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# A Fair Day's Wages: Liberty, Legality, and Liability Among Denver's Day Laborers

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A Fair Day's Wages:  
Liberty, Legality, and Liability Among Denver's Day Laborers

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A Thesis  
Presented to  
the Faculty of the Josef Korbel School of International Studies  
University of Denver

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In Partial Fulfillment  
of the Requirements for the Degree  
Master of Arts

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by  
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August 2015  
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Title: A Fair Day's Wages: Liberty, Legality, and Liability Among Denver's Day Laborers

Advisor: Aaron Schneider

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### **Abstract**

Day laborers occupy an essential position in Denver's booming construction industry. Day laborers make up a highly flexible, highly effective workforce able to respond to market changes. For day laborers, informal day-labor gathering points provide increased control over working hours and employee-employer relationships when compared to traditional wage labor. Still, recent legislation and policies around irregular migration has forced large numbers of workers who may have benefited from the stability of full-time regular employment into the informal sector. The day laborers' flexibility also exposes them to employers constantly inventing ways to deny them the wages and benefits they are owed. Despite changes in Colorado law in attempts to strengthen workers' recourse against their employers, and despite social and individual tactics day laborers employ to mitigate their vulnerability, systematic structural, symbolic, and everyday violence continue to advantage employers.

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## A Fair Day's Wages: Liberty, Legality, and Liability

### Among Denver's Day Laborers

Day laborers in the Denver metro area make significant contributions to Colorado's construction, moving, and landscaping industries in the midst of a serious labor shortage, driving the post-2008 recession recovery. Lacking stable employment, these day laborers wait for employers at various street corners, referred to in Denver as *liebres*<sup>1</sup>, as well as at the day laborer center Centro Humanitario. Although not all undocumented, Denver's day laborers work in a context of systematic marginalization, structural violence, and racial prejudice. Wage theft and abuse abound, and the men face high incidence of workplace accidents and injuries, often without any access to workman's compensation or even transportation to medical care facilities.

On an economic level, these men compose a highly flexible workforce, allowing the construction, moving, and landscaping industries to absorb shocks in the market and increase or decrease their number of laborers from day to day in a way that they could not if they relied on more traditional employment practices. The industry takes advantage of the men's precarity, using immigration status,

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<sup>1</sup> *Liebre*, meaning hare or jackrabbit in Spanish, is the word used in the Denver metro area to refer to the informal gathering places where day laborers find work. The word appears to be unique to Denver, and other words used in the literature

homelessness, and racial, linguistic, and economic marginalization as leverage to force down wages and working conditions to save costs.

The day laborers, however, do not allow themselves to simply act as pawns for the system. They use various methods of organization and social solidarity to oppose especially cruel employers, and many of them choose day labor because of the freedom it grants as compared to other forms of labor open to undocumented and highly marginalized members of society. Because of Denver's labor shortages, day labor typically pays significantly better than farm work or work gained from more traditional temporary employment agencies, and the laborer can exercise his (the day laborers are almost all male) judgment when it comes to what jobs to take and what jobs to refuse. Still, the balance of power rests in the contractor's hands, and day laborers are left to navigate the perils of day labor with a significant disadvantage due to perceived legal status and deportability.

### **Background**

The 2008 financial crisis wreaked havoc on Colorado's construction industry. Employment in Colorado's construction industry peaked in July of 2007, later than the national average peak employment in April of 2006, but plummeted by unprecedented levels shortly after (Associated General Contractors, 2014). The downward spiral continued until growth restarted in 2009, and by 2010 the Colorado construction industry had one of the highest growth rates in the country (Easley, 2010). Home sales in Colorado jumped 22.6 percent from 2008 to 2009 (compared with just an 11% increase nationally), and new home construction soon followed as a consequence of the recovering real estate market (Hurley, 2009).

Construction employment continued to grow throughout the next five years, and the construction industry posted enormous gains. Despite the rapid growth, however, the construction industry still employed 21 percent fewer people at the end of 2014 than it had at its peak in mid 2007 (Associated General Contractors, 2014).

Although Colorado's recovery came swiftly, the recession had lasting impacts on Colorado's construction labor force. Many of the workers who had swelled the industry's ranks in 2007 either moved to other states or abandoned the industry completely, and today the industry faces an enormous labor shortage, with 96 percent of firms reporting that they had at least some problems finding the workers they needed (Hendee, 2014). Hendee further explained the survey findings,

Bricklayers, drywall installers, painters, pipe-fitters/welders, plumbers, roofers, carpenters, equipment operators are some of the highest positions needed by Colorado survey respondents. Many, the survey said, are even increasing pay and benefits to attract these kinds of workers (Hendee, 2014).

Not surprisingly, the professions described in Hendee's article compose the bulk of the work done by day laborers in the Denver metro area, a fact not lost on the state's construction firms. Writing for the Denver Business Journal, Proctor (2014) explained contractors' hopes that immigration policies might be relaxed, quoting Colorado Contractors Association executive director Tony Milo as saying,

As the economy rebounds, immigrants will be needed to fill jobs... 'We're going to get to a point where we don't have enough people,' Milo said. 'I'm hearing from a number of my members that they're starting to run into a problem finding qualified labor. A lot of people have left our industry and gone to other places to find employment (Proctor, 2014).

Milo went on to clarify that the members of his association were committed to hiring legal workers, and claimed that the number of H2B visas should be allowed to



ebb and flow with the volatility of the market. It's unlikely, however, that the Colorado Contractors Association can track the employment practices of Colorado's 15,700 construction firms, 93 percent of which have fewer than 20 employees (Associated General Contractors, 2014). Milo acknowledged both the need for large numbers of immigrant workers and the lack of legal pathways for their incorporation into the labor market. Perhaps more importantly, he acknowledged the volatility of the construction sector and contractors' desire for a highly flexible and market-responsive immigrant workforce (Proctor, 2014). Of course, Milo argued for a legal path for creating such a flexible and responsive workforce, but his statement makes clear the desire within the industry. Whether or not Milo truly wants to work only with documented migrants, at least some of the 15,700 companies doing construction in Colorado are likely willing or even eager to take advantage of the low cost and high degree of control involved in employing undocumented day laborers.

In the same way that Colorado's construction industry shapes the day laborers' experiences, immigration policy and the political discourse around undocumented migration stretching all the way back to the 1920s help to create the atmosphere within which the day laborers toil. Nicholas De Genova (2002) gives a brief history of U.S. immigration policy history and how it affects the current political climate. De Genova, as well as Gomberg-Muñoz and Nussbaum-Barberena (2011) note that immigration policy has long served a functional purpose as labor policy, with De Genova even noting that immigration enforcement initially fell under the purview of the Department of Labor. He also quotes the 1911 Dillingham U.S.

Immigration Commission as saying that the difficult-to-assimilate Mexican was, “less desirable as a citizen than as a laborer” (De Genova, 2002 p. 434). Shocking at first, this highly racialized view of Mexicans as undocumented labor continued to entrench itself, in both overt and covert ways, in the U.S. immigration regime. De Genova describes in earlier pages, for example, the fact that nearly 415,000 Mexican migrants and Chicanos faced deportation in the 1930s regardless of their immigration status or U.S. citizenship.

The illegalization of Latino-American existence owes its formation to more than just racism: it was economical. The U.S. government recognized migrants from south of the border as useful for their labor even while being excluded from important citizenship rights. Gomberg-Munoz and Nussbaum-Barberena (2011) expound on the ways that the practice of importing temporary Mexican labor embedded itself in the U.S. economic system throughout the 20<sup>th</sup> century, accelerated by the Bracero program that started during the second world war and ended in 1964, and becoming even more entrenched in 1965 with the establishment of the first migration restrictions on Mexicans and Central Americans. From that point on, U.S. immigration policy shifted from alternating periods of relaxed enforcement and mass deportation toward a policy of increasing enforcement at the borders and reducing enforcement within the borders. Indeed, undocumented Americans have higher participation in the labor force than any other group in the U.S., likely in part because of their exclusion from most kinds of social services (Gomberg-Muñoz and Nussbaum-Barbarena, 2011). In recent years, interior

enforcement has increased, but the burden for enforcement has mostly been placed on businesses, a practice I will discuss further on (De Genova, 2002).

Of course, U.S. immigration policy does not always march in the direction of greater restriction, but De Genova (2002) argues that even the legalization activities also serve disciplinary purposes and serve to subordinate labor, never entirely removing everyone from the deportable status of illegality. Since the 1986 Immigration Reform and Control Act legalizing undocumented migrants in the U.S., however, the tendency has been toward stricter controls domestically. Gomberg-Muñoz and Nussbaum-Barbarena (2011) highlighted several of these tendencies, citing Secure Communities and the E-verify program, which came up often in my research with day laborers in Denver. Secure Communities ostensibly involves the deportation of undocumented migrants guilty of crimes (although in practice is often applied to very minor offenses), and the E-verify system allows employers to verify a migrant's immigration status through an online database. Gomberg-Muñoz and Nussbaum-Barbarena found the E-verify system, which began allowing electronic access in 2004 and became mandatory for federal contracts in 2009, to be more likely to be used as a discipline or regulatory tool and not in enforcement of immigration policy. This finding may shed light onto why enforcement shifted away from the police and onto businesses as noted by De Genova (2002). After all, if undocumented status primarily serves the purpose of enforcing deportability and vulnerability, then it would make economic sense for the businesses to wield E-verify's power instead of law enforcement.

Moving away from the national stage, Colorado actively participated in the process of constantly shifting between a closed and open-handed approach to undocumented migrants. Colorado's aggressive policies reached their zenith in 2006 with the passage of Colorado SB 90, a law mandating that Colorado law enforcement agencies participate with federal immigration initiatives, often referred to as "show me your papers" legislation (CIRC, 2013). The Colorado legislature repealed the law in 2013 following public outcry and a Democratic takeover of the legislature, and the Denver metro area has subsequently moved away from strict enforcement, with several area municipalities declaring that they would no longer honor voluntary holds on behalf of Immigration and Customs Enforcement under the Secure Communities program (Lofholm, 2014). Still, in the context of De Genova's (2002) assertion that even legalizations serve as instruments of labor subordination, these actions to repeal draconian state and federal-level immigration policies may very well serve to help ensure the presence of a low-wage, flexible workforce, keeping migrants wondering whether they will be protected or not, fully knowing that their existence relies on legislative and executive whims. A botched drivers license initiative in 2013 provides potent example of the Colorado legislature's capriciousness in granting concessions to the undocumented population. According to Verlee (2015), Colorado democrats passed the measure to allow undocumented migrants to acquire licenses in 2013, but after Republicans took control of the state legislature, they slashed funding for the program. They lacked a sufficient majority to repeal the law, which remains on the books, but the reduction in funding seriously reduced the number of offices processing the request, essentially killing

the measure. For undocumented migrants, the series of events seems to have only accentuated the extent to which the government arbitrarily controls their rights to access basic rights and services. Even if the drivers licenses were being given out in large numbers, the documentation would not have given the migrants legal status. In a way, both the movements to make the migrants' lives easier and the movements to make them harder help to reinforce a status of what Ordoñez (2015) refers to as paracitizenship, a status in which the migrants' existence in the country receives some recognition but no legitimization. Initiatives like Colorado's licenses for undocumented workers may make it easier for migrants to remain in Colorado, but it does not move them any closer to legal status, and maintains their situation as second-class citizens.

### **Between Legality and Commodity**

The context underpinning day labor in the Denver metro area combines the disparate and often contradictory situations generated by the historic structural violence of racialization, the economic policies inherent in deportability, and a Denver housing boom that has created a sizeable labor shortage. These forces work together to form the flexible labor force that the Colorado construction industry desires in order to conservatively take advantage of the construction boom without tying itself down with the inflexible trappings of formal labor. Unfortunately for those caught in this system, individual day laborers face a situation where structural, symbolic, and everyday violence mark the tone of everyday life. Day laborers combat these substandard conditions through a variety of creative measures, and display impressive levels of flexibility, ingenuity, and resilience; some

of them even leveraging Colorado's labor shortage to spurn traditional capitalist notions of fixed-schedule wage labor. Still, even in their most impressive efforts to resist, the day laborers face a well-tuned system of periodic repression and promotion that ultimately forces them into contingent forms of labor and removes their channels for recourse.

Over the next three sections, I will analyze the ways that structural violence acts to mold both migrant and U.S. workers into a flexible, disposable workforce able to absorb economic shocks at the individuals' expense, protecting construction companies by shifting the cost of economic volatility to the workforce. After explaining my methodology for the project, I will first explain how flexibility and violence affect the workers in a broad sense, and then will go into the ways wage theft reinforces the day laborers' vulnerability. Next, I will talk about how the worker's vulnerability affects their health, thereby increasing their vulnerability and exploitability. In the concluding section of the paper, I will discuss the substantial structural barriers organizations and individuals face in attempting to improve the day laborers' situation.

The day laborers I spoke with came from many different places and held various immigration statuses. A combined experience of day labor united them, however, and whether they were undocumented, legal residents, U.S. citizens, Latino, Anglo-American or belonging to any other cultural group, they all shared an experience of racialization and perceived deportability as a result of their decision to seek work at the *liebre*, or informal gathering place for day laborers. Of course, for many the *liebre* constituted more of a concrete reality than anything that could

really be called a decision, as the arrival and increasing implementation of the E-verify system began to relegate those without legal status to contingent forms of labor. With this context in mind, I began to communicate with Centro Humanitario and frequent the *liebres*. Like many researchers, I saw the day laborer center as a logical starting point, as it was easy to find, formal, and had strong links with many of the day laborers at the *liebres*. What's more, the University of Denver already had a longstanding relationship with the center, and Raja Raghunath at the law school and Rebecca Galemba, who advised my research, ran research projects and a legal clinic in conjunction with the organization.

## **Methodology**

I first came into contact with Centro Humanitario in 2014 while taking a qualitative research methods course at the University of Denver. I had the choice of working with several community organizations on different projects, and the day laborer association immediately caught my eye. In the end, I worked with another group looking at community-police relations in Aurora for practical reasons – they needed a Spanish speaker – but my interest in day laborer issues remained, and I began making plans for further research and maintained some contact with the organization’s director. Doing research on community-police relations provided me with important local context that, although not directly related to my research on day laborers, helped me to understand the broader issues involved with migrants in the Denver metro. The relationship with Centro Humanitario, however, proved instrumental in understanding the day laborers specifically, and in finding *liebres* to study.

Founded in 2002, Centro Humanitario provides a space for and advocates on behalf of day laborers and domestic workers (Centro Humanitario, 2013). This combination of both practical work and advocacy makes the organization unique, but also keeps the staff incredibly busy. The Centro provides lockers, a small kitchenette, and often coffee and food for day laborers, and maintains relationships with many area employers. When employers come looking for workers, Centro



members who are present that day get sent off to jobs in accordance with a lottery system that determines priority for the day. The organization attempts to generate more transparency and accountability in the informal process, guaranteeing hours, wages, and taking information from both sides. Although the day laborer center provides an important place for day laborers, especially those who may be homeless or otherwise vulnerable, to seek employment in a more secure atmosphere, most day laborers in the Denver Metro area do not go to Centro to seek work. Instead, they gather at *liebres*, places with various levels of formal status (usually just a street corner) where workers gather to find work.

My first visit to one of the *liebres* took place on a warm day in early February. Denver's weather can be highly erratic, and despite the fact that it was the height of winter, high temperatures for the day were around sixty degrees. I had gone to the *liebre* to interpret for Raja Raghunath, who runs a wage theft clinic at the University of Denver, and to jot down some preliminary observations about the place. I was a complete stranger, and the experience was somewhat awkward. Although I speak Spanish fluently, the language thuds off of my tongue with the harsh consonants and half-mumbled vowels of northern Spain, a dialect that for many of the day laborers likely makes me sound quite foreign, and that I acquired from many summers spent with friends in the Basque Country. Many of the day laborers, on that occasion and many others, asked me if I was from Spain. Regardless of how many times I said I was from the United States, someone always took my Spanish identity and ran with it. One regular at the Dayton and Colfax *liebre* made sure to tell me all of the latest news out of Spain, and others looked at me incredulously when I explained that I

had no opinion concerning the rivalry between Real Madrid and FC Barcelona. Another man referred to me, as “Piqué”, in reference to the famous FC Barcelona footballer, occasionally asking me, “How’s Shakira?” I took the attention as an unmerited compliment, and mostly ignored it.

In some ways, this default association with a non-American identity may have helped ingratiate me with the community. In other ways, though, it may have served to accentuate my otherness. Not every day laborer comes from Mexico or Central America, of course, but the field does exhibit a high degree of racialization, and my light skin, blue eyes, and European accent did not aid my attempts to fit in. Some days I felt relatively well integrated into the group, while other days I stood, notebook in hand, uncomfortable, and basically ignored. On very few occasions workers were openly antagonistic towards me, accusing me of doing nothing to help them, or in a few bizarre cases of being immoral because I attended a college (“I know what goes on in those dorms!” one worker stated emphatically). On more than one occasion, laborers asked me if I was with the police. The antagonism became less and less common as the men became more and more familiar with me and accustomed to my presence at the *liebre*. Still, I needed to be conscious at all times of the power differential created between an Anglo-Saxon graduate student and, in many cases, undocumented workers who may not have finished high school. As much as I would like to say that the information I gathered was the “objective truth”, these racial, legal, and linguistic factors colored my interactions in ways that I may not fully understand. The day laborers must spend a large portion of their time attempting to generate certain stereotypes about themselves, such as the

“willingness to work” dynamic that Gomberg-Muñoz (2011) outlines, and their beliefs about who I was and what I was doing certainly affected our interactions. In my study, I attempted to mitigate these issues by spending large quantities of time on the same *liebres* and returning regularly in order to become a part of the familiar landscape of the street corner. Still, as Ordoñez (2015) also noted, the men spend their entire time at the U.S. managing the perceptions of others, and I could not fairly assume that this was not the case in their interactions with me.

Although I personally collected the vast majority of the data used in this paper, I also supplemented my research with data collected by Rebecca Galemba’s Qualitative Research Methodology class and by other research assistants and faculty working on the University of Denver’s wage theft research and legal outreach study. Adding notes and observations from other researchers to my own research helped me to gain a broader perspective on the population and the issues, and helped to increase the validity of my findings.

### **Sampling and Ethnography**

In many ways, the day laborer population constitutes what Singer (1999) refers to as a “hidden population”, in that it somewhat defies clear definition, exhibits fluidity in its membership, and many members have good reason to limit exposure to broader society in order to reduce risk of abuse, exploitation, or even deportation. In another sense, however, it demonstrates characteristics of a membership or patron population in that the constituents must come to the various *liebres* in search of work. In this sense, the population is simultaneously hidden and hyper visible, a situation necessitated by their need for work. These features of the

population both hindered and aided our sampling efforts. For one, some members of the population are secretive, and may even be antagonistic toward those asking too many questions. What's more, the *liebres* exist at various levels of formality, and no central registry of *liebre* locations exists. In this sense, the *liebres* are both intensely public and somewhat hidden. They are out in the open, and well-known to those in the neighborhood and to prospective employers, however for an outsider they can be surprisingly difficult to track down, as they tend to be located on side streets just off of main thoroughfares.

From February to June 2015, I regularly visited four *liebres* and one day laborer center in the Denver Metro area, observing the population, conducting key-informant interviews, and engaging in participant observation. The majority of my interaction with day laborers, and by far the majority of my data, included unstructured and semi-structured interviews, supplemented by observations gathered while spending time at the *liebres* and interacting informally with the men who looked for work there. Thanks to the project budget for the Wage Theft clinic and research project, I was able to bring coffee to the *liebres*. Although not decisive for the project, the coffee made for an excellent conversation starter, and helped me and the other researchers in the study to gain some rapport with the workers. I collected and analyzed all of the data in Spanish or English depending on the individual's preferred language. Working conditions, and specifically wage theft issues, served as the starting point for most of my conversations at the *liebres*, although I later ventured into more in-depth ethnographic information. My connections with the legal clinic and indirectly with Centro Humanitario both gave

me a point of legitimacy in some cases and made finding the information I wanted to get more difficult in others. Because of the work that the legal clinic and Centro did, my presence seemed less strange, making some workers more comfortable with sharing information. Still, some of the workers were disillusioned with legal action and Centro's constant attempts at organization, and as a result may have held a negative opinion of me even before I introduced myself. What's more, the legal clinic had conditioned many of the day laborers to talk openly about wage theft, and to assume that all I wanted to know about were specific instances of non-payment. Sometimes I had to work quite hard to steer the conversation away from very specific facts about wage theft and toward the broader situation that the laborers faced.

The sampling method I used most closely approximates what Singer (1999) described as the Chicago method, conducting ethnographic studies at the places where day laborers congregate while supplementing that information with secondary data on the population. I strengthened the data by collecting data from multiple sites, on different days of the week, and by visiting the *liebres* over the course of five months to account for some of the seasonality of the work and the workers who frequent the *liebres*. For the current study, an ethnographic approach to the population presented several advantages. Firstly, very few studies have been done on the day laborer population in the Denver metro area, and ethnography allows for an inductive approach to research that gives the study greater flexibility than traditional survey research or other social science methods. This inductive method helped me to understand exactly what I needed to look at without knowing

much about the population beforehand, and also allowed the participants some power to help shape the discussion and the way they were portrayed in the research. This further allowed me to establish some rapport with the population and to understand the men's behaviors within the social context of the *liebre*. Also, as Schunsul (1999) noted, ethnography can be effective in reducing the amount of time it takes for knowledge gathered to be developed into concrete action, a consideration very relevant to themes so sensitive as working conditions, exploitation, and wage theft. Ethnography systematically collects narrative information, which can prove very powerful in policy-making contexts. Ethnography allows for a conversation between the participants and the researcher, and gives the participants more power to direct the research in directions that they believe important or helpful in their situation, instead of merely answering the researcher's questions through a survey or other instrument.

Participant observation further allowed me to contextualize the responses to my questions. If I were only to give interviews and not spend significant amounts of time at the *liebres* chatting with the day laborers and observing *liebre* dynamics, then the answers would lack the social context that generates them. The amount of time spent at the *liebres* multiple days a week and week after week helped me to identify patterns and to parse out what observations were important and which were simply one-time occurrences, increasing the study's validity. Furthermore, my consistent presence at the *liebres* allowed the day laborers to become accustomed to my presence and, to a certain extent, allowed them to be more open both in their conversations with me and their actions toward each other.

## **The *Liebres***

I looked specifically at four different street corners: Dayton and Colfax, 19<sup>th</sup> and Federal, Sheridan and Kentucky, and Stout and Park Avenue. Each *liebre* displays its own idiosyncrasies. Even so, they share some common characteristics. For one, nearly all of the *liebres* have gone through, and continue to experience, a process of continual formalization, starting out as an informal gathering place with no legal tolerance. At each *liebre*, older workers recounted stories of how they ended up at the current location, and the struggles they faced with the police and local businesses. By the time of the study, however, all of the *liebres* either had express permission from local businesses, organizations, or authorities, or were at least tolerated if not outright recognized. Despite the recent increase in tolerance toward the *liebres*, none of them enjoys the kind of public endorsement found at the street corners that Ordoñez (2015) studied in Berkeley.

### **Dayton and Colfax.**

The *liebre* I went to when I accompanied the Professor Raghunath on that warm, early February day sits on Dayton street just north of the intersection with Colfax, one of metro Denver's busiest and most notorious streets. Located in Aurora, a suburb east of Denver known locally for both ethnic diversity and crime, the *liebre* stands among businesses with signs in several languages, including a pawnshop, various convenience stores, a post office, and a few buildings that appear to be abandoned. Dayton Street runs north and south, and the majority of the workers gather on the east side of the street, on a small parking lot next to the *Iglesia Evangélica Jesucristo es Rey*. Some of the workers also gather on the west side of the

street, and often go to the small groceries and convenience stores that line the sidewalk. One of them is boarded up, despite being open during the day, supposedly to block the morning sun.

Not everyone who gathers at the Dayton and Colfax *liebre* comes to work, and some of the laborers complained that troublemakers sometimes caused them problems. The police go by periodically, but seem ambivalent to the day laborers' presence. On one occasion, the police even came by with a news crew to interview the day laborers about what they would like to see the police doing to improve the community. Long-time workers at the *liebre* explained that some time ago they were quite unwelcome, but the situation seems to have changed. The city of Aurora's police department long had a troubled relationship with the city's diverse community, and hired a new police chief in 2015 with hopes of diversifying the police department and improving relationships (Illescas, 2015 Jan, 1). According to an article by Carlos Illescas in the Denver Post (2015 May 18), the city of Aurora is currently looking into purchasing lots on Dayton to create a more permanent and formal place for day laborers to gather, perhaps even involving more structured, day-labor-center-type organization. Whether these plans will come through and how they will affect the Dayton and Colfax *liebre* is yet to be seen. If a day laborer center were to emerge in Aurora, the *liebre's* future would remain unclear. Many workers seem to prefer the openness of the *liebre* to the organization of a center, as evidenced by the fact that Centro Humanitario sits only a block away from the still-functioning *liebre* at Stout and Park Avenue. The city of Aurora may be surprised to find how little effect creating an official space may have on whether or not people



gather at the traditional spot, but at this point anything we say about what will happen in the future is conjecture.

### **Stout and Park Avenue**

Moving to the west, some respondents identified the *liebre* at Stout and Park Avenue as one of the oldest in the city. Located in the city's increasingly gentrified Five Points neighborhood, combined with the fact that the *liebre* is less than a block from Centro Humanitario, its popularity seems to be waning. Still, a group of men does gather there in search of work, although alcohol and marijuana seem to appear more frequently (or at least openly) there than at some of the other *liebres*. Some men come directly from Centro Humanitario if they don't like the number they were given, or if work is slow at the day laborer center. The Stout and Park Avenue *liebre* may owe part of its persistence to its proximity to many homeless shelters, and as a result of its location and my conversations with day laborers there, I suspect that the rate of homelessness among those who gather there may be higher than that at other *liebres*.

The workers at Stout more or less stand on the southeast corner of the intersection, on the wide sidewalk that separates the street from a small, empty lot and the two parking lots that sit adjacent to it. Trees line Stout Street, and offer shade and something to lean against for those yet to find work for the day. The other side of the street looks similar, with a large empty lot and a few residential houses and small commercial buildings, but the men seem to stick to one side. Downtown Denver's skyscrapers loom nearby, to the workers' left, and active construction sites

rest within a distance of one or two blocks, construction sites to which the day laborers certainly contribute.

### **Centro Humanitario.**

Centro Humanitario is the only day laborer center in the metro Denver area, and many of the day laborers, whether they frequent the center or not, hold memberships there. In addition to providing a gathering place for day laborers, the center provides information, limited legal services, attempts to organize day labor, and even provides member I.D. cards that for many members constitute their only photo I.D. Some laborers I talked to claimed that these identification cards made a huge difference in their ability to access services and avoid problems with the police, regardless of their immigration status. The I.D.s make certain aspects of life simpler, but they may also serve the counter purpose of marking the undocumented workers' vulnerability and serving to reinforce their paracitizenship.

Unlike at the *liebres*, work at El Centro, as it is often referred to, relies on a lottery system by which workers are assigned a number and given jobs in order as they come. Members can also apply to keep their things in a designated locker, and there is a small kitchenette where members can prepare food for the day. Most days, El Centro has coffee and often some sort of breakfast food such as bagels and cream cheese donated by nearby businesses. According to their lottery numbers, workers receive cleaning and maintenance duties at the center, the performance of which guarantees their placement at the top of the list the following day.

Workers have complex motives for choosing whether to go to El Centro or one of the *liebres*, and it's impossible to guess why a person would choose one over

the other on a particular day. In general, however, El Centro has a higher proportion of homeless and older workers, and some of the workers I spoke to at the *liebres* thought of it as a more difficult place to find work, preferring not to rely so heavily on the luck of the lottery system. Still, the center provides a strong sense of community and a convenient place to store things, and laborer motives for choosing it are as diverse as the men who go there. For the purposes of the study, El Centro was instrumental in helping me to locate other *liebres* and helping me to contextualize and understand findings.

### **19<sup>th</sup> and Federal.**

Moving west from downtown, the 19<sup>th</sup> and Federal *liebre* sits on a bluff overlooking the Denver Broncos' stadium and downtown. The workers gather on the southeast corner of the intersection, tending to load more heavily onto the south side of 19<sup>th</sup> street where there is a small rock garden and the entrance to a parking lot, which they must avoid. The workers once had a tense relationship with the businesses across the street, but with time and negotiation they managed to gain the community's acceptance, if not respect. Tensions still flare up occasionally, and the laborers work hard to keep the area clean and keep newcomers in the designated area. Most of the laborers I talked to here knew about Centro Humanitario and about the Dayton and Colfax *liebre*, but preferred coming here because they felt the work was better than at El Centro, and that the group was more serious than at Dayton and Colfax, preferring work to leisure.

Some of the men meet up at the Burger King around the corner to get coffee and maybe breakfast early in the morning. They make frequent reference to a temp

agency located near the *liebre*, but those who mentioned it either complained about the low wages they made there or found themselves ineligible due to their legal status. A truck comes by most days selling the workers burritos at a low price, sometimes even on credit if the individual is known to have come upon tough times. Many of the workers live in the neighborhood nearby, although Denver's housing market may be pricing many of them out of the area, and luxury apartment buildings are beginning to appear in the area. Ironically, the men at the *liebre* speak with mixed emotion about how they have helped to build the multi-family housing units that ultimately displace them. More people come to this *liebre* than tend to congregate at Stout and Park Avenue, and some days the numbers even rival those at Dayton and Colfax. Regardless of how the 19<sup>th</sup> and Federal *liebre* compares to Dayton and Colfax in terms of size, most of the men there seem to agree that the vast majority of those who come to 19<sup>th</sup> and Federal come there to work, while many of those who gather at Dayton and Colfax are troublemakers and "callejeros". Regardless of the veracity of this assessment, it does seem to be an important motivation for some when it comes to choosing 19<sup>th</sup> and Federal.

### **Sheridan and Kentucky.**

Located just over the border between Denver and Lakewood, one of the city's western suburbs, the Sheridan and Kentucky *liebre* sits farther west than any of the other *liebres* in the study. Like the other *liebres* previously mentioned, the Sheridan and Kentucky *liebre* has struggled to establish its legitimacy in the community. I had difficulty finding it at first, and briefly thought it to be a legend. I found the *liebre* by speaking to workers at other locations, and had heard of a site located at Sheridan

and Florida, as well as various other intersections along Sheridan. I finally did find it, but even after I had established which intersection it was nearest to, Dr. Raghunath and I drove around the block once or twice before finally locating it. This is the only *liebre* in the study that does not actually exist on a certain intersection, but rather occupies the parking lot of a school and church on the west side of Sheridan between Kentucky and Ohio Street in what is technically Lakewood. The workers there told me that they had previously been at the corner of Sheridan and Florida, but that they had had frequent problems with police. They avoided this problem by moving to the Lakewood side of the street when the Denver police came, and to the Denver side whenever the Lakewood police came. Finally, the church whose parking lot they now occupy offered them the space, in exchange for promises not to drink or cause problems.

The Sheridan and Kentucky *liebre* is probably the smallest of the four with usually no more than ten or fifteen people, and also the most isolated from the other locations. Many of the workers who go there have cars, although there is also a bus stop adjacent to the *liebre*. The area is mostly suburban, and there are fewer businesses in the area, although there is a plaza about a block away boasting a Dominos Pizza, a beauty salon, and various other businesses, mostly targeting a Spanish-speaking audience. Unlike at the other three *liebres* I studied, the men at Sheridan and Kentucky had little to no relationship with El Centro, and I found the *liebre* by asking men at the other *liebres* if they knew any other spots to find work. I am certain that other *liebres* exist in the Denver metro area, likely farther north, but Sheridan and Kentucky seems to mark the outer edge of the social networks built

around the city of Denver's core. Still, the men at Sheridan and Kentucky were more isolated than those at the other *liebres*, and tended to have less knowledge of the other three *liebres* as well as of services available to day laborers at Centro Humanitario and other organizations in the city.

### **Sampling Logic**

I chose to focus on all four *liebres* because in looking at all of them and attempting to understand what makes each of them different, it becomes easier to see what makes them similar. For example, the Stout and Park Avenue and 19<sup>th</sup> and Federal *liebres* rest within the Denver city limits, while the Dayton and Colfax and Sheridan and Kentucky *liebres* occupy locations in suburban jurisdictions (Aurora and Lakewood, respectively). This means that the sites have different experiences with the authorities not only on the ground but also at the policy level. Some phenomena will be more common at one *liebre* than all of the others, but in some senses the day laborer experience will be a common experience for everyone in the city. As for El Centro, I have chosen to make the *liebres* the primary focus of my study, referring to El Centro only as a sort of comparison. I made this choice for two primary reasons: firstly, many day laborer studies focus on day labor centers because they are easier to access, and even the little bit of research that has been done in Denver has mostly centered around El Centro. That is to say, we know a lot more about the workers who frequent El Centro than we know about those who choose not to, partly because it is a more organized environment and partly because a bit of research has already been centered there (in addition to the outreach that El Centro's staff do to begin with.) Secondly, I had reasons to believe that there were

important differences between those who preferred the day laborer center and those who chose to go out to the *liebres*. Specifically looking at the day-laborer experience outside of the day laborer centers further helped me to understand the day labor center's limits, whereas it often receives attention as a potential solution to many of the day laborers' problems.

I should be clear about the fact that a large amount of overlap exists between those who go to El Centro and those standing out at the *liebres*, and workers will sometimes spend one day at a *liebre* and another at El Centro. Nor do workers necessarily stick to one *liebre* for all of their work, or even depend exclusively on one of the five above-mentioned places. Day laborers, by necessity, have diversified job search strategies, and may go work with friends in other places, know contractors that call them up for extended periods, or pursue more stable wage labor for extended periods. That said, even if they cycle between different *liebres* and survival strategies, they usually have one spot that they favor at a given time, and in my experience can be quite loyal to them, some returning week after week. Others leverage their preferred *liebre* as a kind of safety net, returning whenever the most recent opportunity has yielded all of the benefit it had to offer. Day labor displays high levels of transience, and someone who qualifies as a day laborer today may find a job tomorrow that lasts months or even years, essentially ceasing to be a day laborer. Interviewing these people while they engage in more stable employment might be useful, but the nature of informal work allowed me to get a bit of perspective on that aspect of precarity by talking to those who had recently

returned from a long-term opportunity, and now stand at the *liebre* seeking out their next, whether it be for a day, a week, or a year.



### **Day laborers and construction: Flexible Vulnerability**

One day in mid February I arrived at the 19<sup>th</sup> and Federal *liebre* as a light mixture of rain and snow fell on the workers congregated by the street corner. The relationship between weather patterns and *liebre* attendance always baffled me. Workers always came on sunny days, but rainy or snowy days were hit or miss. On that day, though, men had come to find work, despite the drizzle and the cold. Up until this point, I had always gone to the Dayton and Colfax *liebre*, and this was the first time I met the men at 19<sup>th</sup> and Federal. Still, our research and legal teams had been visiting this *liebre* for some time, and when I announced that I had brought coffee the men gathered around and gladly made small talk with me as I poured the steaming liquid into small paper cups and indicated the location of the milk and sugar. As we chatted, I explained my affiliation with the university, and the purpose for my frequent visits. Though well explained to certain individuals, I was never confident about how the group as a whole interpreted my presence. Many of the workers believed I worked for Centro Humanitario. At any rate, they welcomed me, or at least tolerated my presence, and thanked me for the coffee.

This was the day that I met Mateo<sup>2</sup>. Like many of the men I met at the *liebres*, Mateo had been in the U.S. for quite some time. He had come to Denver from Veracruz eleven years earlier, and had started out in the more traditional, full-time labor force. He worked with a temporary agency for four years, but was forced to quit as regulations on undocumented labor intensified, as he explained, “I was at the *labor*<sup>3</sup> for a while. Before, there weren’t problems with not having papers. When e-verify arrived, that ended. I was with them for like four years.” When I spoke with Mateo, he had fallen on difficult times, missing the stability and security that came with working in the formal economy. Many day laborers complained about the low wages the formal economy offered, noting that day labor often proved more lucrative per hour. Still, when catastrophe strikes, formal employment makes accessing workman’s compensation benefits much easier. Mateo had broken his leg at a job site, and since then had had a hard time finding work. “I haven’t worked since December 9<sup>th</sup>,” he lamented, “It’s not good. Not even five cents. Sure, the boss tells you, ‘we’ll provide all the equipment’, yeah, but how do you know whether you’re going to fall off a ladder? One never knows, and I fell off a ladder.”

When I asked Mateo what kind of work he did, he was quick to answer, “I do roofing, and I’m a plumber, and, well, whatever comes up... digging, whatever. I work.” It may seem intuitive at first that day laborers do a little bit of everything,

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<sup>2</sup> All names of day laborers are pseudonyms. Names are stored securely on the University of Denver’s servers through REDcap, and do not appear anywhere in this document or any other document outside of the REDcap system (Harris et al., 2009).

<sup>3</sup> A word commonly used by day laborers speaking Spanish to refer to temporary employment agencies.

and Mateo's incredibly broad answer was typical of the workers at all of the *liebres* I studied. The list of tasks, however, contains a broad range of specialized skills. Often thought of as unskilled labor, day laborers need to maintain a quiver of professional abilities that can include tasks that require a large amount of training. As Ordoñez (2015) notes in his book about day laborers in Berkeley, California, many of the workers bring these specialized skills from their countries of origin, where they very well may have had a formal education in a specific trade. In addition, workers at the 19<sup>th</sup> and Federal *liebre* told me that they often take newcomers along on specific jobs in order to teach them new skills in a sort of informal mentoring program. The more skills a laborer has, the more likely he will find jobs and the better those jobs will pay. Some tasks, such as roofing or other skilled tasks, can pay up to fifteen or even twenty dollars per hour. Less skilled tasks, such as moving or certain types of landscaping work, may pay as little as ten dollars per hour. Very few day laborers will work for less than ten per hour, although I saw some newcomers or men in very desperate situations go for as low as eight. Day laborers, then, have to be extremely flexible not only in their willingness to work at the drop of a hat, but also in their ability to work as a plumber, framer, or a roofer one day, a landscaper the next, and a mason the next. On a slow day, that same worker may simply move boxes, often for less pay than some of the more skilled activities he could be doing.

Mateo's case illustrates more than just the day laborers' impressive flexibility; it also illustrates the ways that immigrant labor has changed in recent years as a result of specific policies towards irregular laborers. The day laborer must be incredibly flexible and resourceful, but his creativity can be seen as a

response to the rigidity with which he is limited to certain economic activities. Of course, day laborers are diverse, and many claim to come to the *liebre* because of the freedom presented by the flexible hours and “being your own boss”. However, day laborers are only their own bosses in the sense that they choose when to look for work, and not when to actually work. Structurally, the day laborer is in many ways a product of economic factors and political decisions that seek to maintain a cheap, flexible, and ultimately disposable workforce.

### **Immigration and the Disposable Workforce**

Flexibility may constitute day labor’s defining characteristic. The day laborer maintains control over when he doesn’t work, but has no power whatsoever to chose when he does work. He is free to pursue other options, work on personal projects, or simply spend time doing nothing if he so desires, but if he needs to make money he is at the mercy of the market and a set of factors over which he has no control. In many ways, the day laborer’s freedom can be compared with the relative freedom displayed by the Brazilian *Catadores*<sup>4</sup> described by Millar (2014), in that they are able to escape, to a certain extent, many of the strictures of formal wage labor while also managing to earn a living. In another sense, however, day laborers are much less free than Millar’s *Catadores* in that they still depend on the contractors’ schedules in order to find work, and if no one hires them they cannot simply go to the dump and search for recyclable materials. They must instead rely on the construction market. Ironically, the implication that the day laborers work

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<sup>4</sup> The *Catadores* work independently to collect recyclable materials from dumps in Rio de Janeiro.

for themselves often serves to justify employers' practices in misclassifying their workers as independent contractors, disguising their control over and treatment of their workers. Disposability becomes intricately linked with flexibility, and as in many cases when oppressed populations are involved, the men's greatest advantages come packaged with their greatest vulnerabilities.

Fortunately for the day laborers, Denver's construction market boasts some of the largest growth in the country, and suffers from severe labor shortages (Construction, 2014). These labor shortages mean that day laborers will be needed at job sites more often, and even that they can negotiate for higher wages because of the high demand and low supply of workers. Unfortunately these small concessions granted by market forces fail to make up for the policy tools used to keep the workers precarious. Munck (2012) elaborates on the global tendency toward the use of immigration policy to create precarious workforces that are easily exploitable. Beyond lacking the formality of a work contract or even sometimes access to legal redress for abuses, the workers' precarious status also makes it very difficult for them to organize in any meaningful way. Indeed, Bauder notes that:

By policing their borders and managing international migrants inside the country, nation-states are making labor market policy. The governments of traditional immigration countries... have deployed a variety of policy cocktails toward migration and labor markets... The creation of a labor force of undocumented immigrants is an important element of this policy approach to labor markets. (Bauder 2006, p. 24).

Immigration policy's utility in creating a vulnerable workforce at the edges of legality manifests itself clearly on the street corner. Describing his experiences in Berkeley, Ordoñez (2015, p. 6) commented on those who stress about U.S. attempts

to control immigration into the country, “A week on the corner would show anyone that immigration is perfectly under control. What is being done is effective in keeping a needed and very cheap labor force on the margins of US society.” In Denver’s case, a city whose construction industry had been crushed by the economic crisis in 2008 and then recovered more rapidly and more explosively than the labor market could reallocate workers, immigration policy seems to have provided day laborers to fill in the breach. Not only does immigration policy force large numbers of men into the informal construction industry during the boom, it also allows the contractors and subcontractors to abandon any responsibility for these informal workers upon the arrival of the inevitable bust.

In Colorado, legislation over the past ten years has increasingly sought to illegalize undocumented immigrants’ labor, with HB 1343 requiring the use of the federal government’s e-verify program for anyone working on a construction site with a public contract. Although businesses without public contracts use e-verify voluntarily, the program appears to be increasingly ubiquitous in Colorado workplaces. For day laborers, this increasing use of e-verify has several ramifications. Firstly, many of the men at the *liebre* would be perfectly content with more formal employment, and some even desire it. This means that there are more men at the *liebre* than before, and the competition becomes fiercer, both lowering wages and, as Ordoñez (2015) points out, making the development of mutually beneficial relationships more difficult. Perhaps more importantly, the illegalization of these men’s labor shifts the *liebre* from a social safety net, a sort of measure of last resort, to the position of primary means of survival. Many men who would have

taken jobs at the *liebre* only in between other, more formal jobs must now take the *liebre* as plan A, with no plan B possible.

**This is our office.**

When I spoke to him, José had been coming to the Dayton and Colfax *liebre* most days for the last six months. He moved to the United States from Aguas Calientes, Mexico ten years ago, and had spent the last six years in Denver. A legal resident in the United States, José held a stable job cutting copper until he was injured at work and placed on disability. For José, the *liebre* presented a perfect opportunity to earn up to his limit and remain on disability. His disability check is not large, and José still has to work in order to make ends meet, but having the monthly check certainly gives him an advantage over his fellow day laborers. José's situation also allows him to be more discriminatory toward his employers. Because of his disability, José does some of the lighter work at the *liebre*, work that normally pays less. Still, José demands a minimum of 12 dollars per hour for moving jobs that regularly pay closer to ten.

Although José's case is unique, it illustrates the variety of situations that draw men to day labor. As a legal resident, José could get a more stable job as long as he didn't earn more than the maximum amount allowed under his benefits package. If he did find such a job, however, he would be confined to the normal schedule and routine of regular labor, and would probably be paid minimum wage as opposed to his significantly better 12 dollars per hour. As he told me, "Yeah, right now I feel good. I feel good working for myself, and I even help make other people's lives better. I don't go with the same people. It's always changing so that helps."

Ordoñez (2015) mentions that the day laborers he met in Berkeley held various immigration statuses, but he claims he never met a single American born citizen at the street corners. The situation in Denver seems to differ from that in Berkeley in that although the vast majority of day laborers are Mexican or Central American immigrants, I also spoke with African-Americans, Native-Americans, and white Anglo-Americans looking for jobs at the *liebre*, in addition to native-born Spanish-speaking Americans. Their motivations for seeking day labor varied. One U.S. citizen told me he chose day labor because the work was under the table, and he could avoid paying taxes on his earnings.<sup>5</sup> Another U.S. citizen, a bit of a wanderer, claimed that he spent time at the *liebre* for the experience. Others were between jobs, some of them even finding that they preferred day labor to the strictures of traditional wage labor.

**They think they can do what they want.**

The mere fact that José's alternate source of income made him more resilient to shocks did not render him invulnerable to abuse. Denver's explosive economic growth in the construction sector and relative labor shortage may account for the demographic differences between Ordoñez's Berkeley location and the *liebres* I studied in the Denver metro area, but it does not create a situation where race, ethnicity, and language become irrelevant to the analysis.<sup>6</sup> In fact, employers (and the public generally) tend to assume that day laborers are Spanish-speakers, or even

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<sup>5</sup> It should be noted that most day laborers do pay taxes.

<sup>6</sup> Ordoñez also did his research in the midst of the economic recession. The composition of the Berkeley street corners may well have changed in the midst of the recovery.



just Mexican. Even I was taken aback on a few occasions where I began to speak with a person in Spanish, only to discover that they only spoke English, and had no idea what I was asking them. As a participant observer at the *liebres*, one of the things I discovered was that the *liebre* racialized those who stood there. By being present at the *liebre*, you immediately became, in the eyes of those watching from a distance, a particular kind of person. Perhaps even more important than your racial or ethnic identity in such a situation, you became perceived as deportable – and by extension exploitable. As one young man who grew up in the Denver area told me when I asked what language he spoke most of the time at the *liebre*,

Well, English most of the time, cause you never know. I mean, I got my papers and everything, but some people they just... they see you and they see you talking Spanish or something and they just, they don't want to pay you cause you're an immigrant. So they kind of take advantage of you.

Gomberg-Muñoz (2011) expounds on the role that deportability plays in creating a pliable and subservient workforce. Perhaps the more important influence of perceived deportability, though, comes in the ways that it changes the employer's ideas about how their workers should be treated (Fussell, 2011). In the case of a worker like José, who has legal status, this means that he will not necessarily be treated fairly because of the way that certain employers view day laborers as a unit, regardless of his own situation. Indeed, one employer had recently underpaid José for some work he had done, and much like other men I met at the *liebre*, José had little interest in attempting to recuperate the lost wages. José may not have been deportable, but he still operated within a context where perceived deportability and

disposability influenced his employers' beliefs about their responsibilities toward him. What's more, José's existence within the day labor regime seems to have given him similar impressions about the system's inability or unwillingness to come to his aid as those held by his undocumented counterparts.

Fussell's deportation threat dynamic, then, takes the form of both structural and symbolic violence. Bourgois (2001) talks about both kinds of violence, and defines structural violence as political-economic oppression and social inequality that have become deeply entrenched in society. Symbolic violence, on the other hand, stands for the ways that oppressed populations internalize the stereotypes and situations imposed on them through structural violence. In its structural aspects, deportability influences employers' ability (or at least perceived ability) to mistreat day laborers, steal their wages, and make them work with improper equipment. The employers assumed deportability because of the racialized nature of day labor, assuming that the only reason a person would stand on the street corner looking for work is that they are undocumented Mexican or Central American migrants. On the more symbolic side, the day laborers resort to various types of victim blaming and acceptance of their situations. Moreover, the treatment workers receive because of their perceived deportability can lead to a belief that "the system" is against them because of their precarious economic situation or their association with the *liebre*. On a certain level, these feelings that the system is unified and against the day laborers lack a real-world basis, in that Immigration and Customs Enforcement cannot permeate all of the disparate pieces of the American legal system. Still, the feelings of precariousness find some foundation in reality, as

Ordoñez (2015, p. 10) poignantly observes, “This conflation of the federal and local institutions into one hegemonic entity of surveillance and control is not simply a perception migrants have, but rather the effect of the increased criminalization of migrants in the last decades.” Migrants have a sense that the system does not support them, and even though they may be patently wrong about this in certain specific instances, their beliefs find validation in the inconsistent application of laws, rumor, and the memory of what for many was a traumatizing immigration experience. The feeling of vulnerability created by this symbolic violence could affect both documented and undocumented workers. It was not universal, however, and many of the men did resort to legal action when they had been abused. Some of the most vocal proponents for the legal system that I met at the *liebres* were in fact undocumented, however, and there doesn’t seem to be much of a connection between thinking that the civil courts will work in one’s favor and legal status.

In studying immigrant busboys in Chicago, Gomberg-Muñoz (2011) elaborates on the immigrants’ cultivation of a perception of willingness to work that both helped them to secure their niche in Chicago society while simultaneously condemning them to long hours at relatively low wages. To a certain extent, the day laborers at the Denver *liebres* also cultivate an image as hard-working men who will do almost anything they are asked, often in contrast to (and at the expense of) those belonging to other racial, ethnic, and social groups. On the other hand, however, they also display what might be called a willingness *not* to work that serves as an important weapon in their arsenal when it comes to trying to overcome the significant power differential between them and their employers. The workers use

many tactics to counter abuse, and perhaps the most important is simply refusing to work for excessively low wages, and leaving worksites where they believe they aren't being treated fairly. In some cases, workers will leave even to their own detriment in order to punish an unfair employer, and I have heard cases of men walking back to Denver from as far away as Castle Rock, nearly 30 miles away. Word spreads quickly around the *liebre*, and employers can find themselves blacklisted if they aren't careful.

I learned just how brutal the laborers willingness not to work could be by watching their interactions with Victor, an employer who regularly showed up at the Dayton and Colfax *liebre*. Victor, an African American man, likely an immigrant himself, drove around in a purple taxi attempting to hire workers on multiple different days. Although he came to the *liebre* quite regularly, I never saw anyone get into his car. When I asked around as to why, the men explained that he was cruel and demanding, forcing them to work with their hands "like animals". It's difficult to tell how well this blacklisting strategy worked, however, because time after time I saw Victor coming to look for workers who refused to get into his car. Presumably he was finding someone who would work, betraying the difficulty the laborers face in creating cohesion and solidarity. All of the day laborers display certain levels of vulnerability, and all the employer needs to do is find the one or two workers who are just vulnerable enough to take their chances with an unknown or even disliked employer.

Believing the law has abandoned them, some day laborers take more drastic measures in order to defend themselves from theft and abuse. Surrounded by both

structural and symbolic violence, and what Bourgois (2001) calls “everyday violence” or the physically violent manifestation of structural violence perpetrated by the oppressed group, usually against themselves, the day laborers’ world also includes a good bit of physical violence. Men at the Dayton and Colfax *liebre* often complain that “blacks” come by and beat them, and also complain about drug traffic that takes place on their street. Until recently, all of the *liebres* have had trouble with the police, and although relations seem to be improving the two groups occasionally remain skeptical of each other. The biggest complaint I heard from the men was that the police do nothing to help them. For some, this inaction (whether real or merely perceived) on the part of the police necessitates certain forms of vigilante justice. Sometimes the actions that day laborers take hark back to the non-violent civil rights movement, and include actions like camping out at a worksite until the employer compensates the workers for their labor. In more extreme cases, the laborers may employ more violent measures. One day laborer informed me that his bike had been stolen once, and he had gone to the police to report the theft. Although Denver has a petty theft ordinance, the man claimed that the police refused to help him (whether or not this is the case is unclear, as the man spoke no English and there may have been a misunderstanding). As the man considered the bicycle to be an important and irreplaceable possession (he claimed it had cost him 1,000 dollars), he decided to take matters into his own hands. He claims to have tracked down the thief, detained him, and delivered him to the police personally.

On another occasion, an employer had failed to pay a day laborer that then stole the employer’s truck and left it at the police station, refusing to return it until

after he had received payment. The day laborers do not often risk such drastic action, but the fact that multiple stories about extreme or even violent action taken against employers or other threats exist demonstrates the extent to which the threat of violence shapes the day laborers' experience. Whether or not these stories have a basis in reality makes little difference regarding their importance to my analysis: what's important is that violence constitutes an important piece of reality in the day laborers' imaginations. This violent imagination helps demonstrate the extent to which day laborers depend on their own actions over and above any sort of trust of the legal system or formal organizations. In most cases, no government agency authorized their migration, and they have no reason to expect the government to validate their existence, right to property, or personhood. Whether or not these stories about violent action are exaggerated, they demonstrate the day laborers' desire to assert their rights in the face of hostile government agencies. They also highlight the day laborers' disillusionment with the authorities, and help to contextualize their common lack of interest in legal action against unscrupulous employers.

**We're all friends here.**

Ordoñez (2015) spends a large portion of his book arguing that the day laborers in Berkeley could not be regarded as a community. Instead, he argued, the men he studied maintained the semblance of a community, while their reality was one of isolation, bitter competition, and alienation. I initially had a hard time squaring Ordoñez's experience with my own in Denver, but the more I thought about it the more it made sense. When I asked the men questions about whether

they knew the other men at the *liebre*, they almost unanimously answered that they did. The more I observed them and asked clarifying questions, however, the more it became clear that their relationships were mostly professional, and that they likely did not spend large amounts of time together outside the *liebre*. Few of the men at the *liebre* have family in Denver (although a few talked about having girlfriends that they met here. Some were married to someone in Denver). Many of them spoke of family in their home countries, a situation that seemed even more common among the Central Americans than the Mexicans. Some had spent large amounts of time in Denver, but a decent number of them had spent the last years or decades in a state of constant travel, inevitably stressing relationships and forcing the workers to make somewhat superficial connections. Many of their journeys to the United States began with tragedy. Most maintained constant contact with family back home, sending money as often as they were able. Older men seemed more likely to have deeper roots in Denver than younger men, but men of all ages spoke of a desire to return to their country of origin once they had accumulated enough money. One day laborer, an elderly man who mostly came to 19<sup>th</sup> and Federal to chat, mentioned that it was better to retire in Mexico, that the U.S. was no place for old men. The men would sometimes become emotional when talking about family back home, and the isolation that makes up the central theme of Ordoñez's book occasionally showed through very clearly.

Still, the men also showed a great deal of camaraderie and mutual assistance. Men who were injured or some of the older workers came to the *liebre* simply to talk and hang out with their friends, and the men spent a lot of the time chatting,

joking, and laughing about anything and everything. Not only did the men work together to maintain the respect (or at least tolerance) of the neighborhood, they also lent each other a helping hand when one laborer fell on tough times. Ordoñez explains this seemingly altruistic behavior as simply being part of the moral economy of the street corner, a sort of acceptance that sometimes you must help others in order to get a break for yourself in the future, but in some cases it seemed to go deeper than that. Some men seemed to genuinely enjoy the company of their fellow day laborers, and would even come on days they didn't intend to work in order to joke about each other, about revolution, and about anything else that happened to come up. That said, some men were clearly more integrated into a group than others, and certain people appeared more isolated than others. At Dayton and Colfax, a small group of two or three people waited for work on the other end of the block, far away from the main group and mostly kept to themselves. When asked why they didn't go to Centro Humanitario to find work, some men complained that it was too organized, preferring to find work on the street, and although the men generally had rules about minimum wages to be accepted (the going rate was 10/hour for light work), some workers broke those rules, and the laborers did little to enforce it. The different *liebres* displayed varying levels of aggressiveness when it came to competing to enter a car, with those at 19<sup>th</sup> and Federal and Dayton and Colfax being much more aggressive in seeking employers than those at Sheridan and Kentucky. In this sense, the *liebre* at Sheridan and Kentucky stands out from the others. The calmness there struck me when I first arrived there, and the small group of men that meets there rarely rushes up to



trucks to try to be the first one in. Part of the reason for this could be the relatively small number of men who meet there, and another part could be the fact that the men have a designated parking lot off the main road where employers can come in and take their time. Many of the men at Sheridan and Kentucky also own cars that they keep on site, allowing them to drive to worksites. These factors may mean that Sheridan and Kentucky's unusual calm results from specific logistical circumstances and greater access to resources rather than from group cohesion or organization, and that's the sense that I got from talking to the workers there.

### **Trabajo con puro gringo.**

In addition to being highly racialized themselves, day laborers inhabit a racially charged environment and often hold very specific ideas about race in the United States. The *liebres* in the Denver metro area, especially the Dayton and Colfax *liebre*, sit in the most racially and ethnically diverse parts of the city, and the day laborers identify (and to some extent choose) their employers based on a specific hierarchy of racial stereotypes perpetuated by society and to some extent reproduced on the street. It's unclear that differences between racial and ethnic groups exist regarding their treatment of day laborers, but the day laborers seem to believe in them. Ordoñez (2015) also addressed these racial prejudices among day laborers in Berkeley, attributing them primarily to American society's portrayal of these groups. He more or less considered the day laborers' racial views to be evidence of structural violence within the U.S. racial hierarchy. In Denver, the laborers seem to have identified several groups: "Gabachos" or "gringos" (White Anglo-Americans) sat at the top of the hierarchy, considered to be the most

generous and less likely to cheat the workers. “Árabes” (people from the middle east) were generally considered to be untrustworthy, and to pay less than the gabachos. “Chinos” (used to refer to people from Asia) were generally considered to be abusive, requiring workers to work unnecessarily quickly and without food or water. Some of the men referred to the “chinos” as “látigos” or slave drivers. Many of the men considered “negros<sup>7</sup>”, or black people, to be cheap. The men had mixed opinions of the Spanish-speaking bosses, conceding that they were easier to communicate with, but complaining that, “They’re almost the ones we have the biggest problems with. The ones who speak Spanish.”

The last group, the Spanish-speaking bosses, can be a little bit difficult to disentangle. The men use various words to refer to those who speak Spanish, including “Hispano”, “Mexicano”, “La raza”, and “Chicano”. In some cases, words like “Chicano” and “La raza”, and even “Hispano” can refer to Colorado’s local Spanish-speaking population with roots in 16<sup>th</sup> century Spanish colonization or to Spanish-speaking individuals born and raised in the U.S., although any of the terms (with the possible exception of Chicano) can also be used to refer to more recent immigrants. Regardless of exactly who the Spanish-speaking employers were, they seemed to be considered the least desirable of the employers, a finding that goes somewhat contrary to the racial hierarchy Ordoñez described in Berkeley.

Whether or not this racial and ethnic hierarchy of employers demonstrates an adoption of American conceptualizations of race or something more organic

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<sup>7</sup> This is the Spanish word for “black”, and does not carry as many negative connotations in Spanish as it does in English.

within the day laborer community, it did come up somewhat often in my conversations with the day laborers. It's hard to say, though, were the men saying that the "gabachos" were better employers because they were speaking with a gabacho? Ordoñez's corroboration of this phenomenon in Berkeley makes me think not.<sup>8</sup> It's possible to some extent the men's perceptions merely spring from the income inequality between white, Anglo-Americans and minority employers seeking workers for private jobs like moving, landscaping, or home remodeling, allowing the white employers to pay more. That said, the racial stereotypes of the demanding Asian, the cheap black person, and the crafty Arab seem to reflect broader American racism. A deeper study on the sources of the day laborers' perceptions of race could be very interesting, but rests outside the scope of this project.

### **A Potent Combination**

Immigration policy, racial stereotypes, and inconsistent application of laws work together to force immigrants into the day labor system. The needy and volatile construction industry in the Denver Metro Area necessitates a large and flexible workforce capable of doing the work during boom times and disappearing in times of scarcity. Even so, the intense rise in construction demand pitted against the enormous drop in construction professionals after the 2008 recession has created a situation where day laborers can, in many cases, use the market to their advantage and make better money than might be expected in other contexts, even attracting workers who might be otherwise employed in more stable work. Even so, the

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<sup>8</sup> Ordoñez is a Colombian-American researcher, meaning the day laborers in Berkeley would be less likely to praise Anglo-American employers simply because they associated him with them.

increased leverage the day laborers gain from the high value placed on their labor in the current economic environment does not serve to completely erase their vulnerability and precariousness, enforced by various forms of structural and symbolic violence. The day laborers resort to various strategies to elevate their relative position in relation to their contractors, but in many ways remain structurally vulnerable to various kinds of abuse. Among the most egregious of these abuses, wage theft and failure to pay workman's compensation seem to pose the greatest risk for the day laborers. I will address both specifically in the following sections.

## **The Wages You Failed to Pay**

Winter brings most construction projects to a halt. Day laborers typically receive pay above minimum wage. Most say they make between 12 and 18 dollars per hour, but they only get paid if they work. When I started going to the *liebres* in early February, many workers were just there to hang out. If something came up, they would have been thrilled, but “*no cae nada*” (nothing’s come up) was the refrain of the season. Of course, having a bunch of day laborers standing around doing nothing makes for great research conditions, but I felt bad that they had to spend their time answering my endless questions instead of working for a living. On a few occasions, trucks came by looking for workers and, I could see the anxiety as workers, not wanting to be rude, continued talking to me instead going to find out what kind of work the employers were offering. I took to just reminding the men they could leave whenever a truck came by, but I’m not certain that my actions always made the workers more comfortable. I usually brought coffee to the *liebre*, so after a while the workers got used to me poking around. At least the hot coffee provided some distraction from the cold, and most of the men passed their down time in conversation anyway. Some were more open to talking to me than others, and the number of people willing to speak with me increased as time went on and I became a familiar presence.

In the summer the workers have no problem staying busy, usually working five to six days per week. Many of them leave the *liebre* come spring, getting involved in more stable work with contractors that they know. In winter, though, they take odd jobs: snow removal, moving, etc. Many say roofing is the big money maker for the *jornaleros*, but Denver's inconsistent winter weather keeps it from serving as a steady occupation once the weather begins to cool down and the snow begins to fall. What's more, some complain that roofing jobs are the most exploitative, making the connection between earnings and risk abundantly clear.

The workers at 19<sup>th</sup> and Federal are a persistent, well-coordinated group. On snowy days they make sure to clear the snow off of their block, and somewhat regulate who stays and who doesn't. Drugs, alcohol, and even litter are strictly prohibited, and the men constantly remind each other that they need to keep their space clean. One snowy morning in February I arrived at the *liebre* with my hot coffee, devastated to see that no one was there. I was about to give up on the site, when I realized that the workers were shoveling the sidewalks and making sure the area was taken care of. As a rule, the men understand that their place on the street corner depends on the goodwill of the surrounding businesses, and they make an effort to have a positive influence on the area.

On particularly brisk days, the *liebres* clear out. As soon as it becomes clear that no one will be getting work because of the weather, the *jornaleros* no longer have any reason to stay. If work is slow, then most workers say they don't wait past two o'clock. This is especially true on common Denver days when the temperature drops suddenly, with warm, sunny days preceding and warm, sunny days in the

forecast. On those days, most workers stay home, waiting for better weather, and the *liebres* can be completely empty. A few go to Centro Humanitario, where if they are lucky they might still pick up some work, and if not then at least they can socialize inside away from the cold. Some of the workers are homeless, and on a cold day after the homeless shelters have closed, the day laborer center makes for a good place to sit, chat, and have a cup of coffee and maybe some food in the small kitchenette. The Centro uses a lottery system to determine who gets priority for work, and one worker I met managed to be the first or second name on the list on two different cold, rainy days. Sometimes luck just doesn't swing in one's favor.

Winter might temporarily kill the job market, and luck may refuse to favor the needy, but there is another factor that makes workers' lives difficult that has nothing to do with luck: wage theft. When Eduardo, one of the men I met at the 19<sup>th</sup> and Federal *liebre*, had finished his work one day, he informed the contractor who had picked him up that he needed to pay his phone bill. The boss offered to drop him off at the cell phone store, and Eduardo went in to pay his bill. When Eduardo returned the contractor's truck was gone, and Eduardo had no way to contact the man. A hard day's work had just turned into wasted effort.

I cannot speculate on whether Eduardo's boss that day planned on using his labor without paying him, or simply saw an opportunity and took it. Other cases, however, seem to be much more carefully planned. In several cases, men told me and other researchers that contractors had taken them to a bank to take out money, told them to go wash their hands in the bathroom, and disappeared while the workers were not looking. Others string workers along, telling them that they will

pay them at the end of the week but failing to come and pick the workers up on Friday, or even leaving town. Occasionally rain or snow factors into this tactic, allowing the employer a believable excuse for why they didn't show up that day. Employers will give workers bad checks, or pay them less than what was agreed at the outset. Some of the employees at Centro Humanitario claim that when confronted, many employers blame the "misunderstandings" on the workers' lack of English proficiency.

According to a 2013 newspaper article by Wenger, wage theft has become a serious problem in the United States' post-recession economy. Wenger argues that the practice, which can involve failure to pay overtime, requiring off-the-clock work, non-payment, or failing to pay an agreed rate, is widespread and likely underreported, as many workers fear they may lose their jobs or worse if they speak out (Wenger, 2013). Victims come from many different backgrounds and work in various low-wage sectors of the economy. The biggest offenders generally cluster around jobs like waiting tables or cleaning hotel rooms, but the practice has even started to penetrate "middle-class professions" (Wenger, 2013). Still, workers in low wage jobs and contract laborers tend to bear the brunt of the increase in wage theft. What's more, according to Boiko-Weyrauch's (2015) report on wage theft in Colorado, the construction industry fails to pay more wages than any other industry in the state.

Although wage theft can affect almost anyone, immigrants, and especially undocumented immigrants, face unequalled exposure to wage-theft risk. Elizabeth Fussell (2011) elaborates on what she calls "the deportation threat dynamic", a sort



of latent protection for employers who engage in illegal labor practices while employing undocumented laborers. Although undocumented immigrants are entitled to minimum wage and other workplace standards, many are afraid to report violations fearing deportation. According to Fussell, many employers exploit this fear in order to render their workers more manageable, and in order to pay them less for their services. Fussell points to widespread wage theft against the immigrant population in New Orleans in order to substantiate her theory.

Also looking at wage theft in New Orleans, Warren (2013) discovered that 78% of Latino day laborers in the Post-Katrina construction industry had been victims of wage theft in 2008. Day laborers face high incidents of wage theft, and the combination of the vulnerabilities of day laborers and the vulnerabilities associated with irregular migration as outlined by Fussell (2011) allows for increased levels of exploitation. Fascinatingly, in Fussell's research, employer beliefs about the status of their workers had greater impact on their willingness to refuse to pay them than the workers' actual immigration status. The current study seems to corroborate this claim, and although not all of the day laborers at the *liebres* lack papers, they seem to generally acknowledge that coming to the *liebre* implies that you are undocumented. For one, many workers expressly told me so, claiming that part of the reason employers mistreated them was that they thought they had no papers. Perhaps even more tellingly, workers who had legal status in the United States were quick to reveal their immigration status, indicating that they understood the implications of looking for work at the *liebre*, and wanted to disabuse me of any assumptions I might hold. Valanzuela and Theodore (2007) also found a high

prevalence of wage theft against day laborers in their study in California, stating that 45% of the workers they studied had been denied payment completely in the previous two months, and that 48% had been underpaid in the same period.

My work at the *liebres* certainly corroborates Fussell's observation that day laborers faced increased vulnerability to wage theft because of their lack of security. The combination of factors that force workers into day labor (or at least makes it an attractive alternative for them) also leaves the workers vulnerable to exploitation. Those employers using day labor seem to believe (not entirely falsely) that they can more or less act with impunity, and impunity lowers the cost of mistreating their workers. Even if an employer does have to pay their worker eventually for legal reasons, Colorado state laws up until January of 2015 only required them to pay the wages in full, meaning that the work cost them nothing more than it initially would have, and that they have been able to go for some time (months or possibly even more than a year) without paying any interest on the money they owed. Most cases, however, never go to court, and day laborers will more often attempt to absorb the shock from wage theft by taking on more jobs or relying on their social networks, small and fragile as they may be.

Construction has led the way in Denver's post-recession economic recovery. Denver was one of the top ten metro areas in construction hiring in 2013, and faces a labor shortage in the industry (Buffalo News, 2014). Even so, wage theft in the state of Colorado has reached staggering proportions, with Colorado workers losing a likely under-estimated \$750 million in 2014, with most of that money coming out of the construction, food service, and hospitality sectors (Stiffler, 2014).

Recent Colorado legislation known as the Wage Protection Act of 2014 (S.B. 14-005) gives the CDLE (Colorado Department of Labor and Employment) greater authority to investigate wage-theft cases and to impose fines on employers not complying with employment regulations, taking some pressure off of already vulnerable victims when it comes to seeking legal redress. Previously, all wage-theft cases under \$7,500 had to be settled in small claims court, a long and difficult process that discouraged victims from reporting thefts (Pyke, 2014). What's more, as previously mentioned, the cases taken to small claims court only gave the workers right to the exact amount they were owed, meaning that they would have to go through a long legal process merely to recuperate their lost wages. The system provided no penalty for the employer, so although they might have to pay the worker in the end, they paid no interest on the money they owed. The complexities of going through small claims court and the lack of perceived benefit help to explain day laborer reticence to resort to legal methods when combating wage theft. Add a general distrust of the legal system engendered by the experience of undocumented migration and subsistence in the United States, and day laborers become very unlikely to pursue wage claims in court. The fact that my study took place in the months immediately following the change in state law, coupled with confusing information and reports as to whether the CDLE was even investigating cases yet, it's not surprising that most day laborers I spoke with did not consider the legal option to be especially effective.

In my research in Denver, wage theft seems to be relatively widespread in the construction, landscaping, and moving industries, corroborating the claims

made by Stiffler (2015). In speaking with day laborers at the *liebres*, nearly everyone had stories about times when they or one of their friends lost money because a contractor refused to pay. Staff at Centro Humanitario claim that seven out of ten day laborers experience wage theft. Studies from other states also indicate that wage theft against day laborers may be shockingly common (Fussell, 2011, Valenzuela and Theodore, 2007). Because of the population's vulnerability and difficulty to reach, solid figures on the prevalence of wage theft against day laborers prove elusive. Still, our research suggests that it is quite common.

Wage theft at the *liebres* takes various forms. Of course, most contractors deal honestly with their workers, and perceptions vary for how often wage theft happens. In some cases, employers ask workers to work for several days, only to not show up on the final day, or even to tell them that he wouldn't pay them this time, but if they worked with him a while longer, he would have the money. One worker I spoke to, Enrique, had spent several weeks working on a spec house, and the contractor had allowed him to live there while doing his work. The job seemed like a good deal because it paid relatively well and also offered Enrique, who was homeless at the time, a temporary place to live. One day, however, he returned to the house to find that it had been locked. Enrique was unable to contact the contractor, and in addition to losing the weeks of labor he had put into the house, he also lost all of his possessions that were inside at the time. In a few cases, workers were even carried far from home to work, and then either not paid, not returned home, or both.

Sometimes workers go to worksites far out in the suburbs or up in the mountains. In other cases, the displacement may be more extreme. One worker I spoke with had only been in Denver for a few months. When I asked him where he came from, he explained,

I came from Houston to Denver... because I came with a man who, we were doing roofing and supposedly he was going to pay for my hotel, food, and 120 dollars a day, supposedly. But in the end we paid for the hotel, the food, and he held that money back. He brought us but in the end he said, 'I'll give you this and that,' but it ended up being different.

When I spoke to this particular worker, he was just trying to make enough money to return home, a difficult task in winter. I spoke to other workers who had been taken to Nebraska, Virginia, and other distant states. Flexibility is a day laborer's economic leverage, and for some, willingness to travel long distances for jobs proves quite lucrative. If they choose the wrong contractor, however, agreeing to travel can leave them stranded in a strange city with no money, no social networks, and all of the complications of attempting to take legal action across state borders.

All of these cases happen within the context of broader abuse against day laborers. Not all day laborers lack legal status in the United States, but as discussed before and as elaborated by Fussell (2011), contractors generally perceive them that way. In addition to wage theft, we heard stories of workers being beaten, threatened, deprived of necessary safety equipment, and denied food and water. Some have even claimed that contractors stole their equipment or belongings from job sites. Many fear going to the authorities because of their lack of legal status,

although relations with the police and local governments seem to be improving. What's more, some claim that even if they go to the police, they do not help, although the men's opinions of the police vary greatly.

When asked how to avoid wage theft, workers mention a variety of strategies. Perhaps the most common is simply refusing to work with those who have mistreated them in the past. In some cases, this refusal to work can constitute an act of intense solidarity and community collaboration, as it means turning down what could potentially be a life-giving work opportunity. In many ways, the men's willingness to refuse work from employers known to be inconsistent in paying or to refuse a job because of an employer's reputation can go beyond mere self-preservation and into the realm of what Fehr and Gächter (2002) refer to as altruistic punishment. The men may very well be able to go work and make some money, but refuse on the grounds that the employer has failed to pay others in the past. This altruistic punishment comes out even more clearly in cases where men choose to take legal action over small sums of money, claiming they do it because they don't want it to happen to others. Once again, this willingness not to work contrasts with Gomberg-Muñoz's busboys' cultivation of an image of being hardworking in Chicago, but has a similar effect of galvanizing individuals to take somewhat difficult steps in order to help improve the group's outcomes. In addition to being a potent tool, this willingness not to work also helps to mitigate some of the negative effects of Gomberg-Muñoz's willingness to work, as it is harder for the workers to get caught up in bad situations just to perpetuate the positive stereotype.

The laborers at the *liebres* communicate openly, and an employer who fails to pay

his workers, or even who pays them too little, may struggle to find workers who will go with him, having been informally blacklisted as previously discussed. In the case of the Dayton and Colfax *liebre*, workers will even go so far as to openly ridicule contractors they know to be dishonest, laughing at them and shouting to each other, “¡Este no paga!” (“This one doesn’t pay!”). The great weakness in this strategy lies in the sheer number of contractors that come looking for work, and the number of *liebres* that contractors can visit to find a place where they haven’t yet gained notoriety. In some cases, more desperate workers or recent arrivals may go with contractors who have a bad reputation, in hopes that maybe the contractor will pay *this time*. Those cases most potently demonstrate the limits of *liebre* organization and social cohesion as discussed by Ordoñez (2015). Unfortunately in day labor, someone always needs work badly enough to take a job that the others know to be high risk. The rest, though willing and often involved in helping each other, find themselves obligated to compete with everyone else at the *liebre*, including those willing to work for lower pay and demand less accountability from their employers.

Day laborers avoid wage theft in other ways as well. Many underline the importance of establishing a clear understanding of what the contractor wants done and what he or she will pay. They demand cash at the end of each day, because checks can bounce but cash can’t, and if a contractor fails to pay at the end of one day, the worker can look for work elsewhere instead of wasting a whole week on a job that won’t pay. Workers will take down a contractor’s license plate number, note the address where they worked or the address of the employer, remember the employer’s name and the name of their construction company, and in some cases

even take pictures of the worksite or other seemingly important details. The technique of noting the company's name seems intuitive but comes with many problems as well. Some of the workers who have attempted to take legal action against a contractor found that the company they had worked for doesn't exist, or that when they go to the company it manages to dodge liability by blaming the contractor. Some contractors will even hire workers, do a job, and then leave town before the workers can collect payment.

Although one of the options laborers pursue, many view legal action as expensive and carrying high opportunity costs. Up until January of 2015, legal action most often meant taking the contractor to small claims court, a lengthy process requiring the claimant to represent himself in an unfamiliar (and generally untrusted) legal system. The CDLE ostensibly pursues cases on day laborers' behalf now that the Wage Protection Act of 2014 has gone into effect, but sources seem conflicted on whether or not the law has actually moved from concept to practice. Unlike the old legal process (or lack thereof), the Wage Protection Act allows the laborer to collect damages up to three times the amount owed, should the case make it all the way to the court. Still, even with the new legislation, taking legal action constitutes a significant time investment, as well as a bit of exposure to the legal system and the public that may make undocumented workers uncomfortable (whether or not their fears of deportation are justified). If a laborer loses a day or two of work, they will often not bother spending much time trying to recuperate their losses when they could be working for more money on another worksite. Many cut their losses and go. Some of the workers who had not been victims of wage theft



internalized their exploitation and even claimed that their peers were robbed because they weren't careful enough, or that they hadn't taken the proper precautions. One worker even justified the contractors saying, "There are people who go to work but don't work. You have to respect the boss, place yourself in his shoes. If I go and I don't work well, you're going to pay me less or maybe not even pay at all. You have to work." Some of the men even commented that those who were still at the *liebre* past 2 o'clock in the afternoon were lazy and just didn't want to work. Oftentimes, men will make somewhat contradictory statements, emphasizing the need for selectivity in choosing employers while simultaneously criticizing those who don't manage to find work for the day. These self-blaming statements demonstrate the extent to which symbolic violence permeates the day labor experience and shapes the day laborers' perceptions of themselves and their peers in ways that may make them less likely to oppose unjust treatment, or even recognize its presence in certain situations.

Even among the workers who have experienced wage theft, many express a variation of Just World Hypothesis, claiming that they do nothing to combat wage theft because those who do it are bad people who will get what's coming to them. Whether expressed as karma or God's justice, several workers told me that they knew certain contractors would suffer for their evil deeds. "I don't want to deal with it," one worker told me concerning a time he wasn't paid,

So fine, we'll just let it be. In other words, we say 'He'll have to pay God'.

That's what we say. Things don't go well for them. Something bad happens to them because everything is like Karma, *goes back and forth*. *What you do is*

*what you get. Sooner or later, and it's common sense.* You can't do evil and reap good. It's impossible. For a moment, sure, but the time comes when something happens and you say, 'Why?' but later you remember and say, 'Ah, cause I did something bad and now I'm paying for it.' Sooner or later, right?<sup>9</sup>

Some laborers tell stories about people who had treated them poorly and later suffered. Many of the laborers are very religious (whether or not they attend religious institutions), and in some cases the Just World Hypothesis takes on more of an air of hope rather than simple belief about how the world functions. As one worker explained to me, "I just left it to God, because God takes justice for those of us that maybe don't have papers and are here undocumented." The belief that God will take vengeance for the wrongs done to the vulnerable helps workers to rationalize their situation and withstand the constant injustices perpetrated against them, but it also has some negative side effects. For one, it comes with a tendency to simply move on and not pursue legal action against the contractor, allowing the contractor to go unpunished. The men may see misfortune in the contractor's life and attribute it to their wickedness, but the contractor is unlikely to make a connection between a work accident, for example, and his or her unscrupulous employment practices. On the other side of the spectrum, the men may even see their own misfortune as penance for some mistakes they've made in the past, increasing the self-blame aspect of symbolic violence. Many of the men at the *liebre* have done things in the past that they are not proud of, often as a result or at least related to trying to survive as individuals who have been illegalized by government

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<sup>9</sup> Italics denote words spoken in English.

policy. Believing that the world is perfectly just may help them to cope with mistreatment from contractors, but it may also make them feel worse about themselves and helps to justify their circumstances. In arriving and surviving in the United States, many of the men had to take drastic measures, and in some cases, as one day laborer put it, “make a deal with the Devil.” Unfortunately, these “deals with the Devil” may loom large in many of the workers’ minds, and help to keep them docile, unorganized, and, as is the goal of many of the other structural barriers placed in irregular migrants’ paths, pliant and flexible for use and subsequent disposal by employers in need of quick, cheap labor.

Wage theft affects most of the workers at the *liebres*, but it by no means demonstrates the most egregious forms of non-payment and shirking of the responsibilities of the employer-employee relationship. Day laborers face staggering levels of economic uncertainty, to be sure, but their precarity also results in serious consequences for their physical health. Not every day laborer experiences wage theft, but every day laborer does suffer, at some level, the adverse health effects that spring from their vulnerability and disposability.

### **Day Labor's Physical Cost**

I met Juan at the Sheridan and Kentucky *liebre* on a cool, overcast day in early May a few weeks after I had started going there. He was friendly, younger than most of the men who frequented that *liebre*, and he soon became one of my key informants at the location. Juan welcomed me early on, and he helped me to become incorporated into the larger conversations at the *liebre* over time. He was soft-spoken and even a little shy at first, but willing to share information about his life openly and very interested in forming friendships at the *liebre*. Juan took pride in showing me the old, dented, but impeccably clean compact Toyota that he drove around, despite the fact that it was obviously a step down from the big, later-model trucks that some of the other day laborers kept at the *liebre*. Juan's life was not easy, but having a car gave him a definite edge as a day laborer, allowing him to drive to worksites and come and go as he pleased.

Juan had come to the U.S. for the first time nine years ago, when he moved to Atlanta from Guatemala. He had fallen in love and proposed to his girlfriend back home, but her parents balked at his poverty, forbidding them to marry until he could afford to buy her a house. Undeterred, he went to Atlanta to try to earn enough money for the house, and had managed to do so. They have two children, but Juan has continued working in the United States in order to support his family. Three years ago he moved to Denver, and has been working there since.

In a lot of ways, Juan fits the profile that Ordoñez (2015) paints of day laborers in Berkeley. He has no family in Denver, and comes across as very isolated, lonely even. Juan jumped at the opportunity to talk to me and the other researchers, and seemed to be in need of a good friend, thanking me and some of the students from the Qualitative Research Methodology class profusely for coming out to the *liebre* and talking to people, mentioning that sometimes it's nice just to talk to someone. Juan seems to get along fine with the other day laborers, but the way that he sought out the researchers when we came, talked to us for long periods of time, and somewhat ignored the other men made me think that maybe he didn't quite fit in with the main group at Sheridan and Kentucky. His distress at being far from his family was palpable, and his eyes watered when he talked about his children. A religious man, Juan talked about how he trusts God to take care of him and his family, and mentioned the ways that various churches have helped him out since he's been in the United States. Still, it's clear that his time here in Denver has not gone smoothly, and although he has managed to gain some financial stability for his family through his work, he has sacrificed his own stability in the process.

The structural and symbolic violence day laborers face make every day a struggle, but Juan's problems went beyond the everyday nuisances and vulnerabilities associated with day labor. They started innocently enough, with a routine moving job. Juan was installing a washing machine, and suffered a hernia. Although it was clearly a work-related injury, his employer told him that it was an "illness" unrelated to the job, and sent him away without workman's compensation

or any other type of aid. Juan went to a hospital for treatment, and they admitted him briefly, later forcing him to sign a letter saying he would not return. He went to various hospitals and was refused service, until he went to a Seventh-day Adventist hospital that agreed to let him pay for his treatment in installments. The bill came to over \$2,000, and Juan was only able to pay it off after soliciting the help of several area churches.

Juan paid off his debts and stabilized his condition, but his problems were only beginning. For most of the day laborers, the *liebre* is more than just a place to find work; it is their last-chance resource for survival. Deprived due to their legal status of most social services and safety nets that many of us take for granted, the men rely on their hands, their backs, and their resourcefulness to recover in hard times. When their health fails, their last safety net breaks, leaving them in an incredibly awkward and precarious position.

For Juan, the combination of his injury and his previous situation of precarity meant no longer being able to send money home to his family. Struggling to make ends meet and under work restrictions from his doctors, Juan had to go long periods of time without working, and even when he found work it was light and did not pay much. Spending the precious dollars he was able to accumulate to survive and to communicate with his family back home, he tried to explain to his young daughter why the money wasn't coming home the way it normally did. Juan let a few tears slip even just recounting the story of how his ten-year-old daughter explained that she understood his situation, and that she wouldn't ask for a birthday cake this year, because she knew that he couldn't afford it. For a man whose ultimate self-worth

came from his ability to sustain his family (to the point of travelling thousands of miles and enduring terrible conditions), the conversation must have been soul crushing.

### **Structural Violence and Health**

Juan's situation, though shocking, represents a very common experience at the *liebres*. Most employers consider the day laborers to be unskilled labor, and therefore their primary worth comes from their strength and willingness to do low-skill but unpleasant tasks. If a worker gets injured or old, then their value as laborers decreases or even evaporates completely. As one of the Honduran laborers at Dayton and Colfax told me, the United States is no place for old men, "When the time comes, you have to go, because being here once you get to a certain age, when you're older, you don't work, you know? Lots of problems. And over there one has a house and pays no rent. Not here." Still, some of the day laborers at the 19<sup>th</sup> and Federal *liebre* were well into their sixties. One of those men, an elderly man with a crutch and a cast on his leg who greeted me on my second trip to the 19<sup>th</sup> and Federal *liebre*, summed up the situation well,

So there are people here like, I broke my leg, another friend hurt his ribs too. Another one from around here got hurt cleaning up a demolished house, and there's no help for him. So it's really sad when a person has an accident, and there's no support, no help like that. And when our friends who had the luck of working with a company work, you realize that the company sometimes agrees to pay the hospital fees and make sure that that person lacks nothing: their medicines and stuff... but... there's another person who broke their

finger in December, and it's been like three months and he hasn't made any money, tossing his house out the window. That's the situation here in Colorado.

Of course, the situation that this man describes where the company pays the workers' medical bills is part of the Workman's Compensation system, a system to which all workers should have access, including day laborers. In that sense, failure to pay workman's compensation constitutes another, and perhaps more egregious, form of wage theft. In one man's case, the employer owed the worker over \$70,000 dollars in stolen wages and workman's compensation combined, and the worker even had a court ruling in his favor. Unfortunately, the employer still refused to pay, and essentially disappeared. The worker had little recourse despite the court ruling. Cases like this one helped to reinforce the day laborers' perceptions that the government would do nothing for them, since even when the government does rule in their favor, they may still not get the money owed to them.

Seth Holmes (2013) discusses the ways that health vulnerability constitutes a major manifestation of the everyday and structural violence in which Triqui fruit pickers are embedded in the Pacific Northwest. The berry pickers must work long hours in uncomfortable positions, kneeling all day long and living much of their lives with chronic pain as a result of the working conditions at the farms. The work the men did on the farms was both psychologically and physically stressful, as well as repetitive. The men were not necessarily direct victims of physical violence, yet the structural violence perpetrated against them had real physical consequences in the form of repeated stress injuries, knee and back pain, and pesticide poisoning.



Medical professionals tended to personalize the Triqui pickers' health issues, blaming them for not following doctors' orders without understanding the structural reasons the pickers were unable to do what was necessary to maintain or improve their health outcomes. In many ways, the day laborers' health situation mirrors that of the Triqui fruit pickers, with some important differences.

Though much better paid and higher on the social hierarchy than agricultural workers (though not by much), the men at the *liebre* suffer from similar physical consequences of structural violence. For one, the construction industry has notoriously flaunted safety standards and fails to adequately protect workers, as demonstrated by the above-average injury rates even on public projects such as the construction of Denver's current airport, with injury rates on the project 2.3 times higher than the national average according to the Bureau of Labor Statistics (Glazner et al., 1998). Anecdotal evidence from Centro Humanitario staff, day laborers, and other members in the community suggest that the trend persists today, and day laborers, because of their perceived disposability, face the brunt of the construction industry's loose application of safety standards. Day laborers often work without required safety equipment, and occasionally without proper tools for the job. The injuries at the *liebre* constitute more than just one-off examples of workplace injuries, or even the injustice embodied by some employers' failure to pay for workman's compensation insurance; these injuries are, as in the case of the agricultural workers in Washington, physical manifestations of the structural violence perpetrated against day laborers, simultaneously serving to remind the workers of their precarity and aggravate it.

The injuries also serve to remind the men of their vulnerability and lack of social (and in many cases legal) status. Injury looms large in the day laborers' minds. Medical care costs in the United States dwarf the day laborers' earning potential, and acquiring insurance can be difficult to impossible, especially for the undocumented. Not only does an injury bring unwanted and insurmountable expenses, it also impairs (or, as in Juan's case, completely destroys) the day laborer's earning capacity. For Mateo, mentioned in the section on flexible vulnerability, the burden had become way too much to handle after he had fallen off of the ladder and broken his leg. "I had to go to the hospital," he told me, "and plus without papers or insurance, you can't even imagine how much the bill was."

Adding to Mateo's problems, he had no driver's license, and his employer didn't want to take him to the hospital, unwilling to get caught employing undocumented labor. Colorado law allows for undocumented migrants to get driver's licenses, but the law was defunded nearly immediately after having gone into effect, essentially rendering it invalid, as waiting lists for appointments at the one available DMV office in the Denver area are long, and new appointments aren't available till September (Healy, 2015). The Colorado government's inconsistent application of laws meant to aid undocumented residents serves to further remind them of their precarious situation, and foments incredulity toward official offers for help. Figuring out whether the government will work in your favor or against you can be a monumental task, and it can sometimes be easier to simply assume that anything related to the government will be hostile.

### **The daily grind.**

Accidents, though plentiful, only represent one small piece of the day laborers' physical vulnerabilities. Lacking insurance and with uncertain access to Workman's Compensation can make an already stressful event even worse, but the men also have to be wary of the repetitive and physically exhausting nature of their work. Many of the men complain about repetitive stress injuries and other side effects of their hard labor. Workers complain of arthritis, knee pain, back pain, and other chronic issues. One man explained to me that he had made most of his money working in concrete and flooring, but that he could no longer do those jobs because of the intense knee pain he suffered when he had to kneel for long periods. Another explained that he could only do light work, because of the injuries he had accumulated. Of course, chronic pain and catastrophic injuries as described above often correlate with each other, especially considering that many of the men do not receive proper medical care when they do get injured. One bad injury can lead to a lifetime of pain, especially with substandard (or non-existent) medical care. This build-up of both improperly healed catastrophic injuries and the year-after-year effects of hard labor can work together to make day laborers less effective in their work and increase their precarity. The physical effects of structural violence, these health problems could be mitigated, or even avoided if the workers had access to proper medical care that has been denied to them either because of their immigration status or their lack of stable incomes to pay medical bills or purchase insurance.

### **Health inequality.**

Unlike wage theft, which appears to affect day laborers regardless of their circumstances (although certain factors may make some more likely to trust government help), vulnerability to health issues demonstrates a good deal of stratification. For example, physical vulnerabilities can be even more serious if the individual lives on the street or in homeless shelters, as certain health vulnerabilities have been associated with homelessness such as increased exposure to communicable diseases in shelter settings, as well as factors that weaken immune systems and can make common illnesses more serious (McNamee, 2006). These health problems not only hurt the laborer's body, they also prevent him from getting jobs at the *liebre*, as employers tend to value day laborers for their physical strength more than anything. A day laborer in poor health, then, may be less discerning in selecting jobs, taking whatever he can get, increasing the likelihood that his wages may be stolen.

Legal status also plays a large part in a day laborer's health vulnerability, as legal residents and citizens may have an easier time acquiring Workman's Compensation or even disability, as in the case of one laborer who only came to the *liebre* to supplement his disability check he received due to an injury at a previous job. Having valid documentation can also give residents or citizens access to medical insurance or Medicaid, helping them to access health care in spite of financial hardship. Perceived deportability may level the playing field when it comes to likelihood of having wages stolen (Fussel, 2011), but when it comes to accessing healthcare, legal residence or citizenship can create huge inequalities in the day

laborer population, as those with legal status can depend on the U.S. social safety net, while those without documents depend solely on their ability to work and the kindness of others at the *liebre* or churches.

Initially not as obvious as homelessness and legal status, other factors can also affect a day laborer's health outcomes. Denver's transit system can be expensive, difficult to navigate, and very slow, and having a car can allow a worker to access health facilities that would be otherwise unreachable (or that would at the very least require a significant time investment to reach on public transit). Of course, getting around by car is easier if a person has a driver's license (though many drive without one anyway), and a few of the laborers do have them (including a very small proportion of the undocumented workers who managed to acquire them before the state legislature defunded the program). Having a car also gives laborers the freedom to leave a worksite that makes them nervous without wasting as much time trying to get back to the *liebre*. Although difficult to estimate, this freedom could be an important health factor as well as an economic one. A worker with the freedom provided by reliable transportation incurs fewer opportunity costs if he chose to leave an unsafe worksite, and might be more readily willing to do so. It is merely another case where the day laborer's willingness not to work can lead to better overall outcomes.

On a smaller scale than the automobile, day laborers can also improve their health outcomes by owning their own equipment. Many of the employers who contract the day laborers fail to provide proper equipment, including safety equipment such as hard hats. Laborers who are able to bring such equipment to the

worksites instead of relying on the employer to provide it can reduce their risk of injury. Sometimes, however, doing so is not possible. Because of the day laborer's necessary flexibility, it would be nearly impossible to carry around all of the tools and safety equipment needed to accomplish the wide variety of jobs that day laborers do, and at least one laborer complained that an employer had stolen his equipment and couldn't get the police to investigate. Still, at least one day laborer commented on the poor judgment he had exercised on the job when it came to safety practices,

For example I had the problem with my finger and I didn't get the guy's name. But I could go and get it, at the building where I worked and the guy took me to the hospital so now I'm the one paying the bill. It was stupid of me to leave it like that, you know? But no, I cut my finger. Because he had, you know, it's called *defective equipment* because you can't use a tool for tile if you want to cut wood floor. But it's my fault, since I was the one doing it. I shouldn't have done it. I cut myself on the last board... It's my fault. I knew I shouldn't have done it with that tool that wasn't for that job.

The worker blamed himself for agreeing to work with improper equipment, and so he didn't try to get his boss to help pay for his expenses. Of course, he still has the right to demand compensation, but symbolic violence can be powerful, and he preferred to accept that the accident was his fault, and that it wasn't worth following up. Having accepted his position of precarity and the employer's power over him, the worker felt somewhat guilty over actions that in reality stemmed from the employer's exploitation of his vulnerability.

English language skills also make a difference when it comes to health and healthcare. Although Spanish is widely spoken in Colorado, a report from the Colorado Health Institute (2015) found that Spanish speakers were less likely to have access to preventive care, and that they were nearly twice as likely as non-Spanish speakers to report their health as poor or fair, the lowest two options on their survey. The report also claimed that Spanish-speakers faced higher barriers to care, likely because of the lack of Spanish-language forms and services in their area.

Of course, none of these factors exists in a vacuum. A single day laborer could display one or many of them, as well as other factors that make them more or less vulnerable to health issues. These health issues could be a direct result of day labor or a result of other factors that then affect the day laborer's ability to support himself and his family. A worker can be homeless now, but likely hasn't always been homeless. These vulnerabilities can build on each other, and can even be caused by one another. In Enrique's case elaborated in the wage theft section, Enrique had his wages stolen and immediately also lost his home and his tools, representing an instant and unexpected change in status. Other changes may not be so dramatic, but the vulnerabilities build on each other. These conjugated vulnerabilities, building on each other in countless permutations to create individualized vulnerability profiles as Holmes (2013) describes, can create a sort of invisible hierarchy at the *liebre* and lead to very different outcomes for the men.

## **When Violence Becomes Physical**

Occasionally the men at the *liebre* and El Centro face open physical violence. Some workers at the Dayton and Colfax *liebre* complained about “negros” coming and fighting with them, hitting people and beating them up, saying that some workers even had to go to the hospital. Racial tension seems to come up in conversations at the Dayton and Colfax *liebre* especially, and multiple day laborers complained about “callejeros” and other troublemakers at the *liebre*. The *liebres* have also had rocky histories with the various police departments, and at least some of the men have been deported in the past. The same man who told me about the “negros” said that on at least one occasion, a former boss had threatened to kill him if he didn’t stop coming and asking to be paid. Some workers also claimed that they kept their earnings on their person because they thought it was safer, and that they occasionally had their money stolen from them. Fussell (2011) also found day laborers to be especially vulnerable to crime, despite a common perception among the public that day laborers may commit crimes. In fact, the day laborers face an outsized risk of victimization due to presumptions of vulnerability and deportability.

For many of the workers, and especially those who are undocumented, violence makes up an integral part of their U.S. experience, often associated with their reasons for migrating or the migration process. Several men claimed that the reason they came to the United States was because of the violent situations in their countries. “They will try to kill me in my country, that’s why I wanted to come here,” lamented one Mexican man at Sheridan and Kentucky, referring to what he called



the “mafia”, likely either local gangs or drug cartels. He certainly wasn’t the only one to claim he had come to escape the threat of violence from the mafia.

The act of crossing the U.S.-Mexico border means inevitably facing the threat of violence. Between drug cartels, aggressive border control strategies, petty criminals, and the natural violence of the desert, would-be Mexican and Central American migrants face danger at every turn. Holmes (2011) describes much of the border crossing experience in depth, citing that migrants face “mortal dangers” including “Mexican and American assailants and kidnappers after their money; heat, sun, snakes, and cacti after their bodies; armed American vigilantes after their freedom; and Border Patrol agents after their records.” When Holmes attempted to make a border crossing along with his Mexican friends, they ended up getting caught and deported. Holmes got off with a fine and a civil offense, further highlighting the extent to which he could participate in the Triqui fruit picker’s experience suffering, but could never fully understand it because of the privileges granted him by nature of his Anglo-American identity. Like Holmes, I benefit from a structurally different status when I conduct research at the *liebres* than the men I spend time with. Unlike me, many of the men at the *liebres* face the constant threat of violence and deportation at the hands of both criminals and the authorities.

I did not ask intentional questions about day laborers’ migration stories, but some of the men offered them anyway. Although not central to the study, the stories indicate the way that, from the very beginning, violence intertwines intimately with the American experience. The men who mention their journeys talk about riding “la bestia”, the notorious network of freight trains that links southern and northern

Mexico. One man at Centro Humanitario spoke of how he had been deported multiple times, and had to walk back to the U.S. from Mexico each time.

When Aurelio's girlfriend left him, citing his poverty, he decided it was time to leave Honduras and make something of himself. He left home with less than 30 dollars, making it to the Guatemalan border where he caught a bus to the Mexican border. From there he walked at night, sleeping up in the mountains during the day, away from the road. He caught "the train" once across the Mexican border and went to the northern end of the country. Once there, he tried to cross the border alone, unwilling and unable to pay for a coyote (people smuggler), but got lost and nearly died in the desert. The fifty dollars that his cousin in the U.S. had sent him to help him get across got stolen, and he ended up working in a supermarket to try to make enough money to finally get across the border.

It didn't take Aurelio long to realize that he would never be able to earn enough to afford a coyote, which others have told us can cost thousands of dollars. He was crushed, unsure what action to take. He knew that he didn't want to try crossing alone again, as it had nearly killed him the first time, and he had heard stories about how many people had died in the attempt. He decided to make his deal with the devil.

Terrified but unsure of where else to turn, Aurelio said a prayer asking for forgiveness for what he was about to do and approached a cartel. He was given a backpack full of marijuana and helped across the border. Once there, Aurelio used what was left of his money to escape to the fastest place he could get to: that place happened to be Denver, Colorado. Aurelio was soft-spoken but friendly, visibly

distressed by what he had been forced to do to make it to the United States, but thankful to be here nonetheless.

Because there are undocumented and undocumented. There are people who come to this country to do a lot of bad things. A lot of them sell drugs, do drugs, get drunk and go to clubs. That's normal to go to a club but only if you are behaving well. Many come looking for problems, to fight with people, get drunk, and go to clubs. But me, like I was saying, there are immigrants and there are immigrants. For example, in my case, I'm a person who doesn't drink, doesn't smoke, don't even know any bars or clubs. I like working at home, doing good things. I was even going to a church five months ago, which makes me feel bad now because I'm not going to a church. I feel good to be in this country because thank God certain things have gone well for me.

Aurelio had come to the United States to do honest work, but the violence of the border crossing had forced his hand. Even once in the United States, Aurelio's problems didn't dissolve. He'd had his wages stolen on at least one occasion, and had been racially profiled and stopped by the police at least once. Fortunately for Aurelio, they let him go, a fact that Aurelio attributed to his clean record. Still, the violence of the crossing looms large in Aurelio's conscience, and the measures he resorted to in order to get across the border could very well haunt him well into the future. He is lucky not to have been one of the many people who are caught, injured, or even killed in the attempt. He is also lucky not to have had to resort to even more violent measures in order to survive the crossing.

Fascinatingly, Aurelio sought to distinguish himself from other migrants by citing his clean record and desire to work hard and not cause problems, despite the fact that when crossing the border he had resorted to drug smuggling in order to make it across the border alive. Aurelio's situation highlights migrant crime's complexity and the ways that migrants internalize American stereotypes about the connection between migrants and crime. Aurelio understood his own actions complexly, acknowledging that he had done something bad but highlighting that it was necessary and that he had followed the straight and narrow ever since. Still, he condemns other migrants for their unlawful or immoral behavior, internalizing the stereotypes imposed by American society in a potent example of symbolic violence.

### **Everyday Violence**

In the same way that we can analyze the day laborer experience in terms of structural and personal flexibility and the creation of a flexible and disposable workforce, we can also analyze it in terms of violence. When taken together, what Bourgois (2001) refers to as structural, symbolic, and everyday violence work to create a sense of powerlessness in the face of overwhelming odds. Occasionally the men even face political violence from Immigrations and Customs Enforcement or even the local police. In most cases, the men handle this intense pressure with impressive grace and fortitude. In some cases, however, everyday violence prevails.

Initially borrowing the term from Nancy Scheper-Hughes and adapting it to his purposes for describing phenomena he observed in El Salvador following the civil war and in Spanish Harlem in the 1980s, Bourgois (2001, p. 426) defined everyday violence as, "Daily practices and expressions of violence on a micro-interactional

level: interpersonal, domestic and delinquent.” Like symbolic violence, everyday violence comes as a reaction to structural violence, but unlike symbolic violence it vents frustration through aggressive or destructive acts against oneself or others. It can also reinforce symbolic violence, providing evidence to vindicate the stereotypes perpetuated by the dominant racial and ethnic hierarchies.

As implied by its name, everyday violence normalizes destructive behaviors, creating an atmosphere of generalized fear. At the *liebres*, everyday violence takes a variety of forms. Workers interviewed at the *liebres* often complain about the “borrachitos” (drunkards) and “callejeros” (thugs) who hang out at the *liebres*, getting drunk, getting high, and selling drugs. The men view these activities as destructive not only because of how they affect those participating, but also because of their potential to incite political violence from the police and objections from local businesses that put the other men in danger. As Bourgois (2001) points out, however, these delinquent activities cannot be seen merely as the individual choices of certain members of the *liebre*, but also as a manifestation of what Bourgois calls the conservation of violence, or the tendency for violence to engender further violence, and one possible reaction of those consistently beaten down by structural violence.

I met many men at the *liebres* who were proud of their ability to abstain from alcohol and drugs, citing Christian conversions or bad experiences from the past as their motivation to stay clean. I also met a man who looked me in the eye and asked me to forgive him for drinking in front of me as he nursed his second beer since I had arrived at the *liebre* fifteen minutes earlier at 9:15 in the morning. There’s no

doubt as to whether this man was a drunk, but he was also an older day laborer who had spent a large portion of his life suffering physically and mentally within a system that offered him nothing more than the same old inconsistency. He lost wages here, got injured there, and occasionally stood at the *liebre* waiting for a truck to come by and pick him up without knowing who'd be inside, and whether he would earn a fair day's wages or be left up in the mountains with no pay and no way to get home. At the time I spoke with him, he didn't have a home. What he did have was a couple of cheap beers, and the knowledge that if someone hadn't picked him up yet, they probably weren't going to. "You're not a police officer, are you?" He asked me, confused as to why this Anglo-American man was asking him so many questions. "No," I replied, realizing that it was probably a valid question. He'd been in the U.S. since 1979. "I respect the laws," he explained,

I've only had one ticket in all the time I've spent here. Problems with la migra. But this country is beautiful. The laws are strong. They sent me to Mexico. I lived in San Clemente. *The Chicano people*, la migra, told me, 'You aren't from here'. But the process never went through. My problem is drinking. *Drinking too much.*<sup>10</sup>

On rare occasions, everyday violence among the day laborers turns outward instead of inward. Frustrated with the legal system and its failure to deliver in cases of wage theft or abuse, some day laborers decide to take matters into their own hands. One man stole his boss's truck and took it to the police office, refusing to return it until he had been paid. One day laborer told us about an incident where a

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<sup>10</sup> Italics represent words spoken in English

couple had hired some day laborers to do work on a private home, and had refused to pay. The group went to the home, cornered the couple and, according to the man telling the story, beat them. Whether or not the story was true (or exaggerated), the man telling it believed it to be true. Based on Bourgois' concept of everyday violence, it shouldn't seem surprising. I collected very little data on violence between day laborers at the *liebre*, but several of the men mentioned that there were those who just went around looking for fights. There were also stories about day laborers wanting to become subcontractors "overnight" and taking advantage of other day laborers, stealing their wages as well, demonstrating the extent to which the system had become engraved in their consciousness. Recognizing that the system was rigged against them, some day laborers attempted to rise up within its ranks instead of attempting to escape it.

The most extreme cases of violence, such as the men who beat the couple who had refused to pay them, happen very rarely. Alcoholism is probably more prevalent, but doesn't seem to be a problem among the majority of the day laborers. What should be remembered, however, is that these individual actions are also systemic reactions to the structural violence that pervades the world day laborers inhabit. For those who may balk at the idea of structural violence, Holmes (2011) elaborates on how structural violence, though not composed of obviously violent acts, leads to real physical injury and stress for those who experience it. In the case of the day laborers I spoke with, this fact manifests itself in the many injuries, pains, and unpaid medical bills for problems that never really received adequate treatment. These injuries limit the day laborers' abilities to continue working, and

can lead to greater factors of vulnerability such as homelessness. Beyond how they affect the workers themselves, they also reduce the amount of cash going back to the workers' families in their home countries, potentially with dire economic consequences.

The various types of violence perpetrated against the day laborers work together to make action on the men's behalves very difficult. While many organizations and individuals work to improve the men's situations, their well-earned distrust of almost everyone can make convincing them that you want to work for their benefit hard, and many openly oppose organizations working for their benefit. Some days I would look at the work being done by organizations like Centro Humanitario and think that they were making real progress. Others, efforts on the day laborers' behalf appeared simply to tale part in the long-standing trend of support followed by active oppression, keeping them men uncomfortable and wary of apparent generosity.



## Taking Action

In 1988, a day laborer that had been working on a roof fell and seriously injured his brain. His nervous employer, who had picked the worker up at a street corner, left the man in the middle of the night in fear of being held responsible for the worker's injuries. The incident brought the day laborers' plight into the community's consciousness, and community concern led to the formation of El Centro Humanitario (Centro Humanitario, 2013). According to Centro staff, the day laborer center primarily serves as a safe place for day laborers, slowing the process down and making sure that day laborers have thorough information about their employers and that employers can take steps to source their labor ethically. The center also engages in advocacy work, and in addition to running the main building, the staff regularly visits the *liebres*, issuing photo I.D.s, attempting to organize the laborers and establish wage floors, and engaging with the community to promote action on the day laborers' behalf. The organization has had varying levels of success in organizing the *liebres*, but in general the men at the Dayton and Colfax, 19<sup>th</sup> and Federal, and Stout and Park Avenue *liebres* knew about Centro Humanitario and had their opinions about it and its work. The men at the Sheridan and Kentucky *liebre* seemed less familiar with the organization, but the name still came up there once in a while. At the time of the study, the Centro appeared to be the primary hub for information in the city when it came to addressing wage theft issues among the

day laborers, despite the fact that the responsibility officially fell to the CDLE for cases under \$7,500 after the Wage Protection Act passed into law in January of 2015.

The day laborers did not universally regard the Centro Humanitario positively. Opinions at the *liebres* ranged from very positive to openly hostile, with everything in between. Regardless of how they felt about the center, the men at the *liebres* chose not to look for work there. Many of them felt their chances were better off at the *liebre* than in Centro's lottery, and some complained about the level of organization present at the day laborer center. Others complained that it was overly restrictive, or that it was too hard on those with substance abuse problems. Some even claimed that the center had been antagonistic toward the workers, trying to get them off the street and rip them off by taking a cut of the wages. As one man at the Stout and Park Avenue *liebre* explained,

El Centro was trying to get rid of us, but they'll never get rid of us. This has been going on for 100 years. They can open up a place in Aurora. It's nice. It'll be a good place, a safe place for respite. Many won't even tell the center [how we feel about it]. We are from the street. They can put those centers up. It's a good thing, but it won't stop people from going to the corner.

The men's varied reactions to Centro Humanitario help to illustrate two main points. First, it hints at the difficulty involved in organizing a disparate, desperate, and structurally abused population. No matter what benefits the Centro might offer its members, some day laborers feel that their chances are better at a *liebre*, and they may well be right. The *liebre* may come with greater risk than the day laborer

center, but it also offers bigger opportunities, and a greater feeling of control over what jobs to take or pass up. Second, it demonstrates the extent to which the day laborers view the government, companies, and NGOs as part of a large, coherent 'system' designed to take advantage of them, an idea that Ordoñez (2015) also speaks about in his research with day laborers in Berkeley.

Of course, many other organizations get both directly and indirectly involved in the day laborers' situation. Various homeless shelters provide a place for those without apartments to sleep, and the St. Francis homeless shelter also runs an employment center. Professor Raghunath from the University of Denver Law School runs a legal clinic where he and his students pursue wage theft cases, working in close collaboration with Centro Humanitario and Towards Justice, another legal group that offers employment law services to the day laborers. Together, and with the help of various other partners, these organizations attempt to make sure that day laborers get paid, have proper safety standards, and receive decent service and access to government services where applicable.

These organizations also work outside of the legal system where the legal system fails. Centro Humanitario organizes a group of Denver metro churches and social organizations to take direct action against employers who have stolen wages from day laborers. These direct actions include sending Anglo-American churchgoers to the contractors' homes to attempt to mediate on behalf of the worker, and even staging protests in the case of especially egregious violations. Occasionally these actions can be quite effective, and although the participants and organizations would likely prefer for the law to step in and do the work, they

appreciate anything that gets results, and value direct action's simplicity when compared to the legal process.

In addition to the aid from the NGOs listed above, many of the men mentioned getting help from churches and other religious organizations. In the case of the Sheridan and Kentucky *liebre*, this help included the provision of a safe place to gather and look for work after years of police harassment. More personal stories abound, however, and the men seem to have off-and-on relationships with churches and religion generally. One man mentioned that he had actually stayed with a church family upon his arrival in the United States, but their relationship had soured when he moved to a different church, leaving him in an awkward position. When Juan suffered his hernia some months ago, he had been unable to get proper treatment until he went to the Seventh-day Adventist hospital, and once they had treated him and set up a payment plan with him, he had relied on contributions from churches and friends in order to pay off his debt. Churches appear to play a large role in helping the men, but determining their exact importance can be tricky. In stories like Juan's, we can clearly see how the churches helped him, but in looking at the big picture some of the clarity evaporates. Other students collecting data for the University of Denver's wage theft study noted that, when asked what services they offered to day laborers, churches often responded that they offered none despite the fact that they clearly took action in day laborers' favor on some occasions. The lack of formality in the church setting renders defining the term 'services' difficult, and many churches may not recognize their acts of compassion or action as a coherent service regime.

The Colorado legislature and the local city governments have also made strides in improving conditions for the day laborers. The previously mentioned Wage Protection Act finally gives workers at least a small amount of recourse against wage theft beyond simple recuperation of owed wages, and hopefully encourages employers to pay their workers at the appropriate time instead of incurring additional fines. The recent law allowing drivers licenses for undocumented migrants also seriously reduces the laborers' vulnerability in several ways, not only because of the freedom that comes from legally owning and operating reliable transportation but also because in previous years driving without a license served as an efficient pipeline toward deportation.<sup>11</sup> Unfortunately, these laws meant to create greater security for the undocumented population also tend to engender further distrust in their implementation, as they often go through periods of greater application and restriction, as in the case of the drivers license law, which remains on the books but lacks sufficient funding to be effective.

The problems associated with implementing pro-immigrant state laws illustrate the primary reason that both governmental and non-governmental attempts to improve the day laborers' situation lack substantive results: The federal government refuses to acknowledge a large proportion of the day laborer community's right to existence. Regardless of how the state chooses to treat undocumented workers, federal law continues to regard them as criminals, and state laws can make ICE's work more difficult, but ultimately cannot shield those

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<sup>11</sup> Within the last year and a half, both Denver and Aurora have ceased honoring ICE holds for undocumented individuals caught in routine traffic offenses. Previously, however, they were common practice.

without legal status from its reach as a federal law enforcement agency. Even studying in Berkeley, a sanctuary city that in many senses represents the best possible situation for an undocumented day laborer, Ordoñez (2015) and Quesada (2011) both observed many of the same vulnerabilities, fear of deportation, and legal marginalization among the population he studied. Denver sits a long way from Berkeley, both geographically and politically, and despite a recent shift toward more gracious policies, little reason remains to expect that these problems will not persist so long as the government regards certain people as illegal by nature of their existence.

Not all hardship springs from legal status, however, and as previously noted the day laborer community in the Denver Metro area comprises U.S. legal residents and citizens as well as undocumented migrants. Focusing on legal status as the primary form of structural violence perpetrated against the community leaves out a significant portion of the population, and oversimplifies the problem. The men also operate in a global economic system that both racializes and informalizes work on an alarming scale. Unlike many other industries, construction, moving, and landscaping cannot be outsourced to places with low wages because of their local nature. Day labor solves this problem by insourcing or informalizing labor that can accomplish the work for less money or fewer responsibilities than tradesmen or local workers. This informalization of the workplace has a double effect, both undercutting and further marginalizing those who traditionally may have done the work. Not all day laborers lack proper documentation, but they are nearly all treated as if they did. What's more, not all day laborers fit the U.S. racial categorization of

“Latino”, but they are nearly universally regarded as such. Issues of race and documentation work together to situate day laborers as different and “other”, socially legitimizing their exploitation.

This racialization goes beyond the structural violence inherent in U.S. race relations. It also manifests itself in the symbolic violence the day laborers display when situating themselves in the American racial hierarchy, and the racist assertions they make about the other people they share the *liebre* and the workplace with: Blacks are lazy and violent, Asians are demanding, Arabs are shifty, Whites are generous and trustworthy. Latinos are either honest hard-workers or ruthless Chicanos seeking to take advantage of la raza. As Ordoñez (2015) observes, these perceptions almost certainly come from the men’s socialization in the United States and the racial stereotypes used to keep them well situated in the prevailing economic and racial system. Of course Whites sometimes don’t pay, and of course there are hardworking black day laborers and honest Arab contractors, but the day laborers need a place to belong in the system, and as Gomberg-Muñoz (2011) elaborates, Latino laborers use their reputation as hard workers to ensure their place at the worksite. Contrasting themselves with “lazy blacks” in this case may be useful in a situation where work is scarce and perpetuating stereotypes gives them an edge. It does not, however, reduce their overall situation of precarity, and it pits groups that otherwise might work together to improve conditions against each other.

The men at the *liebres* I studied demonstrated impressive levels of resilience, ingenuity, and resolve. They used these traits to assert their existence against the

overwhelming political, economic, and societal pressures seeking to marginalize them as non-entities. The struggle against structural forces far beyond their control, however, took a toll. The men suffered the consequences of their marginality in their budgets, their minds, and in their bodies. The apparent flexibility of their lifestyle belied a greater story of flexibility: the flexibility of the housing and construction markets and their willingness to create a disposable workforce that could swell and contract with the volatility of a capricious market. In creating this flexible workforce, the market and the state relied on the imposition of structural violence on a massive scale, pushing these resilient workers to the edges of their abilities to resist and adjust. At the heart of this structural violence, wage theft and failure to pay workman's compensation serve to remind the workers of their subordinate status, that they do not have rights but rather that the market gives to them out of its generosity, and that any individual may choose to withhold that which it owes to the workers. They are people whose very rights to the wages of their labor have been stripped away by a system that falsely claims to protect the liberal values of property and hard work, and yet they persevere.

"I'm getting better," Juan, the worker who had suffered a hernia and hadn't been able to work for several months, told me at the Sheridan and Kentucky *liebre* one morning in June. It had been at least a month since the first day I'd met him, and even when I had spoken to him initially he had been on the mend, doing light jobs and attempting to make some money to send back to his wife and children in Guatemala. We conversed briefly, talked about the weather and how the work was over a cup of coffee. Summer was setting in, rainy though it was, and work was



starting to pick up. As we talked, a truck pulled into the parking lot and Juan went over to investigate. He liked the terms, apparently, and walked over to his beat-up Toyota, climbed in, and followed the truck out of the parking lot and down South Sheridan Boulevard, off to start another hard day's work.

Juan made some money that day, and his current situation may be improving. Still, he continues working the same industries that gave him his injury, and he will almost certainly aggravate it with the work he has to do to stay alive. Statistically, he's likely to face wage theft again, and also likely to suffer other injuries as well as a litany of related health problems. For Juan's situation to improve, the United States needs to make a number of changes on a broad scale. For one, the federal government needs to change its relationship to migration, affirming every person's right to work, make a living, and have access to fair labor practices without threats of violence or deportation. Even if every worker in the U.S. were granted legal status, however, U.S. society would need to have a serious conversation about race and marginalization and a restructuring of societal hierarchies. Finally, the country would need to make a decision as to whether to prioritize profits and economic growth or workers' well-being. As long as profits take precedence over people, the need for a disposable workforce will persist despite any policy changes the government may implement.

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