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Review Essay: Law and Migrant Labor in the 20th Century: Ghost Workers and Global Capitalism

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Law and Migrant Labor in the 20th Century: Ghost Workers and Global Capitalism

Large-scale movements of workers, production lines, commodities, and centers of power have been integral to capitalist development since its earliest stages (see Mintz 1986; Wallerstein 2011; Wolf 1997). Today, mobility continues to uphold global capitalism in important respects (Sassen 1988). In particular, the capacity to move production across nation-state borders has allowed capitalist industries to take advantage of post-colonial inequalities as they reorganize production in ways and places that reduce manufacturing costs and enhance corporate profit.

In low wage industries that cannot move easily, including industrial agriculture, food processing, and extractive and service industries, migrant workers have come to constitute a key segment of the labor force (Gray 2004; Hondagneu-Sotelo 1994; Lamphere et al. 1994; Sassen 1988; Smith-Nonini 2007). Migrant workers' desirability in these industries is not solely constituted by their mobility, but also by heightened social and political marginalization that renders them especially vulnerable to super-exploitation (De Genova 2002; Heyman 1998; Sassen Koob 1981). In particular, migrant workers are often severed from protective kin networks, stigmatized as social "others," exempted from legal protections, and targeted by state and non-state violence. These factors inhibit migrant workers from organizing for better wages and working conditions, legitimize their exploitation, and facilitate their expulsion when demands for their labor decline. Thus, even as xenophobic tropes tend to paint migrant workers as antithetical to economic growth, migrant labor shores up capitalist industry in low wage sectors and constitutes a key ingredient in global capitalist development.

While scholars of labor migration generally agree that migrant workers supply a distinct and important type of labor under global capitalism, critical questions remain relevant: what are the mechanisms by which federal and state policies shape workplace interactions, and do such policies constitute a direct arm of labor suppression (e.g. Delgado 1993; Heyman 1998; Paret 2014; Zlotniski 2006)? What is the best way to conceptualize the relationship of disempowered migrant workers to the state—as powerless and even reducible to a form of "bare life," or as agentive and potentially revolutionary actors (De Genova 2010; De Leon 2015; Redclift 2013; Wheatley and Gomberg-Muñoz 2016)? And most importantly, how can migrant workers, non-migrant workers, and labor advocates best organize to combat vulnerability and improve working and living conditions for the globalized labor force as a whole (Milkman 2006)?

The three recent texts that are the subject of this review make significant and wide-ranging contributions to this discussion. The first is medical anthropologist Sarah Horton's *They Leave Their Kidneys in the Fields: Illness, Injury, and Illegality among U.S. Farmworkers* (2016), which is based on a decade of ethnographic research with migrant farmworkers in California. The second book is anthropologist Angela Stuesse's *Scratching Out a Living: Latinos, Race, and Work in the Deep South* (2016), which presents long-term ethnographic research with poultry processing workers in Central Mississippi. The third book, *Ghostworkers and Greens: The Cooperative Campaigns of Farmworkers and Environmentalists for Pesticide Reform* (2016), by historian Adam Tompkins, traces the history of strategic collaboration between environmentalist and farm labor advocacy groups during the mid-20th century.

The purpose of this essay is to describe the main arguments and content of these three books and consider their place in a wider social science literature on capitalist production, law, and migrant labor. The next section describes the methodologies, organization, and central contributions of each book. The following sections consider how these arguments advance three key discussions within social science scholarship. The conclusion reviews areas in which the three books are in particular conversation with timely theoretical and practical problems in political and legal anthropology.

Contested Labor Landscapes

While each text has a distinct field site and analytical focus, they all bring together analyses of U.S. policy, capitalist labor relations, and labor organizing campaigns to paint a multi-layered portrait of contested labor landscapes in the contemporary U.S. All three books focus on U.S. food production labor forces: two on agricultural workers and one on workers in the poultry processing industry, with particular emphases on public policy contexts, labor conditions, and organizing efforts.

Sarah Horton's *They Leave Their Kidneys in the Fields: Illness, Injury, and Illegality among U.S. Farmworkers*, is the result of nearly a decade of ethnographic research in California's Central Valley. Horton's immersion in the fields, homes, and communities where migrant farmworkers live and work helped her establish close relationships with a core group of farmworkers—many of them women—and develop keen insights into long-term health effects of agricultural work. Drawing on these complementary perspectives, Horton created an ethnography that is at once intimate, highly informative, and broadly relevant.

In particular, Horton turns an ethnographic eye to the quotidian work practices of migrant farmworkers who labor under grueling conditions in exchange for poverty wages. She then traces the “invisible pathways” that connect these farm labor practices to public policies concerning food safety, labor, and immigration in the U.S., as well as to agricultural employment hierarchies and legacies of gendered labor patterns in rural Mexican and Salvadoran communities. Horton capably weaves these complex processes together to show how they work to create a “syndemic” in which the sociopolitical context of farm work deepens migrant workers' vulnerability to exploitation, injury, illness, and early death. Of particular focus is how the “illegalization” of migrants via ever more restrictive U.S. immigration policies cultivates conditions under which migrant farmworkers are literally worked to death. Impeccably researched, engagingly written, and compellingly argued, *They Leave Their Kidneys in the Fields* is sure to be a classic not only in medical anthropology, but in social science scholarships on migration, labor, and engaged ethnography as well.

Angela Stuesse's powerful ethnography *Scratching Out a Living: Latinos, Race, and Work in the Deep South* takes readers deep in to the heart of Mississippi's poultry processing industry, where migrants from Latin America have come to labor alongside Black workers in some of the most dangerous and low paid workplaces in the U.S. Stuesse spent six years conducting community outreach and education at a workers' center in Central Mississippi, where she undertook activist research with workers in the chicken plants. This work, in combination with some 60 structured and unstructured interviews with workers and advocates as well as archival research, brings

sensitivity, depth, and critical insight to bear on the urgent and complex issues facing migrant and U.S.-born poultry workers alike.

In particular, Stuesse traces the close interaction of structural racism and suppression of workers' rights in Mississippi's poultry industry, showing how racist tropes and practices differentiate workers, pit them against one another, and suppress their organizing efforts. Stuesse closely attends to the unequal effects that racism has had on Black and Latin American workers, illustrating not only the super-exploitation of undocumented migrant workers, but also how their recruitment was used to undermine workplace leverage that Black poultry workers had been building through long-term labor organizing. The book then moves to an examination of the struggles of labor organizers as they navigate this racialized and gendered landscape in campaigns to build worker solidarity across social difference. The text concludes with a thought-provoking consideration of the promises and limitations of activist research with acutely marginalized communities. Sophisticated, critical, yet highly readable, *Scratching Out a Living* will appeal to a broad audience that includes scholars, students, and community organizers alike.

Ghostworkers and Greens: The Cooperative Campaigns of Farmworkers and Environmentalists for Pesticide Reform, by historian Adam Tompkins, traces the history of strategic collaboration between environmentalist and farm labor advocacy groups during the mid-20th century. Contrary to popular perceptions of these groups as having distinct, and even opposing, agendas, Tompkins builds a compelling argument that respective organization leaders sought and achieved significant, if still limited, cooperation in campaigns to regulate pesticide use in the U.S.

Tompkins turns his attention to how a convergence of interests among agribusiness, insecticide companies, and officials overseeing U.S. agriculture helped establish a path dependency on chemical pesticides in U.S. fields during the 20th century. Tompkins shows that federal legislation repeatedly failed to adequately regulate pesticide manufacture and use, leading to a host of unanticipated environmental and public health consequences. Campaigns led by farmworker activists shed light on these consequences, helping to create alliances with environmental activists, social justice activists, and concerned members of the broader public. Tompkins' close attention to the interplay between policy dynamics and organizing strategies has timely insights not only for scholars of labor and environmental issues, but also for organizers who seek to build strategic coalitions across groups.

The Legal Production of Disempowered Labor

In 2002, Nicholas De Genova urged migration scholars to attend more closely to the role of law in producing conditions of worker vulnerability such as migrant "illegality." These three texts contribute both historical depth and legal complexity to this burgeoning scholarship. In particular, as they advance analyses of migrant labor conditions produced at the nexus of immigration, labor, environmental, and economic policies, they examine how sociolegal differentiation of the labor force deepens select workers' vulnerabilities to exploitative, abusive, and unsafe working conditions.

Horton and Tompkins contextualize their research with a discussion of the exemption of U.S. farmworkers from New Deal policies that offered limited protections for industrial workers in

the post-Depression era, including a standard minimum wage, prohibitions on child labor, overtime pay, collective bargaining rights, and unemployment insurance. The exception of agriculture from these protections diminished the labor rights of farmworkers, gave growers greater leverage over their labor force, and created a highly variable labor landscape in which state laws play a significant role in shaping working conditions for farmworkers. Still, Stuesse points out that even in low-wage industries under the purview of New Deal policies, such as poultry processing, structural racism and localized control over funding systematically disadvantaged Black and other minority workers across the U.S. South, such that the benefits of New Deal reforms scarcely reached these impoverished minority communities.

Horton, Stuesse, and Tompkins also contextualize U.S. labor laws in a broader policy landscape that has deeply shaped agricultural and food processing labor forces in the U.S. U.S. laws have long cultivated sources of especially disempowered labor in these industries: first and most significantly through the system of chattel slavery, then through both domestic and international policies that have ensured a steady stream of legally disempowered workers, including Black workers in the Jim Crow south, migrant “guest” workers, undocumented workers, incarcerated and detained workers, and those who are compelled to work in order to maintain eligibility for parole or social assistance programs (Gomberg-Munoz 2012).

These texts illustrate how legal disempowerment of select workers not only supplies a source of underpaid labor but can be wielded as a tool of labor suppression more generally, as capitalist industries recruit especially disempowered workers to undermine organizing campaigns of established workers who seek to increase their leverage over wages and working conditions. Tompkins notes that by the turn of the 20th century, growers in California were recruiting migrant workers from China, then Mexico, then the Philippines, and exploiting ethnic distinctions among workers to suppress organizing efforts in the fields. Later, as campaigns to unionize farmworkers were gaining steam in the mid-20th century, the U.S. entered into a binational treaty with Mexico to import more farmworkers on a temporary basis. This treaty, known as the Bracero Program, brought millions of Mexican farmers into the U.S. labor stream, where conditions on their work visas prohibited Bracero workers from negotiating for better wages, changing employers, or engaging in collective bargaining actions. The Bracero Program not only supplied disempowered workers to U.S. growers, it also worked to compromise the leverage that the United Farm Workers was seeking to exercise in bargaining efforts, and it firmly established a large-scale migration pattern from Mexico’s rural areas to U.S. agricultural fields.

Likewise, in Mississippi’s poultry industry, Stuesse details how employers recruited successive streams of differentiated, disempowered labor, transitioning from a largely rural white male labor force to one comprised of white women, then predominantly Black women, and now largely undocumented Latin American workers. While often framed as responses to labor “shortages,” Stuesse argues that such racialized labor recruitment strategies are designed to flood the labor market with vulnerable and socially differentiated labor to undercut efforts at labor organizing and keep wages low and workers compliant.

Horton and Stuesse also attend to late 20th century immigration policies such as 1986’s Immigration Reform and Control Act, or IRCA, and 1996’s Illegal Immigration Reform and

Immigrant Responsibility Act, IIRAIRA. Even as IRCA provided a legalization program for undocumented farmworkers, it also made the employment of undocumented people illegal for the first time. Rather than having the effect of discouraging the hiring of migrant workers, Horton and Stuesse show that IRCA further disempowered migrant workers by compelling them to use fraudulent work eligibility documents. A decade after IRCA created a widespread demand for fraudulent documents among migrant workers, IIRAIRA criminalized such practices, making violations like document fraud “aggravated felonies” that constitute grounds for deportation. The increasing criminalization of migrant workers, exacerbated by border militarization campaigns and accelerated interior enforcement measures, deepened migrant workers’ vulnerability by making them not only “deportable,” but, Horton argues, “denounceable” as criminals (2016: 94). This vulnerability makes undocumented workers an especially desired labor force in agriculture and food processing, where their low wages subsidize the prices of foodstuffs for U.S. consumers.

Together, these texts strengthen our understandings of the role of law in creating and maintaining a disempowered migrant labor force. In particular, while law is often conceptualized as a means to ensure and protect equity and justice, these texts highlight how U.S. laws are created and mobilized in ways that disempower groups of workers, facilitating their super-exploitation and suppressing the wages and bargaining power of the broader working class.

Ghost Workers

After laying this policy groundwork, each of these texts moves on to show how such legal disempowerment profoundly shapes the laboring conditions of agricultural and food processing workers. Ostensibly meant to serve as a disincentive to the hiring of undocumented workers, Horton and Stuesse show how policies such as IRCA ultimately led low-wage industries to innovate hiring structures that absolve them of responsibility for hiring workers and verifying their work eligibility documents. U.S. agricultural and poultry processing companies have largely avoided the consequences of IRCA’s employment prohibitions by using middlemen to hire and manage the labor force, who in turn, Horton shows, can use their knowledge of workers’ undocumented status to subvert their workman’s compensation claims, hide unlawful labor practices such as child labor and excessive overtime, and pad the unemployment and Social Security accounts of friends and relatives through compulsory “loans” of identity documents to undocumented workers.

In both agriculture and poultry processing, the use of labor middlemen has had an especially deleterious effect on subcontracted workers, who typically experience lower pay, fewer benefits, and less job security than direct hire workers. In the case of undocumented workers, the practice of labor subcontracting in combination with pervasive use of false work eligibility documents—both results of IRCA—can literally erase workers from employer rolls, making their labor invisible to the state and compromising their ability to access resources and protection, as well as legal support in instances of injury and abuse.

For these reasons, Horton, Stuesse, and Tompkins show, subcontracted, undocumented, and otherwise disempowered workers find themselves in some of the most dangerous workplaces in the country, where sped up assembly lines and packing machinery, exposure to toxic substances

and extreme temperatures, a dearth of fresh water and food, and proximity to dangerous equipment with inadequate protective garb are systematic and widespread. For agricultural workers, these dangers are manifested in high rates of pesticide exposure, debilitating injuries, heat stroke, and chronic illnesses such as cardiovascular disease, hypertension, diabetes, and arthritis. In Mississippi's chicken plants, Stuesse shows, poultry workers' bodies quickly become wracked by repetitive motion injuries, the result of "deskilled" production strategies and sped up processing lines.

Furthermore, Horton describes how the programs which are designed to protect and compensate workers who become ill or injured due to work, such as Medicaid, workman's compensation, and long-term disability benefits, are often denied to migrant workers—especially the undocumented. Even those programs that are ostensibly available to undocumented workers are often denied them, as workers are erased from employment rolls by labor supervisors who use their knowledge of workers' undocumented status to discourage them from seeking compensation for their injuries. Even lawful workers, Horton illustrates, encounter a maze of bureaucratic red tape when they seek to access benefits, which often compels them to work through injury until they become so debilitatingly disabled that they become eligible for long-term disability benefits.

Workers' social and legal vulnerabilities also render them especially subject to humiliation and harassment on the job. Agricultural and poultry processing workers are routinely exposed to sexual harassment by supervisors, routine and arbitrary surveillance, and the denial of bathroom breaks. For all of this, workers in these jobs are some of the lowest paid in the country, and they are additionally subject to widespread practices of wage theft, "fees" extorted by labor recruiters, and coercive identity loans. Their poverty, of course, only exacerbates workers' vulnerabilities and renders them more dependent upon their low wage jobs.

Importantly, the authors emphasize that these oppressive conditions extend beyond undocumented workers and degrade the working and living situations of broader communities. Horton draws on her long-term ethnographic research to paint in agonizing detail the suffering of mixed status family and community members in the wake of a loved one's deportation or death. Stuesse skillfully debunks myths about labor shortages to show how undocumented migrant workers have been used by the poultry industry to render Black workers more disposable, undermining their ongoing labor struggles. And Tompkins describes how pesticide drift from Arizona's agricultural fields into nearby communities, as well as water contamination and residue on food products, helped to create strategic alliances among residents and farmworkers aimed at ameliorating the use of toxic pesticides.

In sum, these texts illustrate the human cost of oppressive labor practices that fester in the gross imbalances of power between employers and employees in low-wage industries—an imbalance itself created and upheld in law. As employers wield the threat of immigration enforcement to discipline and regulate their workforces, they suppress both individual and collective efforts to increase workers' control over their wages and working conditions.

Seeds of Change

Still, the intensely marginalized workers at the center of these books do fight for better wages and working conditions—in spite and because of highly repressive conditions. Indeed, labor struggles under capitalism constitute a remarkably consistent storyline across time, space, and industry. In their books, Stuesse and Tompkins especially attend to organizing efforts to unite workers across social categories, and both Horton and Stuesse additionally consider the dual roles of anthropologists as researchers and activists who advocate alongside intensely marginalized workers.

The best-known example of farmworker activism appealing to a wider U.S. public is likely the campaign to boycott table grapes championed by UFW organizers in the 1960s. But Tompkins' research shows that throughout the mid-20th century, farmworker labor organizers cultivated strategic collaborations with environmental groups and the larger public to pressure growers and public officials to reduce the use of chemical pesticides. Organizers argued that chemical pesticide use, particularly DDT, not only compromised the health of agricultural workers but also contaminated drinking water, left dangerous residue on produce, increased air pollution, and contributed to depletion of the ozone layer. Tompkins argues that framing pesticide overuse as a public health and environmental concern and not merely a labor issue helped build significant, albeit temporary, support for farmworker campaigns among a broader public. A key goal of these campaigns was to increase union presence among farmworkers and provide workers with greater leverage in their negotiations with agricultural growers. The duration and successes of these collaborations was limited, but Tompkins argues that this does not lessen their significance. Rather, he emphasizes the ways common interests were strategically mobilized to build alliances across social difference in public policy and labor rights campaigns, with important lessons for broader movement building efforts.

In Central Mississippi, Stuesse contextualizes current labor struggles in a long history of organizing among Black workers, and as part of her fieldwork, she conducted interviews with people who participated in the Civil Rights movement of the 1960s. During her own tenure at the worker's center, Stuesse describes how she and her colleagues were frequently called to respond to episodic crises, as chicken processing giants such as Tyson and Koch Foods embarked on campaigns to identify and fire their undocumented workforce—especially those in highly unionized plants. Not mere pawns, these workers organized with the support of the worker's center and their union representatives to pressure the companies to adopt less punitive policies and refrain from unnecessarily reverifying workers' documents. While these efforts bore meaningful fruit, Stuesse and her colleagues also sought to transcend the goals of specific campaigns and develop programming to build a shared investment in labor organizing among Black and Latin American workers—programming that also centers the experiences, concerns, and achievements of poultry's Black workforce. The program they designed, *Solidarity/Solidaridad: Building Cross-Cultural Understanding for Worker Justice*, used a popular education model to advance worker empowerment and appreciation for the diverse experiences and long legacies that Black and Latin American workers bring to labor organizing in today's poultry processing plants.

Stuesse concludes her book with a thoughtful reflection on her role as activist researcher at the worker's center, and she considers the implications of this approach for the discipline of Anthropology more broadly. Stuesse argues that an activist approach to anthropological study

not only recognizes that all research is inherently political but advances research designs that prioritize long-term collaboration with communities in struggle. Democratization of the research process and collaborative determination of research products, Stuesse argues, has the potential to improve both methodological rigor and research relevance, and it addresses imbalances of power and influence that have long shaped anthropologists' relationships with research subjects. Stuesse also frankly discusses the messy realities of such work, including competing demands on her time, ethical issues posed by dual roles, challenges of adequately acknowledging collaborative knowledge production in academic work, and ultimately, confronting the realization that activist research affects limited social change.

Like Stuesse, Horton explores the potential of her research to advance the goals and interests of U.S. farmworker communities. The book's conclusion synthesizes its lessons for U.S. public policy and advances specific policy recommendations, including ending the exception of agricultural workers from standard labor protections, extending and protecting the rights of migrant farmworkers through immigration reform, extending access to health care for undocumented and lawful workers alike, and including worker safety provisions in food safety programs. In an appendix, Horton considers her personal and political development as a "researcher cum social worker" in the farmworker communities in which she worked. As Horton's relationships with farmworkers in the Valley deepened over the course of a decade, she describes her growing commitment—and the encouragement of farmworker friends—to not only leverage her cultural capital to address farmworker's urgent and acute needs but to develop a research praxis geared toward advancing social change.

Thoughtful, critical, and honest, these discussions will provide helpful food-for-thought for scholars and students who seek to design research projects that contribute to the "decolonization" of anthropological research. They also allow readers to develop a deeper understanding of the fieldwork process, especially of the advocacy-oriented kind that Stuesse and others have termed "observant participation," and demystify the messy, situated nature of ethnographic research. Finally, these discussions suggest a way forward for the discipline of Anthropology as a whole, as it increasingly moves away from an approach to research predicated on notions of detached impartiality toward an approach built on transparent alignment with members of oppressed communities.

Conclusion

For scholars in political and legal anthropology, these three texts contribute robust data and insightful analyses to several timely discussions. First, they suggest that law can be a highly flexible tool of capitalist labor regulation, which at times works to directly suppress worker empowerment, as in the case of agricultural exceptionalism and IRCA's work eligibility requirements, and at other times can be wielded by labor supervisors to discipline and dispose of workers. And in spite of popular claims to the contrary, these texts demonstrate that the selective application of punitive laws to particular groups, such as farmworkers or the undocumented, does not foster empowerment of non-targeted workers, but rather weakens the bargaining power of the broader laboring community. This finding has significant implications for scholarly analyses of race, gender, and labor, as well as for community-based labor organizing efforts.

Second, these texts lay bare the difficult, dangerous, and degraded working conditions of migrant laborers, as well as the everyday struggles in which workers engage to exercise greater control over their working and living conditions. This latter observation suggests that scholarly conceptualization of undocumented workers as reducible to a form of “bare life” (De Genova 2010; De Leon 2015) may be compelling when viewed from the perspective of state practice, but fails to account for quotidian sociopolitical struggles in marginalized communities, as well as the potential for those struggles to affect social change.

Finally, these books illuminate the many hurdles that workers and advocates confront when they seek to organize under highly repressive conditions. Their analyses suggest that both recognition of distinct histories and social positions, as well as recognition of common interests created by conditions of capitalist production, can help workers build bridges across social categories related to their racial classification, class position, national origin, and legal status in order to wield greater collective power.

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