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“As Good As It Gets”[1]: Undocumented Latino Day Laborers Negotiating Discrimination in San Francisco and Berkeley, California, USA

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Abstract

Undocumented Latino day laborers in the United States are vulnerable to being arrested and expelled at any time. This social fact shapes their everyday lives in terms of actions taken and strategies deployed to mitigate being confronted, profiled, and possibly incarcerated and deported. While perceptions of threat and bouts of discrimination are routine among undocumented Latino day laborers, their specific nature vary according to multiple social factors and structural forces that differ significantly from locale to locale. The experience of discrimination is often tacitly negotiated through perceptions, decisions, and actions toward avoiding or moderating its ill effects. This essay examines urban undocumented Latino day laborers over a variety of sites in the greater San Francisco Bay Area, which, compared to many metropolitan areas in the U.S. is “as good as it gets” in terms of being socially tolerated and relatively safe from persecution. Nonetheless, tacit negotiations are necessary to withstand or overcome challenges presented by idiosyncratic and ever changing global, national/state, and local dynamics of discrimination. [undocumented Latino laborers, social exclusion, discrimination, tacit negotiation]

Introduction

For undocumented Latino day laborers in the United States, the challenge of securing a steady income, a stable living situation, and the means to satisfy basic necessities while saving enough money to send back home to loved ones, is a constant trial. The aim of this article is to map the multiple challenges that undocumented workers experience and contend with on a daily basis. These daily challenges are enveloped in a broader context of attacks on one’s personhood in the form of ordained statuses of legitimacy/illegitimacy and are manifest in daily life as a constant barrage of questions, misgivings, and suspicions by compatriots and U.S. citizens. Indeed any act an undocumented person takes that diverges

[1]The statement “as good as it gets” came from a lively exchange with a fellow academic colleague while contrasting varied state and municipal policies and treatment of undocumented Latinos. How undocumented Latinos are regarded and handled in Tucson, Arizona as compared to the San Francisco Bay Area, it was agreed, that the latter region is more salutary. And while the conditions and circumstances the undocumented contend with in Tucson and the San Francisco Bay remain difficult and demanding, the bay area is “as good as it gets” (Linda Green 2012, personal communication).

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from dominant socio-cultural norms, or appears to take advantage of public aid or resources intended for bona fide citizens opens Latino day laborers to suspicion, mistrust, and disdain (Willen 2012). Worse still, undocumented day laborers are often viewed as criminal for having entered the U.S. extra-legally. All of this contributes to a general social and emotional climate that is harmful and scars (Quesada 2011a). As a 48 year old Mexican day laborer who has been in the U.S. over 20 years said,

> "…the way I see it, day laborers are a very vulnerable group right now and we are very forgotten about. People talk [negatively] about us, we show up in the papers, we show up on the TV, and we are told off…but really, no one has looked at why we are here. A lot of times we're made fun of…it's like where can I go!?!"

The challenges Latino day laborers face are not only lived as privations and inconveniences, but as persistent personal doubts, impediments, and endless complications they must relentlessly contend with every day. It is not surprising that such adversity shapes their subjectivities and can lead to existential discontent (Jackson 2011) or fatalism (Martin-Baro 1994). However, more often these adversities are met through prodigious efforts to tolerate, persist, and make the best of harsh living conditions. In part this is a consequence of the relentless onslaught of material and symbolic attacks that have to be confronted.

The set of adversities and hardships that undocumented Latinos face in the U.S. are quite varied, from the daily search for work to dealing with the U.S. immigration system (Heyman1998; De Genova 2002). In San Francisco and Berkeley, California where the research for this article was conducted, life conditions are much more favorable for the undocumented relative to official state antipathy in places like Arizona and Alabama where services are denied and such simple matters as renting to the undocumented is deemed illegal (Sumber 2009). San Francisco and Berkeley are "Sanctuary Cities" (Coutin 1993; Mancini 2013), with socially tolerant populations and unaggressive police as compared to other cities in the U.S.. Hence, given that these locales are as good as it gets for undocumented Latino migrants, it is worthwhile examining what they contend with in a liberal setting.

Discrimination is a daily challenge for Latino day laborers. These experiences can be subtle, slight, barely discernible, and other times readily apparent. Experiences of discrimination draw attention to the body and mark the consciousness of the undocumented. This essay presents a multi-level analysis of discrimination aimed at Latino day laborers, including their responses and analyses, based on an ongoing social ecological study of the living and working conditions of day laborers in San Francisco and Berkeley, California. After describing our methods, we briefly examine discrimination, the capacities of undocumented Latino day laborers to negotiate it, and lived experiences of discrimination in two California cities. For heuristic reasons, we discuss discrimination as it is produced in global, national/ state and local contexts, but with an understanding that these levels intersect, permitting various forms of discrimination to be simultaneously experienced and embodied.

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Methods

This article builds from an ongoing mixed method study that seeks to describe and explain socio-cultural factors and forces that place Latino migrant day laborers at risk for alcohol use, Human Immunodeficiency Virus (HIV) infection and related health problems (see Organista et. al. 2012). This U.S. National Institute of Alcohol Abuse and Alcoholism (NIAAA) funded study aims to identify relations between social, structural, and environmental factors and forces (e.g., urban, living, working conditions, legal status) and individual factors (i.e., use of alcohol, social embeddedness, psychological distress) in relation to sexual and general health outcomes.[3] This article is based on the qualitative medical anthropological portion of the study, which involves ethnographically describing the broader context and multitude of social structural factors Latino (documented and undocumented) day laborers contend with in San Francisco and Berkeley, California. Data were collected between 2010 and 2012, and represents a sample of 51 Latino migrant day laborers who were contacted through an opportunistic recruitment approach, and participated in lengthy open ended interviews. The interviews were designed to maximize gathering the "emic" perspective (Harris 1976)—insider point of view-- of Latino day laborer life worlds. With informed consent, interviews were digitally tape-recorded, transcribed, translated, coded and stored onto a secure computer database. A qualitative software program, Atlas TI, is used to store and organize the body of data accessible for systematic data analysis.

A definitive definition of day labor is problematic for numerous reasons (Valenzuela et al. 2006). For the purpose of our study we deployed a definition of day laborer as someone who has worked three or more jobs within a six month period, with no one job lasting more than two months. The study also deployed a quasi-community based participatory research approach (Minkler and Wallerstein 2008), in which researchers partnered with three non-profit agencies that work with Latino day laborers. These agencies, two in San Francisco and one in Berkeley, each provide a different mix of social services including advocacy, work opportunities, general health, mental health, substance use, shelter, and legal services. They broker relations between Latino day laborers and neighbors, local police, employers, and city services. The degree to which these agencies mitigate day laborers' distress is also a focus of the ongoing study.

The social construction of *desesperacion*

The challenges and contentions Latino day laborers deal with occur concurrently at multiple levels of experience that are frequently denied or minimized by the day laborers themselves. Indeed the cumulative consequence of experiencing discrimination on multiple levels has the potential of driving day laborers to despair (Huffman et al 2012; Larchanche 2012). Latino day laborers in San Francisco and Berkeley frequently use the term *desesperación* (desperation) to refer to a variety of angst-ridden feelings and situations such as not having worked in weeks, not having seen one's family, or being without money to send home or

[3]This article is based on data derived from a four year NIH/NIAAA R01 study grant, *Structural-Environmental Factors, Alcohol, and HIV Risk in Latino Migrant Laborers* (5R01AA017592-02), under the direction of the principal investigator, Dr. Kurt Organista, University of California, Berkeley.

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support oneself (Organista et al. 2012, 2006). Whether *desesperación* is a mix of depression and anxiety, a culture bound syndrome (Bayles and Katerndahl 2009), an idiom of culturally specific distress, indeed embodied distress (Finkler 1989), it is nonetheless a common refrain for expressing the discord in one's life, how one feels, and even how one falls into vices such as problem drinking, sexual risk taking, arguments, and fights, etc.

Feelings of desperation among undocumented Latino day laborers are irrevocably linked to being an immigrant and experiencing discrimination, conjoining internalized unease with externalized stressors. There is no question that the experience of being unfairly treated is associated with poor mental health, especially for people of color (Finch, Kolody, and Vega 2000). Although there is some speculation that the association between discrimination and mental health for immigrants may be stronger for those who have lived in the U.S. longer than for more recent arrivals (Gee et al. 2006: 1824); the added dimension of being undocumented is a significant stressor (Finch and Vega 2003), although its singular contribution to mental health calls for further study (Sullivan and Rehm 2005). Some researchers who examine the effect of legal status on mental health use the term "acculturative stress" (Arbona, Olvera, Rodriguez, Hagan, Linares, and Wiesner 2010; Finch and Vega 2003), and refer to a host of stressors: separation from family and friends, learning a new language and cultural system, difficulties related to undesirable and unstable living and working conditions, themes of failure in one's country of origin, dangerous border crossings, limited resources, restricted mobility, stigma/blame, marginalization/isolation, fear and fear-based behavior, stress and depression (Sullivan and Rehm 2005: 249; Finch and Vega 2003). The means to alleviate these stressors are undermined by the 1998 Health Care Reform Act and the 2010 Health Care Reform Act which render the undocumented ineligible for health care except for emergency care (Ruiz-Beltran and Kaman 2001; Quesada 2011a). The popular rhetoric that undocumented Latinos are undeserving because their immigrant status is the result of lawbreaking "in both moral and judicial terms" (Viladrich 2012: 823; Cole 2009) further produces feelings of distress for undocumented immigrants. Given this social climate of restrictive immigration legislation and threats of deportation, it is no wonder that undocumented Latino immigrants experience high levels of "acculturative stress" in their daily lives (Arbona, et al 2010:379).

However, more often than not a full accounting of the multiple sources of discrimination is rarely made or fully acknowledged by undocumented day laborers and others. When discussions of discrimination are shared by day laborers, their accounts vacillate along a continuum of "informed cosmopolitanism" to reproduced "naïve localism" (Reichman 2011), and contribute to framing narratives[4] that reflect dominant discourses of deservingness (Viladrich 2012; Willen 2007, 2012). Undocumented Latino migrants' narratives are shaped by stories and rationales that "fit into an overarching neoliberal paradigm that rewards individual responsibility and self-sufficiency" (Viladrich 2012: 827). Self-censorship, making light of, or denial are often operative, with the latter following a logic that avoids reflection on all the problems one must face. For example, a 36 year old

[4]Framing refers to "conceptual structures that organize discourses and assemble narratives amid patterns of selection and valuation' (Viladrich 2012: 827). Immigrant discourses of deservingness are usually framed to regard the undocumented according to legal, economic, political and cultural considerations that narrow rather than enlarge the civil and human rights of immigrants.

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Honduran man who has been in the U.S. since 2000 described how he deals with the stress of being on the street in the following way:

> I have felt that stress hits you when you're upset, that you live thinking about things that you had in your country, think about things that you do not have…that they haven't given you money, and all that….. And you feel—depressed, of course, and so that's the stress …in those same thoughts. Because if your thoughts are not on those things…. if I don't have work, and maybe if there's no money over there, I don't start thinking about it—if there isn't [work], there isn't. If there is, there is. Everything has a time. I don't pay attention to that stress. It's THAT [kind of thinking] that comes up a lot.

This tendency to deny or minimize hardships and the effects of discrimination are even more studiously engaged in by U.S. citizens who support the expulsion of undocumented Latinos and state policies that deny basic human rights to the undocumented (Chavez 2008). This is not unlike Honduran non-migrants' moral critique of their migrant compatriots (see Reichman 2011). They attribute reasons for leaving their homeland to personal failings or to a poor work ethic rather than motivations derived from more generalized social forces.

In the popular North American imaginary, San Francisco and Berkeley are considered as very progressive, ultra-liberal settings that are ethnically heterogeneous, open-minded, accommodating, and charitable to people of all backgrounds. However, since the terrorist attacks of September 11, 2001, the U.S. government adopted stringent policies to control and regulate immigrants and foreign visitors (Jonas and Tactaquin 2004). As a result, undocumented Latino migrants have become a primary symbol for how porous and poorly defended the national border is. Images of undocumented Latinos fuel a widespread fear that the U.S. is being attacked by foreigners. This popular national reaction is not new (Chavez 2008), and has resulted in an intensification of surveillance, regulation, and control of Latino migrants. As such, states, cities, and counties throughout the U.S. have adopted policies and measures to restrict, incarcerate, fine, or reprimand Latino migrants and those who assist them (Quesada 2011b). By contrast, San Francisco and Berkeley have remained sanctuary cities (Mancini 2013), albeit under federal duress for maintaining policies of local noncompliance to detaining, informing, and handing over individuals to the Department of Homeland Securities Immigration Control and Enforcement (ICE). In both cities the police have been instructed neither to comply nor implement federal immigration policy and procedures toward those suspected to be undocumented.

Negotiating discrimination

Discrimination involves the injurious treatment of an individual or group based on the act of marking differences and hence precipitating different treatment of others by imposing formal and informal restrictions of all sorts (Giddiness et al. 2009). Indeed, "any distinguishing characteristic, whether social or biological, can serve as pretext for discrimination, and thus as a cause of suffering" (Farmer 1997:278). The recipients of injurious treatment are often structurally vulnerable (Quesada, Hart and Bourgois 2011; Horton 2004) to a whole variety of negative sanctions. The set of difficulties Latino day laborers encounter vary depending on their labor niche and the locales where they live and

work. For instance, day laborers' perceptions of whether or not they are locally socially accepted or excluded influence important life decisions such as whether or not to seek public social services, health care, or cooperate with the police. Undocumented Latino day laborers are constantly maneuvering to offset the effects of discrimination by subtly or overtly negotiating--behaviorally and socially--the discrimination they encounter. In doing so, they enter into constant tacit negotiations, actual and symbolic, with the world around them.

Negotiation for undocumented Latinos refers to a dialogic engagement with the world that involves decisions, actions, and thought meant to resolve and overcome daily adversities and gain an advantage, understanding, or agreement of a situation or condition one encounters. To be undocumented is to be in a constant antagonistic de jure relationship with the state and dominant society. As such, negotiation unselfconsciously contends with trying to assert other forms of being and to be recognized as a worthy human being that is not politically and institutionally discredited (Bhabha 1994). Latino day laborers have no choice but to constantly negotiate. They must make instant decisions about whether the person in the car soliciting work is a good employer or not. They must find an affordable place to stay without revealing that they do not have legal papers. They carefully measure who to trust and not trust, whether or not it is wise to report a crime, and how to find a health clinic that does not ask for documents. The negotiations are often tacit, undertaken with little fanfare, unstated, and understood as reactive to externalities. While considerable foresight and planning are brought to bear upon the numerous situations undocumented laborers encounter, often negotiations are entered into with little forethought and arise as circumstances occur.

Being undocumented requires Latino day laborers to be constantly contending with structural forces they cannot easily dismiss (Quesada et al. 2011; Holmes 2011). And while this may not be different from what most humans have to do, the stakes are higher for undocumented Latino day laborers. Negotiations are relentless and their vulnerability as undocumented laborers can lead to legal exclusion and deportation (De Genova 2002). Undocumented Latino day laborers have attained what Ordonez refers to as "para-citizenship" in place of legal citizenship, such that "without state legitimation, any form of citizenship available to *jornaleros* (day laborers) is only a mockery of the real thing" (Ordonez 2010:84). As a result, the experience of being undocumented is structured by the constant negotiations into which they enter, beginning with leaving their families, community, and homeland.

Negotiating global forces

In the last thirty years or so, the establishment of a neoliberal global economy largely succeeded in constraining the capacity of nation-states to exercise economic self-determination (Harvey 2005). The passage of North American Free Trade Agreement in 1994 and later the Dominican Republic-Central American Free Trade Agreement in 2006, maximized the transfer of capital, services, and goods between the U.S. and Latin America. It did not result in liberalized movement of people across borders. Rather, an explicit policy for the movement of people across national borders was deliberately suppressed (Fernandez-Kelly and Massey 2007). The emergence of neoliberal regimes throughout Latin America

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essentially undermined sustainable wage employment, small-scale manufacturing, and intensified privatization and foreign investment in property and land, transforming traditional modes of subsistence, which contributed to uprooting individuals and whole communities (Quesada 2009). The movement of migrants across national borders characterized as illegitimate has spawned ever more draconian and aggressive immigration policies (Willen 2012). While Latino migration to the U.S. has diminished since 2008–2009 due to the economic downturn, concomitant with increased border enforcement and arrests (Passel and Cohn 2011), Latino migrants remain scapegoated and stigmatized. The structural violence of an imposed economic order rarely reaches the threshold of visibility or lends itself to popular understandings of the socio-historical forces at work compelling people to move. The consequences of these titan forces have resulted in real human tragedies and dramas.

A 48 year old Mexican undocumented laborer who has lived in the U.S. for 11 years personifies how global political-economic forces precipitated his migration to the U.S. He had been self-employed in Mexico as an independent truck driver and could no longer make a living because of a downturn of the economy and increases in the price of fuel in 2002:

> ….when I needed a recommendation [for a salaried position], I didn't have one because I never worked for anyone. There came a time when I had to sell my vehicle. So, I didn't have any money and had to look for a job…. [they would ask] "Can you bring a letter of recommendation?" I hadn't been working for a business or anything. And I realized that after 38 you don't get a job as easily.

He ascribed his dilemma in part to changing economic conditions that made subsisting on one's own increasingly untenable. This is not unlike the story of a 32 year old Guatemalan man who had incurred a debt in his attempt to retain ownership of his family property. When he was unable to pay, he migrated to the U.S. to acquire the capital necessary to pay the debt. He said, "The truth is that when I went [to the U.S.] it was with the intention of making a little money for my children and settling a debt I had for some land in Guatemala. I put myself at risk and went out of sheer necessity.

The reasons for leaving one's homeland are rarely strictly economic and can involve a combination of causes and motivations. The decision-making and final act of picking up and going can entail snap decisions or poignant protracted discussions and consultations with partners, family members, kin, *coyotes* (human trafficker). The same 32 year old Guatemalan man explained how he decided to leave:

> I told my wife one week before leaving, I told her that my brother could loan me the cost of a *coyote,* I told my wife this because of our necessity. She accepted this, but was not convinced. She thought that something could happen to me or even that I would never come back. Her fear was that I would not return and that she would be left alone with the children.

The process of deciding to leave represents the first step in an incessant series of negotiations with people, states, institutions, and circumstances. These negotiations occur on the road, crossing borders, looking for work and shelter, hooking up with family members or compatriots, or staying alone. And the nature of these negotiations are often based on

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chance, luck, or well laid plans that are contingent to external social and natural conditions that the undocumented encounter. A young Mexican man in his mid-twenties from Sinaloa who has been in the U.S. less than a year explained how he had extended family in the country who for years encouraged him to come, but he was never interested. As trying economic conditions in Mexico led to more violence in his community, he began to change his mind. He finally decided to leave when he got caught in the middle of a gun fight and witnessed a young man die 20 feet away from him:

> The drug cartels are everywhere and the government can do nothing. In fact they are the problem because they are in with one or the other of them. I could not stay anymore because just going out to walk to work was not safe……….when I came here [the US], I had family in Greeley [northern California rural community], but they were not very welcoming or helpful, so that is how I ended up here in San Francisco with my cousin.

Once in California, new sets of external factors have to be contended with and negotiated.

The national level: Federal/state context

Throughout the 20th century, the U.S. cultivated an image of itself as a country of immigrants although it had long been a country of social exclusion, segregation, and deportation (Kanstroom 2007). Yet, the former image reigns supreme, and is accompanied by the perception that people from around the world strongly desire to come to "America."[5]These images and perceptions are taken as proof that the U.S. is an exceptional country and accepting of anyone willing to work hard and contribute to the good of the nation. Such rhetoric certainly framed the rush for comprehensive immigration policy reform at the commencement of President Obama's second term (New York Times 2013). However, the fact of systematic discrimination, exclusion, and deportation has equally played over time, with different federal administrations and state governments implementing various policies, using multiple tactics, and evoking several rationales for the systematic exclusion of others (Ngai 2004; Mahler 1995). This history is rarely presented in the American imaginary, yet iterations of exclusion have occurred throughout U.S. history. In the 21st century, exclusionary tactics are less hidden and in fact brazenly deliberate. The "Secure Communities" policy, implemented by the Department of Homeland Security (DHS), for example, reveals a self-justifying discourse that extols national security and cultural integrity as a rational for excluding individuals who desire to work and contribute to the U.S. (Huntington 2004b)[6]. It is so effective such that during the first term of the Obama presidency deportation rates hit record highs and surpassed the total number of deportations under both terms of President George W. Bush (Lopez, Gonzalez-Barrere, and Motel 2011).

Secure Communities was initially touted as a voluntary program, quickly became mandatory, with noncompliance often resulting in the curtailment of federal grants and

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[5]Use of "America" and "Americans" is intentional and meant to capture how U.S. citizens tend to refer to themselves. I try to refrain from labeling U.S. citizens as Americans, as Latin America is a part of the Americas and hence America is not the exclusive domain of U.S. citizens. I use it here to capture the popular way U.S. citizens self-identify and use a discourse of "American (aka United States) Exceptionalism."

[6]See http://www.ice.gov/secure_communities/.

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monies upon which states, counties, and municipalities are increasingly dependent. In California, Jerry Brown, in his former role as State Attorney, supported adhering to the Secure Communities program. Arrests for so much as littering, having a broken tail light, jaywalking, now results in a fingerprint check in the DHS database. If found to be undocumented, arrestees are held up to 48 hours so that DHS Immigration Control and Enforcement (ICE) agents can transfer the detainee to their custody.

The undocumented are all too aware of their vulnerability and how easily they can be arrested and transposed from the criminal justice system to the immigration system. In fact, undocumented day laborers in San Francisco and Berkeley know that any encounter with the police can be their undoing. In addition, because undocumented Latino day laborers are visible and associated with certain spaces, the manner in which they are treated by local police and officials operates to socially isolate. The containment of undocumented Latinos to specific sites functions to corral them in ways that maximizes social control. For example, on San Francisco's Cesar Chavez Street, a corridor where day laborers may be picked up, a group of Latino day laborers told a story of being confronted by the police for littering. Apparently, a local resident had called the police to complain about day laborers littering in the street. The workers received a warning, and though no one was deported as a result of this incident, the threat of deportation was clear, so they left that locale. One day laborer said, "All this for littering. I can be deported for littering?!?" In this instance, the workers were not only confronted with their vulnerability to deportation, but found their ability to secure work undermined by their need to move away from a high-traffic corridor.

In San Francisco, the labor pick-up places are monitored and occasionally subject to municipal attempts to move workers to other areas ostensibly to get them off the street (Quesada 2011a: 401). In Berkeley, commensurate with its liberal reputation, the city has signs where day laborers are allowed to stand in search for work. In both cities, the presence of day laborers and places they congregate are well known and constitute the parameters of their movement. Not any paint store or home construction site can be selected by day laborers to seek jobs. Missteps can result in encounters with the police or municipal officials. In another example, a San Francisco resident living across the street where day laborers congregate reportedly took pictures and phoned police of day laborers she found suspicious. This led to frequent police visits in which day laborers were accosted and asked if they were feeding the pigeons. The woman's surveillance provides civil support for state control of Latino workers. Indeed, she represents a wider swath of citizens in the neighborhood that object to day laborers hanging out along this well-known and long-established day laborer pick-up site (Quesada 2011a). Many residents characterized themselves as being under siege, and in effect conjoin local community concerns to political claims of uncontrollable borders that allow drug cartel "mules" and transnational gang members to enter the country. As a result, the heavy hand of the state is palpable, especially as the undocumented are conflated and categorically lumped with gangs or drug cartels. This lends itself to sweeping, racialized characterizations of all undocumented Latinos as disreputable and ominous threats.

Recently, the Secure Communities program has come under fire for some well-publicized excesses, and Jerry Brown, now the Governor of California, has reversed his earlier position

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on the program. California currently allows cities and counties to opt out of participation in Secure Communities. The result is that some cities and counties have opted to participate while others have opted out. This has created a patch quilt of relatively safe and dangerous spaces, making regional movement complicated and uncertain for undocumented day laborers.

The local level

In San Francisco and Berkeley, undocumented day laborers find themselves in the peculiar position of trying to keep a low profile while having to seek work out in the open where they are visible and vulnerable. Day laborers search for work in front of paint or hardware stores, home improvement malls, gas stations, busy streets, and day-labor worker centers. Many of these sites are near residential neighborhoods (Valenzuela et al 2006). In San Francisco, many Latino day laborers live in neighborhoods near labor pick-up sites, such as the well-known Latino ethnic enclave, the Mission district. In Berkeley, day laborers usually live far from the pick-up sites. They commute by bus from neighboring cities such as Oakland and Richmond. The most frequented day labor pick-up site in San Francisco is in a densely urban, largely working-class Latino neighborhood along a very busy and highly trafficked thoroughfare. In contrast, the principle pick-up site in Berkeley is located in a gentrified, middle-class residential neighborhood that is tree-lined, and has high-end retail stores, cafes and restaurants. Regardless of the neighborhoods where day laborers live and wait for work, daily instances of discrimination occur from insults being hurled at them from passing cars to the reduction of scarce public resources (i.e., homeless shelter beds allocated for Latinos).

The ubiquity of discrimination is especially disturbing considering that San Francisco and Berkeley were among the first cities in the U.S. to declare sanctuary status. In the 1980s they became sanctuary cities when waves of war in Central America drove men, women, and children to the U.S. and to the San Francisco Bay Area in particular (Quesada 1999; Coutin 1993). The pretense and context for sanctuary status is certainly different than in the 1980s and raises the question of what sanctuary currently means. Today, sanctuary status applies to cities with migrants who have come to the U.S. for different reasons. But because many of the migrants are considered illegitimate by mainstream U.S. society, sanctuary status is no longer a necessary or politically desirable stance. Regardless of the arguments, San Francisco and Berkeley are in the uncomfortable position of having to reassess their commitment to sanctuary, indeed to redefine what it means. This has become even more critical in light of the aforementioned association of the undocumented with organized crime, which in a broad stroke solidifies linkages between the undocumented and criminality (Chavez 2004; Willen 2011).

In San Francisco, several incidents compelled then Mayor Gavin Newsom to call into question the city’s adherence to its declaration of sanctuary. A number of undocumented Latino gang members were involved in murders and numerous undocumented Central American youth were arrested for selling drugs (Hwang 2008; Van Derbeken 2008). These events led to the public conflating undocumented Latinos with organized crime and welfare cheats who take advantage of the system. This induced greater splits and misgivings among

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laborers as many sought to avoid being identified or affiliated with anyone who appears to be involved in criminal enterprises (Quesada 2011; Chomsky 2007).

A 37 year old Mexican who has been the U.S. ten years talked about the difference between different Latino day laborers:

> …the ones [other Latino day laborers] who come here and drink, for example, in certain areas, you see and say, "That's sad." To get a bottle or a drink they go with people to supposedly work and do other things they shouldn't. And those are things that don't hurt you but make you feel bad because maybe others think we are all the same. Right. And that starts affecting the day laborers here…..

The tendency of Latino day laborers to associate only with a few migrants they know underlines the lengths the undocumented will go not to be lumped with others who might be viewed as delinquent. While the tactic of staying with one's group has been interpreted as a Latino cultural trait of deep mistrust of people outside one's family (see Huntington 2004a), structural vulnerability heightens the need to avoid mingling with anyone who might attract unwanted attention. Ironically, while the undocumented may be disposed toward distancing themselves from compatriots who engage in illicit practices, even to the point of willingness to inform police of flagrant criminality (i.e., selling drugs, physical assaults, etc.), they largely refrain from doing so because of the risk they may also be subject to an investigation. Even if they are not involved in illicit activities, such activities take place in spaces where day laborers need to wait for work (i.e., mid-block or corner labor pick-up spots), with their persistent presence lending to an assumption they are part of an illicit scene. As a result, more often than not, undocumented Latinos opt to remain silent. This implies complicity and reinforces the images that they are involved in the very episodes they would otherwise report (Heyman 2001). Popular cultural notions of poor Latinos, along with assumptions that Latinos have a "mistrust of people outside their families" (Huntington 2004a: 44), amounts to a justification for U.S. citizens to view the undocumented as culturally inassimilable, and to argue for limiting their the rights.

In July of 2011, Berkeley's City Council voted to oppose an Immigration Control and Enforcement (ICE) audit of the employment eligibility of workers at the third largest foundry in the country, Pacific Steel Casting Company. The vote was a symbolic affirmation of the city's sanctuary status. It is curious that the ICE audit coincided with a workers' strike at the same company a few months earlier and is located a mere six blocks from the main pick-up site for day laborers. In spite of the victory, the sanctuary status of both San Francisco and Berkeley is still under fire. For day laborers who know about it, sanctuary status provides some solace but not much. For example, a 53 year old Salvadoran who has been in the U.S. eight years responded to our interview questions in the following way:

I: Have you seen if the police got tougher with the immigrants?

S: With the police here it is like they say, a sanctuary city, but now that is only in name only….it is not a reality.

I: Have you seen changes?

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S: Yes, the police do not tolerate us anymore. …. Sometimes we are cool just walking and they stop us, and now they are deporting people. They are cleaning up…just because we don't have documents. They are being deported, but the mass media does not communicate this. They cover it up."

In 2010, the Mayor of San Francisco sponsored and successfully passed a city Sit/Lie ordinance that criminalizes individuals who sit or sleep on public streets between the hours of 7 a.m. and 11 p.m. Violators can be ticketed and fined up to US$500 and even temporarily jailed. The Sit/Lie ordinance criminalizes otherwise lawful behavior and targets marginalized populations. The implications for day laborers have not been lost on them. In 2013, the city established a city-wide curfew of all San Francisco parks between midnight and 5 a.m. A member of San Francisco Board of Supervisor, David Campos, acknowledged that day laborers who stand all day seeking work sometimes need to rest. And, one coordinator of the San Francisco Day Labor Program was quoted in the *San Francisco Bay Guardian* as saying, "Day laborers in San Francisco have to sit down once in a while when they're out on street corners waiting for work…taking us to jail for sitting down in San Francisco is the same as immigrants being targeted by police for simply being Latino." These ordinances reduce the sense of security of undocumented people who work and live in the area. According to a 52 year old Nicaraguan who has been in the U.S. nearly twenty years and who left his country because of endemic poverty and political violence,

> You are only safe in your own home. Well, who's safe, because for one, we don't have papers, we're illegal. They could get us at any moment. If not immigration, the police, yeah I don't feel so safe…No, we don't know what our fate will be here…They're never going to give us papers. I don't know what's happening. I don't know….

Day laborers speak about the vulnerability they feel in having to be visible when seeking work, while paradoxically trying to stay as inconspicuous and invisible as possible. This irreconcilable condition may require day laborers seeking work to stand waiting, sometimes all day, in designated areas. In Berkeley, day laborers congregate along a six or seven block corridor that the city has set aside for day laborers with special signs that designate where day laborers may and may not stand to be picked-up A 41 year old Guatemalan who has been in the U.S. for 5 years explains:

> We're putting in close to 6 hours and yes, it affects us to be standing. Because we get lower back pain, body aches, pain in the shins from standing all day. But you already know what working is like `Now come over here! Do this!' They tell you. You're going to be standing up, you bend over and get up and you're moving [when you're working]. But when you are not working; Standing all day, I think it's not the same as working. Working 6 hours [compared to] standing up for 6 hours, it's not the same. So then what we are able to enjoy is when we have a job, when we get to move. But here we can't move. If we leave from a spot, something comes this way and says: `I didn't pick up that person because they turned around and don't want to work'. And if we are sitting, it's that you don't want to work because you are sitting down. So there's a lot to consider here at this spot. A lot is said where you stand [and it] has a big effect. Yes, it does affect you….

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Missteps can result in encounters with the police or municipal officials. Examples of “nimbyism” (“Not In My Back Yard”) has been played out several times before municipal zoning and permit commissions. On several occasions the legal center representing day laborers mobilized workers to testify before the commission, only to be met with a well-organized group of concerned neighbors who opposed them (Quesada 2011a). The city briefly floated the idea of placing a day laborer center in a less lucrative area that would get the day laborers off the street. This did not come to pass, but the nimbyism remains strong. The current San Francisco day laborer center, run by a community based organization, was not moved and remains on the same street where Latino day laborers congregate. It not only provides a safe haven but a place day laborers can turn for help and advocacy, as when leaders of the day labor center spoke to the woman who constantly complained about day laborers feeding pigeons to allay her fears.

In negotiating their position of vulnerability, day laborers simultaneously undertake a number of maneuvers such as managing their public image and conforming to social expectations through corporal management and self-discipline (Benson 2008; Goffman 1959). When day laborers are waiting for work and become the objects of discrimination, it is not uncommon for many day laborers to ally with advocacy and service providers that publically represent their interests (Quesada 2011a). The providers who defend Latino day laborers play a vital role in the workers’ security, and while there are not as many community-based organizations in Berkeley as there are in San Francisco, they are nonetheless present and assertive in Berkeley, and have limited efficacy in Oakland. In effect, day labor programs operate as sanctuaries within “sanctuaries,” where day laborers can seek shelter, feel safe, get a cup of coffee, and acquire food, training, and general assistance.

Outside the centers, Latino laborers in Berkeley seek work in officially designated areas that symbolically lends an air of legitimacy to such zones, even though the zones underscore workers’ constraints as para-citizens (Ordonez 2010). Hence it is common for day laborers to purposely go to San Francisco or Berkeley, away from other locally known day laborer pick up sites in Richmond, Oakland, and Redwood City, because they feel it is safer and lucrative to do so. The Salvadoran day laborer who commented on the increase of deportations, and on law enforcement and ICE in other cities remarked:

> ….outside of here the authorities are stricter. They are more racist, but like I said before, sometimes it is our fault because we want to do things like in our own country…We Latinos are not very clean, we come and leave the places dirty and it does not have to be like that. Those are the small things, you [should] not do it; the things that white people don’t like…

Ironically, one way discrimination is negotiated is to turn the critique of dominant society onto oneself-- a sort of perverse internalized racism. Indeed, this is a form of symbolic violence when the critique is naturalized and accepted as fact, and when the negotiation is with oneself and in the form of self-regulation (Bourdieu 2000; Foucault 1978).

The constraints placed on workers’ options and decisions, or the perception that their actions or inactions are proof of their illegitimate status, narrows the space in which day laborers

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can maneuver. For example, the use of gang injunctions in San Francisco are based on the supposed strength and omnipresence of Latino gangs, especially transnational gangs like the Mara Salvatrucha 13 (MS 13) and Calle 18 (Ward 2012). The popular perception of the threatening omnipresence of Latino gangs has mobilized state and federal efforts. The placement of the National Guard along the Mexican border and the use of gang injunctions by cities fuels the fear U.S. citizens' harbor toward Latinos and the undocumented. Disparate constructions of criminality are used to frame all Latinos, documented and undocumented, day laborers and gang members as outlaws. This conflation pushes the undocumented even further into the shadows. It is ironic that the fear of relatively newly found transnational gangs is largely the outcome of U.S. escapades in Mexico and Central America (NACLA 2011; Ward 2012).

Conclusion

In the U.S., to discount Latino day laborer personal histories and lived realities especially in how they are shaped by numerous social forces is to protract a national tragedy that undermines the loftier democratic aspirations of U.S. society and enflames and divides human beings from civil society, sowing the seeds for an increasingly intolerant, xenophobic, and fascistic body politic. Thus, the purpose of this essay is to illuminate this lived reality of subtle, and not so subtle manifestations of discrimination that undocumented Latino day laborers daily encounter and to consider the social and personal negotiations the undocumented day laborers engage in to withstand discrimination and make their lives bearable.

The undocumented know all too well how they are stigmatized and seen as illegitimate, discredited, and often linked to criminal bands, yet they have little leeway to disabuse such perceptions. Together, federally implemented restrictions on the provision of basic social and health services (Viladrich 2012), the federal Secure Communities policy, and locally enacted municipal policies present a constantly moving set of policies, situations, and processes that make it difficult for the undocumented to predict with any certainty the outcomes of their actions.

Latino day laborers adopt different modus operandi to strategically negotiate these uncertainties. These practices are best understood as adaptive to the social factors and structural conditions in which workers find themselves, rather than reflective of personal attributes, idiosyncratic behaviors or cultural ways of being. The host of social structural forces that Latino laborers face are never stable or the same, which means that the decisions and actions each laborer takes are oriented to overcoming or moderating the ill effects of these forces as they combine in specific dynamics of discrimination. In essence, they are constantly negotiating the world about them.

And while Latino day laborers likely share common perceptions and concerns produced by being discriminated against, socially excluded, and considered "illegal," the actual ways that exclusion, discrimination, and responses unfold remain distinctive and particular to place. These local worlds reflect sets of social and political forces that establish the parameters of what actions can and cannot be taken, such as decisions whether or not to turn to social

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services for assistance or the police for protection. These local worlds are themselves enveloped in a broader context with which laborers must also contend. Regardless of the specific constellation of global, national, and local discriminatory forces that are at work, Latino day laborers cannot avoid having to negotiate with them. Workers are constantly negotiating the multiple stressors associated with being undocumented. These stressors are the sum of being stereotyped into a discredited social status that epitomizes the manufactured fears and deliberate exploitations that prevail throughout U.S. society. Hence Latino day laborers are in constant negotiation, never really at complete ease, enduring contemptible life conditions over which they have limited agency to overcome or diminish.

While each instance of contention may seem minor and unrelated to other troubling concerns, the cumulative effect (Larchanché 2012; Huffman et al. 2012), of all these instances amount to an experience of strife and discord that cannot be easily overcome. The grind of daily life challenges and petty conflicts overtime bear upon the subjectivities of day laborers and shape their experience. How they respond to relentless misfortune becomes the subtext, if not the primary subject, of their efforts to weather and navigate everyday life concerns and worries. Life choices are difficult enough for any of us, but the undocumented face an extra burden of critical consequences that shape what it feels like to be structurally vulnerable (Quesada, Hart, and Bourgois 2011).

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