How Agriculture Employers Arrange "Identity Loans" to Evade Immigration and Labor Laws

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Controversies about "identity theft" are at the center of U.S. immigration enforcement. During a 2008 federal immigration raid at a kosher meatpacking plant in Postville, Iowa, for example, authorities arrested 389 undocumented immigrants for "aggravated identity theft" – claiming that they had knowingly and intentionally used the identities of others without their consent. In Arizona, meanwhile, state authorities expanded the definition of "identity theft" to include the use of fake documents to obtain employment. Since that happened in 2008, the Maricopa County Sheriffs' Office has arrested more than 700 undocumented workers on such charges.

Although identity theft is widely decried, the majority of undocumented immigrant farmworkers say they actually obtain work authorization documents through loans – that is, through voluntary arrangements to obtain work documents. My findings on this topic come from interviews I conducted with 57 immigrant farm workers and six labor supervisors. In response to my queries about how undocumented immigrants get the documents they need for employment, and with what effects on their work conditions, many workers explained that direct supervisors often initiate loans of identity documents. The supervisors can profit personally even as they recruit workers for agricultural companies or contractors.

How Undocumented Immigrants Get Documents

The 1986 Immigration Reform and Control Act requires that employers "personally inspect" a potential employee's work authorization documents – including a Social Security card and proof of identity, such as a passport or "green card." Given these rules, undocumented immigrants who want jobs have three main options:

- With employers looking the other way, they can work "under the table" – that is, without documentation.
- They can present identity documents in their own names by purchasing a fake "green card" and fake Social Security card at a flea market or from an illicit vendor.
- They can steal or borrow work documents belonging to a citizen or legal permanent resident.

A variant of option three appears to be the most common. Immigrant farmworkers say 50 to 70 percent of their coworkers use loaned documents, because this kind of arrangement offers benefits to both recipients and donors. Of course, the recipient gets the documents he needs to present when he applies for a job. At the same time, the donor reaps financial benefits, because payroll tax deductions from the recipient's wages are deposited into the donor's Social Security account, and the recipient's labor hours and wages augment the donor's unemployment checks at the end of the season. (Unemployment earnings are based on the calendar quarter in which a worker earned the most within the previous 12 months).

Voluntary and Coercive Identity Loans

There are many different kinds of identity loans in farm working communities, and the degree of exploitation varies according to the social ties involved.

Relatives often share documents voluntarily. For example, an uncle who has legal status but has decided to depart for Mexico permanently may lend his nephew his Social Security number so that he can find a better job. Or a daughter may find work using papers from her recently-legalized mother in order to boost her mother's Social Security account.
Labor supervisors, many of whom are immigrants themselves, may force undocumented job seekers to use loaned documents. Because supervisors control jobs that undocumented immigrants desperately need and want, they wield significant power in immigrant communities and can engage in a coercive variant of identity borrowing. Indeed, immigrant farmworkers say that some labor supervisors will not hire them at all unless they agree to use the documents their labor supervisor supplies. This is called "working as a ghost," or "trabajando fantasma."

Why Supervisors and Employers Arrange Identity Loans

When employers or labor supervisors arrange for new hires to get borrowed identity documents, they accomplish several important objectives at the same time:

- The supervisor personally profits, because the donors of the loaned documents are often friends and family members of the employer or supervisor who give him a kick-back.

- Employers and supervisors can hide unlawful employees – teens or undocumented immigrants – from state and federal authorities, thus avoiding fines or deportations.

- Employers and supervisors can get away with wage and hour violations. Under California law, for instance, farmworkers are required to receive overtime for more than 60 hours a week. But my interviewees said that employers universally require workers with loaned documents to labor without overtime pay on Sundays, which they call "the day of the ghost."

- Loaned identities reduce workers' compensation claims. California law makes such insurance is mandatory for agricultural employees, regardless of legal status. Yet identity loans erase the actual workers from records and make them loath to submit claims to the insurance company.

My research challenges widespread assumptions about workplace "identity theft." When undocumented immigrants are arrested for this crime, judges rarely examine how they obtained work documents. Yet presumed document thefts may in fact be loans – many arranged coercively by direct supervisors for their own economic benefit and to benefit the agricultural companies or contractors that exploit so many undocumented workers.

Read more in Sarah Horton, "Ghost Workers: The Implications of Governing Immigration through Crime for Migrant Workplaces." ***Anthropology of Work Review*** **(forthcoming); and Sarah Horton,** ***They***

***Leave Their Kidneys in the Fields: Injury, Illness, and Illegality among U.S. Farm Workers* (University of California Press, 2016).**