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Hector Gutierrez, "Beyond the Binary: Constructing Notions of Legality in a Time of 'Illegal' Migration and Economic Recession in the Bay Area Day Labor Market" (April 1, 2010). *NACCS Annual Conference Proceedings*. Paper 8.  
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***Beyond the Binary: Constructing Notions of Legality in a Time of 'Illegal' Migration and Economic Recession in the Bay Area Day Labor Market***

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**Introduction:**

Today the US-Mexico border is one of most crossed geopolitical lines in the world. In 2008, the Department of Homeland Security and the U.S. Customs and Border Protection (CBP) agency inspected over 396.7 million travelers and more than 122 million automobiles, trains, vessels and aircraft at 327 ports of entry (CBP GOV, 2007). With such a distinct yet seemingly permeable boundary separating the developing from the developed world, the border represents a paradigm that brings into perspective issues of citizenship, illegality, violence, and other issues surrounding transnational migration. Within this context, the border has historically been an area of contestation in which the United States has exerted a violent domination over racialized immigrant groups and those who 'cross' the border. In doing so it has created as Gloria Anzaldúa states, "*una herida abierta* where the third world grates against the first and bleeds (1999)." This metaphor of bleeding along a geopolitical space exposes the open wounds of immigrant groups, including *jornaleros* or day laborers, as they are more commonly known. It is through their lived experiences that issues surrounding identity, agency/non-agency, and new paradigms of survival are emerging, as these transnational and often 'illegal' bodies move to new territories, specifically concentrated in the United States. One of the most substantial transnational spaces that exist is the transnational space of family.

I focus on two specific questions. Firstly, how is the partial recognition of 'the illegal worker,' at the local political level, specifically in formal worker zones, designed for illegal worker usage affecting the intra-group relationships of day laborers in the East Bay Area? Secondly, how are intra-group relationships affected by the current economic downturn as transnational workers move from their home countries to places in the U.S.? In examining these questions, I will demonstrate the way in which day laborers are adapting and creating new ways of belonging within the nation state. And in turn, how these behaviors might lead to a provocative analysis of what individual and collective 'agency' means as *jornaleros* leverage the new 'street family' through a process I term "cooperative dependency."

**Methodology:**

Focusing on 2 research sites, High St. in downtown Oakland and the home improvement store, Home Depot, in El Cerrito I examined how day labor realities and intra-group relationships are changing due to the economic downturn. Within these locations I planed scheduled daytime observations that used a penscribe digital smart system and voice recorder, where I kept detailed notes that tracked frequency, times, and types of activities that day laborers, potential employers, and community partners engage in. During site visits I conducted day laborer interviews individually or as part of larger groups. Each interview took approximately 30 to 90 minutes depending on interviewee's time.

I anticipated interviewing two main constituencies: street day laborers and community partners developing questionnaires specific to each. Community partners represented volunteers from church and non-governmental organizations. The interviewees consisted of day laborers at street corners, (*la parada*) where they solicit employment in the informal economy. Most interviews began with open-ended questions that probed into specific experiences,

intended to capture the current trends and issues facing the men. After each interview all data was transcribed and coded to ensure privacy and anonymity of all participants. From there data was thematically separated, interpreted, and analyzed since all interviews were conducted in Spanish. All names have been changed and pseudonyms have been applied to ensure privacy of day laborers interviewed.

### Literature Review:

Previous research with day laborers has pointed to several findings including: the changing national origins of day laborers (Valenzuela 2000, 2003, 2007); the idea of masculinity and gender within the day labor population (Turnovsky 2006, Purser 2005); issues surrounding the exploitation of day laborers; anti-immigrant rhetoric/policy (Skerry 2007, Martin 2007, Theodore 2003). My endeavor has been to see, if in essence, those considered 'disposable economic actors', are being made even further disposable by today's economic downturn.

Examining day laborers through ethnographic work enables us to investigate the role of state policies as it directly constructs day labor realities. By focusing on Day Laborer Centers and at *la parada*, scholars such as Turnovsky have examined how these men create a "community amongst themselves" where distinct spatial boundaries such as 'la parada' become a special location "for social relations." Although the focus of her work is not on race and ethnicity, Turnovsky has examined how camaraderie and relationships are formed among Latino day laborers who develop and use social networks. Eventually she uses this analysis to understand the economic and social incorporation of these day laborers in New York. What Turnovsky fails to consider is how social networks are used by day laborers to circulate the question of illegality and how then that in turn might change their relationship to the state and well perhaps to consider the quasi-legal status that they hold. In not addressing this Turnovsky fails to recognize the knowledge framework, which day laborers are able to articulate as they actively position themselves with new forms of agency within the nation state. My research uses Turnovsky's work as a springboard asking how "la parada" and the social networks with in them might enable a new sense of belonging to and relationship with the nation state.

### Data Findings:

#### *Effects of the Economic Downturn on East Bay Day Laborers*

*"Estamos pataleando para sobrevivir. Tenemos que evitar comprar zapatos ropa, mandar dinero para la casa. Mi familia me mando un poco del dinero que les he mandado y que han guardado" DL 1.*

*"Si! Ay muchísima gente que quieren entrar [a uniones], pero cuesta como \$500.00. En el tiempo que yo a estado aquí yo no e visto \$500.00 dolares en mi cartera" DL 2.*

*"We are kicking to survive. We have to stop ourselves from buying shoes, cloths, or even sending money back home. My family is sending me some of the money that they have been saving, which I have send them" DL 1.*

*Yes! There are a lot of people that want to enter into [union membership], but it cost \$500.00. In the time that I have been here I have not seen \$500.00 in my wallet" DL 2.*

The quotes above give us a window into the experiences of a group of day laborers emerging in the economic downturn. They portray the hard economic realities of jornaleros in the East Bay as the economy continues to fluctuate. Issues of survival and the ability to endure

the recession are what these men point to as they continue to be deprived of basic survival needs as well as opportunities for upward social mobility. As a result, Jornaleros are led into the “underground” and “shadow” economy (Williams & Windebank 1998) where they become disposable and exploitable units of capital to those who profit from their labor.

The inability to buy food, find shelter, or even find employment illustrates the limited resources that these men have. What is made clear is that they continue to enter into spaces where social, political, and economic capital are minimal at best. Choosing whether to eat or pay for shelter is the reality that emerges as these men continue to “survive” in a tight service-sector economy.

#### *New Forms of Family: The Nuclear vs. Street Family*

All participants that took part in the study had either already established or created networks of support that helped mitigate their transition into the country. These networks, be they the nuclear family, or the created street family, helped generate a venue for access, integration, and stability as day labor work began. Table 1.1 provides a breakdown of the type of support systems men from different geographical regions utilized as they settled in the Bay Area. The table also reflects the different degrees to which each participant in the study was dependent on social networks to maintain a viable living.

The idea of “cooperative dependency” emerged in the data as men continued to emphasize the way in which family, friends, and other day laborers themselves began to use each other as resources to survive. Sharing food, clothing, housing, and other basic life necessities is what resulted as men with street families—often living four to five in a single bedroom household—shared their narratives. Survival strategies therefore have emerged at multiple levels—from the intimacy of family in the U.S. to the transnational family network.

Table 1.1

	<i>Geographical Location</i>	<i>Support Network</i>	<i>Age</i>	<i>Time in Country</i>	<i>Time Spent with Support Network</i>	<i>Reverse Remittances</i>	<i>Remittances</i>
<i>DL 1</i>	Mexico	Family	30	5 months	3 months	No	No
<i>DL 2</i>	Guatemala	Street	35	5 years	2 years	No	Yes
<i>DL 3</i>	Mexico	Street	33	9 years	1 year	Yes	Yes
<i>DL 4</i>	Mexico	Street	28	6 years	5 months	Yes	Yes
<i>DL 5</i>	El Salvador	Street	27	3 years	3 years	No	Yes
<i>DL 6</i>	Guatemala	Family	29	3 months	3 months	No	No
<i>DL 7</i>	Honduras	Family	24	2.5 years	11 months	No	No
<i>DL 8</i>	Mexico	Street	25	8 years	2 years	Yes	Yes
<i>DL 9</i>	Salvador	Family	34	12 years	10 years	Yes	Yes
<i>DL 10</i>	Mexico	Street	32	3 years	2 years	No	No
<i>DL 11</i>	Guatemala	Family	18	3 years	3 years	No	Yes
<i>DL 12</i>	Guatemala	Family	29	11 years	9 years	No	Yes
<i>DL 13</i>	Guatemala	Street	30	3 years	2 years	No	No

DL 14	El Salvador	Family	22	1 month	1 month	No	No
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This cooperative dependency also now flows across borders not in the direction originally envisaged by the men. Table 1.1 also illustrates the new phenomenon of reverse remittances—the process by which family units from the developing world transfer money to kin in receiving countries (e.g. U.S.)—that has materialized in the wake of the economic recession. A total of four out of fourteen day laborers interviewed discussed issues of family sending money to the United States—most of which were from Mexico—to be used as forms of support. Although Mexico receives the largest amount of remittances in absolute terms, estimated by the World Bank to have been around U.S. \$24 billion in 2008 (down from U.S. \$25 billion in 2007), other economies are far more dependent on these inflows. Migrant transfers represent nearly 25% of GDP for Honduras, 19% for Jamaica, 18% for El Salvador and 11% for Guatemala (versus just 3% for Mexico) (Economist 2009, 9). Accordingly, the emerging trend of dependency is now simultaneously occurring on two fronts—domestically and abroad.

With this said the need to engage in cooperative dependency has altered the way in which day laborers make use of resources, family, and community in a globalized context. As globalization quickly continues to bring individuals closer together and integrates economies, it is also bringing a shift in the way survival mechanisms materialize in places like the East Bay. Adaptability and survival tactics are being refashioned to overcome the reality of not being able to make a viable living in the United States. Even as these men cannot find work, they continue to endeavor, trying to make a living off the miserable wages they earn; many of them still in debt paying for the *coyote* who crossed them over into the U.S. Hence, relying on fellow day laborers and support from the family through reverse remittances is the new development that is emerging as men continue to search for work during the deterioration of world markets.

#### *Loosing and Gaining Faith: the Emergence of New Forms of Agency*

As federal immigration policy continues to be at a standstill, many municipal governments have begun to address immigration on their own terms (See Novo 2004, Miller 2003, Crotly and Bosco 2008). Throughout the U.S.—in states that include New Jersey, Iowa, San Diego, San Francisco, and Arizona, immigration related policies have been implemented at the local level.

For example, San Francisco is a sanctuary city, which in essence has created a “bandwidth” of legality, enabling some form of security against exploitation (SFGov 2009, 3). Nonetheless, what I see emerging at the municipal level are bandage solutions that attempt to alleviate the problem of integrating undocumented people. Whereas in fact the bandwidths of legality are leading to spatialized “zones of illegality” which enhance the potential for day laborers to be exploited, because of their isolation from broader immigration and labor policies.

Having said this, many of the interviews I conducted also pointed to a “gaining of faith.” Many have begun trusting in the humanity of others, rather than relying on the political process to solve the issues at hand. The men articulated a combination of faith and luck as both playing a significant role in sustaining day laborers hope, as they cope with the harsh economic downturn. Interviewees had this to say about surviving:

*“Aquí es la suerte también, el que le toca le toca. Y al que no le caí tiene que esperar hasta que si te caiga. Es la suerte y pidiéndole a Dios” DL*

*Here it's all about luck, when it's your time it's your time. And if it's not your time you*

*have to wait until you get your turn. Its all about luck and praying to God” DL*

This reliance on luck and God reinforced notions of optimism even in the worst economic crises. In the face of fear and deprived working conditions many of these men have turned to each other and “humanity”—expressed as the kindness, love, and altruism—of others (e.g. local organizations, churches, and community partners) to sustain themselves during the recession. These men are achieving a new form of agency that relies on partnerships and community, rather than individual needs. Day laborers are using their own social networks as vehicles to create a new-shared agency, or “interactive agency” which illustrates the way in which individuals are neither autonomous agents nor simply mechanical conveyers of animating environmental influences.

Accordingly, what I found in the field research was that agency became cooperative rather than individualistic. This ultimately led to a stronger sense of community within intra-group dynamics and solidified the idea of believing in people to find faith in the cooperative solutions to overcoming the downturn. Day laborers were more comfortable relying on each other as vehicles of support than waiting for legislation, which never arrives.

*Discussion Section:*

When I began my research I went into the field with certain assumptions that drew upon academic paradigms of competition, survival, agency, and a naturalized discourse that is expected within social science theory. Instead, many of my presuppositions had to be reevaluated, influenced by the different worldviews emerging from the day laborers themselves.

A dominant theme of the research findings was that day laborers were learning how to adapt to the current economic status quo. In absence of a path towards legalization the men have gained faith in the humanity and reliance of others as “cooperative dependency” became the means to support and leverage opportunities where access is limited.

It is here where I saw the way in which agency as defined by social science and myself also changed. Agency for these men did not mean being politically conscious or mobilizing at a grassroots level to impact change. Their lived experience spoke to a new form of agency created by self-reliance combined with camaraderie and new adaptability for survival. Using support networks the jornaleros began navigating the recession, through a combination of intersecting strategies of reverse remittances, shared housing, and cooperative dependency. Their innovative ways of dealing with the recession points to an epistemic shift in concepts of agency. The men, even though lacking substantial forms of capital developed degrees of self-sufficiency through their own humanity and new systems of sustainability, created in reaction to the economic downturn. Their ability to endure points to new trends of adaptability and modes of survival that are created as the day labor market continues to fluctuate and immigration legislation development stalls.

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