

The Criminalization of Undocumented Work, Pandemic Suffering, and the Meat We Eat: A Reflection on “What’s ‘Justice and Dignity’ Got to Do with It?” (Stuesse 2010)

Angela Stuesse

As I write this update, we have just marked a year of lockdown due to the coronavirus pandemic. During this time, no single industrial group in the United States has been hit harder by the virus than meat and poultry workers. In the earliest months of the pandemic, the industry accounted for at least six to eight percent of infections nationwide (Taylor, et al. 2020). And though numbers are hard to come by and all estimates likely represent a dramatic undercount, by April 13, 2021, at least 1,433 COVID-19 outbreaks had been documented in meatpacking, poultry, and food processing plants, leading to at least 76,629 cases and 340 deaths (Douglas 2020).

When the Food & Environment Reporting Network (FERN) and others first sounded the alarm one year ago that people working on the processing lines were being infected and killed at alarmingly high rates (Chadde 2020; Douglas 2020)—at least twice the national average in some rural communities (Graddy, Rundquist, and Walker 2020)—it was hypothesized that the cold, damp conditions and close proximity of workers—pervasive throughout the industry—were responsible for the virus’s rapid transmission.

For those who knew this industry well, however, it was clear that the factors leading to these health disparities were more than pathogenic; they were fundamentally shaped by the political economies of exploitation so deeply embedded in this industry’s labor practices. These practices have informed my scholarship on the industry over nearly two decades, and some of them were outlined in my 2010 article in *Human Organization*, “What’s ‘Justice and Dignity’ Got to Do with It?” (Stuesse 2010)

In that 2010 piece, reprinted here, I argued that the 1986 Immigration Reform and Control Act (IRCA)’s criminalization of undocumented work afforded employers in low-wage industries like poultry processing excessive power over workers. By requiring companies to verify the work authorization of new

employees and mandating sanctions against those who “knowingly hire” undocumented workers, this legislation incentivized employers to turn a blind eye at the time of hire, “discovering” workers’ lack of authorization when they become too costly, as in times of injury, illness, or workplace organizing. In short, the law’s “employer sanctions” language failed to curb low-wage employers’ preferential hiring of unauthorized labor, instead rendering undocumented people more vulnerable by forcing them into the shadows (Horton and Stuesse 2016).

But if IRCA had the unintended effect of fueling an underground market for false work authorization and identity documents, the widespread adoption of the E-Verify employment eligibility verification program in the years since the article’s publication has heightened workers’ precarity ten-fold. Created by the 1996 Illegal Immigration Reform and Immigration Responsibility Act as a voluntary option for employers to electronically verify new hires’ employment eligibility against the Social Security Administration’s flawed database, this online system was dramatically expanded in the years following 9/11 (National Immigration Law Center 2011).

I closed the 2010 article with a warning about potential for E-Verify to further imperil workers’ rights. In the ensuing seven years, the number of employers participating in the program increased by over 325% to more than 745,000 (E-Verify.gov 2021). By 2021, eight states require that all or most employers use E-Verify (among these, five top poultry-producing states), and another twelve require its use by public employers and/or state contractors.

The widespread adoption of E-Verify compels workers to present valid paperwork to get hired. As anthropologist Sarah B. Horton has thoughtfully explored through her work on farmworker exploitation in California, this system incentivizes “identity masking,” or the use of valid documentation belonging to other individuals, to ensure undocumented workers pass inspection (Horton 2016a). Encouraged—and sometimes even provided—by employers and labor contractors, this practice drives workers further underground and renders them vulnerable to charges of identity fraud.

Angela Stuesse is Associate Professor of Anthropology at the University of North Carolina, Chapel Hill and author of *Scratching out a Living: Latinos, Race, and Work in the Deep South*. Follow her on Twitter @astuesse.

Such was the recent misfortune of some of my former research collaborators. In August 2019, seven Mississippi chicken plants featured in my ethnographic work were raided in what has become known as the largest single-state immigration raid in United States history. Nearly 700 workers were detained, devastating the local communities as well as undocumented families nationwide (Fausset and Hassan 2019). Many of those detained had previously worked at the Tyson Foods plant featured in my 2010 article. Driven out by the policies detailed therein, they were working at other nearby plants when Immigration and Customs Enforcement arrived.

In the months that followed the raid, over 100 of the detained were charged with identity-related crimes, including misuse of a social security number and falsely representing themselves as United States citizens (Planas 2019a, 2019b; Stuesse 2019b). With aggravated felonies such as these on their records, following deportation these individuals likely face permanent bars to legal reentry (United States Citizenship and Immigration Services 2021), painfully illustrating how the convergence of immigration and criminal law over the past two decades has criminalized and separated millions of immigrant families (Stumpf 2006).

But it is not just undocumented workers who pay IRCA's price. As I have argued alongside historian Laura E. Helton, by hiring workers who occupy precarious positions due to the criminalization of undocumented work, corporations weaken labor power and drive down wages and health and safety standards for everyone (Stuesse 2019a; Stuesse and Helton 2013). Structural inequities rooted in longstanding logics of White supremacy and racial capitalism ensure that Black, Latinx, immigrant, refugee, and rural Americans are those who disproportionately suffer as a result (Stuesse 2016).

So, when COVID-19 hit and people working on the meat and poultry processing lines began to get sick at alarming rates, their structural precarity left them with little recourse. The first major federal relief legislation, the Families First Coronavirus Emergency Response Act, mandated paid sick leave for workers diagnosed with or in quarantine for COVID-19 exposure. However, exempt from the guarantee were corporations with greater than 500 employees, a category that included most meat and poultry processors. Without paid sick leave and earning far below a living wage, many workers could not risk staying home to protect themselves and their families from the virus. Once exposed, many could not afford to quarantine because of the wages they might lose as a result.

Undocumented workers faced even greater risks than their United States citizen and work-authorized counterparts. When the second federal coronavirus relief package was passed, the CARES Act excluded undocumented workers and their family members from receiving stimulus payments. For these individuals, exclusion from temporary paid sick leave and cash benefits was overshadowed by the possibility of job loss at a time when jobs were scarce. Worse, knowing IRCA makes the hiring process particularly risky for those without work authorization, most undocumented people kept their heads down and went to work.

Buoyed by President Trump's invocation of the Defense Production Act in April 2020 and against the advice of local

and state public health officials around the nation (Mayer 2020), plants across the country kept processing lines running, and more workers got sick. Days later, Mississippi poultry worker leader Celso Mendoza succumbed to the virus (Stuesse 2020). Having been compelled by IRCA/E-Verify to work under an assumed identity, he was memorialized by his employer under his pseudonym Ariel Perales, demonstrating how, even in death, the legal exclusions that had criminalized him in life underscored his structural precarity (Stuesse 2021).

In the decade since "What's 'Justice and Dignity' Got to Do with It?" was published, calls for research on the relationship between social inequality and patterned health outcomes have yielded a growing body of anthropological work on immigrant exclusion (Castañeda 2019; Kline 2019; Lopez 2019; Willen 2012) and undocumented labor (Holmes 2013; Horton 2016b; Quesada, Hart, and Bourgois 2011; Saxton 2021; Saxton and Stuesse 2018) as social determinants of health (Castañeda et al. 2015; Flynn, Eggerth, and Jacobson 2015). Inspired by this work, following Menjívar and Abrego (2012), I have argued elsewhere that the laws governing worker health and safety enact a form of legal violence on the bodies of those who carry the daily burden of feeding America (Stuesse 2018). The same is true of the legislative and political mechanisms I have outlined here that draw immigration, employment, and criminal law into a singular punitive frame.

Never has the structural violence (Farmer 2004) wrought by the criminalization of undocumented low-wage work been more obvious than during this pandemic. Thirty-five years after its enactment, IRCA's employer sanctions provision and the follow-on policies it has engendered are irretrievably broken. If there is one thing the suffering of poultry and meatpacking workers over the past year can teach us, it is that decriminalizing immigrant labor is a moral imperative. Our collective lives depend on it.

References Cited

- Castañeda, Heide
2019 *Borders of Belonging: Struggle and Solidarity in Mixed-Status Immigrant Families*. Stanford, CA: Stanford University Press.
- Castañeda, Heide, Seth M. Holmes, Daniel S. Madrigal, Maria-Elena DeTrinidad Young, Naomi Beyeler, and James Quesada
2015 Immigration as a Social Determinant of Health. *Annual Review of Public Health* 36:375-392.
- Chadde, Skye
2020 Tracking Covid-19's Impact on Meatpacking Workers and Industry. MidWest Center for Investigative Reporting. URL:<<https://investigatamidwest.org/2020/04/16/tracking-covid-19s-impact-on-meatpacking-workers-and-industry/>> (February 18, 2021).
- Douglas, Leah
2020 Mapping Covid-19 Outbreaks in the Food System. Food & Environment Reporting Network. URL:<<https://thefern.org/2020/04/mapping-covid-19-in-meat-and-food-processing-plants/>> (April 13, 2021).
- E-Verify.gov
2021 History and Milestones. URL:<<https://www.e-verify.gov/about-e-verify/history-and-milestones>> (February 18, 2021).

- Farmer, Paul
2004 An Anthropology of Structural Violence. *Current Anthropology* 45(3):305-325.
- Fausset, Richard, and Adeel Hassan
2019 ICE Raids in Mississippi Leave Fear and Uncertainty in Their Wake. *New York Times*. URL:<<https://www.nytimes.com/2019/08/08/us/ice-raids-mississippi-children-parents.html>> (February 18, 2021).
- Flynn, Michael A., Donald E. Eggerth, and C. Jeffrey Jacobson
2015 Undocumented Status as a Social Determinant of Occupational Safety and Health: The Workers' Perspective. *American Journal of Industrial Medicine* 58(11):1127-1137.
- Graddy, Sarah, Soren Rundquist, and Bill Walker
2020 Investigation: Counties with Meatpacking Plants Report Twice the National Average Rate of COVID-19 Infections. Environmental Working Group. URL:<<https://www.ewg.org/news-and-analysis/2020/05/ewg-map-counties-meatpacking-plants-report-twice-national-average-rate>> (February 18, 2021).
- Holmes, Seth
2013 *Fresh Fruit, Broken Bodies: Migrant Farmworkers in the United States*. Berkeley: University of California Press.
- Horton, Sarah B.
2016a Ghost Workers: The Implications of Governing Immigration through Crime for Migrant Workplaces. *Anthropology of Work Review* 37(1):11-23.
2016b They Leave their Kidneys in the Fields: Injury, Illness, and "Illegality" among U.S. Farmworkers. Berkeley: University of California Press.
- Horton, Sarah, and Angela Stuesse
2016 Criminalizing Immigrants Hurts All Workers as IRCA Turns 30. *DailyKos*. URL:<<http://www.dailykos.com/story/2016/11/3/1590562/-Criminalizing-Immigrants-Hurts-All-Workers-as-IRCA-Turns-30>> (February 18, 2021).
- Kline, Nolan
2019 Pathogenic Policing: Immigration Enforcement and Health in the US South. New Brunswick, NJ: Rutgers University Press.
- Lopez, William D.
2019 Separated: Family and Community in the Aftermath of an Immigration Raid. Baltimore, MD: Johns Hopkins University Press.
- Mayer, Jane
2020 How Trump is Helping Tycoons Exploit the Pandemic. *New Yorker*. URL:<<https://www.newyorker.com/magazine/2020/07/20/how-trump-is-helping-tycoons-exploit-the-pandemic>> (February 18, 2021).
- Menjívar, Cecilia, and Leisy J. Abrego
2012 Legal Violence: Immigration Law and the Lives of Central American Immigrants. *American Journal of Sociology* 117(5):1380-1421.
- National Immigration Law Center
2011 The History of E-Verify. URL:<<https://www.nilc.org/wp-content/uploads/2015/12/e-verify-history-rev-2011-09-29.pdf>> (February 18, 2021).
- Planas, Roque
2019a Trump Administration Prosecutes Single Mothers Arrested in Mississippi ICE Raid. *HuffPost*. URL:<https://www.huffpost.com/entry/mississippi-ice-raid-prosecution-single-mothers_n_5dc47a61e4b0a54d438a3df5> (February 18, 2021).
- 2019b Trump Administration Prosecuting More Mississippi Workers after ICE Raids. *HuffPost*. URL:<https://www.huffpost.com/entry/trump-administration-prosecuting-more-mississippi-workers-after-ice-raids_n_5d952c68e4b0da7ff662127e8> (February 18, 2021).
- Quesada, James, Laurie Kain Hart, and Philippe Bourgois
2011 Structural Vulnerability and Health: Latino Migrant Laborers in the United States. *Medical Anthropology* 30(4):339-362.
- Saxton, Dvera I.
2021 *The Devil's Fruit: Farmworkers, Health and Environmental Justice*. New Brunswick, NJ: Rutgers University Press.
- Saxton, Dvera I., and Angela Stuesse
2018 Workers' Decomensation: Engaged Research with Injured Im/migrant Workers. *Anthropology of Work Review* 39(2):65-78.
- Stuesse, Angela
2010 What's "Justice and Dignity" Got to Do with It? Migrant Vulnerability, Corporate Complicity, and the State. *Human Organization* 69(1):19-30.
2016 *Scratching Out a Living: Latinos, Race, and Work in the Deep South*. Berkeley: University of California Press.
2018 When They're Done with You: Legal Violence and Structural Vulnerability among Injured Immigrant Poultry Workers. *Anthropology of Work Review* 39(2):79-93.
2019a The Connection between the Poultry on Your Holiday Table and Trump's Deportation Machine. *Washington Post*. URL:<<https://www.washingtonpost.com/outlook/2019/11/26/connection-between-poultry-your-holiday-table-trumps-deportation-machine/>> (February 18, 2021).
2019b In Criminalizing Immigrants, Americans' Own Humanity is at Stake. *DailyKos*. URL:<<https://www.dailykos.com/stories/2019/12/22/1907333/-In-Criminalizing-Immigrants-Americans-Own-Humanity-is-at-Stake>> (February 18, 2021).
2020 He Worked for Better Conditions at his Chicken Plant. Then the Coronavirus Took his Life. *USA Today*. URL:<<https://www.usatoday.com/story/opinion/voices/2020/05/12/coronavirus-takes-poultry-worker-celso-mendoza-column/3109292001/>> (February 18, 2021).
2021 Killing the Workers Who Feed Us. *Anthropology News*. URL:<<https://www.anthropology-news.org/index.php/2021/01/08/killing-the-workers-who-feed-us/>> (February 18, 2021).
- Stuesse, Angela, and Laura E. Helton
2013 Low-wage Legacies, Race, and the Golden Chicken in Mississippi: Where Contemporary Immigration Meets African American Labor History. *Southern Spaces*. URL:<<https://southernspaces.org/2013/low-wage-legacies-race-and-golden-chicken-mississippi-where-contemporary-immigration-meets/>> (February 18, 2021).
- Stumpf, Juliet
2006 The Crimmigration Crisis: Immigrants, Crime, and Sovereign Power. *American University Law Review* 56(2):367-419.
- Taylor, Charles A., Christopher Boulos, and Douglas Almond
2020 Livestock Plants and COVID-19 Transmission. *Proceedings of the National Academy of Sciences* 117 (50, December 15) <https://www.pnas.org/content/117/50/31706>.
- United States Citizenship and Immigration Services
2021 Policy Manual: Chapter 4—Permanent Bars to Good Moral Character. URL:<<https://www.uscis.gov/policy-manual/volume-12-part-f-chapter-4>> (February 18, 2021).
- Willen, Sarah S.
2012 Migration, "Illegality," and Health: Mapping Embodied Vulnerability and Debating Health-Related Deservingness. *Social Science & Medicine* 74(6):805-811.

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