



Wage Theft in Randolph County

MECHANISMS OF WAGE THEFT AND IMMIGRANTS WORKERS; A COLLECTIVE
ACTION PROBLEM

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Introduction

The organization I am working with is *Siembra, NC* (referred to as Siembra, NC). The organization started in 2017 as a response to the anti-immigrant rhetoric brought upon by the election of former President Trump. The organization defines itself as a grassroots community organization and a coalition of all Latinx communities in the state that is dedicated to protecting the rights of immigrants through political action and community empowerment.

While the Siembra does not have a defined headquarters, the organization primarily works in central North Carolina in Alamance, Durham, Forsyth, Guilford, Orange, Wake, Randolph and Rockingham counties. For the purposes of my work with Siembra my work will mainly center in Randolph County and its surrounding areas.

As previously stated, the two main functions of Siembra as an organization are community empowerment and political action. On the political action front, the organization is a registered as a 501(c)(3), but also has a wing that is a registered 501(c)(4). Due to the privileges afforded by a 501(c)(4s) designation, Siembra is able rally political support for candidates that the organization believes will support its goals. As such, a substantial amount of work that Siembra has done recently centered around canvassing for, what the organization describes as “progressive”, candidates.

The part of the organization that I will work with is the 501(c)(3) arm, where the focus is on community empowerment. Through workshops, fundraisers, and crisis support, Siembra, NC seeks to empower the community to achieve “el buen vivir” (a good living). Workshops topics include workers’ rights and political education, while fundraisers and crisis support work towards helping members of the community afflicted by troubles relating to immigration.

Executive Summary

The goal of this project is to answer the question: What are the types of wage theft violations in the Randolph County Area, and how can immigrants work to combat these? To solve this question, I conducted an analysis of the most commonly known types of wage theft violations across the nation. Using these insights, I looked analyzed local level data, industry trends, and previous campaigns against wage theft, to provide a series of definitions on the types of wage theft that occurs in the Randolph County Area. The most common types are misclassification of employees as independent contractors, and “off-the-clock” violations. Building from this knowledge, I identified the problem that the immigrant community faces in combatting wage theft: a collective action problem. Due to barriers they face in the workplace, such as racism and harassment, and legal and political hurdles, immigrant workers are unable to act against workplace violations.

The supplement this knowledge, I conducted a survey of the immigrant community in Randolph County. I found that over 50% of immigrant worker shad reported experiencing wage theft in the area, and that over 80% of immigrant workers were employed at occupations that have the highest risk of wage theft violations; construction and “cut-and-sew.” Additionally, the vast majority of immigrant workers reported feeling comfortable talking about their experience with Siembra, NC, and reporting it to the appropriate legal authorities. This insight means that Siembra, NC’s work is can provide this space for immigrant workers and empower them to act.

From these findings, I proposed two recommendations to Siembra, NC. First, I suggest changing the terminology they use to talk about wage theft in their work. “Wage theft itself” is not a legal term and covers of multitude of different scenarios. As such, I believe that immigrants would be better able to identify wage theft violations, if the language used to talk about them was

more specific and referred to certain situations. My second recommendation was to keep investing in the political education infrastructure that they have begun doing with their workshops and information campaign on wage theft. Building knowledge in the community can help community members themselves learn how to identify wage theft and can then empower them to act to help their community.

Policy Question

What are the types and mechanisms of wage theft that effect immigrants in the Randolph County area, and in what ways can immigrants in the community combat wage theft in the area?



Problem Statement

Immigrants in the Randolph county area who work may experience wage theft and wage exploitation. Currently, Siembra is unsure of how wage theft and exploitation is carried out by manufactures. Siembra needs the information to educate the immigrant community in Randolph county of how to protect themselves and to be able to provide adequate support to community members who may experience wage theft and exploitation.

Background

Wage theft occurs when an employer unfairly compensates an employee for work they performed. As a result of the simplicity of the act, the scope of wage theft, and the mechanisms by which it functions, are multifaceted and difficult to decipher (Brooke et al. 2014). Employers may do this by small, almost unnoticeable amounts from paychecks, or by purposely paying employees less than agreed for the work performed. Thus, employees may often be unaware that they are experiencing wage theft and be unsure if they are able to act on their situation.

As explored earlier in this paper, Siembra, through a series of workshops and public awareness campaign on wage theft, aim to increase the understanding of what wage theft is among the immigrant population in Randolph County and the areas surrounding it. It is their belief, that through a collective understanding and responsibility of wage theft, the problem can improve.

This belief, and the multifaceted aspect of wage theft, are what motivate the scope of the information provided in the background section. Understanding the nuances of the mechanisms of wage theft and where it occurs can guide the workshops and type of awareness and information Siembra distributes and focuses on. To aid this, and the understanding of why the immigrant population in particular is vulnerable to wage theft practices and the effects it has on this population will further dictate the types of resources Siembra will provides. Finally, existing effective strategies for combatting wage theft will also be discussed, as a means to exemplify current pathways to address the issue.

THE TYPES, MECHANISMS AND INDUSTRIES OF WAGE THEFT

Wage theft is the act of employers unfairly compensating their employees for work they perform. As previously mentioned, there are nuances to wage theft and the way it functions. The term “wage theft” encompasses a myriad of different situations and scenarios, and should be understood to portray all of these.¹ What follows is an identification and definition of examples of the most common forms of wage theft that occur.

A. The types and mechanisms of wage theft

Definitions are taken from an existing analysis of wage theft laws and practices conducted in North Carolina by UNC-Chapel Hill Law Students in the book *Picking Empty Pockets*:²

- *Deduction*: Removal of any amount wages from an employee’s paycheck
- *No payment*: An employer does not compensate an employee for work performed
- *Delayed payments*: An employer does not compensate an employee for work performed within the agreed upon time period
- *Unfair payment*: An employer does not compensate an employee for work performed at the rate that was previously established
 - *Minimum wage violations*: An employer paying below the legal minimum wage limit in the state
- *Unpaid work*: An employee performs work “off-the-clock” and is not compensated for it
- *Overtime pay violations*: Where required by law, an employer does not compensate workers fairly for overtime work performed

¹ Hallett, N. (2018). The problem of wage theft. *Yale Law & Policy Review*, 37(1), 93-152. [DOI](#).

² Diaz, Estéban. Milstein, Sara. Thie, Douglas. Singh, Channell. Weissman, Deborah. *Picking Empty Pockets*. (2019). *University of North Carolina at Chapel Hill Immigration and Human Rights Policy Clinic – UNC School of Law*. [DOI](#).

- *Break violations*: Where required by law, an employer not affording breaks from work, or requiring employees work during those breaks
- *Misclassification*: A type of fraud, it purposefully treats workers as independent contractors instead of company employees – opens the door to further labor and wage violations
 - *Independent Contractor* – A worker performing labor outside of the control of the employer; these workers are not typically protected by labor and employment laws, including minimum wage laws³

These types of wage thefts do not happen independently of another, and in fact, are often used in conjunction with others. For example, an employer can misclassify an employee as an independent contractor to more easily compensate them unfairly for work performed, since these types of workers are not always guaranteed labor protections. Thus, this terminology guides the discussion on wage theft while leaving room from nuanced scenarios. Moreover, all terms here should be understood as wage theft.

B. The mechanisms of wage theft

Given the interaction of these forms of wage theft, unraveling the mechanisms of wage theft reveals that the violation is almost always unique to the employer and situation. Nonetheless, there are general trends and strategies that employers use to more easily circumvent labor laws. These are highlighted because of their applicability to the immigrant community

³ Hallett, N. (2018). The problem of wage theft. *Yale Law & Policy Review*, 37(1), 93-152. [DOI](#).

a. The rise of independent contractors

As previously mentioned, independent contracts allow an employer to legal deny certain labor protections to employees. Some rights that can denied when a worker is misclassified are basic protections, minimum wage, overtime pay, workers compensation, and protections against discrimination.⁴ Studies show that up to thirty percent of independent contractor may be intentional misclassifications.⁵ Crucially, by using these avenues to avoiding paying minimum wage and workers compensation, employers can expose workers to more dangerous and senior position with little to no training. Workers who are independent contractors are at an increased risk of workplace violations.

b. Racism, harassment, and discrimination

Wage theft, while the outcome, does not happen in isolation. Employers work systematically to ensure wage theft can be carried out. Examining the motivation for employers to commit wage theft, they factor in the possible costs, such as fines and business consequences, and benefits. As such, employers aim to minimize the risk of employees reporting labor violations. By creating divisive workplace environments, promoting a culture of fear, and threatening retaliation, employers work to drive down the risk of employee resistance.⁶ In this way, threats of retaliation and workplace harassment create an environment with little capacity to report workplace violations.

⁴ Brooke, Carol. Ripley, Clermont. Rowe, Bill. Workers' Rights Project – Ending Misclassification. *NC Justice Center*. [DOI](#).

⁵ Lalith de Silva et al. (2000). Study of alternative work arrangements: Independent Contractors. *Department of Labor*. [DOI](#).

⁶Hallett, N. (2018). The problem of wage theft. *Yale Law & Policy Review*, 37(1), 93-152. [DOI](#).

c. The industries of wage theft

Wage theft tends to be concentrated in low-wage industries. Due to this, these industries typically have less oversight, leaving the door open to wage theft violations. In particular, these industries exploit workers using the mechanisms described above. Independent contractors are misclassified, paid less, leaving workers unaware or unable to resolve the problem. As such, industries with a higher percentage of foreign-born workers tend to report more labor and wage theft violations.⁷ Immigrants concentrate in these industries, for example, studies reveal that up to forty-two percent of workers in the “cut-and-sew” industry are foreign-born, while only sixteen percent of the labor force is foreign-born. Some of the industries that experience the highest number of wage theft violations and have the highest concentration of foreign-born workers are:⁸

- *Garment manufacturing* – 6 cases 1,000 employees
- *Hotels and RV park* – 5 cases per 1,000 employees
- *Restaurants* – 5 cases per 1,000 employees
- *Agriculture support activities* – 4 cases per 1,000 employees
- *Building, landscaping, and administrative business services* – 3 cases per 1,000 employees

WHY THE IMMIGRANT POPULATION IS VULNERABLE TO WAGE THEFT

The immigrant population in Randolph County and its surrounding areas are susceptible to wage theft. Analysis of wage theft violations show that, when compared to other workers,

⁷ Ferriss, Susan. Yerardi, Joe. (2021). Wage theft hits immigrants — hard. *Center for Public Integrity*. [DOI](#).

⁸ Ibid

immigrants are more likely to experience wage theft and other forms of labor violations.⁹ This is largely due to the job pool available to undocumented immigrants. As low-skilled, undocumented workers, particularly in rural Randolph County, many undocumented immigrants will struggle to find work that is not in the low-wage sector. As previously discussed, employers in these industries often misclassify workers as independent contractors, opening the door to wage theft and labor violations. The job pool is a result of the employer laws and policies in North Carolina, particularly E-verify - an electronic system that verifies the identity of employees before they are eligible to be hired which must be used by any North Carolina employer with at least twenty-five workers. Randolph County's largest manufacturers must use E-verify, particularly given that these employers have local and state government economic incentives.¹⁰ Workers who are independent contractors are legally considered "self-employed" so they are not subject to E-verify requirements.¹¹

A. Incentives to work

Due to the E-verify requirements required for work outlined in the previous section, undocumented immigrants across the U.S. are often only able to find work as independent contractors or with employers who may be breaking the law by hiring them.¹² The incentives to pursue works that carry a high risk are a direct result of their undocumented status. In fact, the undocumented status can be understood as a social determinant of occupational health and

⁹ Ibid

¹⁰ Randolph County, NC Economic Development Corporation. (2023). Largest Employers. *RCEDC*. [DOI](#).

¹¹ E-Verify. (2023). Independent Contractors and Self-Employed Individuals. *Supplemental Guide for Federal Contractors*. [DOI](#).

¹² Ferriss, Susan. Yerardi, Joe. (2021). Wage theft hits immigrants — hard. *Center for Public Integrity*. [DOI](#).

safety. Effects on safety at work are not isolated and coupled with wage theft violations.¹³ These practices are widespread across the industries that undocumented immigrants tend to concentrate in. As touched in the previous section on harassment at work, employers regularly threaten to contact law enforcement if undocumented workers take any action to recover wages or report unsafe workplace environments.¹⁴ Since these practices are present industry wide, there is little perceived incentive for undocumented immigrants to look elsewhere for employment.

B. Problems of Collective Action

Addressing wage theft is a collective action problem. For immigrant workers, there is an incentive to cooperate and report employers who commit wage theft and labor violations. They would receive lost wages and compensation for these violations. However, this is not achieved because immigrant workers do not come together to report violations. Immigrant workers would be better off, financially and in working conditions, if they come together to report these violations. However, multiple factors hinder cooperation and promote the current status quo of immigrant workers. First, these workers risk large costs to cooperating. They risk losing their employment (and costs associated with this), threats of retaliation from employers, large monetary costs, and the possibility of not receiving any reward. For undocumented immigrants, the benefits of steady work and aversion to cooperating with law unbalance the incentives against the rewards. By perpetuating the status quo, withstanding wage theft and labor violations, immigrant workers maintain steady pay, employment, and some form of stability in their lives.

¹³ Flynn, M.A., Eggerth, D.E. and Jacobson, C.J., Jr (2015), Undocumented status as a social determinant of occupational safety and health: The workers' perspective. *American Journal of Industrial Medicine*. [DOI](#).

¹⁴ Elizabeth Fussell (2011) The Deportation Threat Dynamic and Victimization of Latino Migrants: Wage Theft and Robbery. *The Sociological Quarterly*. [DOI](#).

A counterpoint to this claim could be that immigrant workers do not have the capacity to organize in the workplace against employers who commit wage theft and labor violations. While immigrant workers do face enormous barriers to labor organizing, cases in various states and directives from the U.S. Department of Labor, demonstrate that overcoming this initial barrier to collective action is what results in these victories.¹⁵

¹⁵ Vasquez, Tina. (2022). It's past time to celebrate migrant-led labor organizing. *Prism*. [DOI](#).

Data Presentation and Analysis

METHODOLOGY

To address the problem statement and policy question of this project, in collaboration with Siembra, NC, I developed a survey. The main goal of the survey was to obtain information on the prevalence of wage, and gauge understanding of wage, among immigrants in the Randolph County area. The survey was printed on paper, and came out to approximately 5 pages in length. The first page featured the Siembra, NC logo and the UNC Public Policy logo along with a brief explanation on the purpose and anonymity of the survey. The following 4 pages contained 20 questions. The survey itself, along with instructions, were all delivered in Spanish.

The survey consisted of 20 questions. 5 questions sought to assess wage theft in the Randolph County immigrant community, 5 questions sought to determine if workers could be experiencing wage theft, 5 questions asked about willingness to report wage theft violations if experienced

As Siembra, NC was hosting a series of workshops on wage theft in the Randolph County area, the survey was administered at these workshops. The workshops were advertised over all of Siembra, NC's social media accounts, in flyers at establishments frequented by the Latino population, via text message to those who subscribed to Siembra, NC's listserv, and by canvassing, which saw Siembra, NC volunteers knock on doors of the Latino population and to give them a flyer and briefly talk about wage theft. Since Siembra, NC volunteers come from the community, a lot of invitations were also distributed informally. The workshop's themselves were held either in businesses that had partner with Siembra, NC to allow them to use part of their space, or at the home of a Siembra, NC volunteer. In the three workshops that the survey

was administered at, the workshop was held at a supermarket selling Hispanic food, the home of a Siembra, NC member, and at a dance studio owned by a Siembra, NC member.

The workshop typically lasted an hour and a half, and consisted of three main sections. First, introductions from all those attending and from Siembra, NC. Second, Siembra, NC staff facilitated various educational activities, all with the purpose of informing attendees about wage theft violations. Lastly, Siembra, NC senior staff gave a brief presentation on legal avenues to pursue if one is to encounter wage theft, and other resources that community members could use.

After these activities, I was allowed five minutes to give a brief presentation on the survey. I touched upon three main themes: first, who I was and the project I was completing; second, how the information provided in the survey was all anonymous and that it was all completely optional; third, I briefly described how the information would be used by myself and Siembra, NC. After informing all those who attended about the survey, I was helped by Siembra, NC staff to distribute the survey itself, which was on paper, along with pens and clipboards for attendees to write on. As I had discussed the survey with Siembra, NC staff previously, we all gave support to attendees as they completed the survey. Most survey respondents took approximately 5 minutes to complete the survey.

RESULTS

There were 25 total survey respondents. Responses were collected in 3 different locations over 3 different Siembra, NC workshops.

Approximately 50% of respondents said they had experienced wage theft or knew someone who had experienced wage theft. On average, respondents said they felt “moderate confidence” when it came to identifying wage theft. Almost 100% of all respondents said they

would report wage theft violations to law enforcement or Siembra, NC if they experienced wage theft. When asked the survey that they work in, 52% of those surveyed said they worked in “cut-and-sew” industries, while 36% of those surveyed said they worked in construction. 100% of those surveyed working in construction identified as male, while 100% of those working in “cut-and-sew” industries identified as female. Of the 25 respondents surveyed, only 2 knew how their pay was calculated. 28% of respondents said they experienced racism in the workplace, while 36% of respondents said they experienced some form of harassment in the workplace. On average, respondents reported earning between \$250-\$450 per week, or just above the federal minimum wage.

DATA ANALYSIS

For the purposes of Siembra, NC’s future work, these survey results illuminate key insights that help determine the decision they make going forward. The result that directly contradicts the literature is the willingness of immigrant workers to report these labor violations and leave their job as a result. This means that the environment that Siembra, NC created enabled immigrant workers to feel comfortable sharing their experiences with wage theft violations and empowered them to act. More in line with the background, were the industries and trends in wage theft violations occurring to these immigrants in the Randolph County area, as the coincided with broader trends across the nation. Moreover, this means that Siembra, NC ought to continue their workshop series that target wage theft, as these results point to the positive outcomes that arise from investing in political education.

Recommendation

RECOMMENDATION #1: CHANGE THE TERMINOLOGY OF WAGE THEFT

Siembra, NC needs to change the terminology they use to talk about wage theft in their workshops and when speaking to immigrants about these issues. In the background section, it is established that wage theft is a broad term used to encompass a variety of labor and wage violations that all fall under it. However, as seen in the definitions section, there are a myriad of distinct scenarios that all fall under the wage theft banner. As such, the broad term “wage theft” can make it difficult for immigrants and workers to effectively identify if they are experiencing wage theft in work. Results from the survey showed that only around fifty percent of respondents were comfortable identifying wage theft, while only a third of respondents could provide a concrete example in an open-ended question. Siembra, NC ought to consider using specific language to describe these scenarios, such as misclassification, “off-the-clock” work, or overtime violations to more effectively message what constitutes wage theft.

Going forward, for workshops and general advertising of the problem, Siembra, NC can continue using wage theft as a “catch-all” term for these labor violations. As “wage theft” itself is a provocative term, it can help boost engagement both from immigrants and other stakeholders that Siembra, NC may seek to attract. By changing to more specific terms internally, Siembra, NC can better educate immigrants and ways to identify wage theft violations in their workplaces. To achieve this, Siembra, NC needs to identify individuals who have experienced the scenarios in the definitions section. Upon identifying them, Siembra, NC should conduct an in-depth interview on their experience in order to figure out key tenants of such a violation. Then, by amplifying the voices of these individuals, Siembra, NC can ensure that the language it uses to talk about specific wage theft violations can resonate with its target audiences.

One of the main implications from the survey results, is that the majority of immigrant workers felt comfortable talking about wage theft violations in space that specifically promoted an understanding of their experiences. By using these stories of specific cases of wage theft violations, the scope of immigrant workers who will say they are impacted by wage theft will likely increase. Immigrants who were affected by wage theft will be better able to identify specific labor violations. For Siembra, NC, this will help them achieve their goal of building knowledge in the community and address the policy question of the understanding the prevalence and scope of wage theft in the community in Randolph County.

RECOMMENDATION #2: POLITICAL EDUCATION AS A COMMUNITY ENFORCEMENT MECHANISM

In their advocacy efforts, it is clear that Siembra, NC sees the value in building political knowledge in their community and in having community buy-in. However, this series on wage theft workshops, and other forms of political education are a new activity that Siembra, NC has just implemented. I would advise the organization continue to invest resources into these activities, and conceive of political education as a tool for building an enforcement mechanism for wage theft violations within the community itself. This will be sustained collective action to resolve the problem of wage theft within the community. For Siembra, NC, political education is a tool to effective community organizing.

The impetus for investing in political education, as opposed to recommending a specific policy to advocate for, comes after an assessment of the political landscape in North Carolina and after the consideration of several other policy options. The North Carolina legislature currently boast a Republican supermajority and recent court decisions suggest that this reality is

unlikely to change anytime soon.¹⁶ While North Carolina Democrats may be more likely to listen to the concern of immigrant laborers, they are unlikely to prioritize protections for them, given the political capital of Latinx coalition in North Carolina.¹⁷ Following the policy options that other states have implemented to address wage theft violations, all of these have involved an investment in a state’s Department of Labor (DOL), specifically in the part of the organization that investigates wage violations.¹⁸ The likelihood that further investment in the North Carolina DOL occurs is unlikely, especially when the subject is undocumented immigrants. Even if funding were to increase, it would take years for the North Carolina DOL to increase its capacity to handle wage violation cases. Immigrant workers, and Siembra, NC, need to act now to address these violations.

By building political education in the community and furthering their community organizing efforts, Siembra, NC can ensure that immigrants’ rights are upheld in the community. Siembra, NC can achieve this by building community enforcement mechanisms. This idea is best conceptualized as a form of “program intervention” by which Siembra, NC can implement these strategies.

First, the overarching goal of building political education and community enforcement mechanisms is to resolve the collective action problem relating to wage theft as identified in the background section. By being reliably informed of how to identify and resolve wage theft violations, the immigrant worker community itself can enforce existing wage theft laws to better

¹⁶ Wines, Michael. (2023). North Carolina Gerrymander Ruling Reflects Politicization of Judiciary Nationally. *New York Times*. [DOI](#).

¹⁷ Walter J. Nicholls, Justus Uitermark & Sander van Haperen (2020) Going national: how the fight for immigrant rights became a national social movement. *Journal of Ethnic and Migration Studies*. [DOI](#).

¹⁸ Hallett, N. (2018). The problem of wage theft. *Yale Law & Policy Review*, 37(1), 93-152. [DOI](#).

their working conditions. To achieve this, the main inputs required are Siembra, NC political education workshops, Siembra, NC volunteers, community spaces, and incentives for community members to attend. Activities carried out in this section include informational presentations on wage theft (as modified in recommendation 1), recruitment activities to build sustained community buy-in, and presence in community spaces to continue to spread messaging on wage theft. Some immediate outputs include better ability to identify wage theft violations among community members who participate in Siembra, NC workshops, heightened sense of responsibility among these members, and increased participation in Siembra, NC workshops. Long-term outcomes include a decrease in the rate at which immigrant workers experience wage theft and other labor violations, a collective sense of responsibility among community members to address wage theft violations, and a pathway to address wage theft within the community.

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