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Migrant Labor Market Coercion: a Hayekian Approach

Daydeon Baron-Galbavi

May 5th, 2021

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DEDICATION

I would like to dedicate this research to my loved ones, including my close family and friends who have supported me throughout my academic life. Specifically, I dedicate this research to my mentor and friend Isabel Benedicto, who was naturalized as an American citizen when I was her Spanish student while I attended Meadow Montessori High School. Additionally, I dedicate this paper to the ideals of a free and tolerant society. These are old-fashioned ideals fit for a modern society, but they are simultaneously difficult to locate in current political discourse. While I identify as libertarian, I would like to make it clear that the use of “liberal” throughout this paper refers to the classical liberalism of Friedrich von Hayek and not to the social democracy of the modern left wing.

INTRODUCTION

The current political moment is seated within the neoliberal age, a period marked by labor precarity, global trade, and increased migration. The world seems to be getting smaller as our capitalist structural frameworks expand to a global scale. Labor adjustment has been institutionalized in the forms of protective public policies in some cases, while in other cases failing to secure labor rights among an increasingly precarious and displaced labor pool. This paper takes a Hayekian approach to these issues, envisioning globalization as overwhelmingly positive. There are a number of lingering effects from before the neoliberal paradigm shift, including the continued state repression of competitive labor markets. The issues of labor coercion are embedded in the current discourse about labor precarity. The object of our discussion is to locate a model of labor coercion which lends itself to minimizing coercion overall, a liberal aim. The idea is to analytically conceptualize labor as one domain of coercion that has been overlooked in past neoliberal frameworks. In the sense that we are both utilizing Hayek's ideas and expanding them beyond his intended scope, this paper engages in discourse which is Hayekian in principle. This paper outlines first the Hayekian model of coercion, which is rooted in the idea that the intensity of coercion is situational and exists on a spectrum. Second, this model of coercion lends itself to prescriptions of labor adjustment remedies consistent with liberal states. Third, the application of the coercion model to migrant labor issues is particularly relevant given a broader current discourse of labor precarity. This model is applied both to the historic example of the Bracero Program, then to the current status of irregular migration in the United States. This juxtaposition should solidify the view that irregular migration is a result of legal processes intending at labor precarity through economic planning. Our characterization rejects the view that the contemporary plight of irregular migrants is attributable to competitive

markets. The reality is precisely the opposite. The cause for the current level of economic precarity is political borders. The solution is to retract the power of states to raid workplaces and prosecute irregular migrant workers. The final section elucidates the remedies that can be applied in the United States to ameliorate the coercive labor conditions of the eleven million migrants who currently work here. The conclusion will wrap up our discussion and address potential future inquiries on the subject of migrant labor coercion.

HAYEKIAN LABOR COERCION MODEL

The transaction between an employer and an employee contains a power dynamic. This is the power of the boss over the worker. Employees prefer to secure the income that a job provides, so during work hours they are willing to submit to the commands of their employer. This coercion that takes place is the object of our attention. This section will examine the power relationship of the employer to the employee, identify what coercion is, and specify how the relative fallback position of the employee determines the coercive power in that exchange.¹ The ideas of economist Friedrich Hayek are useful in this conversation, since he states that some labor market conditions may engender coercion in the wage-labor exchange.² He believes this occurs only in marginal cases, but this paper takes a different view using his model. Coercion is not an ‘if, then,’ conditional in which coercive power is ‘on or off.’ Power is omnipresent. The dial of coercion includes ‘high heat’ coercion, such as ‘forced’ acts at gunpoint, and ‘low heat’ coercion, do something and get paid for it. To promote freedom, we should want to dial down this coercion as much as possible. This is the ideal liberals are after. If we were able to lessen the power that the employer holds over the employee, workers would live more according to their own will and self-interest rather than constantly being another’s tool to command. Some coercion is always necessary and even desirable for the profit motive, of course. The idea is to maintain a productive economy in which coercion exists as little as necessarily possible. Libertarian philosopher Robert Nozick and philosopher Robert Hale will be compared against one another to paint this model.

¹ Relative fallback is the difference between the position of being employed at the current wage, and the economic position which the employee would return to if he were demoted or fired. It is the ‘relative’ distance the employee would ‘fall back’ in this course of events.

² This is mostly due to monopolistic power, in which the current employer is the only employer and a person’s only alternative to working for him is to starve.

Nozick and Hale diverge on whether positive rewards induce coercion. That is, giving rewards to incentivize someone to do something rather than threatening them. They also disagree whether power is structural. Structural in this case refers to the power that employers have over employees as a class on account of structural unemployment. These two positions are related since the capitalist economy is a system of offers. Hale is illuminating on the subject because the power to offer or refuse offers is structural. To demonstrate that Hale is correct and Nozick is mistaken, this paper will discuss various views on the coercivity of offers.³ Then, it will introduce the relative fallback position of the laborer. This will show that capital ownership gives capitalists the power to coerce workers. The argument is made in that frame of power: Nozick is in denial about the full scope of coercion, whereas Hale knows that capitalists generally have power over laborers.

First to discuss are the divergent philosophies about economic offers. Nozick denies that an offer (i.e. ‘do x and I will give you y’) is a coercive situation. He implies the mind of the person being propositioned is rational, so they would refuse any exceedingly taxing or grueling request. He states that they are no worse off if that offer is not taken.⁴ No real harm is threatened, and no coercion takes place. Hale, on the other hand, understands that some threats can be construed as “promises,” an equivalent of ‘offers.’ This is because the threat *not* to do what is already expected or morally obligatory induces coercion. He gives the example of the driver who approaches a pedestrian down the road and threatens *not* to perform the necessary actions to later stop his car from hitting the pedestrian. If the driver “promises” or “offers” to stop the car for a

³ Coercivity is defined as “the property of a material determined by the value of the coercive force when the material has been magnetized to saturation.” However, I find it useful to adopt the word to mean “the value of coercive force that an indication conveys.” I mean “indication” to refer to that threat, offer, promise, incentive, etc. which is “indicated” by the coercer.

⁴ Robert Nozick, “Coercion,” *Nomos Series* (1972): 447.

price to threaten the pedestrian, then this really is not an offer at all. It is morally obligatory to perform the action to stop the car, so the indication that he may *not* stop the car is a threat.⁵

The credible power to threaten constitutes coercion. The harm that is threatened can be the withdrawal of some expected reward in an established relationship. Regarding the labor exchange, the power of capital and labor is the possibility not to trade resources. The firm needs workers and the workers need a wage. They may coerce the other with the threat to terminate the labor contract. This can be especially coercive if the employee relies exclusively on that income. One might say that this is not coercive power, since the “threat” to fire someone is not a viable threat to their life, but rather an inconvenience. That is, the inconvenience is that the employer does not continue to offer the wage. To demonstrate that this is truly a threat and therefore coercion, allow me to further explain the nature of threats and promises. Threats obtain in situations that someone indicates they will cause harm to someone else if that person does not obey them. In the case of the labor exchange, the employer can express the potential to fire his employee. This power is implicit in the labor contract, though an employer can explicate this threat: “I will fire you if you do not do x.” The reason this is threatening is that the employer’s refusal to renew the employment contract does constitute harm. Nozick addresses this idea, saying that the threat to discontinue some reward can be a threat if there is a background of expectation built into that relationship. It is unclear how he posits this in the case of a drug dealer-addict relationship but not in the employer-employee relationship, both of which contain an element of necessity on the part of the addict and the laborer.⁶ Robert Hale echoes this in a stronger way, stating that which is contracted for or morally obligatory is the expectation.⁷ He

⁵ Robert Hale, “Coercion and Distribution in a Supposedly Non-Coercive State,” *Political Science Quarterly* 38, no. 3 (1923): 475.

⁶ Robert Nozick, 447-48.

⁷ Robert Hale, 475.

also believes that coercion is bilateral, in the sense that both sides of the labor exchange have the power to threaten. This paper focuses on the employer's power because their ownership of capital gives them an advantage over non-owners. An employer who contingently defies what is contracted for issues a threat. The employee is induced to alter his choices to conform to the employer's terms of employment in order to continue to receive the wage. This is coercion.

Hale and Nozick are both correct to indicate that someone can threaten *not* to do something as promised. Nozick is wrong to say that this only occurs on the margin, whereas Hale is correct to say that power, the implicit leverage to threaten, is omnipresent. This is true because the system is contractual and there is structural unemployment built into it. The contractual feature of the capitalist system is meant to be voluntary. This defines "free labor" in our lexicon. The choice to participate in the labor market is not voluntary, however. On a systemic level, everyone contracts with someone due to their human need. The working class are defined as those who must work to subsist. The system of property prevents them from living gratuitously. They must work. As the adage goes, "he who does not work does not eat," though this should really say "he who owns nothing and does not work, does not eat." As private property norms are established, people lose their ability to live off the land, that is, without working for someone else. Nearly everyone must work for someone, and in every case, that employee is coerced to behave in a manner that provides value to the employer. That is the labor contract: exchanging one's time for income. In every case, the employer rents the employee's will during labor hours. Hale is correct because this occurs everywhere in a contractual labor market.

The explicit threat to fire an employee is credible because of the worker's potential fallback to his next best alternative. This power to threaten is structural. In the labor exchange,

the worker is told he must, for example, work harder or be fired. This threat is credible enough to make him work harder. That the threat is successful in inducing hard work shows that the employee prefers that position over being fired. He obliges his manager because he perceives the potential loss of the job as harm. Real economic regress validates this concern. If he loses his job, he will by definition not be as well off. The next best alternative is his fallback. The fear of not being as well off, i.e. regressing to the fallback position, causes him to heed his employer's commands.

To demonstrate that this power is structural, let us compare the Neoclassical labor market with an updated depiction. This new depiction is called Contested Exchange because it includes the structural power conflict between capitalists and workers. The labor exchange is a contest of power. Contested exchange will be considered after explaining the 'default' Neoclassical view. The key is to understand that structural unemployment is the reason coercion can occur in a supposedly non-coercive market. In short, the Neoclassical models portray a non-coercive market in which there is full employment at a market-clearing wage. In that model, both buyers and sellers of labor power have plenty of alternative options. The Contested Exchange model challenges this view. Capital, the buyers of labor, have the short-side power when there is a surplus of labor. A surplus of labor is synonymous with unemployment. There are more people than jobs. Capitalists have more alternatives compared to laborers, who have relatively few options. This gives the owners of capital the advantage in the labor exchange. The Contested Exchange model depicts this advantage as the coercive power that employers wield over employees. The Contested Exchange model is correct, and the Neoclassical depiction is faulty.

Every economics student learns the Neoclassical model in microeconomics. This model is predicated upon perfect competition, which in theory produces non-coercivity in the labor

market at equilibrium. At a market-clearing wage rate,⁸ coercion is impossible because the worker is indifferent between his many employment options. Competitive markets include many buyers and sellers, allowing the sellers to undercut and buyers to bid up prices. If a seller's price is too high, the buyer will go to the next best alternative. If the buyer's labor-time demands are intolerable, the labor seller will sell to another employer. Employers are making commands of employees, but in a system of perfect competition the laborer is free to quit and seek an alternative. The preference to quit is introduced due to labor conditions, including intolerable commands. The commands deter some laborers from that employer, causing them to seek employment elsewhere. That alternative renders his income equal to that of the job he quit. This is possible because the starting price of labor is the same across the board when wages are market-clearing (at equilibrium). The employee is therefore indifferent as to whether he receives wage w from employer p or from employer q . Due to this indifference between suppliers of income, coercion by any employer is not possible. The Neoclassical model articulates the theory that in a truly free market, no one is coerced. The following discussion of the Contested Exchange model will illustrate why this theory of non-coercivity is mistaken.

Samuel Bowles and Herbert Gintis introduce the Contested Exchange model. The model depicts the labor market to include above market clearing wages and structural unemployment. These conditions increase labor's preference for employment, and this preference is used to coerce workers. They oppose the Neoclassical model on the basis that the non-coercivity of the labor market is illusory. To say that exchange is contested means that the interests of employers and employees are in conflict in the labor contract. The employer wants the employee to exhibit maximum labor effort but will pay the employee no more than he must. The employee wants to

⁸ "Equilibrium" means the same as "market clearing" in the Walrusian model because this is based on neoclassical "perfect competition" in which equilibrium yields no net profit across the market. If equilibrium is reached and the market has no tendencies to alter, net profit is zero by definition and the market is considered "cleared."

perform minimum labor effort for the highest wage he can attain. This contested exchange means that the employer would rather extract more than the minimum effort from his employee. To resolve this contest and maximize profit, the employer pays the employee more than the minimum (equilibrium rate) so the worker prefers that employer. This is the enforcement rent,⁹ the excess pay above equilibrium rate that causes the laborer to prefer that job. Using that preference, the employer coerces the employee to heed his commands. Enforcement rent occurs in the labor market overall, elevating wages to a profit-maximizing level above equilibrium. Every economic student should know the resulting lack of market clearing equilibrium. The law of demand states that price is negatively correlated with the quantity demanded. If prices are ‘stuck’ above equilibrium, fewer labor hours are demanded at that price. There is a labor surplus. In the labor market, surplus labor is unemployment. The employee’s preference for their current position is therefore twofold due to the existence of enforcement rents. The employer’s command contains both the promise of future income above equilibrium (an enticement), and the threat to force someone into the ranks of the unemployed (a punishment). Preference for employment solidifies coercive power in the employer-employee relationship. Enforcement rent allows the employer to successfully rent the wills of his workers during labor time. His workers are his tools to command for forty hours per week. Employment becomes a coercive relationship.

A laborer’s fallback position is relative, and the relative fallback is proportional to the coercivity of the employer’s commands. Let us discuss this further. Fallback is the income difference between the position of holding a job and being unemployed. Fallback is relative because it is defined by wage differences in the market. If his position is threatened, he is being

⁹ Bowles and Gintis depict this enforcement rent as the difference between actual wage rate w^* and w_{\min} , the equilibrium at which an employer is indifferent between having that job and the next best alternative. Samuel Bowles and Herbert Gintis, “Power and Wealth in a Competitive Capitalist Economy,” *Philosophy and Public Affairs*, Volume 21, Issue 4 (Autumn, 1992): 334.

threatened to revert to his next best alternative. This fallback results in economic loss. This economic loss is his current wage w^* minus his income position z while unemployed. Each is determined by other relative, preferential, and subjective factors. The determinant of his current wage is how much he values his will, and the value he provides his employer. He may rent his will for any price per hour. He also determines how hard he works. The employer's offer depends upon profit-maximizing costs and returns. These are relative economic factors. The fallback is also relative, determined by unemployment policies, alternative job opportunities, and citizenship status.¹⁰ Social safety nets, job availability, and liberal migration laws can raise the fallback position. The opposite trends work in the other direction. Moreover, the factors determining the distance between current income and potential losses are relative. The difference between those positions is the relative fallback.

The relative difference between employment and the expected fallback position induces c coercive power on the dial of coercion. Fallback and the employer's coercive power c are directly proportional. The greater the difference between the wage rate w and the fallback positions z , the more coercive power is present. Whereas the next best alternative in the Neoclassical model is equilibrium wage, the fallback is not necessarily alternative employment. There is the structural unemployment built into macroeconomic systems. The unemployed sometimes remain without work. The fallback position in that case is zero earned income. The current wage minus the expected future income is a greater difference in that case, thus inducing a greater preference to work. The greater that preference, the more leverage the employer has over the employee. Preference to continue working is therefore proportional to the aversion to the economic loss of fallback. The degree to which "do x or I'll fire you" is threatening is also

¹⁰ If someone's position is determined by a work visa, they may be deported if they are fired. This repatriation is their fallback.

proportional. The threat to terminate employment if he does not follow commands is ‘threatening’ in proportion to fallback distance. Perhaps a more punitive fallback than unemployment occurs for undocumented immigrants, whose fallback position may be deportation to a home country. In that home country, the labor market may maintain lower pay rates. The unemployment conditions in that country may be more abject, and there may even be turmoil preventing stable employment there. The preference to avoid that position induces relative preference for the current employment in the mind of the employee. The lower the fallback position, so to speak, the stronger that preference is for the laborer. The relative fallback difference is proportional to the coercive power that the employer holds over the employee. Coercivity is thus defined by relative fallback difference.

According to the idea that coercivity is affected by fallback, altering the relative fallback alters the power relationship. It would certainly be ideal if the Neoclassical model was correct, and labor market ameliorated coercion by correcting itself.¹¹ However, it is in the company’s interest to coerce laborers. The purpose of coercion is that the employee is commanded to behave in a more productive, efficient manner. Were the employer to intentionally exercise coercion, they would either (a) raise their level of remuneration to their employee or (b) lower the fallback position.¹² Case (a) increases the employee’s preference for that position while case (b) increases the employee’s preference *not* to be fired. In both, there is private control over the dial of coercion. Given the interest to do so, an employer will exercise that power. This interest in altering behavior is consistent with the profit motive. This interest to enforce the will of the employer is therefore said to be *endogenous* to the labor exchange. The employer-employee

¹¹ This connotes the adages: “the freer the market the freer the people,” and that “the market will fix itself.”

¹² This is achieved if the expectation of fallback is greater. If the company threatens to litigate someone, if the company threatens to report an undocumented person to the government, or if the company controls all the means to survival and threatens to let someone starve, a lower expected fallback is indicated.

relationship takes place entirely within the private sphere according to market wage rates. The threats occur within the contractual private sphere. This insulates the coercive employer-employee relationship from direct public interference. Coercion must therefore be attended to indirectly, in order to uphold the distinction between public and private spheres. There must be *exogenous* alleviation of labor market coercion. The solution to this issue is not to be discussed here in full, but there are various ways to consider it. The opposite alterations to those mentioned above should yield the opposite effects. Therefore, to dial down coercion, (a) prohibitions on enforcement rent,¹³ or (b) raising the fallback position are considerable. Burczak has written about universal basic income as a means to minimize the fallback difference. Alternatively, capital's short-side power could be balanced with labor's bargaining power. The result is a greater fallback position and additional employment alternatives, which dials down the preference for any one job. These remedies are discussed in the following section.

¹³ This entails cutting wages, which presents unintended ill effects. It is not a desirable outcome.

LABOR COERCION REMEDIES

This section shall describe a number of remedies that address this power between employers and employees. Each policy intends to empower workers. Unionization, full employment policies, federal jobs guarantee, universal basic income, and cooperative enterprise are some examples which address some aspect of the coercion in the labor relationship. I will argue that unions and full employment provide optimum remedy to coercion by approaching market power parity between capital and labor. Unions operate by endogenously enforcing the labor contract through negative punishment. Both unions and full employment effect labor scarcity, which improves the fallback position of the laborer. These strategies are superior because they use leverage rather than threat of (positive government) force against employers to accomplish their aims. These best diminish overall coercion in society, a Hayekian aim. Examples of positive threats to accomplish similar goals include the taxation necessary to finance a basic income, the same to finance a federal jobs guarantee, and the direct public oversight of the labor contract. To avoid coercion as best as possible, those policies which entail government initiative will be rejected. Unionization and full employment are most desirable, while the right to work and basic income are less desirable policy conclusions.

Unionizing improves the balance of power. To explain this, it is necessary to revisit what makes a transaction coercive. There are two elements which induce coercion into an exchange: the exclusivity of ownership and the essentiality of that commodity which is contracted for. Under the assumption that market commodities are owned, the number of suppliers determines the exclusivity of ownership. Here is an example. Seashells are not exclusively owned because they are freely abundant. Diamonds are exclusively owned because they are rare. If seashells were to be collected and sold, there would be many potential suppliers and they would be cheap.

A seashell salesperson would have a difficult time coercing a buyer who could buy from another dealer or pick up a shell from the beach. Diamond salespeople would also have a hard time issuing threats in a transaction, only because diamonds are not essential to continue to live. Essentiality determines the coercion in a relationship as well. How essential something pertains to whether it is necessary to continue living. Here is an example. Some claim that healthcare insurance payments are extortion. The insurance company demands payment in exchange for basic care. The insurance agent threatens the sick person saying, “your money or your life.” This is qualitatively different from a yacht salesperson demanding money in exchange for the boat. “Your money or no boat” can hardly be described as threatening. This is because health care is essential to continue living, while boats are not. Exclusivity and essentiality are two central elements that determine how much coercive power an owner has over a non-owner during a transaction. In the labor exchange, the wage is an essential object that capitalists exclusively own. That is why employees rent their wills to obtain the wage.

To demonstrate that laborers should unionize, let us discuss power in the labor exchange. This power is the potential to leverage someone, as opposed to the ‘kinetic’ positive force which is actively being used to threaten someone (such as gunpoint). The potential to leverage someone uses a pervasive implied threat to exact a negative punishment, to deprive someone of something. In the labor exchange, the implied threat is to end the labor relationship. As it stands, the employer wields one-sided power to command the employee. When a capitalist fires a worker, there is embedded in that a right to property, enforceable by the state. In keeping with that right, the employer has the right to discontinue the labor contract. The power is implied in the employer’s every command: “do what I say, or I will fire you.” The power imbalance exists because wages are more exclusive as a commodity than labor hours. Exclusivity refers to the

ease (in terms of cost and availability) with which someone can access the commodity contracted for. This power to command exists also because wages are more essential for workers than labor hours are for employers. Employees rely on wages to continue living. Labor time merely represents value to an employer. This essentiality is inherent to wages under capitalism.

Here is the case concerning exclusivity. There are fewer capitalists than laborers, and capital is the exclusive owner of what the labor pool value. The worker prefers employment over unemployment. Laborers must appeal to a limited number of capitalists to access wages (a more exclusive group), while capitalists have many alternative options (a less exclusive group). Capitalists hold the position of power as the exclusive source of wages. The employee cannot hold power over her employer because the employer is indifferent as to her identity. The employer holds power because the employee discriminates between being employed and her fallback position of unemployment. Theodore Burczak demonstrates this relationship in his discussion of Hayek's view on coercion. He states that "Hayek's picture of a normally functioning labor market seems to be dominated by an underlying vision of perfect competition: there are many buyers and sellers of labor, none in the position to influence substantively the terms of labor exchange, since both buyer and seller of labor time have alternatives."¹⁴ In contrast with Hayek's depiction, there is an excess of sellers of labor time (laborers) compared to buyers (capitalists), so buyers have short-side power. That is, capitalists may easily choose between competitive alternatives with relatively little cost. This is not true of laborers, who sell their labor to a relatively small number of capitalists. Unions balance this power disparity.

Unions operate similarly to firms, in that their market power is concentrated. Organizing embeds the collective threat to cease work into the labor relationship. Labor hours become less

¹⁴ Theodore Burczak, "A Hayekian Case for Basic Income," *Basic Income and the Free Market: Austrian Economics and the Potential for Efficient Redistribution*. Palgrave Macmillan US (2013): 52. Accessed October 28, 2020. doi: 10.1057/9781137315939.

accessible to the employer. This makes labor hours more exclusive. This balances power in the labor relationship. Union power is implied in the same manner that the employer's threat to fire is implied. Just as the employer commands "do as I say, or there is no labor contract," his workforce commands, "do as we say, or there is no labor contract." Workers do individually have the right to quit, but unionizing makes that threat to quit coercive. Losing an individual worker does not injure the employer. The employer has many alternative options. He would incur no loss. Contrarily, he would incur great loss of time and money if he lost his whole workforce. Replacing the employees is likely to be costly and a strike is likely to garner media attention. These constitute negative punishments against the employer. Not only does the deprivation of labor time constitute dismissal of the labor contract with the capitalist, but the consumer market is consciously informed of possible wrongdoings. Unionizing makes the threat to quit a credible loss to the employer. This balances power in the labor relationship.

This market power parity incentivizes the capitalist to be cautious with coercing the employee. Threatening this loss collectively implies an ultimatum: "Do as we say, or you will lose your business." Unionizing thereby makes labor hours an exclusive commodity, available to capitalists only under specific conditions. Collective threat is implied in each individual employer-employee relationship. Her option to call a strike is pervasive. This balances power between a worker and her boss. The conclusion is that the employee should be able to issue this threat, in an equal manner that the employer can threaten to fire the employee. The employees should collectively threaten to exit the labor contract in an organized way (strike), so that the employer is coerced into providing proper wages, treatment, and conditions. Threats to cease work are exercised during strikes. While striking, labor becomes temporarily scarce to the

employer. Unionizing in general embeds that threat into the labor relationship, making labor hours more exclusive. Unions are the primary means to balance power in the labor relationship.

Full employment is a secondary policy that dials down labor market coercion. This operates in two ways: making the threat to quit a greater credible loss to the employer and raising the worker's fallback position. Under conditions of full employment, there are more jobs than people. Labor demand is greater than labor supplied. An economics student should know that this results in a labor shortage. Labor hours are scarce in relation to the excess demand. This makes labor hours a more exclusive resource. The laborer can threaten to quit, implying credible loss to her employer. The laborer thereby gains power in relation to her employer. That potential loss is where her power lies. The employer's power in the current relationship relies on the replaceability of a worker. The fewer available unemployed, the more costly worker replacement is. The threat to quit becomes threatening in proportion to how costly quitting would be to the employer. Quitting becomes viable to the laborer because her fallback position is raised. She could quit and find a new job. Her partiality to her current employment diminishes because she is indifferent between which job she holds, current or alternative. Power is balanced in a collective manner, since all the workers could quit and find new employment. The fallback position is raised for all the workers collectively. This embeds power parity into each individual employer-employee relationship. The employer is more cautious to coerce any particular laborer. To fire and replace them has become more costly, and each worker has a next best alternative. They can each quit more easily. Full employment enacts both of those results, which balance power in the labor relationship.

Federal jobs guarantee would operate similarly to market-based full employment. The program remedies unemployment, through a state-driven employment initiative. Everyone who

wants a job can have one, so the fallback position is raised to a standard set by the government. This balances power in the private labor relationship by introducing the power to quit. Issuing that threat indicates credible loss of the employer, since the implied power applies collectively. The implied power to quit is pervasive in each individual relationship. The employer's coercive commands could induce the employee to quit, causing the employer to incur loss. This potential loss is pervasive because all workers possess this power. This makes the employer more cautious to command any individual employee. Federal jobs guarantee importantly differs from market-based full employment, though they operate similarly in terms of labor coercion. The federal jobs guarantee entails political administration. Federal jobs guarantee is tax funded and overseen by the state. This introduces complications regarding public coercion. These complications will be addressed after discussing basic income, another potential remedy to labor market coercion.

Universal basic income raises the fallback position for everyone. Consequently, wages from capitalists become relatively less essential to the worker. This balances power in the labor relationship. When a boss threatens to fire his employee, this is threatening because the worker prefers employment over unemployment. She relies on that income to live. The basic income ensures that the worker always has a viable next best alternative. The fallback position is a minimum standard of living, rather than no standard (as currently exists). Unemployment becomes less intolerable to the laborer. Losing her job becomes less costly. Her relative preference for her current employment diminishes. The employer's power to coerce her diminishes. The threat to fire her turns from "do what I say, or you will starve," to "do what I say, or you will revert to a subsistence living standard." The second is notably less threatening because the wage is made less essential to the worker. She can revert to living off of a gratuitous

rent at any point. She does not need to continue to work for him to continue to subsist. Basic income is a worker's viable alternative to any particular employer. This increases her power to evade any employer who issues unpleasant commands. This pervasive ability to exit causes the employer to be more cautious about coercing her. This balances power in the labor relationship.

Some business models rearrange power in the workplace, solving the issue of coercive labor relationships. Cooperative enterprises are workers-owned firms. Each worker owns a share of the firm. There is no board of shareholders other than the workers. The management is hired by the workers themselves. This environment would entail a division of labor without any power hierarchy. Some would be manual workers, some would conduct outreach, some would work in payroll. There would be no superiors and no inferiors. Labor market coercion is possible in this case, but only through the collective threat to terminate the contract. The workplace is democratic, which means that a person can only be laid off by a democratic vote. The benefit of this arrangement is that no one member can issue a credible command to another member. The threat to terminate the contract is evenly pervasive in every individual labor relationship. The balance of power is ideally horizontal. A firm of this nature would rely upon no power dynamic whatsoever. There is an additional, external benefit to this style of workplace governance. Firms in the capitalist system could vary from hierarchical to horizontal. The horizontal ones may serve as a non-coercive fallback to the hierarchical ones. In any traditional employer-employee relationship, the fallback position of the laborer determines the coercivity of the employer's threats. Her next best alternative could be a non-coercive enterprise. The employer would be cautious to coerce her because she has the power of egress. This power applies to all of his employees since the pervasive ability to quit is collective. This makes the threat to quit credible to the employer. This may balance power in the labor relationship in traditional firms. There are

admittedly some complications with this program. For example, there is little consensus about the competitive ability of cooperatives. Many claim that the inherent inefficiency of a democratic workplace would cost too much to establish a viable economic alternative to the capitalist one. There are also questions about the incentive to innovate in a cooperative firm. Putting these complications aside, cooperatives would certainly diminish workplace power imbalances.

Unionization, full employment, cooperatives, federal jobs guarantee, and universal basic income balance power in the employment relationship. The first three are desirable because they require little state action, while the others entail heavy taxation. The federal jobs guarantee contains the additional risk of making the state the employer, a potential coercer in the labor relationship. Government initiatives should be avoided due to their coercive nature. To explain this coercive nature, let us distinguish sorts of coercion. There are two kinds of coercion. They are distinguished by the different sort of threat that is issued. One is qualitatively worse than the other. First, there is positive threat, which entails the active threat of force to coerce someone. Positive threat is the kind normally considered criminal, except when the government does it. In every private case that a coercer threatens active use of violence against someone to cause them to heed commands, this is considered unlawful. The action implicated in a positive threat is inherently violent, causing it to be the worse of the two kinds. Second, there is the use of negative leverage, which entails the threat to deprive someone of something already contracted for. Negative punishment has been discussed at length, as the threat to end the labor agreement. The negative threat involved in firing someone merely relies on an action consistent with the enforceable rights of the employer. This is considered an acceptable form of threat to issue. The government issues positive threats to achieve its aims, however. Taxation is the threat, “give us some portion of your income, or we will pursue you and incarcerate you.” Government labor

regulations operate similarly. The bureaucrat threatens to make the legitimate business an illegal enterprise if the capitalist does not follow his commands. That entails prosecution if the business continues as is. The threat of imprisonment is a positive threat. Inducing such a threat constitutes more coercion to remedy lesser coercion. This will be explained in full in the next section.

Regarding the taxation to finance a federal job guarantee and universal basic income, it is acknowledged that this coercion already exists in the current revenue system. One may argue there is no difference whether taxes fund current projects or are redirected to a counter-coercion program. There is a contradiction in intents, however, which causes us to maintain our rejection of the government's direct involvement in the remedy of workplace coercion. The purported goal of this paper is to support the policy which dials down coercion. The intent is to decrease coercion overall, without relying upon coercive measures to accomplish that aim. Regardless if taxation or workplace regulation may be utilized to a similar end, these policies enact a serious power dynamic between the state and capitalists. Businesses that the government commands to enforce the regulations, benefits, and wages that workers have lobbied for would have done so under threat. The threat to actively shut down business and prosecute them involves positive force. This is coercion. The issue with trading off one kind of coercion for another is the contradiction in intents. The policy intent to dial down coercion cannot consistently also rely on an established institution of coercion. The initiation of a basic income must cost taxpayers less than current welfare if it is intended to remedy coercion. This is doubly true because the threat of imprisonment uses positive force. Imprisonment creates a more serious power dynamic than the negative form. Even if one does not recognize the logical inconsistency of pursuing two contradictory aims, there is a practical inconsistency. The reliance upon direct regulation or taxation induces a demand for the continuation of those practices. This perpetuates coercive

institutions. For these reasons, the threats that unions issue are founded in superior practical and logical ground compared to government initiatives. This is also true of all non-state driven full employment initiatives. This would include a basic income program that is funded voluntarily. No current proposal does that, however. The policy distinction is based on the following principle: collection of money should not entail coercion. Coercion should be diminished. At no point should a remedy to coercion also rely on a threat such as “your money or your freedom.” That would defeat the purpose of the initiative.

Utilizing labor unions and full employment, we may approach a balance of power in the workplace. Cooperative business models also provide this potential. Through collective bargaining, the aims of the firm and the worker are considered. The product of negotiation is an employment arrangement which both parties have voluntarily agreed upon. Both parties benefit from the exchange, without a power imbalance. Free from dependence upon any particular employer, the employee explores her capabilities more thoroughly. Negotiated work hours allow her to create of social value outside of work, negotiated pay raises increase aggregate consumption, thereby more employment,¹⁵ and the exercise of agency allows the laborer to take ownership of her occupation. The additional benefit of the strategies I have laid out is that they do not require positive force. Government intervention is not necessary to balance power, nor to negotiate on behalf of labor. The dial of coercion is tuned down endogenously as well as from the threat of state violence. That is the liberal idea, an idea worth working for.

¹⁵ This is the multiplier effect. People spend money into the economy, increasing the demand for goods. Production increases accordingly. The demand for labor as a factor of production increases accordingly. Capitalists employ more labor.

TAXATION AND COERCION

Taxation as a form of coercion is currently only seriously discussed among a few on the libertarian right. Robert Nozick was perhaps the most prominent recent academic critic of the practice, stating that it is similar to chattel slavery.¹⁶ This was not always a marginal concern, however, for even the widely studied liberal philosopher John Stuart Mill once held that it is “mild robbery.”¹⁷ The reason we are reviewing the practice now is that coercion is our concern. The spectrum this paper utilizes varies from high level, forced acts to mild forms of coercion. We will fit taxation along that spectrum in order to disqualify it as a means to resolve labor coercion. While Nozick argues that taxation is on the extreme “high dial” level along with the ownership of people, social contract theory positions taxation as a necessary trade-off for the greater freedom we enjoy because government exists. The latter is common in American thinking today. “Taxation may be technically theft,” a peer once told me, “but it allows us to live our lives the way we want.” What I will argue, counter to both of these claims, is that taxation fits on the moderately high level of the coercion spectrum. It is not quite slavery, but it is continual, predictable extortion. Real-life examples, along with historical aids, and theoretical alternatives should illuminate this point. This paper will briefly review the role of the Internal Revenue Service, to demonstrate that prison time results for those unwilling to support the government budget. The historical equation of taxation with the right to rule will also be discussed. Modern Monetary Theory shall be utilized to show that an alternative to taxation consistent with libertarian principles is objectively possible through simple fiscal mathematics.

¹⁶ Robert Nozick, *Anarchy, State, and Utopia*, 1st ed, (New York: Penguin Books, 1974).

¹⁷ Friedrich Hayek, “Taxation and Redistribution.” *The Constitution of Liberty*. Chicago, Illinois: University of Chicago Press, (1960): 434.

Taxation is coercive. Without doing any violence to language, we must acknowledge that taxation is foremost an involuntary institution. To show this, note that any voluntary system of social funding is not called taxation. Here are a variety of terms not related to taxation. When payment pertains to voluntary membership of a country club, a fraternity, or a club sport, the funds are called “dues.” When payment is from a consumer to a firm, the funds are called the “bill.” When payment is from a philanthropist to a valued organization, the funds are called “donations.” Taxation, on the other hand, is payment that *must* be made regardless of whether the services rendered were solicited. Here is the process of taxation. The Internal Revenue Service issues forms to the population, which they return, explicating the whole of a person’s income to the government. Anyone who earns income must fill these out, divulging the full value of their income. Congress passes the annual budget, including the government’s projected revenue based on these values. To finance spending, Congress members assume they need to extract enough funds to cover expected revenue. To ensure that taxes are collected, the IRS threatens to prosecute anyone who does not pay. Investigations are initiated so long as an auditor or collections officer detects possible understatement of taxable funds, including through the misrepresentation of one’s income. These investigations are criminal, meaning someone may be judged and sentenced to prison time if found guilty. The collector implies to the citizen, “your money or your freedom.” This is extortion. Most people adjust their financial and personal plans accordingly. They take the necessary steps to avoid prosecution. They oblige their coercer.

In keeping with Hale’s theory of power, all contested exchanges include coercion. Taxation exists on a spectrum of coercivity, along with examples such as the police force, private property adjudication, social pressure, and Hayek’s infamous “nagging wife.” These are all sources of coercive power. The object here is to identify how taxation compares with power in

the employer-employee relationship. This paper defines the spectrum in terms of fallback position, comparing the relative difference in economic outcomes that pertain to respective alternative options. In the labor contract, the economic power position of the employer is superior to the employee's because he may choose from among many alternative employees. The employee can only choose from a limited few positions. Taxation is more coercive than employment because the relationship between the tax collector and the citizen provides only three viable options to the taxpayer: either pay taxes, work less, or go to prison. Available alternatives determine the fallback difference. Comparing those alternatives can illuminate the comparative fallback implied in different coercive settings. Taxation is more coercive by this measure of fallback and alternatives. That comparison clarifies the argument that policies designed to alleviate labor coercion cannot rely on taxation. A more coercive practice should not be used to remedy a less coercive practice. That would increase coercion in society overall. That would be contrary to our aim.

The threat behind taxation implies a greater fallback difference to the victim than the fallback of being fired. This is a product of the number of choices the victim has in light of coercive circumstances. The citizen's two alternatives to obliging the commands of the tax collector makes him worse off than the worker's alternative to obliging the commands of her employer. Let us review these two cases.

Someone who works has entered into a labor contract, an ongoing relationship. Within the context of that relationship, she rents her will for forty hours per week. The reason she follows her employer's commands during labor time is that she may otherwise be fired. She would become unemployed. That difference between having an income and making no income is the fallback difference. Alternative options to following commands or unemployment in this case

depend on economic context. According to the neoclassical model that we have deconstructed, there are always enough jobs to provide alternatives to workers. This plenty of alternatives causes employment to be non-coercive. This is wrong. There are sometimes ample economic alternatives depending upon one's field, skills, and employer optimism. There are sometimes very few employment opportunities, as in the case of a severe recession. Coercive power changes according to the context of alternatives each party has. The worker always has another economic alternative down the road. The fallback is unemployment because that is the immediate regression that takes place. The threat of fallback is credibly coercive because people have to eat daily, so the harm of loss of income is immediate. Another job opportunity does come along, however. This is to say that unemployment is avoidable after some amount of time, though the threat of being fired is coercive in the moment the employer issues a command. The point is that given the ephemeral opportunity set the labor market presents, the employee can attain future alternative economic positions. Taxation comparatively implies a limited, fixed set of choices.

Taxation implies a greater fallback difference on the same coercion spectrum of measurement. The tax collector implies a threat to the citizen, "your money or your freedom." The alternative options are perpetually limited to three: remain at one's position earning income as a free person, earn less, or go to prison. The opportunity set afforded to the citizen being taxed is more limited than the alternatives that workers in the workplace have. The two alternatives to paying taxes will be discussed, followed by a brief argument as to why this set is more limited than that of the unemployed person.

Underemployment is a possible alternative to paying taxes that some argue remedies the coercivity in the binary decision between paying taxes and going to prison. This is true that choosing to earn less does make the other two alternatives less obligatory. However,

underemployment is a severe detriment to the citizen's ability to live according to their plans. Taxation obliges the citizen to alter their choices completely, either supporting government projects they would not choose, altering their future economic course of action, or going to prison. Underemployment to avoid the United States tax system entails singles making less than \$12,000 per annum, a barely survivable wage. One may sustain themselves, but little personal liberty is preserved in the Hayekian sense, that the citizen may act "according to his own decisions and plans."¹⁸ He drastically adapts his will to his coercer's plan. That he is willing to accept such a substantial fallback is a result of the level of harm implied in the threat of incarceration. The choice to live perpetually impoverished requires a strong will to self-denial. This option was chosen to evade the binary in the command, "your money or your freedom." But that choice exists only at the discretion of the coercer. It does not alter the coercivity in the command itself, which is technically "abide by this tax code or I'll take your freedom." The first option was still made at discretion of the coercer. Just as Hayek discusses in the *Constitution of Liberty*, the choices presented have been transformed so that the victim chooses the least intolerable one. The choice of the citizen was altered to conform to the will of the coercer. For some principled people, that is to choose poverty to evade taxation. That is the case of underemployment.

Prison is the third alternative. The citizen may be forced to labor while incarcerated. He may be ineligible to vote in the future, worsening the degree to which that person's taxes constitute their involuntary funding of government projects. By extension, the prison introduces another set of coercive commands. The corrections officer implies to the prisoner, "follow my commands or violence will be used against you." This exercise of coercive power obtains in the

¹⁸ Friedrich Hayek, "Liberty and Liberties," *The Constitution of Liberty* (Chicago, Illinois: University of Chicago Press, 1970): 59.

regular day to day life of the prisoner. This is the condition of his existence as a prisoner. This is the fallback condition if he chooses not to pay his taxes or to be underemployed. The prisoner has almost no options. His will is another's to command until his sentence passes. He has little opportunity to obtain wages in prison. This is the threat implied against any citizen who chooses not to support government finance.

The taxpayer's fallback difference is greater than that of the unemployed worker. The coercive power that the tax collector holds over the citizen is greater than the coercive power that the employer holds over the employee. The key comparison is (1) the harm being threatened and (2) the options available to avoid the threatened harm. The threatened harm of the worker is being fired, while the threatened harm of the citizen is to go to prison. The position of unemployment is superior to the position of imprisonment. This causes the threat of imprisonment to be more violent than the threat of unemployment. As to the second point, alternative options determine the coercivity of the command. The options available to the citizen are relatively fixed and provide no future opportunity to alter their circumstances. The alternatives are always three: pay taxes, earn less, or go to prison. The mitigating factors to the employee being laid off include other jobs, the ability to start a business, and the provision of unemployment insurance. These are circumstantial but it is the fact that they exist that matters. Unemployed people are free, rational agents that can act upon future opportunities. This is not true of the taxpayer's position. The taxpayer must choose one of three alternatives in perpetuity. For that reason, taxation rates higher on the spectrum of coercion than does labor coercion. Taxation is more coercive than employment. To utilize taxation to remedy labor coercion would be contradictory to the aim of diminishing coercion overall. Taxation should ideally be abolished. Current remedies to labor coercion should not rely on taxation or an administrative

state. After discussing a counterargument to my claim that taxation is involuntary, this paper will outline a model for fiscal economics without taxation. That model utilizes Modern Monetary Theory.

There are possible counterarguments to this paper's argument, one of which I will address here. Some claim that taxation is involuntary, but that private property is also involuntary. On the basis that I have asserted that taxation is involuntary (so it should be abolished), they ask why this assertion would preclude the abolition of private property. The response is that private property itself is involuntary. The government institutes it through a body of laws that shapes capitalism, a system that nobody alive today chose to be born into. Given that the government institutes private property against the will of the property-less, earning income is the means to survival. The government therefore subjects the property-less to the conditions of taxable production. Labor and taxation are unavoidable. The issue stands that this paper could advocate the abolition of private property. That is true. Industrial democracy or some other form of non-state socialism would be less coercive in theory. There is no issue with phasing out private property so long as the aim is making relationships truly voluntary and that we can ensure the perpetuity of a system consistent with libertarianism. This issue is one of economic, political viability that preserves a future course of liberty.¹⁹ The question of viability goes beyond the theoretical framework this paper presents. The problem that this paper addresses is labor coercion. Labor coercion can be mitigated within the system of capitalism, while taxation may only be abolished. That is why the prescribed policies are such. Both private property and taxation are unavoidable. Private property is viable in facilitating more voluntary relationships (along with non-state socialism) but taxation definitionally requires a coercive relationship.

¹⁹ In consonance with Hayekian forms of liberty, this means that people will be able to act on their self-interest uninterfered with.

Modern Monetary Theory contends that there is one primary structural reason that the government demands payment. That reason is that taxation legitimizes governance.²⁰ This reverses the conventional idea that government taxes to finance spending. The state's ability to make war and the ability to levy taxes from a population defines the right to rule. The historical precedent to this is clear. Every state has declared its dominion in part by the territory in which it imposes taxes. Here is one historical example of a company becoming like a government and being criticized as such. When the British East India Trading Company was granted the right to make war in the King's name around 1769, it was also given the right to tax Bangladesh. One EIC proprietor's dissent spells it out in a letter to his fellow stockholders. He called these two rights "an attempt of private persons to invade the rights of the public, by challenging to themselves a prerogative which belongs only to the heads of kingdoms and independent Republics."²¹ He clearly intends to raise the concern that the East India Company would become a government due to its right to tax. This reflects the global pattern. The right to make war is the manner that a government imposes its geo-political hegemony. The right to tax imposes the legitimacy of that government over a domestic territory. British colonial dominion certainly did both, but there is no mistake in the assertion that taxation was integral to the royal control of the economic activity of Bangladesh. This historical case typifies the role that taxation plays in requiring the adoption of the colonizer's currency to pay taxes in that currency. To be taxed in a given currency obliges business conducted in that country to be done in that currency. The alternative is prosecution as described above. The British tax collector threatens the weaver in a newly taxed Bangladesh, "you must buy and sell in pounds so I can collect part of it, or else you

²⁰ In some sense, taxation is governance. Without any forceful mechanism, but having a merely administrative function, a society reverts from being governed to being anarchist.

²¹ EIC Stockholder. "An Inquiry into the Rights of the East India Company of Making War and Peace," *Inquiry*, United States of America: Duke University Press, (2003).

will face prosecution.” This is the coerciveness which establishes British sovereign rule over whomever the EIC chooses to tax by force. This is a form of extortion that materializes the right for the British to colonize Bangladesh. The presence of British soldiers and collectors becomes a physical necessity to rule. The usage of the silver currency is enforced. The British establish the legitimacy of their governance through taxation. This is how governments foment their legitimate rule over a given territory.

Modern Monetary Theory broadly recognizes this phenomenon as a mark of national sovereignty. Theorists embrace taxation in the mainstream. They call it “financial sovereignty.” Researcher Fadhel Kaboub asserts that “Building upon Modern Money Theory (MMT)” ... “many developing countries need to develop policies that help them regain financial sovereignty.”²² Of course, he embraces an anti-colonial sentiment in this argument. One fundamental implication, however, is that financial independence is inextricable from the sovereign right to rule. He contends that the right to spend and tax is inherent to meaningful independence.²³ In the next section, I am going to utilize the MMT fiscal economics to then diverge from its mainstream theorists. Taxation does indeed establish a kind of “sovereignty,” but I call this “economic dominion.”

Modern Monetary Theory is a contemporary economic ideology that positions taxation as a means to establish sovereign dominion.²⁴ It is not the only position that can be derived from the theory, however. If we hold taxation to be problematic for a reason that is not purely ‘economic,’ Modern Monetary Theory actually presents the opportunity to abandon the practice altogether. I will show how a fiscal system can operate without it, given the compelling reason that it is both

²² Fadhel Kaboub. “Fadhel Kaboub: Associate Professor.” Denison.edu/people/fadhelkaboub

²³ Dr. Fadhel Kaboub was my introductory professor to economics, as well as macroeconomics and Modern Monetary Theory. Fadhel Kaboub, Macroeconomics 101, Fall Semester (2017).

²⁴ Fadhel Kaboub.

coercive *and* unnecessary. Here is the case concerning conventional versus modern fiscal economics. Conventional thinking goes that there is a monetary system that operates alongside the economy, and that the government must either tax that economy or tax future production (by issuing debt) to finance the budget. This paradigm positions our economy as preexisting the tax-and-spend system. According to that line of thinking, the government cannot function for a given year if it does not collect enough revenue. State employees require compensation, the government is obligated to fulfill contracts to complete state-funded projects, and the government has to pay for the assets it acquires. Even if assets are seized or projects are command-ordered, the soldiers carrying out these orders require payment. Taxes are necessary to get the money to finance this spending. The fiscal conservative says, “money does not grow on trees.” Consistent fiscal conservatism is also committed to a balanced budget. National deficits add to the national debt, which must be paid off with future taxation or future borrowing. The debtors must be paid.²⁵ This framework is wrong altogether.

Modern Monetary Theory suggests that the money-making power in Article I Section VIII of the U.S. Constitution allows Congress to finance its own budget irrespective of tax revenue, deficits, and debt. The power to print notes is called “the power of the purse.” Every sovereign government assigns this power to some agency. Contrary to the conventional view, this means that spending precedes taxation. The Federal Reserve controls the money supply and can issue it on demand. That money enters the private economy through banks and public expenditures. The Internal Revenue Service later taxes that money back to the government to help finance the budget. The difference between expenditures and revenues is the deficit (or rarely, the surplus). Deficits from the MMT perspective mean that more money was spent into

²⁵ Conventionalism or fiscal “conservatism” here is not limited to political conservatives since the vast majority of conservatives and liberals alike are under the spell of conventional thinking regarding taxation.

existence than was taken out of the system. This bears few consequences for the economic system. There may be debt issued in the form of bonds, which the Treasury pays back. The United States government always pays its debts, however, and the government could continue to print more in the future to cover its past debts. This renders the national debt meaningless. Deficits are just an account of expenditures minus revenues, which may be useful for records over time. Other than that, there is no sense in which deficits matter. They could range widely so long as other economic factors are accounted for, such as inflation, production, and the money supply.

Inflation matters because markets need a stable background against which prices are compared, so that predictable exchanges can occur. Keynesians argue that inflation can be utilized to incentivize investment and consumption, but how people spend and invest their money is not the concern here. The complication with spending money into the economy is that the spending level in relation to the level of production determines the inflation rate. If the government spends too much in too short a period, hyperinflation could afflict the economy. If the government taxes too much or spends very little, deflation could occur. The important detail to glean is that regardless of the size of the deficit, inflation will be stable so long as a sustainable deficit-to-production proportion is achieved.

The overarching claim is that taxation is neither just nor necessary. Here is the political economic arrangement that should occur. The deficit should be large but proportional to production. Taxation should be abolished with the sole effect that the level of spending would have to be stable going forward. Economists could determine the level of spending necessary to achieve stable inflation with ease, so long as the data of spending and Gross Domestic Product are available. For the purposes of a limited government, an appropriate long-term level of

spending should be determined and then codified into a Constitutional amendment, specifying a fixed rate. That rate could be 3% or 5% of predicted annual GDP, for example. The amendment would mandate that Congress spend according to that percent of predicted production based upon available data. The most important factor is specifying a rate that would create long term price stability. The permanence of such legislation restricts the power of government spenders from contriving reasons to spend. That goal aligns with our concern regarding power and the issue of coercion. Given that taxation is both coercive *and* unnecessary, it should be abolished as a practice.

BRACERO PROGRAM: ECONOMIC PLANNING FOR LABOR PRECARITY

Agriculture in the United States has shielded itself from competition through public policy. This was done in the interest of farmers at the expense of everyone else. One main strategy was to protect farmers from labor competition through denying them basic labor rights. Slavery in the American South was an early example of this labor model. Owning people was an inexpensive means to ensure total control over the production of labor effort. After the abolition of slavery, American farmers faced newfound economic precarity. Growers desired to remain profitable and maintain their dominance in the world market. The federal government devised a remedy in their interest. The United States centrally planned to secure agricultural profit.²⁶ The three ways that this took place were farmer subsidization, cutting labor costs through the public provision of an artificially cheap migrant labor pool, and facilitating the productivity of that labor force through coercion. The last is our primary concern since we are attending to the power dynamic in the relationship between an employer and an employee. The overall claim in this section is that migration policy has largely been undertaken as a form of economic planning, inducing labor precarity through border security. To demonstrate historical precedent, special attention will be paid to the Bracero program in the United States. This program was implemented to intentionally induce labor coercion by making migrant labor more precarious. The point of this was to make a docile labor force available to farmers. That power dynamic would allow the growers to extract more value from the productive efforts of the laborers. This labor coercion will be addressed historically as the Bracero Program, then contemporarily as the undocumented migrant workforce.

²⁶ Rivoli, Pietra. *The Travels of a T-Shirt in the Global Economy*. Hoboken, New Jersey: John Wiley & Sons, Inc. (2015).

Historically speaking, the Bracero program stands out as one main public project in labor docility since American slavery. The program was a contract labor project that the United States and Mexico agreed upon between 1942 and 1964 to serve agricultural interests in both countries. It was an intentional government project that the United States coordinated with Mexico to ensure the consolidation of corporate agriculture, to stabilize the economy in the American Southwest, and to cheapen food goods in the United States. The argument here in favor of the labor rights of the modern migrant worker hinges on our disavowal of the Bracero program. It was an imperialist project of economic planning that reduced people to a semi-free status. This was accomplished through intentionally expropriating small proprietors from their native land in Mexico, the geopolitical hegemony that the United States wielded over Mexico, and the systematic denial of labor rights on the part of the United States Department of Labor. These all factored into the coercive relationship between American growers and migrant workers. The power dynamic was created through the state's intentional manipulation of the set of choices workers had available. The American and Mexican governments intentionally perpetrated a scheme in which laborers had so few alternative options that they would come to accept grueling and inhumane conditions. These included low wages, extortion on command, stripping, fumigation with gasoline, food provisions unfit for human consumption, and the constant threat of deportation. This is all in addition to the conditions actually contracted for – long days of back-breaking work in the dry, sunburned, windswept valleys of the American Southwest. The Bracero program's history deserves our attention to the following: framing the Bracero Program within the historical context of American imperialism, a vivid retelling of the actual labor conditions, and a theoretical attempt to locate the program in our model of coercion.

Historical circumstances framing the Bracero Program include the wartime labor shortage and the suspicion of outsiders that pervaded the American ethos. Here is the historical case of the United States' involvement in World War II. The draft left more jobs needed to be done than domestic (male) workers available. The American collective unconscious abounded in fear, suspicion, and dedication to the war effort. Fear and suspicion were highly politicized in the process of securitization.²⁷ Japanese internment was just beginning due to the imminent fear, suspicion, and national security concerns. The same was directed at all apparent threats, including against those appearing unaligned with prevailing American ideals and against those who seemed foreign. This was the muddled thinking that undergirded policymaking during the war and in the postwar period. This muddled thinking also tended to overwrite the civil, constitutional, and labor rights of “guest workers” in the American Southwest. This history of New Deal economic planning fits into our model of coercion because of the manner in which the agricultural proletariat was formed. The Bracero Program was an international solution to wartime labor shortages. Deployment had constrained the available labor supply in both the United States and Mexico. Undocumented labor in the United States had slowed due to deportation policies in the early 1930's.²⁸ Both of these caused a labor shortage. The government took action to mitigate the issue by creating a dependable agricultural proletariat.²⁹ Soon after the United States joined the war, in early 1942, President Franklin Delano Roosevelt signed an executive order to create the Migrant Farm Labor Program.³⁰ This led to a series of accords between American and Mexican labor management agencies to negotiate the contract labor that braceros (“sets of arms”) would provide. Sharing farm labor was necessary since both the United

²⁷ Securitization is an increasing concern with external threats, and involves the broad conflation of issues like migration, crime, and national security into the same problem of security mindedness.

²⁸ Mae Ngai, *Impossible Subjects* (Princeton, NJ: Princeton University Press, 2004): 135.

²⁹ Ngai, 129.

³⁰ Ngai, 139.

States and northern Mexico experienced wartime labor shortages. At these accords the Bracero Program was devised. A migrant labor pool was recruited for the United States through the International Labor Agreement in 1942 and reconfigured under Public Law 78 in 1951. The contracting parties were the Migrant Farm Labor Bureau of Mexico and the Department of Labor of the United States. Pursuant to the International Labor Agreement, localities started to issue certificates of need to “order” Braceros.³¹ Labor need was principally determined by large scale growers and their associations.³² Orders were sent to the Department of Labor, then *Gobernacion*, the Mexican equivalent of the Department of the Interior.³³ Braceros were sought according to those orders, then transported through a grueling recruitment process that eventually landed them with a grower in California, Texas, Arizona, or Colorado. There was no labor market, no market wage, nor free entry to the labor market. The governments of Mexico and the United States negotiated the terms of the labor contract and recruited the number of men to fill the contract order. This was central planning of the migrant labor pool.

The United States government sought to maximize labor productivity among the migrants. This was done by making migrant labor more precarious through creating a labor pool that was both ample and docile. The previous underclass of undocumented “wetbacks” proved

³¹ Certificates of need are an official paper slip that accounts for the need for some factor of production. They are issued by government boards as orders to higher levels of government. Ernesto Galarza, “Strangers in Our Field,” *Man of Fire* (Chicago, Illinois: University of Illinois Press, 1956): 238.

³² Gilbert Gonzalez, *Guest Workers or Colonized Labor?* (Boulder, Colorado: Paradigm Publishers, 2013): 58.

³³ Gonzalez, 59.

insufficient because they could not be targeted and controlled in the manner that legal workers could be. Undocumented labor was not only an uncontrolled workforce but a workforce that threatened to depress the wages of domestic workers and come to threaten the Bracero Program itself.³⁴ To be clear, any competing form of labor would threaten the existing forms of labor in the same market. However, the United States and Mexico wanted direct control over the process of labor movement. The United States government considered it an issue of national security. Undocumented labor was considered a threat to this process of labor market control. The Bracero Program was intended to institute such control. The United States government felt it had to do more to increase the labor precarity facing the migrant labor force in order to dial up coercive power. This would in turn make the laborers more productive and obedient. This was done in the economic interest of the United States as well as in the mindset of wartime national securitization, which was rife with nativism. The following paragraph describes how this labor coercion was induced in relation to our model of labor coercion.

Labor coercion is based on the power that the employer has over the employee, to affect the outcome of his choices so that he acts in a most productive manner (according to the employer's will). Economic power is defined by the ability to coerce which the employer holds over the employee. In the Bracero Program, corporate growers utilized the inherent precarity of contract labor to extract as much value from the workers as possible. This included constantly firing the least productive braceros and denying the men any decent standard of food, housing, or labor conditions. This was successful because the Immigration and Naturalization Service (INS) posed the constant threat of deportation. Deportation indicated a loss of wages, state violence, and being blacklisted in the United States. This loss of wages was the threat that the employer implied in his every command. The employer could fire or report any worker to the government

³⁴ Ngai, 148.

at any time. Hence the economic power that growers wielded over workers was enormous. The managers in the fields of agriculture and railroad construction held significant economic power over the braceros because of the loss that the workers incurred for appearing unproductive, disruptive, or subversive in any way. The next section will describe the nature of the harm being threatened in the employer's command and the conditions facilitated under such coercion. This will allow us to state exactly how the employer extracted value from the bracero. This should suffice to explain how planning American agriculture became so productive under the wartime economy.

We have established that implied threats are the means by which an employer commands an employee successfully. The threat to fire the employee is the threat that the employee will incur a loss if he does not perform a particular act the employer commands. That loss of income is the fallback difference between his wage level w and the fallback position z . In a single labor market, where the labor pool consists of one group seeking employment from a single group of capitalists, our earlier Contested Exchange model holds true. That model locates the fallback position as the position of unemployment in that same market. The employer's coercive power is located in the threat to return the employee to the ranks of the unemployed, against their preference to attain the wage. The migrant labor market operates differently, assuming there are international barriers to enter the labor market (enforced borders). The fallback position is determined by political circumstances rather than just the precarity inherent in labor under capitalism. The following examples are possible political circumstances that would alter the possibility of being deported, hence also the precarity of the migrant worker's position. The factors that determine what happens to a migrant laborer who is fired are the political will to deport migrants, the will to follow up on reports of irregular migration, and the detention policy

of the contemporary administration. These are politically contextual factors that fluctuated throughout the Bracero Program's twenty-two-year tenure. Those policies determined migrant labor precarity during that period. A few policies remained constant. (1) The imminence of deportation was known among the workforce. (2) Their bracero contracts expired after some period ranging from six weeks to eighteen months, after which the migrants were promptly returned to Mexico. This was usually done willingly, but it was understood that there was no room for noncompliance. The Immigration and Naturalization Service would ask for documentation for any suspected expired legal contract workers. Any Mexican nationals without current paperwork would be forcibly arrested, detained, and repatriated. (3) Military force was employed to ensure that the line between legal and illegal migrants was upheld. This process of deportation was the fallback position.

The difference in economic positions between being a bracero and being deported was substantial, both due to the selectivity of the program, and due to the fallback position of deportation. The Bracero Program was seen as a privilege, even though the stories of exploitation and abuse were ubiquitous. Crowds of thousands gathered at the recruitment centers, waiting to be selected to be a bracero. The masses who were unemployed or returned from the war needed income. The Bracero Program was seen as an opportunity despite its substantial downsides. That viewpoint of braceros as being in a position of legal privilege made the labor all the more precarious because the Bracero knew his special economic position could be taken away. He could revert to being undocumented if he were fired. He consented to oblige his employer and accept those conditions of labor, but only because the program constituted an artificially superior enforcement rent level at wage w . His preference for that superior economic position over the fallback position of destitution caused him to accept the violence, poverty, and risk of being a

bracero. Deportation meant a reversion to destitution. It meant being subjected to state violence, involving arrest and forced repatriation. The possibility for detention was present in an increasingly militarized INS environment. The offending workers would be blacklisted from future economic opportunity if they resisted deportation. Being deported also meant being subjected to the grueling vetting process again if they were able to re-enroll, which involved stripping, being fumigated with noxious chemicals, and signing on to another coercive labor contract. Once deported to Mexico, there was little economic opportunity to be sought in the 1950's. Masses gathered outside the recruitment centers because there was little work there. Many who were deported entered the informal migrant labor market instead.

The fallback difference is proportional to the coercive power that is present in the labor relationship. This power relationship manifested in the inhumane conditions which the braceros endured. The labor conditions were not fit for people but were an improvement upon base destitution. Here those conditions under coercion will be illustrated. Before the migrants were even placed with a grower, there was a grueling recruitment process. Orders for labor disseminated through the Mexican federal system. When localities announced program availability, men gathered in towns and villages to attain their *permiso*. This was a permission slip that identified that the man was a Mexican citizen who fulfilled their military service. While these were sometimes handed out fairly, many corrupt officials began to sell them for between 150 and 300 pesos.³⁵ This was their value given surplus applicants for limited Bracero positions. With a *permiso* and identification in hand, a man was admitted to the general pool of job seekers for recruitment. The potential braceros gathered in the Mexico City soccer stadium, at least for the first three years of the Bracero Program. They trekked in from all over Mexico, and many

³⁵ Gonzalez, 62.

died on the way.³⁶ Upon arrival, they would join the masses of other potential braceros waiting to be called upon by the Mexican authorities. On one account in 1943, 5,000 job seekers inhabited the stadium despite there being 3,000 available job orders.³⁷ The conditions in Mexico City were not particularly amenable to the gathering crowds. Eventually markets sprung up around the job seekers to service them food, housing, and prostitutes. The men would take on debt to sustain (and entertain) themselves while they waited for recruitment. The average bracero took on 1,200 pesos or \$120 in debt just to work in the United States.³⁸ Additional payments were necessary to bribe officials in the case that one needed to sidestep a formality (such as not having a *permiso*), to recover one's place in line, or to be called upon. These bribes were called *mordidas*.³⁹ Some officials used the destitution of the potential braceros against them in more nefarious ways. Many men were compelled to pick cotton on nearby plantations for several weeks to move up the lineup or just to retain their position in line.⁴⁰

Once selected, the men were transported to the processing facility run by the U.S. Department of Labor at the expense of both the American grower and U.S. government. Labor Department agents scrutinized the men, selecting those who appeared healthy and in the right age range, who also appeared to be the least educated and lowest class. One man was rejected because he wore corduroy pants he received as a gift from his son who worked in the United States. Those corduroys were considered too nice for a bracero. Another man was rejected because he had a full six years of education. Others were rejected because they spoke or dressed too well.⁴¹ These measures were certainly for the purposes of ensuring general docility among

³⁶ According to an interview that Gonzalez conducted, "The needs were so great that many died on the way but that didn't stop the struggle to come to the United States where there was work." This was claimed by Conrado Cardenas, a bracero. Gonzalez, 112-113.

³⁷ Gonzalez, 62.

³⁸ Gonzalez, 64.

³⁹ Gonzalez, 66.

⁴⁰ Gonzalez, 69-70.

⁴¹ Gonzalez, 72.

the selected applicants. The agents screened the men for disease, particularly venereal disease, and vaccinated them for smallpox. Due to a militant concern with cleanliness, the chosen braceros were sprayed in the face with toxic lindane to rid them of lice. Other facilities employed baths of kerosine and vinegar, and showers of gasoline. Many were gassed with Zyklon B, the same insecticide used in concentrated doses to exterminate Jews in Nazi concentration camps. El Paso Mayor Tom Lea ordered these measures a few years prior. He was nearly obsessed with both cleanliness and racial purity.⁴²

The labor conditions under the grower's supervision were just as appalling. The following conditions indicate a power dynamic between the employer and the employee. The reason that braceros subjected themselves to them was that their economic position was superior to destitution in Mexico. Braceros technically had entitlements to quality food and housing, but those were not enforced. The lack of political will to hold employers to account to their end of the contract was a sign of geopolitical power inequality. The braceros were not known by names but by numbers. This was a well-known concern for the Mexican government that the United States never rectified during the program.⁴³ Braceros were systematically denied pay. Whereas the contract entitled them to fifty cents per hour, most received thirty to thirty-five cents, a bare improvement above the prevailing wage for irregular workers of twenty-five cents per hour.⁴⁴ Most were served food unfit for human consumption. According to one report to the Mexican consul in Escondida, California, workers were served tacos "in a state of decomposition."⁴⁵ Housing violations occurred in one-third to one-half of inspections. Some were physically abused by their employers. These conditions were pervasive in the bracero program because

⁴² These abuses took place during the height of the eugenics movement during the first World War. Vox, "The Dark History of "Gasoline Baths" at the Border," Youtube Video, 14:59, July 29th, 2019.

⁴³ Ngai, 140.

⁴⁴ Ngai, 143

⁴⁵ Ngai, 144.

there was no political will to address the American side of the contract. The government mostly did not inspect conditions. When the Department of Labor did make the occasional inspection, the agents targeted smaller farming operations in order to serve the consolidation efforts of larger corporate farming.⁴⁶ In that way the government refused to hold employers accountable for depriving employees of their contracted entitlements. This solidified the employer's power to coerce the employee.

Throughout his tenure as a *bracero*, a Mexican national was regarded as a tool to be used in the most economically productive manner. He was not treated as an agent capable of exercising autonomy. He was not treated as a person but as an implement. To a corrupt government official at the recruitment center, the worker's precarity could be used to extract value from him. The government official threatened to deny the migrant a place in line if he did not pay his *mordida*. This was inherently threatening, the implied threat being "pay me, or revert to absolute poverty." Officials threatened to deprive the workers of their future income if they did not pick cotton for some number of days without pay. This can only be described as a working environment approaching slavery. The United States government abused *braceros* under the presumption that immigrants are unclean. The men accepted the vetting process because of the fallback difference between having an income and the possibility of reverting to the destitute unemployed. The chemical dousing supports the idea that the vetting process was more of an assault than a contract stipulation. The men were more or less corralled through the process like cattle rather than as informed, consenting agents. Many of the men would not later speak about the humiliation of being stripped and gassed with insecticide. Growers used the migrant's precarity against him to gain value from his labor. Low pay and squalid conditions were ensured because the Department of Labor did not hold employers accountable to the specified conditions.

⁴⁶ Ngai, 144.

Those conditions agreed upon were a contract between the United States and Mexico governments, not between the employer and the employee. The employee likely never saw his rights. Even if he was shown his rights, they were likely only written in English. The vetting process rejected educated men. Many were illiterate and only spoke Spanish. The migrants were more docile if they did not know what they were entitled to or were not educated enough to read or understand their rights. They could more easily be assured that their conditions could not be improved. Hence low pay and the squalid conditions were imposed in an intentional way. The braceros could not seek redress if they did not know what grounds to stand on to do so. Many braceros complained to the Mexican consul, who could do little to alter American labor practices. There was little that a bracero could do to change his set of options. He worked as his employer told him because his alternative was destitution. His condition enabled the employer to treat him as an unfree tool to command rather than as a human being.

To sum up this section, the Bracero Program was an intentional government project that the United States coordinated with Mexico to ensure the consolidation of corporate agriculture, the stabilization of the economy in the American Southwest, and the provision of cheap food goods in the United States. Capitalist investors also gained, as they were undertaking the “peaceful conquest” of Mexico through the financial control of Mexican oil, mining, and railroad infrastructure.⁴⁷ The United States hence had an increasing economic investment in the industries of northern Mexico as well as in the consolidation of agriculture in the American Southwest. The project was embedded in American imperialism as an effort to import cheap, docile labor. The process began with the expropriation of Mexican nationals from their holdings to fulfill a labor shortage in the two nations and to consolidate farming. The more people there were compared to the number of jobs, the cheaper labor would become. This is a simple supply and demand

⁴⁷ Gonzalez, 20.

function. Consolidation tended to ensure that fewer capitalists oversaw larger, more mechanized farming operations. To achieve maximum economic profit, the United States imported a working class that occupied a status less than citizen, but more than permanent slave. The temporary workers were free to return to Mexico, but the conditions of return were violent destitution. The fallback difference between the measly wages less than contracted for, and absolute poverty ensured the docility of the laborers. The government facilitated this docility, while the employer used the braceros' position of precarity against them to extract as much value as possible. This was the general imperialist intent of the Bracero Program: to reduce colonized people to mere workhands in the interest of national economic planning.

IRREGULAR MIGRANT LABOR DURING THE BRACERO PROGRAM

This is a comparison of circumstances between a regular bracero versus an irregular migrant during the Bracero Program years. The purpose is to show that economic coercion was somewhat particular to the situation of the irregular migrant as it is today. This establishes historical continuity and change in the government's approach to migrant labor. The prime motive of imposing precarity is similar across time. That motive is economic planning. During the Bracero Program's tenure, fallback difference was greater for a bracero than for an irregular migrant. This was due to the elevated status of the legal worker. So long as he was compliant, he would usually earn more than an irregular worker and would not be deported. His wage level *w* was greater than the wage that an undocumented laborer could earn for similar work. He was eligible for future contracts. His position of legal privilege meant that he had access to mess halls and guaranteed housing. These were generally insufficient given the widespread disregard for the quality of food and housing. But those conditions were still superior to those of the irregular migrants employed at the same location. Having said that, an irregular migrant occupied a less secure economic position. Whether he would be deported was contextual. If he worked for the same corporation that employed braceros, he would likely earn less and be excluded from the housing and food guaranteed to Braceros. Irregular migrants were often treated poorly by employers and their legal counterparts. The case was different if he worked for an employer not involved in the program. If he managed an informal contract with a smaller grower, he may have earned more than a bracero and may have been treated like a person rather than a number.⁴⁸ The tradeoff for being an irregular migrant was that the threat of state violence was more pervasive. There were various crackdowns and raids, such as those conducted under the general commissioner Joseph M. Swing. He conducted "Operation Wetback" in 1954, which was a

⁴⁸ Ngai, 151.

militaristic operation against the “alarming, ever-increasing, flood tide” of irregular migration. His operation involved “approximately 750 immigration officers, Border Patrol officers, and investigators; 300 jeeps, cars, and buses, 7 airplanes, and ‘other equipment.’”⁴⁹ The tradeoff between formal and informal work was about evenly matched given the expectations and risks of each position. The Bracero’s economic position was better defined, whereas the precarity of the irregular migrant’s position was more contextual.

⁴⁹ Ngai, 155.

IRREGULAR MIGRANT LABOR PRECARITY

Contemporary migration policy intends economic planning through similar means as the Bracero Program did historically. The current program regarding undocumented migration is to use Immigration and Customs Enforcement to repatriate irregular migrants working in the United States. This environment creates a pervasive threat of deportation to induce docility among the workforce in the American Southwest. Threats induce them to heed the commands of their employer at the threat of deportation. This is done in the interest of American capitalist farmers, manufacturers, and construction companies at the expense of laborers. Irregular migrants are in a precarious position due to economic destitution in their fallback position of being in Mexico. That destitution has resulted from expropriation schemes in recent years. The employer takes advantage of that precarity. He implies the threat in his every command, “obey or the government will deport you.” Irregular migrants know that if they are subversive in any manner toward their employer, they are subject to deportation. The result is that some eleven million migrants work under coercive conditions.⁵⁰ This power dynamic enables the owners to levy maximum productivity from the irregular worker.

⁵⁰ Jeffery S. Passel and D’vera Cohn, “U.S Unauthorized immigrant Total Dips to Lowest Level in a Decade,” *Pew Research Center* (2018).

The solution to the contemporary migrant labor situation is open borders. The government should cease deportations in the interest of the migrants and the economy. This would lead to conditions of freedom: laborers freely choosing who they work for, at the wage that they can negotiate in a free labor market. This may also induce greater competitiveness among the lowest waged employees. The employer would incur competitive labor costs. Migrants may naturally move Northward during harvest season to satisfy the needs of employers and consumers. Lessening coercive conditions results in greater labor rights and competitive profits for employers. Migrant unionization could occur without the threat of deportation. Workers unions constitute coercion akin to that of employer's utilizations of combination. Power parity would be the goal so that neither party can significantly coerce the other. Employees would attain the greatest wages that they can under their conditions. Employers would accurately remunerate irregular workers the value that they provide the firm in addition to the cost of labor scarcity. The policy proposal is to implement open borders and retract government intrusion against the unionization efforts. This solution to migrant labor coercion will become clear given the current state of irregular migrant labor and the cause of those conditions. As it currently stands, irregular migrants obtain very few rights or entitlements. They indeed obtain more duties and obligations to the United States than the United States obtains for them. The following discussion of the rights of each citizens, regular migrants, and irregular migrants should clarify this. Our policy proposal will follow that discussion.

Migrants are entitled to certain rights and privileges according to the United States Constitution. This is a Hayekian approach, so natural rights are not bound into the discussion of “rights,” but instead these rights are legal norms established through policy. Rights as the scope of legal opportunity is the meaning here. It is also important to note that these rights are purely nominal, and do not reflect the actual conditions of migrants in the United States. The system can only aspire to actualize these rights. There will be a consideration of the entitlements that citizens have. Then we will overview the meaning in the distinction between a legal and an illegal migrant, which for our purposes will be called either “regular” or “irregular” migrant. The rights accorded to each citizens, regular migrants, and irregular migrants differ on the basis of their legal standing. Hence a citizen can seek redress if their right to vote was denied, whereas a migrant cannot. But a migrant can seek redress if they were assaulted, regardless of their legal status. The scope of rights differs according to the status of the person in question.

Citizens enjoy a full scope of rights in the United States.⁵¹ The government is obligated to redress a great variety of entitlements not fulfilled. These rights are legal, political, and economic. The Constitutional legal structure specifies these rights. The Bill of Rights applies fully to citizens, specifying that the freedom of speech, religion, expression, due process, privacy from government intrusion, and the sundry other basic civil liberties will always be protected. The legal opportunity to have an attorney and be tried by a jury of our peers are included in these. There are also political and economic rights accorded to full citizens. Political rights are the ones that specify we can participate in democracy. They include the right to run for office and the right to vote. Then there are economic rights. Legal opportunity exists for citizens to pursue

⁵¹ To say a “citizen” obtains a “full scope of rights” is a tautology since a “citizen” is traditionally understood to obtain the full possible set of legal privileges in a liberal polity. These rights are defined within the legal system. The “citizen” is the legal designation of a full legal person, meaning it is the same to say that a person is a “citizen” and that a person obtains the set of rights accorded to full members of that polity.

employment, to unionize, and to own property. These are some fundamental rights that the full citizen enjoys. There are also rights with regard to the employer-employee relationship that constitute rights. On the purely economic side, the citizen is legally entitled to contract with the employer for wages. The employee is also entitled to a safe working environment. This means that the state is obligated to legally redress complaints on behalf of the worker in the case of inhumane conditions, sexual harassment, or discriminatory labor practices. The full citizen is also both obligated and entitled to participate in social services such as social security and Medicare. They pay in and receive social security benefits and health coverage upon retirement. It should be noted that birthright citizenship exists in the United States, so the children of migrants are always entitled to full legal, political, and economic rights upon reaching adulthood. Children brought to the United States as minors also fall into this category. Their status as DREAMers is on precarious legal ground, however. As minors, both groups are entitled to the rights equal to other children, including public education and lunch assistance programs.⁵²

“Regular migrant” in this case refers to non-citizens, since naturalized citizens are accorded the full scope of rights under the Constitution. The government has fewer legal obligations to the migrant than it does to the full citizen. This lesser standing is accepted because full legal standing is reserved for full citizens. While the citizen is said to “have a right to be here,” the regular migrant is considered a guest whose presence is a privilege. On that basis, their presence is conditional to their adherence to current policy. The government considers regular migrants as a medium legal status between citizen and criminal as to their scope of rights. The regular migrant is granted certain rights as a partial legal person. They can seek redress for a moderate number of potential entitlements. These rights include the protected freedoms in the Bill of Rights but preclude political activity. These are the legal opportunity to due process, to

⁵² National Office of State Legislatures. “Federal Benefit Eligibility for Unauthorized Immigrants” (2014).

have an attorney, and to be tried fairly by a jury.⁵³ The political rights that regular migrants have are notably less than those of the citizen. Regular migrants may not hold office or vote in elections. They have almost no political right to alter the polity since they are not considered members. One exception is their right to seek asylum under international law. Economic rights are numerous on paper but are indeterminate in practice.⁵⁴ Migrants technically have the right to fair wages and overtime pay, to safe working conditions, and to form a union.⁵⁵ These are rarely protected since economic disruption has historically been met with deportation. Legal status is precarious, and visas can be taken away. This happened under the Trump presidency when H1B visas were suspended in 2020.⁵⁶

Irregular migrants enjoy a slimmer scope of rights under the Constitution due to their supposed criminal status. The protected freedoms of the Bill of Rights nominally apply to everyone residing in the United States. Seeking protection of these rights is risky for irregular migrants since they are under the threat of deportation, though they are entitled to an attorney to sue for personal injury. Irregular migrants do not possess political rights. None can run for office or vote. They can seek asylum under international law, but only while simultaneously being detained as criminals by Immigration and Customs Enforcement. There are technically economic rights accorded to irregular migrants, such as equal pay and safe working conditions.⁵⁷ These are rarely enforced, however, and do not include the retrieval of social security, Medicare, and welfare benefits that they pay into. So long as their employment takes place in the formal labor market, they are obliged by their employer to have taxes withheld from their pay. This accounts

⁵³ International Justice Resource Center. "Immigrants' and Migrants' Rights."

⁵⁴ "Indeterminate" means in this context that it is contingent on political will whether economic rights will be enforced by the Department of Labor. That political will is weak in reality.

⁵⁵ The Advocates of Human Rights. "The Rights of Migrants in the United States" (Minneapolis, Minnesota: 330 Second Avenue South, #800).

⁵⁶ United States, Executive Office of the President Donald Trump. Executive Order 13940: Aligning Federal Contracting and Hiring Practices with The Interests of American Workers.

⁵⁷ International Justice Resource Center. "Immigrants' and Migrants' Rights."

for more than half currently working in the United States. But none of the benefits are accorded to them since they are undocumented. Despite the lack of enforcement, irregular migrants nominally have the right to unionize. Whether irregular migrants should be able to unionize has been controversial within the labor movement since irregular migrants have historically been used as “scabs” to break up union strikes. As to enforcement, the legal status of the migrant makes it difficult to seek redress for being fired. This is despite the fact that employers are responsible for making sure their labor force is legal. Despite common assumptions and the lack of political will to protect their rights, irregular migrants are legally entitled to equal economic benefits as legal workers regardless of their precarious legal position.

Given the limited number of rights that irregular migrants enjoy, it should follow that their position is more precarious than that of the regular migrant or the citizen laborer. This holds true in light of the circumstances of undocumented migration to the United States in the years following the passage of the North American Free Trade Agreement (NAFTA) in 1994. This trade agreement effects labor precarity among irregular migrants because it (1) has displaced many small farmers in Mexico and (2) empowers capital investment across the border while failing to also empower workers to move across the border. Hence NAFTA has contributed to an intolerable fallback position in Mexico. Here is some of that context. On the part of Mexico, dislocation from local land holdings and government suppression of job opportunities has created a large labor pool who have no viable alternative options but to migrate to the United States for labor. This has been a long-standing issue in Mexico since the abandonment of nationalist policies in favor of foreign investment since the 1960s.⁵⁸ To secure infrastructure investment and the development of an export economy (through maquiladoras), Mexico took on unprecedented foreign debt. Laborers in Mexico largely bore the costs as Mexico forcefully implemented

⁵⁸ David Bacon, *Illegal People* (Boston, Massachusetts: Beacon Press, 2008): 54-56.

anti-labor policies to promote economic expansion. In the Oaxaca region of Mexico, government repression of teachers unions and violence against labor rights protestors has created an unsafe environment for workers seeking wages, benefits, and economic security.⁵⁹ The privatization of copper mines in conjunction with the government repression of labor organization constitutes an assault on the health and safety standards of Mexican workers. The Mexican government fails to secure the protections it legally promises.⁶⁰ Small farmers in Mexico were once able to use federal land until the Mexican government forcibly removed them from it to sell the land to United States corporations. This was a consolidation of corporate agriculture similar to that of the United States under the New Deal. The result was a mass dislocation of local workers since the end of the Bracero Program in 1964 leading up to the signing of NAFTA in 1994. Due to NAFTA, this process of dislocation has continued. Here is an example of how NAFTA has expropriated small corn farmers. The agreement prohibits Mexico from subsidizing corn growers but says nothing about the current U.S. subsidies of American corn farmers. The United States also employs advanced scientific knowledge, fertilizer, and mechanical equipment to farm corn while many small farmers in Mexico have not had these available. Those growers could no longer compete with American corporate farming. Mexico began to import the cheaper American corn. This displaced a great number of corn farmers in Mexico.⁶¹ They joined the ranks of the unemployed. Many migrated illegally to the United States. Political circumstances have also caused migration. It is commonplace for political dissidents to face violence for their

⁵⁹ Bacon, 28.

⁶⁰ For example, these include ensuring operating vacuums in mines that collect dust, preventing cumulative respiratory issues; addressing methane concentrations in mines where workers welded equipment, hence causing explosions; providing adequate health care that addresses work related injuries. These conditions would not be so intolerable if Mexican miners have adequate alternative economic positions, the ability to mobilize across the border, or the ability to unionize. But the state consistently denied the negative rights necessary to ensure these alternatives as well as the positive rights that ensure workplace safety. Bacon, 35.

⁶¹ Luis Villanueva, International Labor Migration Class at Denison University, September 28th. Also referenced in Robert E. Lucas, "International Labor Migration in a Globalizing Economy," *Carnegie Papers* (2008): 14.

party affiliations, especially for activists looking to secure basic labor rights. Labor displacement has been a continuous historical process in Mexico as nationalist policies first failed to ensure self-sufficient economic growth, then as intentional policies induced intolerable conditions for Mexican workers. The result has been a stagnant economic fallback position in Mexico.

Policies established between Mexico and the United States have failed at their intended goal of mutual economic development, the stated goal of NAFTA. The evidence for this stagnation is the persistent willingness of migrants to risk their lives to secure a superior economic position elsewhere. There are unintended consequences to this failure. One result has been irregular migration. While NAFTA has rightly created a more liberal approach toward capital investment across international borders, the same cannot be said about the freedom for labor to mobilize. This inconsistency has perpetuated economic insecurity for workers in Mexico. American firms are free to employ an intentionally precarious labor pool in Mexico, but that labor pool is suddenly deprived of their former economic position. Those disaffected people are rational agents who recognize greater economic opportunity in the United States. They choose to migrate despite the legal limitations to do so. This is the contemporary source of irregular migration from Mexico to the United States.

Economic conditions in Mexico are empirical evidence of two important factors in the labor coercion exhibited in the employer-employee relationship in the United States. One is that the precarious labor pool that is employed in the United States has resulted from the failure of economic policies that intended to develop Mexico through increased capital investment. In other words, economic failure acts as a push factor for irregular migration from Mexico to the United States. The other factor is the precarity itself of working in the United States, which is a result of the fallback position that economic failure in Mexico has created. Both are significant

factors in the power the employer has over the employee. The following description of the relationship will clarify this importance. Irregular migrants are employed in diverse fields in the United States, from agriculture, to healthcare, to construction, to meatpacking, to sanitation, among many others. The workers in those fields endure exceptionally low wages and meager work conditions as a result of the power in the employment relationship. Irregular migrants in particular work under coercive conditions because their next best alternative is deportation to their home country. The resultant loss of income for them is greater than for the domestic worker in the same field because of the threat of deportation. The domestic worker merely reverts to unemployment in comparison. The degree to which migrant workers are willing to abide by their employer's commands is greater in proportion. That fallback position is defined by the conditions of poverty, labor displacement, and expropriation in the sending country. That threat of deportation involves the threat of state violence, blacklisting, and loss of wages. In the case of irregular migrants, the threat of deportation is pervasive because the employer could report them to the government at any point but incur the relatively small cost of labor replacement. In proportion to the pervasiveness of the threat, the level of coercion among irregular migrants is also great. They are willing to accept lower wages and meager conditions because they have few economic alternatives and no legal standing to redress legal claims. Economic failure in Mexico and the failure of the United States to secure legal rights thus constitute causal factors in the power dynamic between the employer and the irregular migrant employee.

Recent political circumstances have worsened labor coercion among irregular migrants. The Trump administration ordered an increase in Immigration and Customs Enforcement raids against workplaces alleged to employ them. Detention centers have been overcrowded, worsening the conditions of fallback to the level of inhumane prison conditions. Not only are

migrants deported, but many face the threat of imprisonment for their legal status. It is a policy of deterrence through cruelty. The nativist motivation behind such policies is by no means new to the American political landscape. Proposed bills in the past have included making irregular migration a criminal felony offense rather than merely a civil infraction, punishable by up to a year in federal prison.⁶² These policies are based in the acculturated fiction that rights derive only from citizenship. The entitlement to a basic level of freedom in a liberal society commands us to reject that claim in favor of a universal application of rights. All residents should be included in the basic entitlements of the liberal polity.⁶³ Hence it is the purpose of this research to refer to contemporary motivations for alleviating labor coercion among migrants in the United States.

The solution to the power dynamic in the migrant labor relationship is similar to our earlier proposals for the greater labor pool. The key issues in reducing labor coercion are the raising of the fallback position, effecting economic alternatives, and creating power parity in the labor relationship. To raise the fallback position of the irregular migrant, effective open border policy should be the goal. To create more economic alternatives to the current availability,

⁶² Drew Petrimoulx, "New Bill Would Make Illegal Border Crossing a Felony," KXAN (2018).

⁶³ These are enumerated in Hayek's *Constitution of Liberty*. These include (1) Freedom from arbitrary arrest, (2) equality under the law, (3) freedom to choose one's work, and (4) transferable property rights. Hayek, 71.

irregular migrants should be free to choose their employer without being barred by restrictions to work such as the lack of a social security number. Greater power parity will arise from the prohibition of state violence against unionization efforts. These policies each retract the role of the government while simultaneously bringing about greater freedom for migrants working in the United States. The following discussion should illuminate the expected outcomes.

The fallback position for irregular migrant laborers currently is the position of destitution in their home country. Specifically, in Mexico, the conditions of political economic failure are poverty, political violence, and few economic opportunities afforded to the dislocated labor pool. To raise this fallback condition to a tolerable one, there should be a free flow of migration into the United States at the Southern border. The executive branch should order Immigration and Customs Enforcement to either cease raids, deportations, and monitoring of legality, or abolish the department altogether. The legislative branch should affirm that crossing the border is not a crime in and of itself. The judicial branch should interpret these actions so that no migrant may be detained without probable cause on American soil. The result of these policies is that the fallback position is raised from destitution in Mexico to employment in the United States. Under conditions of structural unemployment, many may not be working for a time. Rather they are free to travel in search of opportunity.

The resultant open border and the simultaneous economic aim of full employment would bring about economic alternatives for the labor pool. The decrease in the fallback difference between working and the next best alternative would result in a proportionate decrease in the power the employer holds over the employee. The coercivity of the employer's commands would necessarily fall given that rational agents would exit any firm which breached the labor contract or imposed undesirable working conditions. This would become possible because the threat is no

longer “heed my command, or you’ll be reported to the government,” but rather “heed my command, or you’ll be fired.” The second is notably less threatening than the first. The other element that open borders would cause is the ability to choose another employer in the United States. Their job position is no longer limited to their current one. There are other opportunities in the United States so long as there is not an economic recession. Since employers should not have to ask for a social security number for workers who claim irregular migrant status, those employers become viable economic opportunities for irregular migrants. These policies make their economic position less precarious, so migrant laborers are less docile.

The other role for open border policies is the creation of transnational migration networks. “Network migration,” is the process whereby individuals in communities migrate in succession because potential migrants know past emigrants. Those who have family in a receiving country are more likely to migrate themselves. Immigrant networks form in the United States regardless of legal status, but open borders would allow irregular migrants to be embedded in a close network. This would allow them to share costs, receive support, and dissuade them from irresponsible activity.⁶⁴ These would raise the general fallback position for irregular migrants from unemployment and potential homelessness to having transitional network support.

Workers should be free to organize as industries are free to organize. The government should not intrude on the ability for workers to unionize. There is little reason in a competitive labor market that the state should want to help create labor unions since it would constitute picking labor over capital. However, the government currently takes a stance favorable to business in Right to Work laws. State governments disallow union shop and closed shop contracts between consenting parties. Right to Work laws involve the state picking capital over labor. Immigration and Customs Enforcement raids businesses who employ irregular migrants,

⁶⁴ People who have close family tend to bear social and economic responsibility.

disincentivizing those workers from forming a union. The alternative is that the government should do nothing. It should not interfere on behalf of unions or business because historically, that has commonly ended in state violence against migrant workers and migrants.

Unionization would promote power parity between the employer and the employee. The employee's threat to quit or call a strike invokes a collective threat to withhold labor from the capitalist, just as the capitalist has the right to fire the laborer. If the government ceases backing business on behalf of profits means that the employer's economic position becomes slightly more precarious compared to that of the employee. The employee's threats to quit or call a strike are more credible to the employer. The employer's threats are comparably less threatening to the employee. The employer's commands are also less threatening, which means that the employee has more leverage in their position. They are less docile. They may address health and safety standards. They may address their wage level with their employer. They may address other terms and conditions of employment. The result of lessening coercive power is that the material conditions of labor improve. This is especially important for migrant workers, whose current position is rife with abuse, harassment, underpayment, and unsafe conditions.

CONCLUSION

The study of migrant labor coercion is especially relevant in the neoliberal period. Since the signing of NAFTA, the estimated irregular migration stock in the United States has increased from about three and a half million to almost eleven million. In the novel economic paradigm of free trade, capital investment obtains the right to mobilize internationally but workers do not have the same privilege. Rational agents have taken it upon themselves to better their economic position by migrating illegally for work. Due to this, an underclass of migrant labor has formed who have almost no economic rights. This precarity as an underclass is the source of coercion in the irregular migrant labor relationship. The analysis we employ in this paper illuminates the source of this economic power that capitalists wield over migrant employees. That model is the Hayekian labor coercion model. While the model utilizes a number of other scholars of coercion, including Robert Nozick, Robert Hale, Samuel Bowles and Herbert Gintis, it is Hayekian in principle because it characterizes power as contextual and affirms that coercion exists on a spectrum. The model is dutifully employed in this paper to distinguish cases of coercive power and to offer remedies to alleviate them. Here are the concluding elements as well as lingering inquiries that may result from this research project. One primary takeaway from this paper is a model of coercion rooted in the difference between one's current economic position and their next best alternative. Coercion exists in situations where one party issues the threat to make the other party worse off, against a background of expected or morally obligatory action. The employer's relationship with his employee contains this dynamic because the employer issues commands which he expects to be fulfilled, and those commands contain implicit threats to fire the employee if he does not comply.

The migrant laborer is in an especially precarious position because if he disobeys his employer, he may be reported to the United States government and deported. This holds true for the entire class of guest workers because each is in an economically precarious position compared to citizens who have a birthright to be here. Irregular migrants today are in an especially precarious position because they have little actual access to the justice system. They are continually subject to the threat of state violence at all times that they are on American soil. We aim to remedy that coercion in their interest but also to serve a defining feature of liberalism, to minimize coercion as much as possible. Various policies have been expounded in this research paper, mostly regarding the retraction of state violence. There are lingering questions, however, which are in our interest to address here.

For one, there is the question of industrial democracy. If unions may be used to alleviate the power dynamic between employers and employees, should any lessening of the power of employers be considered minimizing coercive power? Should industrial democracy be our goal to minimize coercion as much as possible? I think the answer is doubtful since private property acts as a bulwark against the concentration of power. There are a few necessities which constitute liberty in the liberal polity, including freedom from arbitrary confinement, equal legal opportunity, the ability to choose one's employer, and the right to own property. The reason that the right to property should be maintained is a matter of utility. Concentrations of economic power which are not already vested in their own autonomy from the state are prone to government takeover. Whether this occurs over the course of time through regulation or through direct seizure by a democratic socialist party, the distinction between what is private and what is public seems to delimit industrial power to the profit seeking elite. This arrangement is useful because it facilitates the authority of the market rather than the authority of some bureau or board

who are pursuing their own aims. If the market is in charge, then it does not matter whether the board is democratically elected or appointed. I believe Hayek is completely right to say that the market order should be the authority that coordinates production.

Another lingering question we should address is the issue of taxation in the current society. We should wonder based off of my earlier claims whether any system that relies on taxation may be permitted. If so, what systems may we be willing to fund through the use of force? Taxation forms the basis for government function in the liberal polity. How could we rid ourselves of it? Hayek is the sort of economist that adheres to the conventional monetary policy mindset. According to that line of thinking, taxation is the only manner that the government can print new money without inviting inflation, disturbing the market of loanable funds, or issuing debt. His position is empirically unsubstantiated given the current reality of sustained deficits over long periods of time. The question when we address the issue of taxation is not whether the system will serve specific interests given scarce public revenues, but whether we are contributing to a less coercive free market system. Given the current state of spending in the United States, the level of spending that would be appropriate after abolishing taxation would not immediately be sufficient to protect a liberal market order. This paper envisions policies that take a piecemeal approach that make coercive institutions obsolete over time. While it is beyond the purview of this paper, the replacement of the current welfare system with a system of negative income tax or state-based unemployment insurance would be permissible in the liberal interest. The key factor is that the tradeoff remedies coercion as a net outcome. Universal basic income applies to every member of the society while negative income tax targets the lowest earners. Since the lowest earners tend to occupy a less secure economic position, the negative income tax or unemployment insurance is certainly an amenable policy solution to our aims as compared with

an Andrew Yang style universal basic income. The coercion necessary to pay for the latter also makes the policy untenable for our purposes. Ideally a negative income tax program would rely on deficit spending while welfare is replaced.

A final concern that this paper addresses is the complication of open borders. Many conservatives would rally against such a program due to the securitization mindset that has affected the United States in recent decades. Many will insist that unfettered migrant flows are rife with problems, including drugs and crime. To address this claim, this paper points to the issue of tradeoffs, as well as the difference between legal crimes and natural crimes. Migrants commit fewer crimes than the native population, though they make up a larger share of the prison population. The reason for this is that they consider being here to be a privilege they do not wish to squander. They wish to maintain their economic position. So long as this country secures economic opportunity, it is also amenable to low crime rates among irregular migrants. The threat of imprisonment is sufficient to deter violence. So long as resources are rightfully devoted to the liberal cause of actualizing our rights, then violent crime should be targeted most seriously by the authorities. The lesser crimes of drug use or crossing the border are actually legal designations rather than crimes since those offenses do not inherently violate the rights of others. The issue that conservatives seem to pose is whether our legal system can continue to process minor infractions at the current rate and also to combat violent crime. The question is really a matter of priorities given scarce resources rather than the rhetorical question about whether the state can do it all. The liberal solution is to target violent crime with all available resources and to pay little attention to petty misconduct.

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