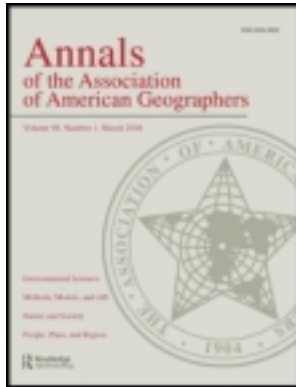


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# Enclaves of Rights: Workplace Enforcement, Union Contracts, and the Uneven Regulatory Geography of Immigration Policy

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Recent geographic research on U.S. immigration policy highlights the devolution of policy formulation and implementation to local state actors. This study extends this research by analyzing how labor unions shape the implementation of state immigration policy and innovate institutional practices that affect regulatory spaces for immigrants at the local level. Using a case study of the hotel union in Chicago and Los Angeles, this article examines the origin, content, and implementation of immigration provisions recently negotiated in the union's contracts. These contract provisions mediate the implementation of state immigration policies by specifying rules that govern employer actions in response to immigration enforcement activities by the Department of Homeland Security and other federal agencies, including admittance to the workplace, inspection of I-9 forms, and Social Security no-match letters. The contracts also establish nondiscrimination protections for immigrant workers, such as guaranteed leave to attend immigration proceedings. The legal codification of these protections and the robust practices of union enforcement yield "enclaves of rights" at the local level, further contributing to the highly uneven space of security for immigrant residents in the United States. The article concludes by examining the possibility that unions—given their influence in local labor markets, their federated (or national) structures, and their role in the broader moral economy—could extend these rights beyond the confines of the enclave.

*Key Words:* *immigrant labor, immigrant rights, immigration policy, unions, worker rights.*

晚近美国的移民政策研究，强调政策制定与执行的权力，下放至地方政府行动者。本研究透过分析工会如何形塑州政府的移民政策施为，并革新影响地方层级移民管制空间的制度实践，以此拓展移民政策之研究。本文运用芝加哥与洛杉矶的一个酒店工会案例研究，检视晚近在工会合约中协商的移民供给之起源、内容及执行。这些合约供给透过详细载明因应国土安全部及其他联邦机构的移民执行活动之聘雇管理规范，包含进入工作场所的许可、I-9表格的查阅，以及社会安全资料不合的通知，以此中介州政府移民政策的实施。这些合约同时为移工确立了非歧视性的保护，诸如保障移工休假以进行移民诉讼。这些保障的法律编撰，以及强而有力的工会实践，在地方层级创造出“权益的飞地”，并进一步导致美国境内移居者高度不均质的安全空间。结论中，本文检视拥有对在地劳动市场的影响力、具有联邦（或国家）层级的结构，并在更广泛的道德经济中有所角色的工会，能够将这些权益延伸至飞地范围之外的可能性。关键词：移民劳工，移民权益，移民政策，工会，工人权益。

La investigación geográfica reciente sobre las políticas de inmigración de los EE.UU. destaca el traslado de la formulación e implementación de políticas a los actores estatales locales. Este estudio amplía esta investigación analizando la manera como los sindicatos de trabajadores configuran la implementación de políticas de inmigración estatal e innovan las prácticas institucionales que afectan los espacios regulatorios para inmigrantes a nivel local. Utilizando un estudio de caso del sindicato hotelero en Chicago y Los Ángeles, este artículo examina el origen, contenido e implementación de las medidas sobre inmigración recientemente negociadas en los contratos del sindicato. Estas provisiones contractuales median en la implementación de las políticas estatales de inmigración, especificando reglas que gobiernan las acciones del empleador, en respuesta a las actividades de control de la inmigración por el Departamento de Seguridad Nacional y otras agencias federales, incluyendo la admisión a los lugares de trabajo, la inspección de las formas I-9 y las cartas de la Seguridad Social para notificación de datos discordantes. Los contratos establecen también protecciones contra la discriminación para los trabajadores inmigrantes, tales como permiso garantizado de ausencia para cumplir con procedimientos migratorios. La codificación legal de estas protecciones y las sólidas prácticas de aplicación por los sindicatos producen "enclaves de derechos" a nivel local, contribuyendo así al espacio de seguridad altamente desigual para inmigrantes residentes de los Estados Unidos. El artículo concluye con un examen de la posibilidad de que los sindicatos—dadas su influencia en los mercados locales, sus estructuras federadas (o nacionales) y su

roles en la más amplia economía moral—puedan llegar a extender estos derechos más allá de los confines del enclave. *Palabras clave:* trabajo inmigrante, derechos del inmigrante, política de inmigración, sindicatos, derechos de los trabajadores.

The border and the workplace in the United States are locales subject to geographically targeted federal immigration enforcement activity, including surveillance, monitoring, and apprehension activities. Geographers have demonstrated the border's territorial production of illegality and the policymaking capacities of border control operations (Mountz 2010; Nevins 2010). Less attention has been paid to the politics, practice, and policy implications of worksite immigration enforcement. The ramifications of worksite immigration enforcement are multiple and complex. The border and the workplace are both embedded within a migration system shaped by global capitalism, but the worksite uniquely couples immigration enforcement with economic production. As wage laborers, U.S. immigrants occupy their workplaces as both subjects of immigration policy and protected workers. The complex interplay between immigrants' legal status and their rights under U.S. labor and employment laws constitutes the workplace as a territorial site at which these rights and restrictions intersect and often collide. Worksite immigration enforcement lays these contradictions bare.

In assessing contemporary immigration policy, Bosniak (2000) emphasized the rise in policies that make legal status more socially significant and the shift of border control functions to the territorial interior of the nation state. Recent geographic research makes similar claims, particularly studies highlighting the devolution of immigration policy formulation and implementation to local state actors (Varsanyi 2008, 2011; Walker and Leitner 2011; Coleman 2012). This study similarly attends to the local as a site of immigration policy innovation and contestation. I identify the workplace as a highly localized sphere of engagement that both generates its own practices and realizes the local manifestation of multiple scalar phenomena including global capital and migration flows, national state policy regimes, regional enforcement practices, corporate management structures, and federated labor organizations. As both a key node in global capitalism and a primary site of immigration enforcement in the United States, the worksite provides a compelling strategic research site through which to examine the complex and contested process by which immigration policy regulates the labor market and, reciprocally, the ways in which labor market practices mediate the implementation of immigration policy.

I examine the worksite as a geographic arena of engagement where the actions of state and nonstate actors intersect and affect immigration policy through an analysis of how unions, as nonstate labor market institutions, shape the implementation of federal immigration policy at the street level and innovate institutional practices that establish alternative regulatory spaces for immigrants at the local level. Drawing on a case study of a large service-sector union in Chicago and its affiliate in Los Angeles, this study analyzes how union contracts legally codify rights and protections for immigrant workers at the workplace, mediating federal immigration enforcement and the local effects of federal immigration policy.

This article focuses on the immigration provisions negotiated through collective bargaining and the shop-floor implementation and enforcement of these provisions. These provisions establish nondiscrimination protections and privileges specifically for immigrant workers and shape employer actions with regard to immigration enforcement procedures and activities by the Department of Homeland Security (DHS) and other federal agencies. I argue that the legal codification of protections and their vigilant enforcement by the union yield "enclaves of rights" at the local level, further contributing to the highly uneven space of security for immigrant residents in the United States. I then explore the possibility that unions could extend these rights beyond the confines of such enclaves.

## The Workplace as Immigration Enforcement Site

The legal foundation for workplace enforcement rests with the 1986 Immigration Reform and Control Act (IRCA), which makes it unlawful for an employer to knowingly employ an undocumented immigrant. Through IRCA, workplaces became sites where illegal activity—the employment of undocumented immigrants—is produced and carried out. Enforcement previously contained at the territorial boundaries of the nation-state was brought to its interior (Bosniak 2000), extending the border's work of exclusion, differentiation, and criminalization (Mountz 2010; Nevins 2010).

Unlike the border, however, interior enforcement sites are superimposed onto preexisting social realms, filled with rights, rules, and norms separate and

distinct from immigration law. Workers, regardless of documentation status, enjoy the rights and protections afforded under federal labor and employment law, such as minimum wage, overtime, occupational health and safety, and the right to organize (Gleeson 2012). Workplace immigration enforcement demonstrates the clash of illegality and legal rights for the same individuals—undocumented workers. The lines between illegality-as-outsiders and rights-as-insiders are thus blurred as the worksite simultaneously confers inclusion and engenders exclusion.

These conflicts and contradictions have become increasingly acute over the past twelve years, following differences between the DHS and the Department of Labor (DOL) in immigration and labor enforcement activities. The 2002 Supreme Court decision in *Hoffman Plastic Compounds, Inc. v. National Labor Relations Board*, in which an undocumented worker was denied back pay and reinstatement following unlawful retaliation by an employer, set the contradictory tone for this period.<sup>1</sup> Immediately following the *Hoffman Plastic* decision, federal labor and employment agencies, such as the DOL and the Equal Employment Opportunity Commission, reaffirmed their commitment to enforcing labor and employment law regardless of documentation status. Simultaneously, the Bush administration began ramping up worksite enforcement through the DHS.

Under the Bush administration, enforcement meant large-scale raids and arrests. In 2006, workplace arrests of undocumented immigrants by federal agents jumped by 44 percent over the prior year, from 1,116 to 3,667—the single greatest spike in the ten-year period between 2002 and 2011. The number of administrative arrests increased again in 2007 to 4,077 and peaked in 2008 to a record high of 5,185. The U.S. Immigration and Customs Enforcement (ICE) agency made 12,928 arrests in workplace raids between 2006 and 2008, nearly five times more than the 2,731 arrests made between 2002 and 2005 (U.S. ICE 2007, 2008). Although these raids accounted for only a small percentage of all deportations, they were high-profile operations that reverberated locally and nationally within immigrant communities. Workplace raids communicate to immigrants that they can be found easily and that every workday poses a deportation risk.

Under Bush, ICE targeted well-known national employers, often at multiple sites. The highest profile raids of this kind occurred at meat-processing plants across the country. On 12 December 2006, ICE agents stormed meat-processing facilities owned by Swift & Co. in six states. During these raids, 1,297 undocumented immi-

grants were arrested (U.S. ICE 2007). In January 2007, ICE agents raided a huge Smithfield pork-processing plant in Tar Heel, North Carolina, that employed 5,200 workers. The plant was in the midst of a unionization drive, prompting labor officials to complain bitterly that the company had collaborated with federal authorities in an effort to discourage union organizing (Preston 2007). The single largest workplace raid under the Bush administration occurred on 12 May 2008, when federal authorities arrested 389 undocumented workers at a kosher meat-processing plant in Postsville, Iowa (Hsu 2008).

Critics of the workplace raids pointed to the disproportionate prosecution of workers over employers (Greenhouse 2006); the traumatic impact of raids on individuals, families, and nearby communities (Capps et al. 2007); and their unnecessarily high cost—upward of \$10 million for larger scale raids (Bennett 2011). After a series of raids in Los Angeles County in 2008, including a highly publicized raid of a Van Nuys manufacturing factory where ICE made 130 arrests, Los Angeles Mayor Antonio Villaraigosa sent a letter to Michael Chertoff, secretary of the DHS, warning that workplace raids of “non-exploitative” businesses could have “severe and lasting effects” on the Los Angeles economy (Gorman 2008).

The Bush administration agreed to stop the use of immigration enforcement under the guise of health and safety inspections in early 2006 (Greenhouse 2006). Despite this concession, criticism from unions, worker advocates, and even the DOL intensified. Labor leaders pointed to raids carried out in the midst of unionization campaigns, such as at the North Carolina Smithfield plant, or on the heels of litigation brought against companies for wage and hour violations. A union-sponsored advocacy organization, American Rights at Work, asserts, “The single-minded focus on immigration enforcement without regard to violations of workplace laws has enabled employers with rampant labor and employment violations to profit by employing workers who are terrified to complain about substandard wages, unsafe conditions, and lack of benefits, or to demand their right to bargain collectively” (Smith and Ortega 2009, 5).

The Obama administration has used more subtle “silent raids,” inspecting companies’ I-9 records—government forms used by employers to verify an employee’s identity and eligibility for employment in the United States (Preston 2010). Although the DOL and the DHS signed a memorandum of understanding in 2011 on worksite enforcement and the

roles of each agency—putting labor enforcement on equal footing with immigration enforcement—the often contradictory and opposing goals of immigration enforcement and labor protection continue (U.S. DHS and U.S. DOL 2011; These changes came long after the initial inclusion of immigration provisions in the union contracts examined in this study.) As interviews with union staff indicate, protection of immigrant workers on the shop floor and the tangible realization of workers' rights endures as a daily process of negotiation and contestation.

## Unions as Local Institutional Actors

When the implementation and enforcement of immigration law moves from the border to the interior it includes a more expansive and diverse group of actors (Ridgley 2008; Mountz 2010; Coleman 2012). In workplace immigration enforcement, unions occupy a unique position as a social and political mediator of labor market processes. Because workplace immigration enforcement unfolds within the realm of work and intersects with daily labor market practices over which unions already have influence, unions have frontline access to the implementation process. Further, unions' role as a legally recognized representative agent of workers at the workplace provides them with a compelling claim to the "local bargaining process" of policy implementation (Elmore 1979, 611).

Unions actively contest, shape, and remake practices within, and expectations about, the workplace, rendering visible the social and spatial embeddedness of labor markets (Hanson and Pratt 1992; Peck 1996). Western and Rosenfeld (2011, 517) described three ways in which unions, "pillars of the moral economy," influence labor market norms: (1) culturally, through communicative power; (2) politically, by influencing social and economic policy; and (3) institutionally, by establishing rules that govern labor market processes. Most research on labor's engagement with immigration issues focuses on labor's cultural, political, and organizing activities (Milkman 2000; Varsanyi 2005).

The union examined in this study, Unite Here, engages the issue of immigrant rights in each of these ways. Culturally, it partners with immigrant rights organizations and immigrant communities in speaking out against immigrant abuses, not just on the job. Politically, it lobbies in support of federal immigration reform, engages in electoral work, and participates in local campaigns in coalition with the immigrant community.

Institutionally, it governs labor market functions that directly affect immigrants through its union contracts, enforces these contracts, and empowers its members to defend their broader federal and narrower contract rights. But unlike the institutional rules most often ascribed to unions—that more explicitly address relations between employers and workers, such as hiring, promotion, and pay—the Unite Here contracts address the implementation of federal immigration policy. In so doing, the union extends its influence within the domain of immigrant rights institutionally as well as politically.

## Unite Here's Immigration Reform Agenda

In 2006, Unite Here Local 1 in Chicago and Local 11 in Los Angeles won unprecedented protections for their immigrant workforces in their hotel contracts, providing immigrant workers with a transparent process of response, adjudication, and resolution in matters connected to their documentation status involving both the federal government and the employer. The contracts added to the broad and expansive nondiscrimination language of previous contracts, as well as to the equity provisions these locals had secured for their diverse workforces, such as hiring and retention commitments aimed at African-American workers (Parks and Warren 2012).

The 2006 contract provisions emerged from initiatives driven by the international body of Unite Here under the leadership of John Wilhelm. Unite Here primarily represents workers in lower wage service sector industries, such as hotels, food service, and industrial laundries. As these industries became key points of labor market entry for an expanding immigrant population during the 1990s, Unite Here was confronted with a new set of issues and concerns that arose for its growing immigrant membership. After election as president of the union's national organization (then known as the Hotel Employees and Restaurant Employees [HERE]) in 1998, Wilhelm began formulating and implementing an organizational and political program around immigration reform that included internal educational campaigns, community outreach, and political advocacy and mobilization. HERE was among the progressive labor unions that pushed the national American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) to reverse its anti-immigrant position in 1995, with the election of John Sweeney as president.

Austin Lynch, an organizer at Local 11, identified Unite Here's broader immigrant rights agenda as central to understanding the impetus behind the immigration provisions in the union's contracts and the union's commitment to realizing broader immigration reform:

Part of the picture is the union's program outside the workplace, the Immigrant Freedom Ride and the May Day rallies. We have a history of organizing around immigration. The Immigrant Freedom Ride was a moment when a number of our members took huge risks. We also had years and years of political campaigns where we did talk about [the fact] that people who are not citizens could impact politics because you can mobilize voters. And I think that has made it very clear to our members that we stand for immigrant rights but also has made it known to the employers that we are very serious about it. (Interview, 26 November 2012).

The push from above, from the international, and from below, from members, spurred Unite Here locals toward fighting for, and winning, contract language that made a concrete difference for immigrant workers on the shop floor while pushing for immigration reform in the political arena.

### Bargaining Immigration Enforcement

Union contracts generally reflect two political processes: negotiation between the union and an employer and negotiation and deliberation between the union and its members. Codifying demands through a legally binding collective bargaining agreement makes the employer accountable to the union and the union accountable to its members. The Unite Here immigration provisions add a third party: the state. The contract provisions influence and mediate the federal government's immigration enforcement activities. These provisions do not preempt federal law but, rather, exploit the interstitial gaps in the implementation of federal immigration law by governing the employer's actions in three immigration-related areas: workplace immigration enforcement, reverification of status, and Social Security no-match letters (written notices issued by the Social Security Administration to an employer indicating that the name or Social Security number reported for an employee does not "match" a name or number in the Administration's records). Furthermore, they provide immigrant workers with protections beyond the guarantees of federal law: stronger nondiscrimination commitments, seniority safeguards, right to converse in a language other than English, unpaid leave

for immigration-related proceedings, and a paid holiday to attend one's own citizenship ceremony.

Regarding workplace immigration enforcement, Unite Here contracts stipulate what an employer will do in the event of a federal enforcement operation. First, the contracts require that the employer do no more than is legally required. For example, the contract between the union and major hotels in Los Angeles states that the employer must "refuse admittance of any agents of the DHS who do not possess a search and/or arrest warrant, administrative warrant, subpoena or other legal process signed by a federal law or magistrate" (Section 15.2.b).<sup>2</sup> Second, the contract instructs the employer to "permit inspection of I 9 forms by DHS or DOL only after a minimum of three days written notice" and only when a DHS warrant or subpoena "specifically names employees or requires the production of I 9 forms" (Section 15.2.c). The employer is further restricted from revealing any additional information to the DHS, such as "the names, addresses or immigration status of any employees in the absence of a valid DHS administrative subpoena, or a search warrant or subpoenas signed by a federal judge)" (Section 15.2.c).

Notably, the employer must contact the union when it receives notification from a government agency regarding an immigration-related case:

Unless objected to by the affected employee, notify a representative of the union as soon as practical if the Employer receives a no-match letter from the Social Security Administration, or is contacted by the Department of Homeland Security (DHS) (formerly the INS) related to the immigration status of an employee covered by this Agreement or if a search and/or arrest warrant, administrative warrant, subpoena, or other request for documents is presented in order that the Union can take steps to protect the rights of its members. The Union agrees that it shall keep confidential any information it obtains pursuant to this provision and that it will use any such information solely to represent and/or assist the affected employee(s) in regards to the DHS matter. (Section 15.2.a)

This provision guarantees a worker the option of union representation when a federal immigration inquiry is initiated at the workplace. The contract leverages the employer's structural position in the process of immigration enforcement by requiring that the employer share information to which it alone is privy as the purported "target" of enforcement. Requiring that the employer contact the union as soon as possible and wait at least three days before providing access to I-9 forms, the contract provides immigrant workers with both information and time. This counters an asymmetrical power

relation that characterizes most enforcement activities of the federal government.

The Unite Here contracts guard against employers requiring reverification of status, a common intimidation tactic. Contract provisions address reverification in three ways: (1) no employee employed continuously on or before 6 November 1986 (the enactment of IRCA) will be required to reverify, (2) the employer “shall not require or demand proof of immigration status” beyond the minimum required by law, and (3) in the event of the sale of the business, requiring the transfer of I-9 forms to the new employer, who “shall maintain said forms” (Section 15.3.d).

Finally, most of the major hotel contracts specify that the employer will not use E-Verify, the federal government’s online I-9 verification system that compares data from the DHS to Social Security Administration records. Employer participation in E-Verify is voluntary, except in six states (Feere 2012). The federally mandated I-9 process requires employers to obtain and record (using the I-9 form) information from employees establishing their identity and employment eligibility, primarily a Social Security or alien registration number. The I-9 form instructs employers to determine whether an identification document “reasonably appears to be genuine.” Employers are not required to verify further the document’s validity.

Austin Lynch described the driving logic behind these and other contract provisions:

Most of it is, we always tell employers our position as the union is that you’re not an enforcement agent. You should do what the law requires you to do and no more. For instance, we don’t want you to use E-Verify unless you have to and currently you don’t have to. We want you to transfer I-9s to the new employer, which they are very uncomfortable with. They say, “Well, we’ll get sued and this and that for accepting other people’s paperwork.” Which is not true. We’ve had numerous fights. Ultimately, even without that language, we’ve prevailed in most circumstances in making employers pass all their I-9 paperwork to a new employer. (Interview, 26 November 2012)

The contract keeps employers from taking an activist or even vigilante—“you’re not an enforcement agent”—position with regard to immigration law.

In the cases of E-Verify and Social Security no-match letters, the federal government tries to engage employers in more stringent enforcement of identity and documentation verification. From the union’s perspective, this opened up new avenues of worker intimidation to

the employer. Austin Lynch describes the union’s concern with no-match letters:

We decided to deal with [no-match letters because of cases] where the company would get a no-match letter, and they’re not required to do anything, but they would. They would call people [workers] down, intimidate them, get them to admit they didn’t have documentation. So we started putting in language, “No, you have to tell us first. You have to call us in. Promise not to take any action.” (Interview, 26 November 2012)

These contract provisions establish legal safeguards that prohibit an employer from using federal immigration inquiries as cause for firing, intimidation, or retaliation. The contracts’ no-match language specifies that “the Employer agrees that it will not require employees listed on the notice to bring in a copy of their Social Security card for the Employer’s review, complete a new I 9 form, or provide new or additional proof of work authorization or immigration status, solely as a result of the receipt of a no-match letter” (Section 15.4.b). Lastly, the language prohibits an employer from contacting the Social Security Administration or any other governmental agency solely as a result of receiving a no-match letter. These provisions mitigate against employer retaliation and attempt to neutralize the employer as an enforcement partner of the state.

Given worker concerns about no-match letters, the union recognized the need to protect workers who made adjustments to their paperwork. Austin Lynch and Susan Minato, executive vice president of Local 11, described the difficulties that immigrant workers face when trying to correct paperwork:

AL: If somebody fixes their papers, they shouldn’t be fired for coming to their employer and saying, “You know, my name isn’t Bill Smith, it’s Joe Smith. I got a new Social Security number.” In a lot of hotels today, you can be fired for that. The employer says, “Oh, you lied on your application.” So we put in provisions saying you cannot be terminated for that.

SM: It’s huge.

AL: It is huge because otherwise you have to stay in the shadows even though you’ve fixed your papers. (Interview, November 2012)

To address this situation, the Unite Here contracts guarantee that immigrant workers who are fired because they fail to provide adequate proof of work authorization will be reinstated immediately with seniority after providing adequate proof. Workers are given twelve months to exercise this guarantee. If additional time to prove his or

her work authorization is needed, the contract stipulates “the Employer will rehire the employee into the next available opening in the employee’s former classification, as a new hire without seniority, upon the employee providing proper work authorization within a maximum of twelve additional months” (Section 15.5.b).

Finally, the Unite Here contracts guarantee accommodations for the special conditions experienced by immigrant workers. For instance, the workers can speak a language other than English “when speaking amongst themselves” and “in a manner that is respectful of guests and other employees” (Section 15.6.a) and will be provided an interpreter during disciplinary interviews if necessary. Workers are granted five unpaid days of leave to attend immigration proceedings related to their own immigration matters and receive one paid citizenship holiday to attend their own citizenship swearing-in ceremony.

Unite Here engages its workers in “know-your-rights” trainings that help them become shop-floor enforcers of their contract rights, as well as their federal labor and employment rights. Karen Kent, executive vice president of Chicago’s Local 1, explained:

Workers have a tendency to huddle. They share information. They can put a place on lock-down even before the union knows anything. They can tell their co-workers to keep their mouths shut [to protect them] until the union gets involved. They know their rights and what the contract says. (Interview, 17 May 2011)

Kent described many occasions when workers were the first to invoke the union contract in immigration-related worksite incidents in Chicago.

Unite Here’s contract provisions are a tactical innovation that exploits the gaps in the implementation process of federal immigration law, neutralizing the enforcement role of the employer to the greatest extent allowed under the law. Although Unite Here contracts also shape employer actions that are not explicitly addressed in immigration law, such as requiring employers to transfer their I-9 forms to a new employer, union officials described the provisions as “truly helpful to employers.” Susan Minato of Local 11 said, “We gave them [employers] a play-by-play book that was helpful because many employers are scared” (Interview, 26 November 2012). While reducing the employer’s uncertainty, the union engaged the employer as a local coalition partner in the bargaining, literally and figuratively, of federal policy implementation.

There are, however, limits to the union’s ability to direct implementation, especially in relation to the ac-

tions of the federal government once an enforcement operation begins. Minato described the union’s limitations as follows:

Once ICE comes in, it’s very difficult for us because then they’re dictating more. So we have to try to get things worked through as much as we can in a positive way before that happens. They don’t just come in willy-nilly. That’s not normal anymore. Under Bush it was, but not now. (Interview, 26 November 2012)

Her statement indicates the limits of on-the-ground implementation. At some point, larger political projects matter.

## Enclaves of Rights

The legal codification of immigration provisions into Unite Here contracts and the protections these provisions materialize for immigrant workers yield “enclaves of rights” at the local level in labor markets such as Los Angeles and Chicago. These rights obtain *in situ*, at the worksite, and are geographically and temporally bound. Immigrants are protected by the union contract when and while they are at work. These rights and protections stop when the immigrant leaves work. Thus, the union contract creates a delimited space in which certain rights not available elsewhere inhere and are actualized. The paradox is that these enclaves of rights contribute to the highly uneven landscape of security for immigrants in the United States.

Because of their influence in local labor markets, their federated (or national) structure (Herod 1991), and role in the broader moral economy, however, unions are positioned to multiply these enclaves as well as extend these rights beyond the confines of the enclave. Because unions such as Unite Here represent workers at multiple worksites, they can create new enclaves of rights through other contracts. Austin Lynch described this process in Los Angeles:

The best and strongest language goes into the big hotel contract, then kind of bleeds out to the rest of the union, for instance food service contracts, where sometimes we’re not able to get the whole version so they may have lesser versions [of the language]. (Interview, 26 November 2012)

As Lynch’s quote illustrates, the union’s ability to extend these rights depends on its economic power within certain sectors. When robust, that power can facilitate adoption of norms even without a union contract. Lynch described how a new owner of a hotel began



using E-Verify without telling the union (its contract with the old company had expired):

We told the company you can't [use E-Verify] without bargaining with us. We told them (a) your contract has expired and you're going to have to negotiate with us, and (b) we've got E-Verify prohibitions everywhere else [in other contracts]. We had the credibility to say, we're going to get it with you, too. So ultimately they backed off. (Interview, 26 November 2012)

This is how unions can enforce norms, in the absence of a contract, through broad institutional influence.

If its federated structure in the United States limits the power of labor, it also facilitates the heuristics and transfer of tactical innovations. Unite Here locals independently won inclusion of immigration provisions in each of their collective bargaining agreements while coordinating their contract campaigns in message and timing, a strategy facilitated by the International. The hotel contracts in Chicago and Los Angeles—where the immigration contract language is nearly identical—were won in the same year because the expiration of contracts across major U.S. markets had been coordinated in prior rounds of collective bargaining. Finally, the communicative and political power of unions can begin to shift the contours of the moral economy with regard to the treatment, processing, and criminalization of immigrant workers. The contract victories in Chicago and Los Angeles establish localized beachheads from which to expand a broader immigrant rights platform, one designed and mobilized in partnership with immigrant workers.

## Conclusion

The clustering of immigrant workers within labor market enclaves, both by type and place of work, has been a pronounced feature of the urban economic landscape (Ellis, Wright, and Parks 2007). Often cast as sites of exploitation, these labor market enclaves can be sites of collective action, leveraging the very networks that connect immigrants to enclave employment for purposes of resistance. For undocumented immigrant workers, the worksite produces both illegality and legal protections—the former under immigration law, the latter under labor and employment law. Unions, as nonstate actors and legal representatives of immigrant workers at the workplace, negotiate the uncertain and often conflictual intersection of these two legal domains. In the case examined in this study, union contracts defend extant rights and innovate new protec-

tions for immigrant workers. These protections inhere in place because worker rights (conferred by federal law) and rights attained through social membership (union representation) are triggered, actualized, and defended at the workplace.

These enclaves of rights add a further degree of granularity to geographic research on the local scaling of immigration policy. Research reveals the ways in which other intermediate scales between the border and the workplace, such as state and municipal policy and enforcement, mediate immigrant rights and protections on the ground (Wells 2004). Gleeson (2012), for example, has examined how municipal policy can affect the employment conditions of undocumented immigrant workers. Yet these scales exert less direct influence on the workplace given its unique status relative to federal labor and employment law. Rendering visible the uneven regulatory geography of immigration policy will require continued multiscale analyses to identify territorially based practices that might generate similar enclaves of rights, while explicating the mechanisms through which these enclaves are produced, defended, and possibly expanded.

## Notes

1. Gleeson (2012) identifies *Hoffman Plastic* as indicative of the further tension between the *rights* of undocumented workers and the *remedies* they receive in practice.
2. Collective bargaining agreement between Unite Here Local 1 and signatory Chicago hotel employers, August 2006. Unless otherwise noted, all language is the same in the collective bargaining agreement between Unite Here Local 11 and signatory Los Angeles hotel employers, August 2006. Both contracts are on file with the author.

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