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# Emphasizing the 'Complex' in the 'Immigration Industrial Complex'

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## Abstract

This article contributes to scholarship that conceptualizes an 'immigration industrial complex', but argues against assertions that the complex represents a 'confluence of interests' or an unintended consequence of immigration policy enforcement. Instead, law regulates immigration and constructs 'illegality' in the interests of global (US) capital. This analysis has two implications. First, private government contractors are only one segment within a broader complex. Second, enforcement through policing, detention, and deportation may not appear to serve the short-term interests of businesses that depend on undocumented workers, but these practices reflect state investment in the expansion and accumulation of capital. The article refocuses attention toward our collective 'race to the bottom'.

## Keywords

crimmigration, deportability, immigration industrial complex, immigration policy enforcement, migration industry, privatization

## Introduction

Despite significant investment in immigration enforcement, the United States maintains a relatively high proportion of undocumented migrants. One increasingly accepted explanation for this phenomenon is that enforcement discourages cyclical migration (Fernandez-Kelley and Massey, 2007; Massey et al., 2003). A more recent explanation contends that enforcement does not discourage undocumented migration. Instead, an unintended consequence of immigration policy that criminalizes migrants is that enforcement fuels an 'immigration industrial complex' (Cornelius, 2006; Golash-Boza, 2009; Trujillo-Pagán, 2010). Although the latter explanation shifts attention from migrants toward the political economy of punishment, these explanations share two interrelated problems. First, they assume immigration policy has failed. Second, they reify undocumented migrants and obscure undocumented status as a socio-legal construction (De Genova, 2002).

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Changes in immigration policy and its construction of 'illegality' reflect a fundamental shift in the political economy of immigration and punishment. The Illegal Immigration Reform and Immigrant Responsibility (IIRIRA) and the Anti-Terrorism and Effective Death Penalty Acts, both passed in 1996, expanded the meaning and implications of 'illegality' and insecurity. These policies have two implications. First, they criminalize some forms of mobility and labor and undermine broad inclusion of all workers within the nation. A second implication is related to the first, but perhaps less commonly recognized. The policies displace responsibility for broad socioeconomic changes away from the political economy. More specifically, the acts followed the North American Free Trade Agreement (NAFTA). Despite our current recession, or perhaps precisely because of it, the number of 'illegal' immigrants and workers increased following the passage of restrictive immigration laws in 1996 and the ensuing expansion of enforcement following 9/11 (Passel and Cohn, 2011).

Immigration measures that followed free-trade policies suggest a critical shift in how state power manages the challenges associated with an increasingly globalized world. For instance, the shift of manufacturing beyond US borders was followed by the increased politicization of crime and risk (Garland, 2001). Empirical evidence underscores how criminal justice policy has merged with and given birth to 'an intertwined regime of "cimmigration" law'. David Alan Sklansky (2012: 157) points out 'immigration authorities run the nation's largest prison system' and state and local law enforcement increasingly cooperates formally and informally with federal immigration officials. The expansion of immigration enforcement should be understood within the context of these global economic changes and the resulting 'political economy of punishment', which includes a new 'immigration industrial complex'. In this way, immigration policies may have changed since 9/11, but are shaped by a history that accompanies the expansion of global capital and increased attention to risk and insecurity.

The 'immigration industrial complex' is more complex than has been previously understood. Although the concept draws attention to how immigration policies promote business profits, this 'confluence of interests' is not limited to private government contractors directly involved in detention and deportation. The privatization of many state functions related to immigration enforcement was shaped by immigration policies that facilitated business profits for most of the 20th century. Embedded in a struggle between labor and capital, however, the current production of 'illegality' has developed to include a variety of new forms of transnational capital. At a minimum, the immigration industrial complex includes a broader array of entrepreneurs who manage unauthorized migration, identified by scholars as a 'migration industry' (Castles and Miller, 2009; Hernández-León, 2008). Immigration policy and its enforcement are also tied more generally to the interests of global capital, which includes US capital at and beyond the US–Mexico border.

This article argues the 'immigration industrial complex' promotes the broader interests of capital. Although detention and deportation may not appear to serve the short-term interests of businesses that depend on undocumented workers, the practices and the policies that stimulate them represent forms of state investment in capital accumulation. For instance, the legal production of 'illegality' and the related threat of detention and deportation ensure a supply of exploitable and disposable workers (De Genova, 2002). Similarly, 'illegality' was historically constructed in relation to the interests of capital. As so-called 'free trade' relationships displaced workers in countries like Mexico, capital benefitted from the migration of workers to and beyond the US–Mexico border and reproduced 'illegality'. Changing definitions of 'illegality' also generate new forms of capital to manage labor migration.

Although not a new phenomenon, 'illegality' has become central to how US government has used policy and enforcement to support the expansion of global capital. In other words,

undocumented migrants do not exist within a nation's borders *despite* immigration law, but precisely *because* they are one facet of how the state seeks to guide the expansion of markets. The following discussion is developed in four sections. The first provides a historical context for understanding how immigration policy produced 'illegality' to expand control over Mexican workers. The second historicizes migration from Mexico in relation to anticipated increases in both legal and undocumented migration following NAFTA's passage (Philp, 2008). The third section discusses the relationship between policy changes involving immigration, criminal justice, economic development, and labor. This discussion focuses on how neoliberal policies stimulated increased security concerns and increased spending on enforcement.

The final section outlines how neoliberal policies expanded economic activity at and beyond the US–Mexico border. A shift in public spending toward increasingly privatized government functions, including policing the border and detaining and deporting undocumented immigrants, informs a different type of demand for undocumented immigrants. This demand fosters new economic relationships that go beyond those between employers and migration intermediaries. This article identifies four main forms of capital that profit from 'illegality'. It explains how demand provides seemingly self-sustaining markets of undocumented migrant labor to groups as diverse as middle-class homeowners and informal service entrepreneurs, that is, landscaping and housecleaning.

The shift in employer demand implies an apparent contradiction: a greater reliance on immigration policy to produce 'illegality' also sustains undocumented migration. This reliance is mediated by institutional actors, such as the private prison industry, that promote the illusion of control over undocumented labor. The increasing reliance on neoliberal state policy suggests an alternate framework for current debates about 'crimmigration'.

## Literature

A host of actors misunderstand demand for undocumented workers. Workers decry undocumented immigrants' negative influence on their wages and job availability. Citizens resent undocumented immigrants as parasites who tax public resources. Nativists denounce the 'invasion of illegal aliens'. What these perspectives share is a negative, but almost exclusive, emphasis on the undocumented immigrant. This emphasis obscures 'a long-established and deeply-entrenched cross-border labor market that is an integral (even if clandestine) dimension of US–Mexican interdependence' (Andreas, 1998: 593). US policy has shaped both this interdependence and its associated labor markets. Understanding how policy and enforcement shape conditions that are ideal for capital's expansion (employers, entrepreneurs, and businesses) involves understanding how they manufacture difference and excludes a specific type of worker from the protection of labor policy. The costs of the immigration industrial complex are paid by all workers.

Scholars have criticized the ways undocumented migration is conceptualized. With important exceptions, however, this scholarship tends to undertheorize the relationship between the state and capital. For instance, Fred Krissman (2000) argues the state is increasingly unable to enforce workplace violations and favors employers. This perspective shares the assumption that neoliberalism weakens states and asserts enforcement is misdirected. An alternate interpretation, however, emphasizes immigration policy and public spending on detention and deportation as efforts to promote the illusion and profitability of control. For instance, Peter Andreas argues border policing 'has less to do with actual deterrence and more to do with managing the image of the border and coping with the deepening contradictions of economic integration' (1998: 593).

Scholars have increasingly focused on the relationship between the state and its immigration policies, on the one hand, and capital on the other. Nicholas De Genova points out 'undocumented migrations are ... preeminently labor migrations'. He argues labor mobility 'is only understandable through a critical theoretical consideration of labor and capital as mutually constituting poles of a single, albeit contradictory, social relation' (2002: 423). In his analysis, law assumes primary importance in defining migration 'not to physically exclude them [undocumented migrations] but instead, to socially include them under imposed conditions of enforced and protracted vulnerability' (2002: 423). In sum, immigration policies produce 'illegality' and ensure a supply of exploitable and disposable workers (De Genova, 2002). Other scholars have focused on the other side 'of the same coin' and programs that shape the status of 'inclusive exclusion'. For example, Kathleen Arnold analyzes the US guest-worker program and the Border Industrial Program. She argues they are marked by law enforcement and lawlessness. More specifically, she reflects on the relationship between suspending law in these free trade zones, on the one hand, and the need for 'heavy surveillance ... to enforce these conditions', on the other (Arnold, 2011: 457). These scholars share a concern for how the state suspends workers' economic and political rights.

Both De Genova and Arnold share a broader perspective on how 'illegality' strengthens the state's 'prerogative' and workers' rightslessness. De Genova has paid close attention to both deportability and detainability, more recently arguing 'the metaphysics of antiterrorism' stripped "'illegal" workers of even the most pathetic vestiges of legal personhood, such that their own quite laborious predicament of rightslessness may be further amplified and disciplined' (2007: 438). Arnold argues 'borderless wars' like the war on terror and the global economy (expansion of free trade zones) strengthen US power. More specifically, guest workers and *maquila* employees become subjects of a sovereign US power and their rightslessness becomes a job requirement. At issue for both scholars is not only that workers are highly exploited, but also contained in ways shaped by the war on terror.

Constructed in this way, enforcement against 'suspicious' workers requires significant political intervention. Scholars have documented the extensive symbolism developed around immigration-related discourse, including 'criminal aliens' and 'Secure Communities', which have promoted both criminalization and immigration law as a tool of crime control. Susan Coutin notes that the resulting forms of social control create 'a sense of profound change' (2011: 290), which includes broad recognition that 'the ability to prevent unlawful entry may ... not be the best measure of the power of immigration law' (2011: 293). Instead, immigration policy is changing in ways that consolidate alien smuggling, 'enlist citizens as quasi-police' (2011: 295), and subject noncitizens 'to regimes of reporting, surveillance, accountability, and responsibility' (2011: 298). On the one hand, new forms of overlapping criminal justice and immigration enforcement (crimmigration) create a 'disciplined, divided (along the lines of legal status), largely nonunion, and vulnerable labor force for which the state bears few costs and has few responsibilities or obligations' (Coleman in Coutin, 2011: 300). On the other hand, this crimmigration has resulted in significant changes to the state and enforcement. For instance, increased surveillance of noncitizens expands what Michael Welch (2011) has referred to as a highly profitable 'detention-industrial complex'. Other scholars confirm the effects of crimmigration, which include immigration offenses (illegal entry and illegal entry following deportation) accounting for 90% of all criminal cases in federal court, 'illegal' persons as the fastest growing population behind bars, Customs and Border Protection and the US Border Patrol as the largest enforcement agencies in the United States, and the US immigration detention system as the largest in the world (Sklansky, 2012).

This article considers crimmigration in the context of neoliberal policy. More specifically, the juxtaposition of criminal justice and immigration policies demonstrates how the state power

expands directly through enforcement and indirectly in the interests of global (US) capital. Immigration policies and their enforcement involve not only expanding programs and state agencies like the Department of Homeland Security (DHS), but also has complementary effects on businesses that support detention and deportation, including, for instance, surveillance technology companies like Boeing's SBInet. Enforcement increasingly involves privatizing critical state functions, including detention and deportation, to private prison companies like Corrections Corporation of America (CCA), the largest private prison company in the country, and private detention companies like the GEO Group. Private detention facility contracts also promote complementary business growth for feeder industries like food and health providers, airline carriers, etc.

This article suggests the varied corporate interests in detention and deportation represent only one level of a more complex 'immigration industrial complex'. Instead, as outlined above, the complex ultimately involves state enforcement in the struggle between labor and capital. Similarly, enforcement expands US capital at and beyond the US–Mexico border (Sassen, 1999). As the state retreats 'as a source of support and guarantor of rights', it simultaneously promotes free trade and guest worker programs that affect capital on both sides of the border (Coutin, 2011). These forms of capital accumulation include both US employers, such as agribusiness, and *maquilas* located well beyond the border. This article outlines both US employers and global (US) capital as additional actors implicated in the profitable 'immigration industrial complex'.

Finally, policymakers' purported concern to 'protect our borders' is part of a broader political struggle that involves not only recolonizing Mexican migrant labor, but also expanding global (US) capital at and beyond the US–Mexico border (Coleman, 2008; Gonzalez, 2006). Entrepreneurs who manage unauthorized migration are directly implicated in the struggle for mobility, between labor and capital, and are therefore critical to outlining the 'immigration industrial complex'. Peter Andreas suggests smaller entrepreneurs, at least those involved in crossing the US–Mexico border, are consolidating and increasingly involved in organized crime (Andreas in Coutin, 2011). These entrepreneurs are tied to a larger 'migrant industry' that has also changed and is experiencing greater corporate penetration in its markets (Castles and Miller, 2009; Hernández-León, 2008).

## How the Iron Triangle Misshaped Mexican Labor in the United States

The popular sense that 'illegal aliens' have invaded the United States is a projection of a historical relationship in which the United States expanded its investment in, and control over, Mexico's politics, its economy, and its workers. Generations of Mexicans indirectly refer to their subordination in viewing Mexico as 'so close to the United States ... and so far from God'. This popular view reflects a shared sense among Mexicans of being lost and subordinate to the US political economy, which dates back to the mid-19th century. The origins of Mexican 'illegality' fit within this historical context. Mexican migrants' 'illegality' has its roots in US immigration policy, which colluded in the struggle between Mexican labor and capital expansion through the Immigration Acts of 1921 and 1924. These acts expanded the jurisdiction of the Border Patrol and invented both 'illegal' status and Mexicans as iconic 'illegal aliens' (Ngai, 2004). The Acts also delimited the social inclusion of Mexicans as workers by facilitating their policing, invisibility, and control. As Mae Ngai argues, the 1924 Act ensured 'Mexican Americans, legal immigrants, undocumented migrants, and imported contract workers (braceros) ... remained external to conventional definitions of the American working class' (2004: 129).

In the decades that ensued, Mexican workers attempted to increase their economic incorporation but government policy evolved to reproduce their exclusion. For instance, the Depression

intensified employers' ability to expand 'a labor surplus so they could obtain workers on demand, at low wages, and in plentiful supply to pick their crops early and quickly' (Ngai, 2004: 135). This objective was supported by New Deal farm policy, which excluded agricultural workers from social and labor legislation, reinforced Mexicans' exclusion from the legal definition of worker, and facilitated employers' control over the agricultural workforce.

US policy was reinforced through state practices. For instance, Zargosa Vargas finds Mexican-American labor organizers and radicals were characterized as foreigners and targeted for deportation. 'Those suspected of having communist ties were especially singled out for immediate arrest and expulsion. At the same time, the US Border Patrol colluded with ranchers and growers by allowing the latter to fetch Mexican workers during strike situations and labor shortages' (Vargas, 2005: 50). Rodolfo Acuña (2007) similarly documents how government agencies like the US Justice Department sided with employers and raided union locals despite confirmed evidence of employer abuse.

Policy and practice were institutionalized in broader programs, such as the Bracero program that brought the Immigration and Naturalization Service (INS) and the Labor Department together. The agencies cooperated in admitting guest workers and administering a program that made them labor contractors. About 4.6 million Mexican contract laborers were brought into the United States for jobs in agriculture and railroads. Although 'only 2 percent of American farm operators employed braceros ... they were the wealthiest ones' (Ngai, 2004: 139). The program did not enforce contractual guarantees involving housing and working conditions. Despite the program's apparent failure, it was extended beyond its explicitly stated mission to meet wartime labor shortages. The Labor Department rarely terminated employer's contracts.

Programs were supplemented with other coercive state practices. Mexican labor was policed when it could not be controlled by employers. Despite the existence of the Bracero Program, the INS unevenly enforced immigration laws toward undocumented Mexican migrants. It 'avoided search and deportation procedures ... during crop seasons' (Tichenor, 2002: 174). Similarly, the program was essentially designed to meet a high demand for agricultural workers, but coexisted with other policy initiatives to deport 'illegal aliens', such as Operation Wetback in 1954. Ironically, detention rates increased after the Bracero Program was implemented (Martin et al., 2006; Philp, 2008).

The apparent contradictions of immigration policies surrounding the recruitment and deportation of Mexican workers demonstrate how immigration policy became embedded in formally regulating labor supply in the interests of US employers. Deportation efforts magnified government control over Mexican workers and uneven enforcement shaped and directed undocumented migration streams. As Tichenor notes, 'Mexican labor inflows would be sustained for decades by an iron triangle of Southwestern growers, Immigration Bureau officials, and powerful congressional committees dominated by Southern and Western conservatives' (2002: 152).

In important ways, US immigration and labor policies have shaped undocumented Mexican workers' subordination to US employers. These policies produced 'illegality' and sponsored employers' control over Mexican workers as a subordinated and disposable workforce. In particular, the Immigration Acts of the early 1920s, the Repatriation Campaigns, New Deal farm policy, the Bracero Program, and Operation Wetback all worked to complement and expand employers' control over Mexican workers. Although they differed in form, they shared a critical role in producing 'illegality' and Mexican workers' status as iconic 'illegal subjects' who were simultaneously integrated in US economic growth and excluded from membership in an American working class. These policies and their associated practices undermined Mexicans' ability to organize and improve their work conditions.

Over the second half of the 20th century, immigration and labor policies continued to reflect an economic philosophy that required exceptional concessions in controlling undocumented Mexican labor. For instance, Mexican workers were recruited as contracted *braceros* and many deserted abusive employers. The number of apprehensions and detention increased in this period. At the same time, the Immigration Act of 1952 exempted Texan agriculturalists from any penalties.

Despite important structural parallels, however, the state's relationship to employers shifted in the second half of the 20th century. The capitalist state became more directly tied to promoting capital accumulation. For instance, the 'iron triangle' was supplanted by a larger group of institutional actors that embedded corporate interest in policy making. Employers' influence also expanded beyond congressional representation to include lobbyists and significant campaign contributions. The Bracero Program formally ended in 1964, but continues in revised form as guest worker programs. In its current configuration, for instance, Rubén Hernández-León (2008) suggests Mexican state officials compete with migration intermediaries as labor recruiters. In his analysis, the Nuevo León government's Office of Migrant Affairs is deferential to urban industrialists and rural labor recruiters within Mexico. His finding is indicative of how other states are involved in promoting labor supply for US capital.

Changes in selective immigration enforcement also tie both halves of the 20th century together. Although detention and deportation continues to manage migrant labor supply, it became more firmly tied to a changing economic structure within the United States. Rather than simply managing workers' physical mobility, for instance, immigration policy expanded to further delimit occupational access. Hillman and Weiss view illegal immigration not as 'an unintended consequence of laxity in enforcement ... [but rather] a concertedly chosen policy that combines de jure illegality with de facto selective illegality as a discipline that permits sectoral containment of immigrants' (1999: 601). The implications of their argument not only confirm how policy produces 'illegality', but also that this 'illegality' shapes a specific type of worker ideally suited to the demands of increasingly global capital.

Changes in statecraft challenge current neoliberal philosophies that treat states and borders as obstacles to free trade. The border has historically represented a crossroads between controlling undocumented Mexican workers and structuring Mexico to accommodate US capital. Beginning in the 1960s, however, neoliberal policies and large migrant labor flows have become coterminous. These policies have recreated the border as a stage for neoliberal development where 'free trade zones' and *maquilas* indirectly recruit and generate new migrant streams (Bandy, 2000). The next section discusses how neoliberal policies have encouraged undocumented migration from Mexico and how the state (policy makers and policy) have created new opportunities to benefit from 'illegality'.

## Neoliberalism and Changing Relations between Labor and Capital

The North American Free Trade Agreement (NAFTA) was passed in January 1994. Supporters expected an increase in migration from Mexico, but argued it would be temporary, representing something akin to a 'shock treatment' during which wages in Mexico and the United States would adjust and eventually reduce the incentive to migrate. Although predictions seemed to materialize amidst increased migration, immigration policies did not adjust to this expected increase. US Department of Homeland Security (DHS) figures demonstrate the number of persons obtaining legal permanent resident status declined after 1994 and, despite increasing after 2000, never reached the levels of 1990 and 1991 (Reinemeyer and Batalova, 2007). Similarly, the number of



undocumented Mexicans entering the United States after 1994 rose 1.88 million to 3.47 million in 1999 (Hofer et al., 2008).

The apparent contradiction between an expected outcome (increased undocumented migration) and an increasingly restrictive immigration framework suggests an important shift in neoliberal frameworks. The recognition of a socially disadvantageous outcome, that is, increased migration, is likened to 'collateral damage' as a result of economic development. On the one hand, free trade policies expand areas where law is suspended. On the other hand, these neoliberal policies have a dialectical effect of 'tightening' borders in the name of 'security', which not only complement, but independently generate significant political and financial capital (De Giorgi, 2006).

'Free-trade' zones and increased trade with the United States undermined Mexico's manufacturing and agricultural sectors, displacing many workers and farmers and promoting domestic inequality. National trends were reflected at regional levels by sharp increases in income disparity within Mexico. For instance, subsistence farmers faced increased competition with US agricultural imports, the privatization of Mexico's collective farms, and the elimination of agricultural subsidies (Fernandez-Kelley and Massey, 2007).

Wage differentials increased within Mexico because access to foreign trade and investment varies regionally (Hanson, 2003). The growth of *maquilas* and inequality in Mexico motivated both internal and external migration. While US policymakers emphasized complementary development and the expected role of *maquilas* in creating jobs within Mexico, NAFTA essentially reproduced Mexican workers' subordination south of the border. The primary Mexican export became its labor. In Mexico's 'labor export-led model' of development, their workforce is exported to *maquilas* before they even cross the US–Mexican border (Delgado-Wise and Covarrubias, 2007).

In the United States, 'illegal' Mexican migrants support demand for low-skilled labor at rates that promote US industries' global competitiveness. For instance, scholars like Edna Bonacich and Richard Applebaum (2000) and Roger Waldinger (1999) demonstrate that low-skilled migrants bolstered declining industries and kept more manufacturing jobs from being exported outside the United States. Others scholars like Hondagneu-Sotelo (2007: 25) suggest migrants accommodate increased middle-class consumption patterns, particularly in relation to domestic work, and 'subsidize the careers and social opportunities of their employers'. Larger corporate interests that depend on migrant labor, particularly agribusiness, lobby against liberalizing trade policies that would undermine their control over domestic markets. They argue their competitiveness relative to other industrializing countries requires more competitive wage rates and less restrictive labor regulations.

US immigration policy since the mid-1990s has not explicitly mediated the effects of NAFTA. Instead, it further subordinated 'illegal' Mexican migrant labor by promoting federal and local spending on the surveillance of 'unauthorized aliens', which are most frequently assumed to be Mexican. A broader window of neoliberal deregulation that began in the early to mid-1980s has been marked by a perception that new threats to national security are centered on the US–Mexico border, including international crime organizations, drugs, and terrorism (Andreas, 1998). As policing efforts expanded to include an ever greater number of public and private actors, domestic unemployment rates declined and our economy expanded.

For instance, in debates of the 1986 Immigration and Reform Control Act (IRCA), the Republican Governor of California, Peter Wilson, sponsored an amendment that made agricultural workplace raids virtually impossible. Wilson's political fortunes were tied to employers, which meant he discouraged regulating employer practices but simultaneously encouraged the reduction of rights associated with the reproduction of labor. For example, Wilson drafted the 'Save Our State' Initiative, otherwise known as Proposition 187. Ultimately deemed unconstitutional in federal court, the legislation would deny access to basic services, including emergency health care and public education, to workers and their families.

Similarly, President Clinton seized immigration as part of his 1997 re-election campaign platform, a year after having suggested the Border Patrol's workforce should be reduced. He legitimized the perception that migrants derived significant benefits from public assistance. In 1996, under his administration, the Personal Responsibility and Work Opportunity Reconciliation Act was passed as scholars such as Fix and Tumlin warned it would have 'far-reaching effects on immigrants, on the nation's immigrant policy, [and] on the new role state and local governments will play in shaping the policies that govern immigrant integration' (1997: 1). Also known as the 'Welfare Reform Act', the PRWORA reduced immigrants' access to public assistance programs.

Clinton refashioned the discourse of illegality to promote local development through policing. Specifically, the 1996 Illegal Immigration Reform and Immigrant Responsibility Act reinvented 'illegal aliens' as 'unlawfully present' persons who paid penalties in the form of bans to re-entry to the United States. Limits range from three years to permanent bans, which clearly expand the social boundaries of exclusion and atomized 'illegality' by disregarding social relationships that tie migrants to the United States, including having a spouse or child that is a US citizen. The Act represented part of a broader effort to 'beef up' the border patrol (Andreas, 1998). At the same time as the government 'downsized', the Act expanded detention policing in a variety of ways that decreased oversight and increased the likelihood of human and civil rights violations, including deputizing state and local law enforcement personnel to enforce immigration matters (Hernández, 2008).

The state's relationship to employers, and the boundaries between policy makers and entrepreneurs, shifted after the 1980s. Neoliberal policies that deregulated many industries also facilitated the expansion of US corporate interests, which included agribusiness and manufacturing in Mexico. The outcomes of these policies stimulated intra-regional inequality within Mexico and encouraged both internal and external migration. Internal migration facilitated economic opportunities for global (American) capital in free trade zones. External migration similarly mobilized an entirely new set of opportunities for capital accumulation. On the one hand, policies that liberalized the terms of global trade and delimited migrants' access to social benefits were part of an expanding state apparatus to control 'illegal' Mexican labor. On the other hand, these policies and their enforcement generated new sources of revenue. In essence, the state came to rely more heavily on 'illegality' for more than labor. The state began to produce 'illegality' for new economic markets built around 'security'.

Scholars recognize the role neoliberalism plays in reinforcing anxieties about territorial authority. They also tie these anxieties to increased public expenditures on security. Despite these anxious expenditures, many scholars have only recently recognized how enforcement is tied to changes in the capitalist state. For instance, as Nathalie Puetz and Nicholas De Genova have argued, it is 'the indispensable disposability of ever deportable migrant labor' that is incorporated 'within the mutually constituted regimes of global capitalism and territorially defined and delimited ("national") state sovereignty' (2010: 9). In other work, De Genova identifies the 'effects' of immigration policy in terms of not only 'illegality', but also 'deportability'. He argued deportability, rather than deportation, was a 'crucial' site for constituting state power:

'Illegality' is lived through a palpable sense of deportability – the possibility of deportation ... the legal production of 'illegality' provides an apparatus for sustaining Mexican migrants' vulnerability and tractability – as workers – whose labor-power, inasmuch as it is deportable, becomes an eminently disposable commodity. Deportability is decisive ... only insofar as some are deported in order that most may ultimately remain (un-deported) – as workers. (De Genova, 2004: 161)

The next sections use the concept of deportability to understand the expansion and increased complexity of a new immigration industrial complex. These sections map the diversification of demand for 'illegality'. This demand falls into three interdependent forms of capital generation: (i) those who assist in the logistics of undocumented migration, particularly transportation, which are identified as part of a 'migration industry', (ii) US employers who depend on 'illegality' to hire undocumented workers, and (iii) state agencies and private capital. The following sections provide examples of actors falling within each category.

## The Migration Industry

In his ethnographic analysis of urban migration, Rubén Hernández-León argues both Mexico and the United States have shaped labor migration. In his analysis, 'a matrix of migration entrepreneurs-recruiters, smugglers, [and] couriers' (2008: 3) supplement migrants' social networks to span, rather than blur, the US–Mexico border. The distinction between infrastructure and networks is critical insofar as it underscores the salience of state policy in setting the terms upon which the migration industry develops. More specifically, business development depends on 'the distinct and uneven institutional realities of the two countries' (2008: 178). Policies 'influence why certain services become available, under what conditions such services are offered, and who provides them' (2008: 156). For instance, his case study of transportation demonstrates how state regulation can undermine small entrepreneurs as it promotes corporate expansion.

The migration industry is premised on services that facilitate migration. According to Hernández-León, these services include formal and informal and legal and illegal activities, such as 'trafficking and labor recruitment, lending funds to finance migration, providing passenger transportation and travel agency services, sending monetary and in-kind remittances, applying for and producing authentic and counterfeit documents, legal counseling, and supplying telecommunications services for emigrants and their home communities' (2008: 24). Variation within the industry depends on specialization and social embeddedness. For instance, where smuggling may be 'an increasingly complex, multinational enterprise', (Hernández-León (2008: 159) argues individuals continue to dominate smuggling in his case because of their embeddedness in migrant networks.

Hernández-León's case also demonstrates how mainstream corporations have penetrated the migration industry, particularly through bundled services. This phenomenon is partly the result of increased state immigration enforcement, which prevents circular migration. He discusses three Mexican corporations that allow immigrants to make purchases within the United States that are picked up in Mexico. He cites industry analysts who estimated the 2002 value of the 'above-ground in-kind remittance market at \$20 billion' (2008: 163). Incentives to capitalize on remittances have undoubtedly increased since that time as overall remittances climbed from \$11 billion in 2002 to \$26.5 billion in 2006 (Ratha et al., 2011).

Increased surveillance also means other businesses within the United States have expanded. For instance, van lines are able to charge customers fares that are much higher than airlines because they 'do not ask riders for any kind of documentation' (Hernández-León, 2008: 167). The cost and importance of intermediaries increase along with the risks of unauthorized entry and employment. For instance, Wayne Cornelius (2005) suggests these costs have more than quadrupled since 1993. Smugglers also charge higher fees as migratory streams diversify and cross multiple state borders.

Although the migration industry expands as a consequence of 'illegality', consumption is premised on coercion. For instance, labor recruiters are a social lubricant that helps the migration industry thrive. These recruiters depend on their experience and networks to aid migrants in

securing work. Sometimes referred to as a form of ‘negative social capital’, however, recruiters include friends and family members that exercise control over migrants’ labor more intimately than traditional employer–employee relationships. In this way, labor recruiters demonstrate how acquiring capital in the migration industry comes at the expense of workers.

The migration industry and the economies in which it is embedded not only sacrifice workers, but entire communities. For instance, migration industry entrepreneurs bundle services, including recruiting labor and fabricating fraudulent work documents. They were implicated as supervisors employed by Agriprocessors, Inc. in the largest workplace raid in US history, in Postville, Iowa. Nonetheless, neither these entrepreneurs nor the employer who participated in the formal economy were emphasized by the resulting state actions. Although the corporation was under investigation at the time of the raid for wage and labor law violations, workers were the main targets of the raid and unduly penalized by state regulation over workplaces. When the predominantly undocumented workers gained attention for their illegal work conditions, they were nonetheless excluded from traditional remedies enjoyed by legitimate workers. In this case, Postville residents also suffered as they lost their jobs and wages following the raid. The city council subsequently declared Postville a humanitarian and economic disaster area.

Cases like those in Postville, Iowa demonstrate that legal representatives and state agents are embedded within the migration industry. Immigration lawyers promote the industry and justify the continued employment of immigration judges and court clerks. The legal system is not the only, or even the most influential, group guiding enforcement. Instead, it works at the margins of legislative reforms encouraged by well-paid corporate lobbyists.

At the top of the profit chain are two types of big money-making businesses. The first group is private employers. Scholars simultaneously contemplating legal admissions and economic growth ask ‘how has the supply of immigrant labor to the United States been so carefully calibrated to demand?’ and many agree that immigration policy and enforcement have been driven by the needs of the US economy. In other words, *because* undocumented workers’ labor is ‘illegal’, employers can turn a greater profit. They can pay less and worry less about the treatment of their workers in terms of benefits, workplace safety, and worker complaints.

These US employers include agribusiness, the largest economic sector in the United States (Krissman, 2000). Agribusinesses claim to need a large and seasonal migrant workforce that can work in the most difficult of circumstances, such as hot sun that can cause fatal dehydration, and they pay less to workers. In the end, their political influence has simultaneously created ‘the world’s most profitable agricultural sector and the most disadvantaged class fraction of America’s working poor’ (Krissman, 2000: 280). The profits flow to a few employers and meager rewards are allocated to their overworked and drastically underpaid employees.

## **Deportability, Private Contractors, and the Surveillance Industry**

Although workers’ rights and entire communities are compromised by the socio-legal construction of ‘illegality’ through policy and enforcement, these techniques are also used to promote citizens’ complicity in promoting deportability and the illusion of control. Scholars have paid increased attention to the role of increased public expenditures on enforcement in order to promote an illusion of border control. For instance, in what has been referred to as the ‘voluntary departure complex’, enforcement efforts target Mexicans who are released directly on the southern side of the US–Mexico border. These deportation practices are ineffective at deterring subsequent attempts at unauthorized entry. The large number of arrests, however, works at ‘reinforcing the state idea of

bounded citizenship (emphasizing symbols of “border control”) for media sale and consumption’ (Heyman 1995: 267).

The illusion of control is nonetheless consequential for millions, if not all, workers and for capital. For instance, anti-immigrant sentiment and ‘widely publicized threats and news coverage of deportations’ generate ‘a climate of fear [that] makes the undocumented super-exploitable as they feel they have no recourse in the case of crimes committed against them or in the case of mistreatment (including breaches of contract, lack of safety precautions, under-payment or non-payment) by employers’ (Wilson, 2000: 202). Like the prison-industrial complex, the immigration industrial complex relies on the production of deviance and ‘illegality’. It is promoted in opposition to ‘illegal’ workers to develop broad public support and participation (Welch, 2000). In this way, citizens become complicit in bolstering public spending on ‘security’ and making undocumented migration and its management profitable.

‘Illegality’ simultaneously disciplines workers’ rightslessness and strengthens US power. As workers are criminalized, immigration policy and enforcement become important forms of social control and many state agencies have expanded or shifted the focus of their work. This phenomenon is reflected in federal courts, prisons, and Customs and Border Protection and the US Border Patrol. These policies have not only expanded state programs, but also influenced the development of new agencies, including the Department of Homeland Security (DHS). ‘Crimmigration’ has also contributed toward a highly profitable immigration industrial complex. This complex stimulates corporate expansion for businesses that are complementary to detention and deportation. It is also implicated in the increased privatization of critical state functions, including detention and deportation, which benefit private prison and detention companies. Both public and private forms of detention and deportation promote complementary business growth for feeder industries.

The immigration industrial complex is predicated on enabling undocumented migration. For instance, border patrol agents are employed in large part because there are expanding categories, and therefore increasing numbers, of ‘illegal’ migrants. At a local level, city and state officials embed non-immigrant residents in the immigration industrial complex as beneficiaries of jobs and resource development through public expenditures on enforcement. Budget data demonstrate that immigration enforcement spending increased steadily after the 1994 passage of NAFTA (see, for instance, MPI, 2005). In particular, at the federal level, the Department of Homeland Security (DHS) formed in 2002 in response to 9/11 began with a total budget of \$9 billion that grew to \$59 billion in fiscal year 2013 (DHS, 2004, 2013). Although they are themselves major contributors to the immigration industrial complex, US Customs and Border Protection (CBP) and US Immigration and Customs Enforcement (ICE) are the focus of the following sections (see Table 1).

The DHS 2013 Budget opens with a full-page quote from Secretary Janet Napolitano who proudly proclaims the department’s growth and maturity, which she ties in part to ‘partnerships ... with the private sector’ (DHS, 2013). These partnerships include government contracts for

**Table 1.** US Department of Homeland Security Enacted Budgets.

Enacted Budgets (in millions of US dollars)											
	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
<b>CBP</b>	5057	5587	5942	6344	7110	9497	9285	11251	11541	11245	11737
<b>ICE</b>	2394	3262	3654	3127	3866	4733	5054	5968	5742	5805	5862

Source: Annual Department of Homeland Security *Budget-in-Brief* Reports (2002–2012).

detention and deportation and other businesses that benefit from these contracts, such as the auto industry that produces vehicles for agents to monitor the border, companies that produce agents' uniforms, etc. These latter contracts are quite small in comparison to those that secure the most sophisticated and expensive surveillance technology available today. Nonetheless, enforcement itself is an outgrowth of neoliberalism and the state's shifting alignments with the economy. The following sections demonstrate that a key aspect of the neoliberal political economy involves increased decentralization. At the same time the state expands through enforcement, it also responds creatively to a dynamic global economy by compromising oversight of subcontracted relationships. The state establishes 'chains of enrolment [sic], "responsibilization" and "empowerment" to sectors and agencies distant from the centre, yet tied to it through a complex of alignments and translations' (Barry et al., 1996: 12). In this way, the state shares political authority through the privatization of policing, detention, and deportation. 'The development of techniques of auditing, accounting and management ... enable a "market" for public services to be established autonomous from central control. Neoliberalism, in these terms, involves less a retreat from governmental "intervention" than a re-inscription of the techniques and forms of expertise required for the exercise of government' (Barry et al., 1996: 14).

Overall, DHS spending and staffing is concentrated on border control, which increased most drastically after 9/11 (MPI, 2005). The budget for CBP makes it the largest federal law enforcement agency in the United States. Although the justification for the budget is the importance of the task of keeping 'terrorists and their weapons' outside of the United States, the CBP has not identified a single terrorist. Its large budget does not include expensive technology that complements its work. For instance, CBP work depends on additional biometric data collections systems, such as US-Visit, which involve private contracts. Accenture began working with US-Visit in 2004, was awarded a 13-month, \$17 million contract in 2011, and subcontracts some of its work to Raytheon, a defense company (Accenture, 2011).

A more significant government contract was awarded to Boeing in 2006 for the development of SBInet, which was part of the multibillion dollar program called the Secure Border Initiative (SBI). SBInet developed policing capacity through radars, sensors, cameras, and satellite phones. As a 'virtual' fence, it complemented the physical fencing along the US–Mexico border authorized by the 2006 Secure Fence Act. In 2008, however, a Government Accounting Office report repeated its warnings from the previous year about delays and insufficient oversight on subcontracted SBInet work. Nonetheless, it would be another three years before DHS pulled the plug on SBInet for these concerns and because of problems with ineffective technology.

SBI spending was strategic, if not effective. It located technology near urbanized areas where voters could see their hard-earned tax dollars at work and feel proud of the growth in their local economy. It was not effective for the same reasons that undocumented migration has historically destabilized control at the border. Native American lands in states like California and Texas pre-date territorial divisions between the United States and Mexico. These lands interrupt the border and reflect the interconnectedness of American peoples. Nonetheless, the reality of mobility and communities was ignored by then-DHS Secretary Chertoff who 'waived more than 30 laws dealing with environmental protection, Native American autonomy, and historic preservation' (Mittelstadt et al., 2011: 9).

US Immigration and Customs Enforcement (ICE) is the second largest investigative agency after the Federal Bureau of Investigations (FBI) and its budget more than doubled after its creation under DHS. Spending on detention and deportation increased by 64 percent following the passage of IIRIRA in 1996 (MPI, 2005). As examined in *NOW's Prisons for Profit* (2008), detention beds consistently represent the most expensive single line item in the ICE budget and providing them

has been tied to a 'gold rush' as undocumented persons became the fastest growing population behind bars. DHS requested a budget appropriation for fiscal year 2013 that would be equivalent to \$5.4 million per day or \$164 per daily bed for immigrant detention (AIF, 2012). Privatized detention and deportation benefit directly from facilitating the deportation of approximately half of all undocumented persons and fall into two categories: privately-owned and private administration of publicly-owned detention facilities. Private contracts can include subcontracted relationships with city and county detention facilities, e.g. state and local jails.

Detention contracts are offered to major corporations, including Corrections Corporation of America (CCA), the largest private prison company in the country. CCA had been struggling to repopulate their prisons and even considered closing in 2004, but increased its lobbying expenditures to \$3 million in that year and positioned itself to benefit from demand for immigrant detention facilities. According to the Associated Press, corporations spent \$45 million in the last decade on campaign donations and lobbyists (cited in AIF, 2012). CCA's lobbyists are embedded in the immigration industrial complex. For instance, Philip Perry, Vice President Dick Cheney's son-in-law, later became general counsel in the Department of Homeland Security (Mencimer, 2008).

CCA's business continues to grow. In its second quarter announcement last month, CCA posted a total revenue increase of more than 10 percent to almost 400 million (Gupta, 2008). Its revenue results not only from detaining undocumented persons, but also from subordinating workers. After reviewing CCA's personnel files, ICE arrested 10 undocumented workers (Mencimer, 2008).

Other private detention companies like the GEO Group, a division of Wackenhut Services Inc., built on their important relationships in Washington, which they cultivated through their lobbyists and through campaign contributions. For instance, the GEO Group's director, George Zoley, was a major contributor to President George W. Bush's 2004 re-election campaign. As a Bush 'Pioneer', he raised at least \$100,000 for the campaign. In 2007, the GEO Group earned more than \$100 million through their immigration detention centers and, of course, these private detention facilities ensure business for a host of feeder industries like food and health providers, airline carriers ... and the list goes on.

Annual revenues that exceed 1.7 billion for CCA and 1.6 billion for GEO have not led to ideal conditions for detainees. Immigrants complain they are treated inhumanely and human rights monitors are often denied access to these facilities. According to the American Civil Liberties Union (ACLU), children were kept in cells 11 or 12 hours a day, forced to wear prison garb, fed 'unrecognizable substances, mostly starches', and denied toys, bathroom privacy, and access to medical care (Mencimer, 2008). A facility guard reported that detainees are not always fed, are given dirty blankets, put in leaking and/or freezing cells, get sick, and catch foot funguses. Many activists blame the lack of oversight over these facilities, and inadequate access to medical care, for deaths that occur while immigrants are detained. In a June 2008 report, DHS confirmed oversight could be improved at ICE detention facilities.

When one of its primary incentives is profit, the function of security becomes more important than form. In the mutated structure of the migration industry, ensuring beds are filled is the primary concern. The undocumented migration industry thrives on the backs of subordinated workers. As in other industries, exploitation generates profits in the migration industry. Unlike other industries, however, profiteers risk not only the livelihoods, but indeed the lives of those who are forced to consume its services. The smugglers, the ICE officer, the large farm owner, and the GEO all reproduce a more devastating way of generating revenue that requires a willingness to risk someone else's life and a lack of responsibility over the lives of others.

## Conclusion

This article argued against the assertion that an 'immigration industrial complex' is an unintended consequence of immigration policy enforcement. Irrespective of immigration policy intent, the neoliberal state increasingly privatizes core functions involving policing, detention, and deportation. Similarly, rather than a 'confluence of interests', the article demonstrated how the immigration industrial complex is firmly embedded in state techniques that mediate a changing relationship between labor and global (US) capital. These changes implicate 'free-market' and neoliberal policies in the development of global trade and are reflected in policies that promote 'cimmigration'. In this analysis, the political economy of immigration policy enforcement is less about the ineffectiveness of policy in discouraging undocumented migration than it is about the ability to define and expand control over undocumented workers. Policy enforcement becomes only one aspect within a more variegated immigration industrial complex committed to the broader interests of expanding global (US) capital.

Enforcement is premised on immigration policies that expand the definition of 'illegality' in ways that simultaneously subordinate labor and promote capital. The socio-legal construction of 'illegality' encourages persistent and diversified demand for 'illegal' and highly-exploitable labor. This construction depends on deportability and fuels the immigration industrial complex. For instance, immigration reform proposals debated in 2006 expanded 'alien smuggling' to include 'family members, neighbors, co-workers, and relief organizations who provide nonemergency aid to undocumented migrants' (Hernández, 2008). Similarly, definitions are expanded through state and local legislation touted by their proponents for being more draconian and punitive than federal policy.

In addition to the increasing privatization of policing, detention, and deportation, the article identified three main forms of capital that profit from 'illegality'. In particular, the migrant industry, US employers, and global (US) capital are implicated in the profitable immigration industrial complex. These actors and the broader context of 'illegality' refocus our attention not only on shared experiences among workers and communities, but also on our collective 'race to the bottom'. The implications of neoliberal policy, and particularly its relationship to the expanding immigration industrial complex, have global implications for people embedded in the struggle between labor and capital.

Eisenhower warned of a military-industrial complex that perpetuates itself to the detriment of people in this country and abroad. Much like his unheeded warning, the growing immigration industrial complex feeds on the fears and xenophobia of people in the United States while it builds the bases for long term immiseration of our neighbors to the south. Here it is particularly useful to reflect on how the immigration industrial complex has faltered. The very existence of human mobility across state borders is testament to the unpredictability of labor's struggle. Reminding us of Marx's reference to 'a more or less concealed civil war', De Genova ties immigration policy to 'a struggle to subordinate the intractability that is intrinsic to the constitutive role of labor within capital' (2004: 166). The struggle of labor is also manifest in the advocacy of prominent organizations like the American Immigration Forum (AIF) and the American Civil Liberties Union (ACLU) who continue to document the detrimental human and financial costs of the immigration industrial complex. Similarly, the ending of SBInet is testament to citizens' demand for political accountability.

The immigration industrial complex ties the state to global (US) capital, but it is also fundamentally tied to our shared fate as workers embedded in increasingly global communities. The developing complex coincides not only with neoliberal policy, but also anti-globalization movements and the increased global visibility of the 'We are the 99%' movement. Increasing global inequality has tied workers and their communities more closely together than ever before. These ties remind us we are greater than profit. Our demands on the state must include refocusing attention on embodied labor.



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