work on smaller farms), we estimate that 78% of all immigrant dairy workers in the state are male.

A number of ethical issues prevented us from asking our survey participants about legal status: we could not ensure a confidential survey environment, felt that we would not be able to trust the validity of their responses without having established any prior rapport with the participants, and did not want to increase workers’ or employers’ anxiety about immigration policing. Other surveys find that approximately 50% of Latino agricultural workers (who are almost exclusively from Mexico and Central America) are unauthorized (NAWS 2002), and we assume that this roughly characterizes the workers we surveyed. Such figures should be interpreted as rough estimates, since survey participants often underreport participation in illegal activity.

The survey researcher recruited a subset ($n = 12$) of the surveyed immigrant workers to participate in follow-up, in-depth interviews. Two bilingual interviewers conducted these interviews with the workers at a private setting of their choice (usually their homes). These interview participants included five women and seven men, and they represented a range of positions held on dairy farms (six milkers, two managers, and four feeders or other positions situated between milker and manager in the dairy farm workplace hierarchy). The interviewers did not directly ask the participants about legal status and avoided questions that could indirectly reveal it, both because we had not established significant prior rapport with the participants

and because we detected high levels of anxiety about immigration policing in the local areas. That said, eight of the 12 interview participants divulged their lack of legal status to us on their own volition (seven told us that they are unauthorized, and one entered the USA 25 years ago without authorization but did not clarify to us whether they gained legal status since then). Of the other four participants, two are here on “student” “J-1” visas, one has permanent resident status, and the other did not identify his legal status.

In this paper, we use the term “unauthorized” rather than “undocumented” to describe migrants without legal status, since they commonly work and live with forged identification documents in order to appear “legal” and thus conduct basic activities such as acquiring a job, paying taxes, opening a bank account, and renting housing. Many migrant workers believe that the paper trail of pay stubs and tax contributions may some day facilitate their bid for legal status. Also, generally we avoid the common term “illegal”, as that term does not point to the specific legal infraction committed but instead portrays the migrant as generally criminal in nature. All uncited quotations come from our surveys and interviews.

Hired Labor on Wisconsin Dairy Farms

Although milk production in Wisconsin (“America’s Dairyland”) has historically been predominated by tens of thousands of small-scale farms, the state’s dairy farms are declining in number and increasing in size. Over the past several decades, real milk prices have declined at the same time that real input costs have increased—creating a “cost-price squeeze” that compresses dairy farmer profit margins (Jackson-Smith and Barham 2000). Some dairy farmers react to these pressures by exiting the industry, shifting to lower cost production methods (eg grass-based dairying), or shifting to value-added production and marketing systems (eg certified organic). However, like farmers in other commodity sectors throughout the USA and elsewhere, the predominant survival strategy among Wisconsin’s dairy farmers includes expanding their herd size, modernizing their milking parlors, and intensifying productivity per animal (ie through increasing the frequency of milking each animal from two to three times per day; adopting feed supplements, growth hormones, and other technologies that boost milk production per animal; and routinely using antibiotics that facilitate intensified milking schedules and confinement systems; see Jackson-Smith and Barham 2000). This set of practices constitutes the hegemonic agricultural “modernization” model that has long dominated university research, university extension, industry organization messaging, and federal agricultural policies (Jackson-Smith and Barham 2000).

These structural trends have compelled farmers to increasingly rely on hired labor, especially to fill the routine, entry-level tasks like milking. In recent years, migrant workers from Latin America have increasingly filled these roles. Our 2008 survey of Wisconsin dairy farms indicates that migrants now constitute over 40% of all hired dairy employees (a proportion that increases with farm size); 88.5% of these migrant dairy workers are from Mexico, and most of the rest come from Central and South America. This reliance on migrant workers is a very new phenomenon in this industry; the dairy farmers we surveyed began hiring migrant workers, on average,

in 2000. This stands in contrast to vegetable farms in the Upper Midwest and California (where Latino migrants have worked seasonally since at least the 1930s) and the Midwest's meatpacking and food processing industries (which have relied on migrant workers throughout the twentieth century). This shift to Latino migrant workers on Wisconsin dairy farms has come at the same time that farm family sizes are decreasing, farm members increasingly seek off-farm work (especially to secure health insurance; Vogt et al 2001), and dairy farmers report difficulty finding US-born workers willing and able to consistently work night shifts, weekends, and holidays. At the same time that many dairy farmers need more employees and report have a difficult time finding "reliable" local help, they report that migrant workers regularly (ie at least weekly) directly come to farms looking for jobs and that current migrant employees recruit additional workers through familial and hometown networks. The significance of this demographic shift is evidenced by the fact that research reports from just 2000 noted an "absence of large pools of immigrant labor in the Upper Midwest" (Jackson-Smith and Barham 2000:21).

In contrast to the "sojourner" workers (seasonal, temporary, migratory, and solitary) that predominate critical scholars' studies of migrant agricultural workforces (eg McWilliams [1939] 1999; Mitchell 1996), dairy workers in Wisconsin represent a more settled and family-based group of relatively long-term residents. On average, migrant dairy workers have worked at their current job for 2.8 years (whereas positions in other agricultural commodity sectors often last only a few weeks or months). The migrant workers we surveyed have returned to their home country, on average, only once during their time in the USA (where the average time in the USA is 7.5 years), and fully 60% have never returned to their home country since first arriving in the USA. Of our migrant survey respondents, 63% are married, 86% of these married workers live with their spouse in Wisconsin, 68% have children, and 74% of those parents live with their children in Wisconsin.

This case study provides a timely opportunity to investigate whether and how the new era of immigration policing continues to fill the "productive" functions it served in the past, as well as to identify its associated material implications. Following Coutin (2000), De Genova (2005), and Ruhs and Anderson (2007), we analyze the ways that migrants experience "illegality" both within and beyond the workplace in Wisconsin—focusing on the "everyday spaces of immigration regulation" (Coleman 2009:907). We use this analysis as a lens through which to understand the productive (and oppressive) functions of immigration policing today. It is worth noting that Wisconsin is not a major focus of ICE's immigration enforcement actions. Although ICE does not maintain a comprehensive list of enforcement actions, we do have other ways of estimating relative degrees of immigration policing. For example, no Wisconsin law enforcement units have 287(g) agreements; only six of the 351 raids listed on Central Legal's "Comprehensive Raid List" for 2006–2007 occurred in Wisconsin; relatively few ICE arrests occur in Wisconsin; and, from 2007 to early 2010, only 4.4% of the total removals (the major category of deportations) by ICE's Office of Detention and Removal Operations (DRO) were handled by its Chicago and St Paul field offices (the two cities closest to Wisconsin) (Enninga and Conejos 2008; Montenegro 2010; Schriro 2009). Our findings therefore illuminate migrants' experiences of "illegality" in a relatively benign context, and we can assume that

migrants elsewhere experience “illegality” and “deportability” in more severe and presumably oppressive ways.

“Illegality” at Work, on the Farm and Beyond

Worker: Nine years. Same job. Same pay.

Interviewer: Is there any opportunity to get a different job there?

Worker: No. Those jobs are not for immigrants.

Although we did not ask our informants about their legal status, nearly all of our interview participants made clear that a pervasive sense of surveillance and fear of apprehension permeate the lives of unauthorized Latino migrants and their families and that this fear of immigration enforcement has escalated in recent years. One worker who has lived in the USA for 10 years elaborated about how Latinos in his area live in considerable fear of apprehension and deportation. Living in Minnesota but working across the state line in Wisconsin, this worker described several families he knows personally who have been arrested and await deportation proceedings, and he listed numerous workplace raids and other ICE activity he has heard about in his region:

Everything has gone well. Everything has been easy. Until now . . . Things are getting very difficult. The police that stop you ask for your Social Security number . . . Now the police are asking for papers before this becomes law. [The governor] wants to clean Minnesota of all Hispanics . . . We know we could lose everything, just like that.

Another worker similarly detailed the numerous raids he has heard about, the reports of racial profiling by local law enforcement who comply with federal immigration enforcement authorities, and the anxiety such stories generate within the Latino community:

Right now it is very difficult. On Monday or Tuesday, Immigration was around here in [a nearby city]. They went to a meatpacking plant, 40 miles or something away from here, but we know about it. [People we know] tell us, hey, Immigration is here. Do not go to Wal-Mart, do not go here. [Immigration] went to [a large meatpacking plant nearby]. They took away a lot of people. And they also took people who are in jail . . . And in [that city], [Immigration] wanted to use the police. So if they see me walking down the street, they can stop me. The police here are, yes, they are racist. Here they see a Latino and they come get you. Because Mexican equals no license . . . It is the same thing.

Migrants’ concerns about enforcement in the interior are tied intimately to their own experiences at the border. The immigrant dairy workers we interviewed, like many other unauthorized immigrants throughout the USA, describe the sacrifices and harrowing journeys that they made to cross the border without documentation. Along with the physical and emotional trauma of the migration, people arrive with immediate debts to the “coyotes” who smuggled them across the border (whose fees now cost \$3000–\$10,000 per person, depending on the distance traveled). Migrants’ stories of costly and terrifying border crossings underscore the financial and physical consequences of apprehension by law enforcement. This is illustrated in the following statement from an interview with two siblings who send their savings home to support their ailing mother’s medical bills:

When we came here it was really difficult to leave the family. It is so sad. Believe me, it is so sad . . . And then the uncertainty when you leave them, because they know how we come here. And they are very worried, full of sadness, because people die trying to get here. So they don't know how we are going to cross, if they're going to get us, if they're going to assault us. They don't know. We leave them saying, "Well, don't worry about it, we're going to be okay." But so many things can happen, and there are people that die, they get assaulted, they get killed. They are so many dangers you have to confront when you come here. It is very difficult. That's why we have to stay a good amount of time here. We have to take advantage of the time because it costs us so much to come here.

The stress and financial debt of the migration contribute to workers' willingness to work long hours, take few vacation days, and do monotonous work at low pay. As one worker stated, "We paid \$3000 to get across the border. I went to work to repay the money that they lent us so we could come here, because it takes a lot of money to come here. The most important thing was we had work, and we needed work." One worker explained that the cost of the border crossing prevents him from taking any days off or returning home to visit his child: "I can't afford to go back to Nicaragua (to visit) and I can't take that risk. It cost me too much just to get here."

Increasingly dangerous and expensive border crossings, as well as heightened risks and consequences of apprehension and deportation, effectively create workaholic migrants. Our survey found that immigrant dairy workers work 57 hours per week—a figure that represents the average of all full-time and part-time workers. Of the workers we interviewed, one noted that he had only taken one vacation (for 5 days) in 8 years. Two workers explained that one of the reasons they work such long hours and refuse to take any days off is because they need to pay off their debts to their smugglers, who have been increasing their interest rates over time. "You feel the weight of the debt. I want to work more hours a day, two hours more. The more, the better. The debt you owe and the interest make you think." Another worker explained that he works long hours because his wife cannot join him legally in the USA; he fills his time with work but laments the costs to his relationship with his wife and son: "If you are married, life is to be lived every day. You can't wait five years until they approve her residency so that she can come."

Migrant workers' "deportability" and the financial burdens associated with their lack of legal status may also help to explain the fact that migrant workers are clustered in the least desired jobs and shifts on dairy farms. Echoing the "new migrant divisions of labor" found by other scholars in other commodity sectors (eg Rogaly 2008, Wills et al 2010), over 60% of all immigrant workers we surveyed held entry-level positions—milking and pushing (scraping manure and bringing cows to the parlor for milking)—while only 16% of US-born worker reported this as their main job. The jobs of milker and pusher are routine tasks that receive lower pay than other dairy farm positions (average of \$9/hour, compared with \$10–12/hour, respectively; see Harrison, Lloyd and O'Kane 2009). Milking and pushing generally involve very monotonous work. Although most workers we interviewed emphasized that they enjoy working with animals, many noted the repetitive nature of their work. In the words of two of our interview participants:

Here is very monotonous. It is always the same, the same, the same, the same, the same. It is not very heavy but it is continuous. Eight hours of milking and at high speed. They milk 140–160 cows in an hour. This is fast. They only take four seconds to prepare the cow, and I think they spend four to five minutes per cow.

The work of a milker or is to milk all day, for 12 hours . . . It is the same animals every day. It's the same work every day. It's the same routine every day.

What makes these statements revealing is that these same individuals also described their (frustrated) efforts to learn new skills and take on additional responsibilities. In fact, 91% of the workers we surveyed said they want to advance and learn new skills like animal health care or machinery operation.

Immigrant workers also do the overwhelming majority of the work in the evening, overnight, and split shifts, when work is exclusively focused on the routine tasks associated with milking (see Harrison, Lloyd and O'Kane 2009). The split shifts can be particularly burdensome. One worker we interviewed puts in 70 hours per week and has only taken 3 days off in the past year; moreover, this worker's shifts are daily from 4:00 to 9:00 am and 4:00 to 9:00 pm (a milking schedule that maximizes the productivity per cow for this farm that milks its cows twice per day). With this schedule, given the time needed to bathe and eat, this worker can never get more than 5 h of sleep at a time.

The organization of work on dairy farms—notably, the combination of late shifts and long hours—makes it difficult for workers to attend English language classes and thus learn the language skills that could help them advance into higher-paying positions within the workplace. Nearly 100% of our immigrant worker survey respondents reported that they want to take English classes but are unable to do so; typical explanations in the survey setting included the fact that classes are offered at times that conflict with work or family responsibilities, the worker simply works too many hours per week, or that classes are located too far away.

At the same time, the pervasive fear of immigration enforcement reinforces these racialized divisions of labor. Two workers from Nicaragua who repeatedly emphasized their desires to learn English and participate in a high school equivalency program explained that they were simply too afraid to travel into town to attend classes, which limits their ability to move up in the workplace. Additionally, employers who know or suspect that their immigrant employees lack legal authorization to live in the USA may be unwilling to train and grant responsibilities to those workers, for fear that they may lose that "investment" if the worker moves away or is apprehended by law enforcement. One worker explained that the fear of immigration enforcement directly compels many workers to quietly accept exploitative work arrangements: "Many of us, because we are immigrants, we stay silent, and even more now because the situation is so serious, so you stay quiet, and they abuse you a lot."

The pervasive sense of surveillance also shapes the lives of immigrant workers and their families beyond the workplace. Four of the 12 workers we interviewed said their fear of being apprehended is so great that they only leave home to go to work and, twice per month, to buy groceries. Another worker stated, "Well, as long as we have work, we are fine. But if you're talking about immigration status, it is very

bad . . . I can't go out here. I can't walk around in peace." The inability to attend English language classes ultimately constrains immigrants' abilities to communicate in any daily activity, conduct business negotiations, defend themselves verbally, make friends, and share their experiences. Illustrating Coleman's argument that immigration enforcement in the interior of the USA "promote[s] socioeconomic turmoil on the ground" (2009:912), "illegality" manifests as a palpable "gaze of surveillance" (Stephen 2004) and a fear of using public space. Recent national changes in transportation law due to congressional legislation known as the "REAL ID Act" that have made it impossible for undocumented immigrant workers to get a driver's license further constrain unauthorized immigrants' abilities to move around safely in public. Noting his lack of drivers license and his fear of spending time in public, one worker lamented, "I bought a new truck and there it sits. I can't drive it. I'm paying for it . . . The truck is really beautiful but . . . I was able to drive it for only two weeks."

Migrants' fear of immigration enforcement is compounded by acts of surveillance stemming from the private sector. Several interview respondents report that other town residents highlight and interrogate migrants' presumed "illegality". One dairy worker noted, "In the restaurant where my wife works as a waitress, because of her skin color, she's been asked if she is illegal. Customers . . . asked her: 'Hey, are you legal or illegal?'"

The paralysis and isolation that unauthorized migrants and their families experience are, in turn, reinforced by the structure of work on dairy farms. For example, dairy farms' long work hours and the disproportionate reliance on immigrant workers for the late work shifts limits workers' ability to fully participate in activities that best accommodate people who work a typical workweek, such as church and sports leagues. In addition, workers often live on or very near the farms where they work, and these farms are often geographically isolated from towns and cities (and the associated social activities).

While the institutions of immigration enforcement function as decidedly oppressive structures in migrant families' lives, we recognize that "illegality" can also serve as a space for agency and collective organizing. Elsewhere in the USA, labor unions, hometown associations, and political organizing for immigration reform constitute three highly visible ways in which migrant workers and families collectively contest oppressive state institutions, challenge exploitative employment relationships, and redefine migrants' rights as transnational citizens [see Coutin (2000:41) for a discussion that situates unauthorized migrants' acts of agency within scholarship from legal studies and political philosophy on transnational citizenship]. Although we have not yet encountered any of these particular forms of political agency among Wisconsin dairy workers, the unauthorized migrants we interviewed made clear that they resist their "illegality" in other, less politically organized, more "everyday" ways. For example, many send their children to school, play in sports leagues, attend church, go to dances, report abusive employers, hire tutors to learn skills in their spare time, purchase houses, nurture career and personal ambitions, try to gain legal status, remit earnings back to their families and hometowns, volunteer their legal status to researchers in order to inform public debate about immigration politics, and help other migrants find employment and housing and

navigate border crossings. Some of these unauthorized individuals' practices are striking: one volunteers as an interpreter for the local police department, another hires a tutor to learn English in his evenings after working 12 h shifts, and another purchased a home.

Our study of migrant dairy workers illustrates many of the ways in which "illegality" works and thus provides a timely opportunity to examine whether and how immigration enforcement continues to serve the productive functions it has in the past. The pervasive "gaze of surveillance" heightens migrants' "illegality" and thus their own sense of "deportability". Although a fundamentally oppressive force in migrants' lives, it is through constructing and reinforcing "deportability"—this "protracted vulnerability in everyday life" (De Genova 2005:245)—that the state's institutions and practices of enforcement continue to productively contribute to the state's tasks of ensuring capital accumulation and maintaining political legitimacy in the eyes of the public. Contemporary patterns in immigration enforcement create the ideal, productive worker: the compliant workaholic. Rumors and the material consequences of enforcement generate a fear of enforcement that ripples across the landscape. This heightened "deportability" has a disciplining effect, as that it creates a large pool of workers willing to remain in entry-level positions for years, earn entry-level pay, work very long hours, and take few days off from work. The structure of work on dairy farms intersects with "deportability" in ways that increase the ability of immigrants to be exploited and to self-exploit, thus increasing business productivity and profits.

Moreover, employers bear relatively little of the legal, social, and economic burden of enforcement. Worksite enforcement has been heavily concentrated on catching and prosecuting workers: in 2007 and 2008 (the only years for which such data are available), supervisors accounted for only 2% of all worksite arrests (DHS 2009b). Thus, the dramatic rise of workplace raids actually continues to assist the accumulation of capital within industry, since such raids overwhelmingly burden workers but not their employers.

Additionally, to the extent that migrant families' economic and legal vulnerabilities compel them to reduce their use of social services and public space, the costs of reproducing labor—although geographically situated *within* the USA—are "fixed" in the bodies and lives of the migrants themselves. Thus, the relative invisibility of migrant worker families ensures that the state's political legitimacy will not be threatened by the fact that the reproduction of labor has not been physically displaced to other countries (at least in the short term). Many of unauthorized migrants' costs of reproduction that are not fully displaced (eg sending their children to local schools in the USA, or using health care services in times of need) are at least partially offset by their contributions to such services through sales taxes and payroll taxes (which they cannot recover as legal residents and citizens do).

Moreover, immigration enforcement practices (eg raids and border militarization) continue to provide a performance of control, thus further contributing to political legitimacy of the state in the eyes of the public. At the same time, the state gains further political legitimacy by promoting immigrant assimilation discursively and

funding associated educational and assistance programs. Although government discourse about expectations of assimilation stands in sharp contrast to migrants' experiences of living "underground" (as Werbner (2002) and Mountz (2004) have noted in UK and Canadian contexts, respectively), the burdens of those contradictions are shouldered solely by the migrants themselves.

Conclusion

In contrast to popular claims that the US–Mexico border is "out of control", our study confirms that US immigration law actually continues to function very productively. It does so precisely by disciplining and regulating migrants in a qualitative manner—by sustaining and deepening migrants' condition of deportability—rather than perfectly controlling the quantitative supply of bodies.

Fully understanding the "work" of immigration policing requires that we look at dynamics within and beyond the workplace—to the ways in which those realms interact dynamically with each other. The pervasive threat of immigration policing *disciplines* migrants in ways that enable the "ideal" worker to be created: the compliant workaholic. Though labor relations are not the sole determinant of the organization of work on farms, the institutional disciplining of workers enables work to be organized in particular (and particularly profitable) ways. This construction of the ideal worker, plus the fact that the burden of enforcement is borne almost entirely by workers (rather than employers), together ensure that enforcement practices assist the state's need to promote capital accumulation. At the same time, the state's ever-expanding policing practices give the appearance of "doing something" about "the immigrant problem", and, to the extent that they compel workers to keep a low public profile, they maintain the political legitimacy of the state in the eyes of the public.

Thus, the *oppressive* nature of these enforcement practices plays a major role in their *productive* work of contributing to the state's tasks of ensuring capital accumulation and garnering political legitimacy. Note that both the oppressive and productive machinations of power here function in a decidedly Foucauldian way: not tethered to laws or policies or specific state actors but operating pervasively through memory of dangerous and expensive crossings, as *anticipation* of apprehension and deportation, and through expectations about the associated burdens.

The specific vulnerabilities that immigrants experience constrain their abilities to seek legal protections and the ability of social service providers to track, understand, and treat issues that affect all workers in and beyond the workplace, such as health and safety issues (like pesticide exposure and ergonomic injuries), crime, physical abuse, and economic exploitation. The reader should recall that our findings should be interpreted as likely *under*-representing the oppressive nature of "illegality" experienced by migrants elsewhere in the USA characterized by more concerted levels of enforcement activity, since Wisconsin is not a major focus of ICE's immigration enforcement actions.

Our analysis suggests the need for further research in several directions. First, the workers we interviewed made some surprising comments that cast doubt on the widespread assumption that small farms are inherently more socially just than large ones. Specifically, employees of large farms noted having opportunities to learn new

skills, take on desired responsibilities, and trade shifts with coworkers to cover illness or family obligations. These findings suggest the need for research that directly studies worker experiences and preferences (rather than assuming that farm scale is a good proxy for social justice).

Second, it must be noted that increasingly pervasive immigration enforcement practices include the rise of private, non-state activities. In many ways, everyday citizens, nativist bureaucrats, and overzealous law enforcers take immigration law enforcement into their own hands (Romero 2006). A recent and shocking example is the website BlueServo.net that enables and encourages viewers anywhere to watch certain border locations and report suspicious activity (BlueServo 2009). In a recent CNN story about the website, one viewer noted, "It's no different than watching 'Everybody Loves Raymond' reruns" (Sutter 2009). Further research is needed to identify the "structural violence" of increasingly normalized private sector immigration policing, as well as the "symbolic violence" of common narratives that naturalize and legitimize that oppression (Nevins 2005).

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Endnote

¹ For a full history of the Postville raid and its consequences see the *Des Moines Register's* archive of this story, including a detailed list of all detained in the raid (http://data.desmoinesregister.com/results/index.php?info=postville_detainees)

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