Sanctions for Whom? The Immigration Reform and Control Act's "Employer Sanctions" Provisions and the Wages of Mexican Immigrants

Dissertation Prospectus

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Abstract
The proposed dissertation seeks to address the question of whether the wage gap between legal and unauthorized Mexican immigrants workers in the U.S. can be attributed to employers “passing along” expected costs of fines stemming from the “Employer Sanctions” provisions of the Immigration Reform and Control Act of 1986 (IRCA). The alternative hypothesis that IRCA’s provisions requiring employers to verify employees’ work eligibility has given them additional information and power over workers is developed and tested. This project draws from and contributes to the sociological sub-fields of stratification, international migration, political sociology, and labor and labor movements, as well as an existing public policy literature evaluating the effects of immigration policy generally, and IRCA’s employer sanctions provisions in particular.
“The I-9 [form] takes a lot of responsibility off of me and puts it back on the employee.”

-Garment shop personnel director (quoted in Calavita 1990)

Introduction

In the late 1970s and early 1980s, “illegal” or undocumented immigration from Mexico was increasingly perceived as a “serious” social problem in the United States (Bustamante 1990). After years of debate, at the end of the 1986 congressional term, Congress passed the Immigration Reform and Control Act of 1986 (IRCA).

The law contained four main provisions: legalization, guestworker programs, border enforcement, and employer sanctions. The legalization provisions included the “regular” or general amnesty, allowing for the legalization of undocumented immigrants resident in the U.S. since 1982, as well as a “Special Agricultural Worker” (SAW) program, allowing for the legalization of immigrants who had worked at least 90 days in perishable agriculture in a 12 month period (Bean, Espenshade, et al. 1990: 111).

Under the “regular” or general program, 1.77 million applications were filed (Bean, Espenshade, et al. 1990) and 1,595,439 immigrants were eventually granted legal permanent resident status (U.S. Immigration and Naturalization Service 1998). The SAW program received 1.3 million applications (Bean, Espenshade, et al. 1990), which was many more than had been expected. Ultimately 1,092,956 immigrants received legal permanent resident status under the SAW program (U.S. Immigration and Naturalization Service 1998).

In addition to the SAW program, IRCA included an ongoing agricultural guestworker program, the H-2A program. Created at the request of agricultural employers, but through a series of compromises with stakeholders such as organized labor, civil rights groups, and ethnic organizations, the program contains a number of important protections for both guestworkers and domestic agricultural workers. Many
agricultural employers have preferred to employ the undocumented at lower wages rather than participate in the program (U.S. General Accounting Office 1998).

With regards to immigration enforcement, IRCA made permanent funding available for an increase in Immigration and Naturalization Service\(^1\) (INS) hours spent on enforcement activities that had begun in fiscal year 1986\(^2\). At the U.S.-Mexico boundary, Border Patrol enforcement hours increased 31% in the three years following the passage of IRCA relative to the three years prior (based on my calculations from Table 4.3 in Bean, et al. 1990).

Lastly, IRCA made it illegal to knowingly employ immigrants without valid work authorization and required employers to verify potential hires’ work authorization and record this verification on an I-9 form. The law included fines for violations of either the verification (“paperwork”) or knowingly hire provisions, and well as the possibility of jail for employers engaging in a “pattern or practice” of knowing violations.

This marked a shift from the 1952 “Texas Proviso\(^3\),” which explicitly spelled out that employing undocumented immigrants was not considered “harboring” and was therefore legal (Calavita 1992). Economist Deborah Cobb-Clark and her co-authors (1995) explain the change this way:

The Immigration Reform and Control Act of 1986 (IRCA) represents an attempt to use labor market regulation to control illegal migration into the United States by imposing fines on employers who hire unauthorized workers. Sanctions lower wages directly because they act as a tax on hiring additional workers.

Because of concern that the discrimination the law intended to create against unauthorized workers might spill over onto authorized “foreign-looking” or “foreign-sounding” people, IRCA also included provisions against national origin and citizenship discrimination in hiring and termination\(^4\) (Fix and Hill 1990).
While all the provisions mentioned above are interrelated, the primary focus of this dissertation is to examine the effects of the employer sanctions provisions, specifically with regard to the difference in wages between authorized and unauthorized male Mexican immigrant workers. A number of studies (Phillips and Massey 1999, Donato and Massey 1993, Donato et al. 1992) have found that the implementation of IRCA coincided with a shift in the determinants of Mexican immigrants’ wages. Examining data from the pre-IRCA period, these studies found no significant differences between the wages of legal and unauthorized Mexican immigrants, once migrants’ differences in human capital (e.g., education, English ability, experience) were taken into account (see also Bailey 1985; Chiswick 1984, 1988). However, post-IRCA observations show a significant wage gap between authorized and unauthorized Mexican immigrants combined with decreasing returns to human capital factors such as education.

“Research generally suggests that IRCA led to a deterioration in the wages and working conditions of undocumented migrants, but studies have not yet identified the reasons for this change,” write Phillips and Massey (1999). Although they set out to find these reasons, Phillips and Massey met with limited success. Finding some evidence that the wage gap does not stem from competition with newly legalized immigrants, an increase in subcontracting, or a general increase in unemployment, Phillips and Massey (1999) attribute the post-IRCA wage gap to wage discrimination brought about by employers passing along the expected costs of sanctions.

The main contribution of this dissertation is to examine another possible reason for the observed wage gap: that empowering employers to check employees’ documents has improved employers’ information regarding the status of their employees and thus increased their power over undocumented employees via the (implicit or explicit) threat of reporting them to the INS. The research is designed around a “crucial experiment” (Stinchcombe 1968), empirically testing this hypothesis against that proposed by Phillips
and Massey, that the wage gap between legal and unauthorized Mexican immigrants is directly related to the costs to employers generated by enforcement of IRCA’s employer sanctions provisions.

In addition to this primary contribution, the dissertation will update and extend past research (e.g., Bean and Passel 1990, Crane et al 1990) on the effects of employer sanctions on flows of undocumented immigrants. It will also compare the United States’ sanctions policy, enforcement and system of authorization verification to those of other migrant-receiving countries. It will consider the role of interest groups during the implementation of sanctions and beyond. In particular, it will examine the factors that might explain the reversals by groups (such as the AFL-CIO and the NAACP) that initially demanded sanctions in 1972, but have since called for their repeal. Along these lines, it will also investigate the hypothesis that assigning responsibility to employers to verify employees’ work authorization has undercut the ability of workers in immigrant-concentrated firms to organize unions.

**Literature Review**

It may be useful to summarize the main lines of research relevant to the relationship between IRCA’s employer sanctions provisions and the wage gap between authorized and unauthorized immigrant workers. One area of research is the evaluation of the implementation of employer sanctions, both in the U.S. and in other industrialized countries. The other main area of research is on the labor market effects of sanctions, which can be further sub-divided into studies examining whether sanctions cause discrimination against “foreign-appearing” authorized workers; and studies of the determinants of the wage gap between unauthorized and authorized immigrant workers.
Implementation Studies

Prior to the passage of IRCA, two reports by the U.S. General Accounting Office (1985, 1982) surveyed a number of countries (9 and 19 respectively) and Hong Kong regarding their experience with using employer sanctions to prevent illegal immigration. The 1982 report concluded that:

Although each country had laws penalizing employers of illegal aliens, such laws were not an effective deterrent to stemming illegal employment for primarily two reasons. First, employers either were able to evade responsibility for illegal employment or, once apprehended, were penalized too little to deter such acts. Second, the laws generally were not being effectively enforced because of strict legal constraints on investigations, noncommunication between government agencies, lack of enforcement resolve, and lack of personnel.

Despite this conclusion that employer sanctions “were not an effective deterrent” in the 19 countries (and Hong Kong) which already had such laws on the books, the 1985 report cautions that the earlier report had not concluded “that such laws, if enacted, will not deter illegal alien employment in this country” (U.S. GAO 1985). The second report was requested by one of IRCA’s authors, Representative Romano Mazzoli, apparently because congressional opponents of sanctions were using the 1982 report as evidence of sanctions likely failure in the U.S.

The 1985 report painted a rosier picture of increases in enforcement since the first survey was completed and generally effective laws. The later report arrived at the conclusion that sanction were effective based on a question which asked the government official responding to the survey for their opinion about the deterrent effect of sanctions on the employment of illegal aliens. These opinions were by definition subjective. Officials may have been reluctant to openly acknowledge that a law was ineffective5. If nothing else, the 1985 follow-up GAO report suggested that employer sanctions were at least somewhat effective in at least some of the countries which had such laws.
Within the United States, Calavita (1982) analyzed California’s employer sanctions law, which served as a model for the 1972 bill which eventually evolved into IRCA. Calavita describes the employer pressure which led to amendments eviscerating the bill, leading one opponent in the legislature to announce, “This bill is totally unenforceable” (Ketcham quoted in Calavita 1982). In fact, the California law never resulted in a successful prosecution (Calavita 1982).

IRCA contained provisions requiring the General Accounting Office (GAO) to issue three annual reports “to determine whether the sanctions provision resulted in a pattern of discrimination against eligible workers, was carried out satisfactorily by INS and Labor, and resulted in an unnecessary regulatory burden for employers” (U.S. GAO 1990). For the moment, I will focus on the question of satisfactory implementation.

The 1990 GAO report defines “satisfactory performance” as developing “plans and policies and implementing procedures that could reasonably be expected to (1) identify and fine violators and (2) educate employers about their legal requirements.” The report does not mention any minimum number of employers to be fined or educated in order to meet the standard of “satisfactory performance.” However, apparently the 2.2 million educational contacts with employers and the 39,000 warnings and 3,532 fines issued (as of September 19, 1989) were sufficient. To put this effort in context, however, INS’s goal of 20,000 inspections in fiscal year 1988 amounted to less than one half of one percent of the over 7 million employers (U.S. GAO 1987).

Fix and Hill’s 1990 study of the implementation of IRCA’s employer sanctions provisions concluded that INS had “successfully met the challenges of IRCA’s first three years.” However, the study raised a number of cautions about the future. Fix and Hill’s (1990: 4) four major findings were:

1. In the eight sites in our sample, few civil or criminal fines had been assessed relative to the number of establishments covered or the number of investigators assigned to sanctions enforcement.
The enforcement of IRCA’s sanctions provisions varied sharply in terms of priorities, processes, targets, and fines. We did not observe extensive use of criminal sanctions...Only half our sites initiated any criminal enforcement actions. We observed limited coordination among IRCA’s implementers. This was true both within the INS and between the INS and other implementers.

The study also warns that “A low level of enforcement activity could lead many employers to discount the possibility that violations will be detected and punished, thus weakening the deterrent effect” (Fix and Hill 1990: 3). In more ways than one, Fix and Hill’s study seems to suggest that the United States’ employer sanctions laws were in danger of proving to be ineffective for the exact reasons the 1982 U.S. GAO report found that such laws were ineffective in 19 other countries.

Calvita (1990) argues that

It is not enough, then, to explain the prevalence of this white-collar crime by citing lenient penalties, inadequate enforcement, or lax attitudes on the part of enforcement agents, although these clearly are the immediate causes of employer violations. Rather it is important to trace the low risk associated with this crime to their source in the law itself to arrive at a more complete understanding of the social processes that set the stage for this white-collar crime. (emphasis in the original)

In essence, Calavita claims that employer sanctions cannot succeed in sanctioning employers or stopping the employment of undocumented immigrants because they were neither intended nor designed to do so. Rather, she claims, they function as a symbolic resolution to “fundamental underlying structural contradictions in the political economy” (Calavita 1990: 1045). The employer sanctions provision was only acceptable to (and in fact endorsed by) employer lobbies once it contained a “good faith” clause providing an “affirmative defense” to employers who follow the verification procedures (Calavita 1990:1057-1061). Employers are protected from prosecution under the “knowing hire” provision if they have examined a document which “reasonably appears on its face to be genuine” (8 USC 1324a(b)(1)(A)). Calavita’s (1990) interviews with top INS officials suggest that this phrase was interpreted leniently. This interpretation was codified in the
1996 IIRIRA by a provision that redefined any “technical” violation as compliance, provided the employer corrected the violation within 10 days (8 USC 1324a(b)(6)).

Calavita points out that through the legislative process employers who do, in fact, knowingly hire unauthorized immigrants have been redefined as “compliers” because they have met the paperwork requirements. While this makes “compliance” likely, it works at counter purposes with the goal of reducing the employment of unauthorized immigrants.

Calavita’s post-IRCA interviews with both employers and employees in southern California demonstrate this. About 48 percent of the employers surveyed “thought” some of their employees were undocumented. Another 11 percent volunteered that they knew they had hired undocumented workers after IRCA had gone into effect. Of the workers interviewed (from the same firms) 30 percent acknowledged being undocumented at the time they were hired. Of these, 35 percent used fraudulent documents. Slightly more than 4 percent of the undocumented workers reported being told by their employer to obtain false documents (Calavita 1990). At least some number of employers use paperwork compliance to continue knowingly hiring undocumented workers with relative impunity.

**Discrimination**

Another major area of research related to IRCA’s employer sanctions provisions is discrimination. There was considerable debate in the formulation of the law that sanctions might provoke discrimination against foreign-appearing authorized workers. In fact, IRCA contains provisions making national origin and citizenship discrimination illegal in hiring and termination (8 USC 1324b). Note, however, that these protections do not apply to wage discrimination nor do they protect those lacking valid work authorization.
General Accounting Office (GAO) Studies

Congress required U.S. GAO to determine whether the employer sanctions provisions caused “widespread discrimination” on the basis of national origin or citizenship (U.S. GAO 1990). While the GAO’s 1989 report concluded that the sanctions provisions did not cause such a pattern of discrimination, the 1990 report reversed this finding. Both relied on an employer survey which found that 10 percent of employers acknowledged engaging in national origin discrimination in their efforts to comply with the law. Similarly 9 percent acknowledged discriminatory practices based on citizenship. However, the 1990 GAO report also relied on an audit study commissioned by GAO and carried out by the Urban Institute. The study used matched Hispanic and Anglo testers to apply for posted entry-level job openings in San Diego and Chicago. Anglo testers received 33 percent more interviews and 52 percent more job offers than the Hispanic testers (U.S. GAO 1990). Although both the employer survey and the audit study lacked a pre-IRCA baseline, taken together with information on discrimination charges, GAO determined that employer sanctions had provoked “widespread” national origin discrimination. Had Congress approved this finding, the sanctions provisions would have terminated (8 USC 1324a(l)). But congressional inaction has kept employer sanctions on the books.

Empirical Findings in Academic Studies

While the GAO, following its congressional mandate, focused its research on discrimination in hiring and termination, Bansak and Raphael (2001) studied IRCA-induced wage discrimination. Their study, which uses Current Population Survey (CPS) data, makes pre and post-IRCA comparisons. But it also utilizes the quasi-natural experiment created by the two year delay in implementing sanctions in agriculture to attempt to distinguish changes related to IRCA from broader changes in labor market conditions. The authors find that the wages of Latino workers in non-agricultural sectors
declined relative to Latino workers in agriculture, while Anglo whites in non-agricultural sectors gained in wages relative to Anglo whites in agriculture. Their findings suggest a negative effect of IRCA’s employer sanctions provision on Latino wages (Bansak and Raphael 2001). However, because the CPS data does not contain information on the immigration status of non-citizens, it is impossible to discern whether the wage discrimination effected all Latinos or was concentrated on the undocumented.

A number of other researchers have used other sources of data to address both the broad question of whether legal status causes a wage differential, and the specific role of IRCA in such a differential. Perhaps unsurprisingly, the literature examining the causes of the wage gap between authorized and unauthorized workers arose around the same time that the employment of “illegal aliens” gained currency as a “social problem” in need of a legislative solution.

North and Houstoun’s 1975 study of apprehended undocumented immigrants found that they received wages 37% lower than the average wages in the same industry. In 1987, Massey found an identical wage gap in a survey of both documented and undocumented Mexican male migrants. Chiswick’s 1988 study of apprehended undocumented immigrants (and their employers) had no similar documented comparison group. However, he found average earnings above the federal minimum wage. Both Chiswick (1988) and Massey (1987; see also Borjas 1990, Bailey 1985) argue that observed differences in wages between undocumented and documented immigrants were not due to legal status, but rather to human capital characteristics such as English ability, job experience, and skill.

However, later work by Massey and his co-authors (Donato, et al. 1992, Donato, and Massey 1993, Phillips and Massey 1999) concluded that things had changed since the passage of IRCA. Incorporating more recent surveys with those used in Massey’s 1987 study, they found that while legal status did not produce a significant effect in the pre-
IRCA period, it trumped human capital in predicting wages in the post-IRCA period. Similarly, Rivera-Batiz, using the Legalized Population Survey\textsuperscript{8} found that observed characteristics explained less than half of the wage gap between amnesty applicants and legal immigrants. Legalized immigrants saw a growth in wages from their time of application until 1992, of which, again less than half can be explained by changes in measured characteristics (such as education, English ability) over time.

Another study (Cobb-Clark, et al. 1995) looks at the effect on metropolitan manufacturing wage rates of IRCA outcomes such as level of employer sanctions fines and legalization applicants per capita. Their findings regarding sanctions are consistent with their prediction that “sanctions lower wages directly because they act as a tax on hiring additional workers.” Perhaps surprisingly, sociologists Phillips and Massey (1999) interpret their findings in this straight-forward economic framework as well: “[IRCA] appears to have encouraged discrimination against undocumented migrants, with employers passing the costs and risk of unauthorized hiring on to the workers.”

**Two Competing Interpretations of Findings**

Both sets of authors implicitly assume that the wage gap (net of human capital differences) can be explained entirely as employers passing along the risk of being fined. That is:

\[
\text{(Undocumented Wage)} = \text{(Documented Wage)} - \left[\text{(amount of fine)} \times \text{(probability of fine)}\right]
\]

This is to implicitly assume that, while firms might choose a more or less risky hiring strategy, IRCA’s employer sanctions provisions are cost-neutral to the average firm. Neither the economists nor the sociologists who have addressed this question empirically have explored the possibility that IRCA may have effects on the wages of unauthorized immigrants that have more to do with a shift in power relations between employers and employees than the risk of citations.
Two reasons we might suspect this are the “modest” level of sanctions enforcement (Fry, et al. 1995, Fix and Hill 1990) and the affirmative protection provided to employers who make good faith efforts to comply with paperwork requirements. Can the modest enforcement of employer sanctions truly explain the wage gap between legal immigrants and their unauthorized counterparts?

An alternate explanation is that IRCA’s requirements that employers check workers’ authorization documents (combined with weak enforcement) has increased employers’ power relative to their undocumented employees. The use of fraudulent documents is widespread (Lowell and Jing 1994). In cases where such documents are used, the employer, having requested the proper documents and made a good faith effort to evaluate them, is largely safe from fines. For example, one employer quoted in Cornelius (1989) noted that: “The compliance procedures are not that difficult. You don’t have to verify the person’s documents are valid, so there’s no hazard in hiring someone with fraudulent documents.”

However, the requirement to check documents creates an interaction between potential hires and employers which gives the employer information about employees’ legal status. A second employer interviewed in Cornelius (1989) remarked: “You ask them for IDs and they don’t have any. Three days later, they do.” While another responded that if presented with fraudulent documents, “I would just try to get them to get something that wasn’t so fraudulent looking. If it doesn’t look right, go get a right one for me.” These are clear examples of employers who, in “complying” with the paperwork provisions of IRCA, have gained both knowledge that the applicant is unauthorized and an affirmative defense against charges of knowingly employing such unauthorized immigrants.

The verification process (or “I-9” process after the name of the attestation form) creates a situation in which employers may have better knowledge or more accurate suspicions
regarding the status of their unauthorized workers. However, even if the employer does not suspect the worker is unauthorized, going through the I-9 process may instill in the worker the fear that his or her employer knows that the documents presented are fraudulent. Any of these situations would lead to a perception on the part of the worker that he or she is vulnerable. Immigrant workers in such situations would be less likely to make demands on their employers regarding wages or working conditions.

In the case where unauthorized workers do make such demands, employers might threaten to call INS or may actually do so (Washington Post 1999, Chicago Tribune 1998). Bronfenbrenner (2000) found that employers threatened to report workers to the INS in 7 percent of all union organizing campaigns and 52 percent of campaigns for bargaining units which included undocumented workers. Either threats or actual raids are likely to have a strong chilling effect. Note that in the case of collective demands, such as union organizing drives or contract campaigns, the employer need not have information about which individual employees are undocumented to make threats that effectively undercut support for such demands.

In summary, I have identified two hypotheses that might explain the wage gap between legal immigrants and their undocumented counterparts. First, employer sanctions may create expected costs for employers willing to employ undocumented workers. The employers may then pass these costs along to their employees. In this case the law would create a disincentive to hire the undocumented, which employers compensate for with lower wages. On the other hand, “employer sanctions” may improve employer information about workers’ immigration status, increasing employers’ power over their undocumented employees though (explicit or implicit) threats to report them to INS. Employers would likely use this power to keep wages low. Such a decrease in labor costs combined with small expected costs of “sanctions” imply higher profits. If this
latter hypothesis is correct, then “employer sanctions” have the perverse effect of creating labor market incentives to hire undocumented workers.

I propose that it should be possible to adjudicate between these two hypotheses using INS administrative data on “employer sanctions” fines and survey data on the wages of individual Mexican immigrants. If the “wage penalty” hypotheses is correct, we should expect no wage gap between Mexican legal immigrants and Mexican undocumented immigrants prior to IRCA, and a post-IRCA wage gap varying over time and place with the level of sanctions enforcement. If, however, the “employer power” hypothesis is correct we would also expect no pre-IRCA wage gap, but in the post-IRCA period we should expect a significant and fairly stable wage gap both over time and across the country. The regression methods described below will allow us to determine the extent to which each of these scenarios matches the empirical data available.

**Effects on Immigration Flows**

One additional test of the efficacy of IRCA’s employer sanctions provisions is to examine effects of enforcement on the flows of undocumented immigrants. Remember that the original intention is creating a labor market policy was to remove an immigration pull factor for undocumented immigrants. If the policy is effective, we should see decreases in flows of undocumented immigrants. If however, the policy creates incentives to hire the undocumented, we can expect these flows to continue or increase.

A number of studies in the early 1990’s attempted to test this (Bean, et al. 1990, Bustamante 1990, Crane, et al 1990). Generally, these studies suffer from two related problems. The first is that they were conducted too shortly after the implementation of IRCA to examine anything more than the initial effects. Secondly, these studies do not use measures of sanctions enforcement, but rather assume that sanctions’ effects on flows are the residual change which cannot be explained by IRCA’s other provisions, such as number of legalizations and changes in border enforcement staffing levels. To my
knowledge, no one has conducted a study which examines the relationship between levels of employer sanctions enforcement and flows of undocumented migration. This dissertation will examine this question using data on sanction enforcement and flows of undocumented immigrants for the 13 year period from the passage of IRCA in 1986 until 1999.

Areas for further exploration

While the research described above forms the core of the dissertation, there are a number of distinct areas which are related to this core research. These are areas which I propose to pursue further.

Political and Legislative History

One such area is a political and legislative history of the IRCA and particularly the employer sanctions provisions, examining the changes over time in the proposed law and the positions of interest groups regarding the law’s distinct provisions. One central question in the political sociology of IRCA is the role of labor unions. The AFL-CIO, together with the NAACP, convinced Representative Peter Rodino to propose employer sanctions beginning in 1972 (LeMay 1994, Gimpel and Edwards 1999). Over the course of the next fourteen years, IRCA evolved from a sanctions proposal to the package of reforms that Congress approved in 1986. Throughout this time the AFL-CIO and NAACP both continued their support for employer sanctions.

In 1990, following the release of the GAO’s report documenting sanction-induced discrimination, the NAACP national convention voted to call for the repeal of employer sanctions (Fix 1991). Similar calls came from the American Bar Association and the U.S. Chamber of Commerce (Fix 1991). Even the Chamber of Commerce’s position was a reversal of support for sanctions that had been extended once the affirmative defense for paperwork compliance was added (Calavita 1990).
The year 2000 marked perhaps the most significant reversal. The AFL-CIO executive council approved a resolution at the Federation’s annual convention stating, “We strongly believe employer sanctions, as a nationwide policy applied to all workplaces, has failed and should be eliminated” (AFL-CIO 2000). The resolution, like the research proposed here, holds the I-9 process particularly responsible for retaliatory actions by “unscrupulous employers.” In this same resolution the AFL-CIO also called for a new amnesty (i.e., legalization program), something organized labor had fought against in IRCA (LeMay 1994: 61).

Can the AFL-CIO’s reversal be seen as due to the experience of IRCA sanctions enforcement regime? Or does it merely reflect changes in the demographics of union membership and/or leadership? How can the earlier reversals of other stakeholders be understood? What support still exists for sanctions?

**International Comparisons**

To further test the hypothesis that the I-9 process in particular is responsible for the wage gap between legal and unauthorized Mexican workers in the United States, we might look to other countries that also have employer sanctions laws. Do any of these countries have a wage gap net of human capital factors between legal and unauthorized immigrant workers? How do these countries deal with verifying work eligibility?

This avenue of research involves more research on the details of other countries’ sanctions laws, as well as, searching for appropriate survey data. While it may not be possible to obtain both wage survey data with measures of work authorization and administrative data on sanctions enforcement, these may not be necessary to test the hypothesis that employer verification is responsible for the wage gap. Cases where there is no employer verification, but a significant wage gap would call the “employer power” hypothesis into question.
**Data and Methods**

*Data on Individual Wages*

This project will use two surveys of Mexican immigrants to the United States which include data on wages as well as other key wage determinants such as education, duration in the US, age and sex. Of course, one requirement is that the survey data used must include information on respondents’ immigration status or work authorization. This requirement rules out the use of many U.S. sources of data on wages, specifically the Current Population Survey (CPS) and Decennial Census Public Use Microdata Samples (PUMS). Instead, we turn to data from the Mexican Migration Project (MMP) and Mexico’s Survey of Migration at the Northern Border (known by its Spanish acronym *EMIF, or Encuesta sobre Migración en la Frontera Norte de México*). The MMP data has been used by Douglas Massey (1987) and a number of his collaborators (Phillips and Massey 1999, Donato and Massey 1993, Donato et al. 1992) in articles that have found a wage gap between authorized male Mexican immigrant workers and their unauthorized counterparts. The EMIF data has not, to my knowledge, been used to examine the wage gap between authorized and unauthorized Mexican immigrants.

Both surveys collect data primarily in Mexico, although the MMP has a small non-random sample of Mexican immigrants settled in the US. The MMP randomly samples households within purposively selected migrant sending communities. The survey is administered during the December-January period, when many US migrants return to Mexico. Household heads are asked to give a retrospective migration history as well as detailed information about their last trip to the US. Based on referrals in each sending community, approximately 10 households of settled migrants in the US are also sampled. It is also worth noting that the retrospective migration histories collected by the MMP may make it possible to analyze the impacts of IRCA’s sanctions and legalization provisions longitudinally on the same individual respondents, rather than comparing...
aggregate cross-sectional samples. I am not aware of any existing studies which exploits
the structure of the MMP in this way.

The EMIF does not use a standard sampling frame to capture a "stock" of people. Rather it is a probabilistic sample of the flows of migrants through the Northern border of Mexico in years between 1993 and 2000. For this project, I will be using a subsample of migrants returning to Mexico from trips to the US. If one is interested in the population of migrants in the US, this sampling technique will oversample temporary migrants relative to settled migrants. This bias can be partially corrected by weighting each case with the duration spent in the US. This gives a sample weighted to the migrant person years each respondent contributes to all migrant person years in the US. However, this weighting scheme is still biased in that it does not include the person years between last US entry and death. If migrants who never return to visit Mexico are significantly different from those who do, this may present a problem. Unfortunately, the fact that data collection for the EMIF began after sanctions were implemented makes it considerably less useful than the MMP data. The EMIF data may, however, be useful in validating the results based on the MMP.

One other possible source of data on individual wages is the National Agricultural Workers Survey (NAWS), collected annually since 1988 by the U.S. Department of Labor. While limited to workers in the agricultural sector, this survey contains data on workers’ wages, education, English ability, place of birth and immigration status. The Department of Labor publishes periodic summaries of the survey results, but unfortunately the individual level (micro) data are not readily available to the public. If arrangements can be made for the use of this data, such analysis would merit treatment in a chapter focused particularly on the effects of the employer sanctions provisions on wages within the agricultural sector.
Data on Sanctions Enforcement Levels

In addition to these sources of survey data about individual immigrant workers, we need information on the level of INS enforcement of IRCA’s employer sanctions provisions. For this we have the Employer Sanctions Database, obtained by the Center for Immigrations Studies (CIS) from INS through the Freedom of Information Act. CIS (2004) claims the database contains all “closed cases” through May 2000, albeit with fine and violation information missing from some cases. However a comparison with tables from the INS Statistical Yearbook (US Immigration and Naturalization Service 2003) suggests that the database is incomplete, but fairly consistently so. One challenge will be to deal with this incomplete data, either by attempting to improve the completeness or using statistical methods.

However, the “closed cases” in the sanctions database include not only fines and warnings, but also records of those audits which found employers to be in compliance. All cases include identifying information for the employer, including geographic information such as address, ZIP code, and county; as well as Standard Industrial Classification (SIC) codes. Thus using this data, it is possible to create estimates of the level of enforcement by various industrial sectors, places and years that are independent of the level of employer compliance. The cases that involved a warning or fine can then be used to create measures, conditioning on the employer being in violation, of the probability of receiving a warning rather than a fine and of average fine amount per violation.

Ideally, the measure of enforcement effort should be an audit rate, rather than a simple count of audits. Because firms are at risk of fine for each employee for whom they fail to verify and/or for each unauthorized immigrant they knowingly employ, and because the unit of analysis is the individual worker, the best denominator for this rate is
the size of the labor force, rather than the number of firms. Thus, the probability of being audited by INS, \( P_a \), would be estimated as:

\[
P_a = \frac{(A \times n)}{N}
\]

where \( A \) is the count of INS audits, \( n \) is the number of workers in audited firms and \( N \) is the employed population. Using \( P_a \), the expected fine (\( \text{Fine}_{\text{exp}} \)) can be calculated as follows:

\[
\text{Fine}_{\text{exp}} = P_a \times P_f \times \text{Fine}_{\text{ave}}
\]

where \( P_f \) is the probability of receiving a fine (rather than a warning) given that the employer was found not to be in compliance; and \( \text{Fine}_{\text{ave}} \) is the average fine per violation. Thus our measure of expected fines takes into account both enforcement effort relative to the population subject to enforcement and the severity of the punishments meted out to non-complying employers. Unlike counts of the instances of fines, this measure is independent of the level of employer compliance.

The expected fines can be calculated separately for each combination of industrial sector, Metropolitan Statistical Area (MSA), and year and then attributed to migrants working in the corresponding sector and MSA, at a lagged time following the enforcement. As there is no strong \textit{a priori} expectation regarding the time it might take for information regarding the level of enforcement to diffuse among employers (and employees), it will be necessary to experiment in order to find the lag that fits most closely with the variation in the wage gap.

The data analysis will begin by replicating the work of Phillips and Massey (1999) using the MMP data. Phillips and Massey ran semi-logarithmic OLS regression models separating Pre and Post-IRCA observations (as well as pooling these observations). Working from this starting point, I propose the following extensions:
1) Addition of new MMP data now publicly available. The current version includes surveys of 93 communities, more than doubling the size of the 39 community sample used by Phillips and Massey in 1999.

2) Addition of sanctions enforcement measures (expected fines) interacted with undocumented status dummy variable to Phillips and Massey’s post-IRCA model. If sanctions explain the post-IRCA wage gap, then the undocumented variable should decrease in magnitude and statistical significance.

3) Run separate models for the documented and undocumented migrants including sanctions enforcement measures. These models will be used to construct wage decompositions giving a simple interpretation to the percentage of the wage gap that can be explained by sanctions measures.

4) Explore multi-level or fixed effects models exploiting the fact that the MMP contains information on first and last U.S. trip. If sample sizes are sufficient, it may be possible to explore the effects of sanctions enforcement using observations of the same individual pre and post IRCA. This approach effectively controls for the effects of any time-constant observed or unobserved individual characteristics.

5) Compare estimates based on MMP observations for U.S. trips ending in 1993-2000 with similar estimates based on EMIF data (except for 4 above).

Interpreting the Residual Wage Gap

The quantitative analysis just described can, at its strongest, falsify the hypothesis that the wage gap between authorized and unauthorized Mexican immigrants is due to employers directly passing along expected fines. It is more likely to show that only part of the gap can be explained this way. The residual gap is still open to a number of
interpretations. For example, rather than the increase in employer information and power proposed above, an otherwise unexplained wage gap could result if employers were so fearful of sanctions that they over-estimated the probability that they would be fined.

To support the theory that IRCA’s I-9 verification process has given employers more information about employees’ immigration status and therefore more power, I will call upon a number of sources. One source is the interviews with California employers reported in Calavita (1990) and Cornelius (1989). These interviews show that employers expect very little in the way of sanctions enforcement and feel protected from fines by filling out I-9 forms. These interviews also show that some employers know or strongly suspect that their employees are unauthorized. The interviews with employees of these same firms include a small percentage of workers told by their employers to get false papers.

Another source of similar information is newspaper accounts of cases in which employers actually called INS on their own workers during union organizing campaigns (e.g., Washington Post 1999). Similar anecdotes may also be solicited in interviews with union officials and immigrant advocates.

It might be argued that newspaper accounts showing that employers sometimes report their unauthorized workers to the INS during union recognition or contract campaigns do not prove that employers are more likely to call the INS during such campaigns than at other times. Employers may claim merely to be attempting to comply with the law (Washington Post 1999).

It may, however, be possible to show that employers are, in fact, more likely to call INS or to be raided during organizing campaigns. As reported above, Bronfenbrenner (2000) reports that employers made threats to report employees to INS in 7 percent of all union organizing campaigns and in 52 percent of campaigns involving undocumented workers. While Bronfenbrenner does not mention any actual raids, it may be possible to
make inferences comparing the incidence of raids in the cases contained in union organizing campaign samples, such as Bronfenbrenner’s (2000) with the universe of employers to determine if employers experiencing union organizing are more likely to be raided by INS.

However, the size of such samples\textsuperscript{10} may be too small to accurately capture relatively rare events, such as actual INS raids. Another approach would be to use data on INS raids, such as that collected by Jacob Ely of the UC Berkeley Center for Labor Research and Education in conjunction with the Labor-Immigrant Organizing Network (LION), and match this data to industry data and National Labor Relations Board records to determine whether firms experiencing union organizing drives are more likely than other firms to experience INS raids.

*Data on Flows of Undocumented Immigrants*

Using the Sanctions Database, it is possible to explore the relationship between levels of enforcement and flows of undocumented immigrants. Past studies have used INS Apprehension data (Bean, et al. 1990, Crane, et al. 1990) as well as Canyon Zapata data (Bustamante 1990; Crane, et al. 1990) to model effects on flows and the MMP data (Massey and Espinosa 1997) for event-history analysis of the odds of migrating. The EMIF sample of intended migrants and/or the Current Population Survey (CPS) could also be used to model flows. The latter, however, still presents problems in that it lacks measures of immigration status. These problems might be surmounted by estimating the undocumented as the residual once new legal migrants were subtracted from all new immigrants.

I propose to examine each of these data sources for evidence of effects of sanctions enforcement on flows of undocumented immigrants from Mexico to the United States, controlling for other factors such as border enforcement effort, and economic conditions in the U.S. and Mexico.
Summary of Goals and Contributions

The proposed dissertation draws from and contributes to the sociological fields of social stratification, international migration, political sociology, and the sociology of labor and labor movements. It also contributes to the interdisciplinary public policy literature devoted to understanding the effects of immigration policy in general, and IRCA’s employer sanctions provisions in particular.

The central contribution of this dissertation will be in furthering our understanding of the relationship between immigration policy, in this case IRCA’s employer sanctions provisions, and the differences in wages between authorized and unauthorized Mexican immigrant workers in the United States. It will examine how the implementation of employer sanctions has affected the labor market as well as non-market factors such as the ability of workers to organize labor unions. It will examine how the labor unions and civil rights organizations which first called for employer sanctions have come to call for their repeal. It will also look at the demographic effects of employer sanctions, that is, whether they have the intended effects of reducing flows of undocumented immigrants into the United States. Lastly it will situate the United States’ employer sanctions law and practices as one case among many countries and examine how different configurations of enforcement and document verification create different outcomes with respect to both wage discrimination and reductions in unauthorized immigration.
Notes

1 As of March 2003, the Immigration and Naturalization Service (INS) has been incorporated into the Department of Homeland Security and restructured.
2 The Federal Government’s fiscal year ends September 30. Thus Fiscal Year 1986 ended before IRCA passed on November 6, 1986.
3 “Named after the Texas growers who fought for it” (Calvita 1992: 67).
4 The law allows preferential hiring of U.S. citizens only if they are “equally qualified” (Fix and Hill 1990).
5 For example, the Danish official believed the sanctions were a strong deterrent due to adequate enforcement personnel and fines severe enough to deter employers from hiring illegal aliens. Later, the report states that Denmark’s “severe” fines averaged approximately $50 (US), an amount that hardly seems likely provide a strong deterrent.
6 The 1990 U.S. GAO report also concluded that IRCA “appears to be reducing illegal immigration and employment.” However, a detailed examination of the GAO’s summaries (as well as studies summarized-see Bean, et al. 1990 and Crane, et al. 1990) suggests that the evidence was mixed on this question.
7 The interviews were conducted in 1987-88, after IRCA’s employer sanctions provisions had gone into effect. This survey was a collaboration between Cornelius, Calavita, and other researchers. See also Cornelius 1989.
8 A U.S Department of Labor survey of amnesty applicants in 1987-88 and a 1992 follow-up.
9 The MMP investigators often refer to this sample as a "snowball sample," citing Goodman's 1961 paper. Their non-random sample is not, however, the probabilistic sample that Goodman describes.
10 For Bronfenbrenner 2000, the random sample included 400 union organizing campaigns during 1998 and 1999.
Bibliography


