

# On Detention and Skill: Reflections on Immigrant Incarceration, Bodying Practices, and the Definition of Skill

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**Natasha N. Iskander<sup>1</sup>**

## Abstract

The use of detention as a tool of immigrant enforcement has grown in the United States and around the world. In this article, I examine the practices used to structure the physical detention of immigrants and explore the role that carceral immigrant control plays as a form of labor market governance. I argue that the same security and detention practices that equate being out of status with criminality are also used to tag immigrants as unskilled. Through the delineation of skill categories, which are vested with certain political rights, I posit that this carceral enforcement of skill categories shapes how immigrants are able to navigate the labor market, with particular attention to the implications for recipients of DACA (Deferred Action for Childhood Arrivals) protections.

## Keywords

immigration enforcement, detention, immigrant incarceration, labor market skills, DACA

The movement of migrants and refugees around the world is increasingly subject to carceral control. The number of persons physically detained while their immigration status is being adjudicated has grown exponentially since the turn of the century, and the infrastructure to arrest and detain people has multiplied in volume and in form. The practices of detention, proliferating most intemperately but not exclusively in the

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<sup>1</sup>New York University–Wagner School of Public Service, New York, NY, USA

## Corresponding Author:

Natasha N. Iskander, New York University–Wagner School of Public Service, 295 Lafayette Street, Room 3043, New York, NY 10012, USA.

Email: [natasha.iskander@nyu.edu](mailto:natasha.iskander@nyu.edu)

United States and Europe, have drawn on the criminalization of migrants for their justification, even as they have been instrumental in tagging individual migrants as outlaws, both legally and representationally.

In the United States, the merger of criminal and immigration law—or, as Stumpf (2006) has labeled it, “crimmigration law”—has deep historical roots, and the act of detaining immigrants has long been publicized as a demonstration of the state’s effectiveness in maintaining internal control and enforcing the rule of law. As the examples of the Chinese Exclusion Act, Japanese internment during World War II, and Operation Wetback remind us, the use of carceral control has been profoundly racialized and used to tar entire ethnic groups with the taint of illegitimacy, inferiority, and criminality. The political justifications for the latest carceral turn, especially those advanced by the Trump administration, borrow heavily from the racial tropes used in the past, but current reliance on immigration detention has not invoked race as an explicit matter of policy in the overt manner of previous carceral strategies. With a few notable exceptions, such as the revocation of the “Temporary Protected Status” extended to immigrants of certain nationalities and the “Travel Ban” ratified by the Supreme Court, current detention and removal practices do not formally target members based on specific national, racial, or ethnic identities. Instead, the imbrication of criminal and immigration law, as well as the resulting expansion of detention practices, has been framed, at least in part, as a critical step to strengthen labor market governance and, specifically, to protect the jobs of U.S. workers from immigrants apt to “steal” them by accepting lower wages. Thus, while detention practices have been applied more muscularly to certain non-White racial and ethnic groups, especially immigrants coded as Latino/a, their expansion has been justified as a matter of economic protection for nonimmigrant workers.

This article examines the echoes that have emerged between labor market justifications for immigration control and the organization of detention practices. It explores the way that the concept of skill has gained traction as the criterion through which the state should determine which immigrants should be allowed to enter the country and the labor market and which immigrants should be barred from both. To be sure, 20th-century carceral enforcement of immigration policy also often doubled as a form of labor market governance, and campaigns against immigrant groups established or reinforced patterns of racial segregation in ways that disrupted immigrant’ access to the labor market (Ngai, 2014). At present, however, detention does more than enact the logic behind immigrant policy. Carceral approaches to immigration enforcement are increasingly interjected into contemporary debates around the definition of skill and the role of immigrants in the economy. The use of detention as a tool in immigration enforcement has begun to shape how the role of immigrants in the economy is understood.

To understand the interplay between detention and skill, this article surveys the practices used to structure the physical detention of immigrants and explores the ways in which they enact and amend societal definitions of skill. I argue that, increasingly, the same security and detention practices that are used to conflate immigrants with criminality are also used to tag them as unskilled. Physical detention in

particular, I would like to suggest, acts as a site where migrants deemed as unskilled are separated from those who are viewed as skilled. The carceral practices used in detention facilities shape the political meaning of being unskilled and are involved in curtailing the political agency and mobility of those classed as unskilled. Skill categories reflect social conventions, with meanings that are less tenuously connected to actual competence in any given labor market or industry than immigration policy or law generally allows, and much more fluid and murky than labor market evaluations of the costs of immigrant participation concede. But as the value of skill, particularly of skill displaced by automation and globalization, grows more contested in the U.S. economy, the practices associated with detention play a crucial but unexamined role in delineating skill categories and laying out the political rights with which those categories are vested. In this essay, I explore these trends in the U.S. context, but given that many of the same trends can be observed in Europe and elsewhere, the insights about the role of detention practices in shaping understandings of skill may have broader application.

## **Detention and Bodying Practices**

The most visible expression of the blurring of legal regimes covering immigration and criminal law is the increased use of penal incarceration in immigration management—or as Bosworth and Kaufman (2011) put it, the reliance on facilities in which “border control has become imbricated with prison.” Detention facilities have become the “brick-and-mortar” laboratories where criminal incarceration practices are remade as tools for the administrative management of immigration. The functional distinction between criminal and administrative detention has been all but erased by everyday detention decisions: close to half of all immigrants detained are placed in prisons and jails for criminal offenders, and non-U.S. citizens detained for criminal convictions are held alongside immigrants who are detained because they are out of status or waiting for their immigration status to be adjudicated. Because so many immigrants held in detention are merely out of status, immigrant detention facilities have enabled the extension of carceral logics to actions that are not criminal (Loyd & Mountz, 2018). Private finance has accelerated this trend, stepping into the breach to open up detention spaces for immigrants in private prisons. Private detention providers have enacted and solidified changes that might otherwise have remained open to political and legal contestation (Martin, 2016; Mitchelson, 2014).

Given that immigration detention facilities act as spaces for the development of innovations in carceral practices, scholars have looked closely at the ways in which disciplinary practices are performed on the physical bodies of migrants who are detained. Their accounts document how actors in the immigration detention complex inscribe criminality on the bodies of migrants even as they dehumanize them. Research on the rise of detention practices in Europe has run parallel to research on U.S. detention facilities and has found that while the funding, contractual, and legal structures that underpin them may differ, detention practices mirror those in the United States. Across diverse research sites—with Hiemstra (2014) examining practices in U.S.

detention centers, Bosworth and Kellezi (2014), Bosworth (2014) and Hall (2010) in the United Kingdom, Mountz (2011), Loyd and Mountz (2018) in U.S. and other off-shore detention sites, and Mountz (2010) in Canada, among others—these accounts cohere in their description of a standardized set of practices used on detained migrants.

The commonalities that researchers flag include the ubiquitous use of shackles, handcuffs, and chains on migrants, especially when moved from one administrative context to another—a cell block to a courtroom, for example. They note the separation and segregation of migrants by gender, age, and nationality, with little regard to family ties; they note the use of disciplinary measures designed in part to punish the body, such as solitary confinement, extreme temperatures, and casual but widespread physical violence and sexual abuse (Riva, 2017); they observe the utilitarian and mass production approach that detention centers use to house the bodies of migrants, with open bunks, cells, and toilets that offer no privacy, and food provided based on a mandated caloric content rather than quality or even basic edibility, as in the case of spoiled food. They also point to the contrast between the volume of information collected on the detainees, produced through the use of surveillance technologies, from old-school CCTV cameras to the roll-out of biometric monitoring techniques, and the lack of information provided to the detainees themselves or their advocates. The administrative procedures around detention, which scholars note range from bureaucratic obfuscation to a complete absence of translation services, seem designed to prevent migrants from accessing information about their cases, any avenues for recourse against the conditions in confinement, and indeed, for their advocates, unreliable, if any, acknowledgment that the migrants are being physically held (Hiemstra, 2013; Mountz & Hiemstra, 2014). Even the safeguards put in place to mitigate the worst excesses in detention practices end up reinforcing the carceral focus on the body of migrants: these standards refer to the physical needs of the migrants, such as minimum caloric intake, hours of outdoor activity, or number of detainees in a single cell (Turnbull, 2016).

Over the spring and summer of 2018, the Trump administration took these detention practices to their extreme expression. After declaring a “zero-tolerance” policy against unauthorized border crossings, the Trump administration proceeded to detain all persons who had crossed the border outside of a designated port of entry, including those who had requested asylum. As a consequence of this detention, the authorities forcibly separated at least 3,000 children from the adults—the parents and guardians—they had crossed the border with, declared the children unaccompanied minors, and placed them in separate detention facilities. Many of the detention practices used on parents and children were grotesque: parents were not informed that their children were being taken from them—press accounts reported that some parents were told that their children were only being taken away momentarily for a bath (Domonoske & Gonzalez, 2018)—and were denied adequate information and resources to locate their children after separation; children were denied contact with their parents or siblings and were often given no information about their whereabouts; children of all ages, some less than a year old, were warehoused in large and gated detention facilities and were subject to many of the same physical conditions and constraints prevalent in

adult carceral settings, including forcible confinement, surveillance, extreme temperatures, severely limited outdoor or recreation activity, and in some cases physical punishment. New carceral practices tailored to children were rolled out, including so-called tender-age detention facilities for children younger than 5 years, and many facilities instituted policies, under the guise of protecting their minor charges, that were particularly harmful and punitive to children suffering from the trauma of forcible separation from parents and carceral detention: the widespread policy of prohibiting physical contact between children in detention (including hand holding) and between children and adult staff beyond what was strictly necessary, with comfort considered unnecessary, was just one expression of this type of control.

These practices were met with outrage, both within the United States and internationally. The United Nations Human Rights Commission declared the practice of separating children from their parents an “arbitrary and unlawful interference in family life” and “a serious violation of the rights of the child” (Cumming-Bruce, 2018). Faced with mounting domestic political protests, the Trump administration ceased its formal policy of separating children from their parents some 6 weeks after adopting it (although, at the time of writing, thousands of children have yet to be released from state custody and reunited with their parents). Although the Trump administration relented, it is not clear whether that practice was illegal under U.S. law or even under international law. As scholarship on the rights and protections for undocumented immigrants has observed, full procedural due process rights do not attach to undocumented immigrants in immigration proceedings under either domestic law or international human rights law. Moreover, the legal protections against detention and carceral abuses that do exist are less robust than they may first appear (Motomura, 2014). Whatever protections domestic or international legal regimes offer, they are generally negative—that is to say that they require people to refrain from abuse—rather than positive, in that they require people to take action against abuse. This means that undocumented immigrants have to pursue legal avenues to invoke these “negative” rights, to prevent actors from violating their rights, but their very legal vulnerability and incomplete due process rights makes this all but impossible (Ramji-Nogales, 2014). This slippage has meant that carceral practices have long been legally available as tools for immigration enforcement, but until recently, they have generally been sidestepped. A careful look at the patterns in the use of contemporary carceral practices helps reveal the logic behind the latest turn toward penal strategies for immigration management.

For the purposes of this article, I will consider the array of detention practices enacted on the body of migrants as a coherent set, even while acknowledging the internal contradictions and inconsistencies among them flagged by scholars of detention practice, and call these practices in the aggregate *bodying*. Moreover, I posit that *bodying* is the imposition of a political identity on migrants through the use of carceral power and that *bodying* is one of the main functions—if not the main function—of detention. As the term is meant to suggest, the effect of these practices on detained migrants is to reduce them to their bodies, stripping them of their political and social existence as agents in the world. Here, I do not mean a kind of radical stripping down

of migrants to the “bare life” described by Agamben (1998). Instead, I mean that the political existence of migrants becomes defined through the contact between these carceral systems and their physical bodies. Reducing migrants to bodies, through layered sets of practices enacted directly on their bodies, deprives them of certain political rights and social identities necessary to assert membership in any political and economic community.

Among the thicket of carceral practices, I would like to point to four, admittedly overlapping, areas in which migrants are stripped of their full political identities and reduced to bodies. The first relates to their political agency: a major component of reducing migrants to bodies is to deny them access to legal, administrative, or political avenues to seek remedy or redress. Not only have legal avenues for constitutional and human rights protections been aggressively closed as part of the drive toward criminalization of immigration but also, as scholars, advocates, and press accounts have robustly documented, the bodying practices in detention actively limit migrants’ abilities to express political and physical agency. The second area relates to the identity of migrants as people with social, especially familial, ties. The practices that sort migrants by demographics rather than by social relationships, separating wives from husband and parents from children, deny not only the salience of those relationships to migrants’ well-being but also their very right to have them. Third, and by definition, detention and the bodying practices that define it deprive migrants of the right to physical mobility. The justification for detention itself is rooted in the denial of migrants’ right to move across a border, but it is expressed through the everyday denial of migrants’ abilities to determine how to move through the actual physical space in which they live at the moment. Last, bodying deprives migrants of the right to time and to a future. As bodies, they are stuck in a perpetual present, with no right to plan for the future. Whether because of limited translation services or by administrative design, those held often have no information about why they are being detained and when their detention may end. In many cases, such as those of undocumented immigrants with long-standing residence in the country, they are forced to give up futures they were building for themselves and their families.

These bodying practices can only happen directly in detention because they require the bodily control of the physical person being held, but their indirect ramifications spread far past the walls of specific carceral settings. In their reflections on deportation, Coleman (2008) and De Genova (2004) have argued that only a fraction of those legally vulnerable to deportation need to be deported for removal to function as a powerful and spectacular tool of immigration enforcement, one that places those who escape deportation in a state of “perpetual probation.” The same can be said of detention. The capture and holding of some migrants shape the lives of those beyond the detention center in ways that reflect the bodying practices in carceral settings. As Menjívar (2006), Chacón (2016), and Loyd and Mountz (2018) suggest, one of the main functions of a carceral approach to immigration policy is to inform the decisions, behavior, and sense of political possibility of immigrants outside prison walls, including those who may not even be directly vulnerable to detention. Chacón (2016) invokes the term *legal liminality* to refer to the kind of legal uncertainty that the possibility of

being picked up and detained, even if unrealized, creates. She argues that in this state of legal liminality, the absence of intrusive forms of government monitoring, policing, detention, and punishment is transformed from the norm into an exceptional experience, even a kind of grace.

As the Trump administration has extended the deportation practices developed under the Obama administration by declaring all out-of-status immigrants eligible for removal, immigrants are increasingly exposed to the possibility that they will be detained and subject to the bodying practices of detention. With the expansion of legal liminality, the effects of the four bodying practices identified here have spread far beyond the carceral walls. The ability of immigrants to act as political agents is curtailed in ways that are both radical and ambiguous: U.S. Immigration and Customs Enforcement's (ICE) stated emphasis on high-priority criminal aliens bears little relationship in practice to the indiscriminate arrests of immigrants from places as private as their homes. The spatial mobility of undocumented immigrants has been drastically reduced as immigrant agents conduct spot checks of immigration status in a loosely defined "border area" of the country where two thirds of the population live. Immigrants increasingly make decisions about employment and everyday activities like grocery shopping and accessing health care based on physical distance from places experienced as relatively safer, such as homes and churches, and visibility of those spaces to enforcement. Many carry notarized letters with directions about who should take custody of their children should they be picked up. Awareness that their social ties are not meaningful in the context of immigration enforcement has been heightened by the thousands of cases where parents have been separated from their children, not just at the moment of crossing the border but also often years later, when immigrants have created a family life in the territory. Their ability to plan for the future or take any actions to chart an economic or life path is undercut by the ever more immediate prospect of detention and deportation. To borrow De Genova's (2004) phrasing, some are detained so that most may be disciplined by detention without being held. For those immigrants not (yet) incarcerated, their experience, mobility, and political expression are constrained by bodying practices enacted in the proliferating archipelago of detention spaces.

## **Skill and Immigration Control**

In the application of U.S. immigration law, the question of skill might formally appear to be marginal. After all, U.S. immigration policy is currently organized around family reunification, rather than around skill-based visas. Employment-based migration, where skill is a determining factor in the allocation of a visa, generally accounts for a small fraction of the legal immigration status awarded in any given year. The proportion of employment-based migration over the previous decade has hovered around 15% (Kandel, 2014). The representational import of skill in the debates around immigration policy reform, however, is outsized and growing. In his 2018 State of the Union address, the president pressed for "a merit-based immigration system—one that admits people who are skilled, who want to work, who will contribute to our society, and who will love and respect our country." Skill has become the terrain on which

debates about immigration policy take place, but it has also provided the space for backstreet knife fights about race and class in a changing economy.

The definition of skill used in these skirmishes is formulaic and reductive, in ways that ultimately allow the notion of skill to be acted out through detention practices and on the bodies of migrants. Skill is generally invoked as a binary: migrants are either skilled or unskilled. The categories are mutually exclusive—an immigrant can only be one or the other—but the categories are incompatible only by convention, not by content. In practice, the skill that immigrants have, like all workers, is nuanced, drawn from multiple sources and experiences and with differing areas of depth and mastery. And yet, in an approach to skill that has roots in classical economic development models, immigration policy—and, it is important to note, much economic analysis of immigration—treats migrants as if they could be slotted in two distinct categories. Reminiscent of the two-sector model of economic growth, where one sector, modern and advanced, drives development, and the other, backward and overpopulated, produces bodies that spill over into the modern sector, this model portrays skilled migrants as propelling development while it casts unskilled migrants as an unlimited labor supply that looms at the border and threatens always to overwhelm.

These skill categories—skilled or unskilled—are defined less by actual expertise and more by a set of views about the migrants who are sorted into the two groups. In policy as well as in political discourse, the main method for distinguishing skilled migrants from those who are unskilled is that “you know it when you see it.” There is some gesturing, to be sure, toward years of schooling or employment (Borjas, 1995; Chiswick, 1986), particularly in labor market analyses, but the true expertise and competence of immigrants is not gauged. This is due in part to the fact that skill is fraught and difficult to define under the best of circumstances: It is often situated, tacit and difficult to articulate, and tied to specific workplace experiences and interactions (Attewell, 1990, Iskander & Lowe, 2010, 2013). Moreover, the expertise associated with manual occupations, characterized as low skilled, can sometimes be more layered and nuanced than the competence associated with certain white-collar professional jobs and thus difficult to appraise (Hernández-León, 2008).

As a result, much of what ends up being assessed when immigrants are slotted into one category or the other is not in fact skill but the political rights that are afforded to those viewed as having skill and denied to those perceived as being unskilled. They are descriptive categories heavily laden with political meaning, with only a tangential relationship to the real skill profile of migrant workers.

In the construction of the skill categories, the bodies of immigrants play a central role, either through their lurid corporeality or through their cool absence, with those that are considered unskilled defined through the possibility of physical control over their bodies and those considered skilled not discussed in terms of bodies that can be detained. The political valence of skill is sketched out on the bodies of immigrants using gestures that resonate deeply—but, I would argue, not accidentally—with the kinds of bodying practices that are so common in immigrant detention spaces. The contours of these two skill categories are drawn through a definition of the kinds of political rights that skilled and unskilled immigrants are entitled to, with a particular

emphasis on the right to family. These categories are also invested with different understandings of the rights that migrants have to physical mobility across space and borders and different notions about the kind of economic future that migrants can promote for themselves and others.

Skilled immigrants—often labeled with the more politically anodyne terms of *highly skilled foreigners*, *professionals*, *expats*, or *knowledge workers*—are frequently disembodied and referred to as *brains*. The movement of skilled workers is discussed as *brain drain*, *brain gain*, and *brain circulation*, with brains considered in the aggregate, as an abstracted infusion of knowledge into an economy, and with the fungibility of financial capital (Kapur & McHale, 2005; Bhagwati & Hamada 1974). When it comes to immigrant persons, their brains are confirmed through their visa status rather than through the way in which they enact their skill in the labor market or in a given job (Ong, 2006). It is through this assignment of immigration status, with the rights that it specifies, that their skill becomes imbricated with legal status and political agency. One of the most important rights afforded by legal status is the right to have a family and the right to have family members enter on the immigrant's visa. Permission to sponsor family brings with it the recognition that the "professional" is embedded in a web of social exchanges in the community, the workplace, and the broader economy. Skilled immigrants are able to move through space and across borders unencumbered by security controls within a territory and restricted primarily by airline schedules when traveling between countries. Skilled immigrants in this ideal-type representation have full agency over their futures: they inhabit time in that they are politically empowered to create an economic pathway forward for themselves and their families (Wadhwa, Saxenian, Freeman, & Gereffi, 2009). This is recognized too in their visa status, with skilled immigrants generally afforded a pathway to permanent legal residence.

Significantly, these four features coalesce to elevate skilled immigrants as important catalysts for economic development. They are portrayed as heroic agents who propel the industries and the economies in which they participate into the future. They are the innovators, entrepreneurs, and visionaries of their fields. Through their hypermobility, they create an infrastructure for the movement of capital and ideas that spans multiple sites (Tremblay, 2005). They link nodes of capital and regional innovation economies, and through their cultural knowledge and social interactions, they can translate and refashion knowledge specific to each of these sites in ways that generate new investments and new breakthroughs (Saxenian, 2006). As the brains of the skilled circulate between Silicon Valley, Bangalore, Singapore, London, and New York, celebratory accounts claim that they create broader prosperity and economic development for all (Colic-Peisker, 2010; Kapur, 2001, 2010; Saxenian, 2006).

The representational contrast with immigrants in the unskilled category could not be starker. Unskilled migrants are tethered to their bodies. They are reduced to "backs," "arms," and "hands." Their contribution in the workforce, when recognized at all, is corporeal: whether they work in construction, home health care, agriculture, chicken-processing plants, or any of the other industries associated with this skill category, their input to the work process is represented as occurring through the responsiveness

of their bodies to emergent conditions at the worksite rather than through their deliberate and agentic use of their cognition (Lakoff & Ferguson, 2006).

The drive to control unskilled immigrants stems from a particular take on the economic motivation of these immigrants. In scholarly, policy, and popular discussions, they are represented as engaged in wage arbitrage (Clemens, Montenegro, & Pritchett, 2008); they take advantage of the wage differentials between economies. Unlike “knowledge workers”—fomenters of innovation that they are—unskilled migrants inject no human capital into the economic system in which they participate. They are wage takers, exerting downward pressure on the wages of native workers. They are represented as incapable of offering additional skills not already present in the economy or increasing the productivity of their industries.

This representation has been compelling enough to withstand the overwhelming weight of empirical evidence against it. Studies based on U.S. data show resoundingly that if immigrants have any effect on nonimmigrant wages, the effect is localized, very small, and short term and that the impact of immigration on the economy as a whole, especially over the long term, is markedly positive (see National Academies of Sciences, 2017, for consensus report and summary). Nevertheless, in several important strains of political discourse, on the Republican and populist right as well as some camps on the left, unskilled immigrants remain, representationally, a threat to the jobs and wages of local workers and a drag on economic growth. Thus, actors in government, positioning themselves as stewards of the economy and protectors of the working class, have invoked a political responsibility to manage the liability that unskilled migrants can represent to the interests of native workers. Or as President Trump has summarized, “They’re taking our jobs. They’re taking our manufacturing jobs. They’re taking our money. They’re killing us” (Schreckinger, 2015).

## **Bodying Skill**

Detention practices used for immigration control echo and reinforce this dyadic take on immigrant skill, along with the view that unskilled immigrants do not contribute to the economy, in ways that are both subtle and explicit. The most literal extension of this skill binary in bodying practices occurs in the so-called detainee Volunteer Work Program, a shadowy set of legal rules under which detainees held in facilities under contract to ICE are employed to perform services that keep the facilities running. Detainees are hired, largely by private companies providing carceral services, for work ranging from catering to janitorial services to vehicle maintenance. They are paid the dollar a day authorized under the Immigration Service Expenses law, a wage set when the law was passed in 1950 (Garfinkel, 2016). Officially detainees choose whether or not they want to participate in the program; in practice, as formal complaints have documented, detainees are conscripted into the work and threatened with punitive action, like segregated confinement, if they refuse (Dávila-Ruhaak, 2013). Additionally, court filings have documented that working conditions regularly violate health and safety laws and that when detainees have raised concerns about dangerous

working conditions or have filed grievances after injury, complaints have resulted in retaliation against the detainees who drew attention to the violations (Stevens, 2014).

This work program represents the most extreme effects of the conjugation of the bodying practices in detention and the definitions of skill applied to immigrants. As I have argued, the four bodying practices are the curtailing of basic political agency, the denial of right to family and relationship, the denial of the right to physical mobility in space, and the denial of the right to a future. The employment of detainees under carceral conditions reduces immigrants to worker bodies through these four sets of practices. Regardless of the lived expertise and workforce skills of detained immigrants, they are conscripted as “backs” and “arms,” made to work because they are detained, and subject to carceral control. Detainees have no legal standing to negotiate wage or labor conditions, and although they can technically refuse to work, the fact that they are confined and under penal control effectively denies them the ability to withhold their labor. The working conditions implicitly deny immigrant detainees the right to family and relationship; the wages are symbolic, if paid at all, and do not provide immigrant detainees with the resources to participate in family financial support (Garfinkel, 2016). Detainees do not generally select their work assignments, and the detention administrators govern detainees’ labor, determining whether a detainee should be used in the kitchen or to clean bathrooms, emphasizing in this way that immigrants in custody have neither the right to physical mobility (Dávila-Ruhaak, 2013) nor the choice of where they spend their time. Lastly, the work program underscores that immigrants in detention are denied the right to a future. Grievances filed about the program report that detainees are pulled into work with no advance notice—one detainee reported being woken up at 3 a.m. to clean feces in a bathroom (Stevens, 2014)—depriving detainees of any control over, and even basic information about, their immediate futures.

The physical constraint of detention allows for a heightened imbrication of bodying practices and definitions of skill, but this merger extends well past carceral walls and affects immigrants who live with threat of detention even though they are not legally confined. The bodying practices that determine the consequences of been tagged as unskilled while held in detention also shape implications for immigrants of being viewed as unskilled in the labor market. The ways that the legal vulnerability of undocumented immigrants has led to exploitative employment situations is well documented (Hall, Greenman, & Farkas, 2010; Rivera-Batiz, 1999): by creating what Brigit Anderson (2010) has called “institutionalized uncertainty” in the form of possible detention and deportation, immigration enforcement exerts important downward pressure on wages and reduces occupational returns to skill and experience. The recent ratcheting up of immigration enforcement, and especially its broadening to all out-of-status immigrants, has likely only intensified this relationship (Gentsch & Massey, 2011). With the value of their skill degraded in this way, undocumented immigrants cast more easily as unskilled. The possibility of being detained (Gleeson, 2010), which creates a representational equivalence between being unskilled and being illicit, further degrading the value associated with immigrants’ skill.

The erosion of immigrants' standing in the labor market in this way, with its attendant effects on wage levels and employment security, subverts their right to family; by lowering the family income they can provide, immigrants' capacity to materially support family connections is undermined. Checkpoints curtail immigrants' ability to move through space and place real constraints on their ability to look for employment, whether to replace lost employment or to find jobs that provide better wages or opportunities for skill development (Iskander, Riordan, & Lowe, 2013). Under the constant threat of deportation, long-term planning for career trajectories and investment projects are replaced with short-term strategies to cope with the financial strains of the moment. Imagining an economic future becomes an impossibility (Potochnick, Chen, & Perreira, 2017). With the rollout of the policy to separate children from parents, imaging a future as a family has likewise become fraught.

### **Skill, Bodies, and Robots**

Immigrants are subject to detention when they are out of status, undocumented, or have had their right to remain on the territory otherwise invalidated by the state. That skill should slip so easily into the carceral practices of immigration enforcement stems from the way in which notions of skill have been used to structure and justify immigration policy. Skill-based immigrant controls lend themselves to representations as instrumental and politically neutral filters for economic governance: they let in capital—in the form of human capital or brains—even as they block the incursion of bodies that would take the jobs of local workers (Palivos, 2009). This representation has held even though the binary skill categories have always had a tenuous and primarily symbolic relationship to skills that migrants actually have. Likewise, its rhetorical implications about criminality have proven just as enduring: if immigration policy performs this function, then the entry of those immigrants deemed unskilled must have been illicit. But with the increase in automation and the emergence of artificial intelligence, the very skill categories that have underpinned immigration policy may become completely irrelevant and even nonsensical.

At a gross level, the skill binary applied to migrants reflects assumptions about work and productivity that have structured capitalist societies since World War II. The categories mirror a broader political and conceptual striation of the workforce, with white-collar professionals layered on top of blue-collar manual workers. But what some have called the Fourth Industrial Revolution and others the Rise of the Robots is already disrupting this social and economic order. As it restructures industries and production, it is upending established understandings of skill and of which skills matter. The World Economic Forum predicts that by 2020 wealthy economies around the world will have lost a net 5 million jobs to these technological shifts (World Economic Forum, 2016). Predictions that look further into the future call attention to job losses that could be no less than catastrophic for entire industries and occupations. Current projections have coalesced around the view that most routinized jobs, which today still represent about half of all employment in advanced economies, could disappear within a couple of decades. The skills that will be made obsolete cut across occupational

hierarchies: Lawyers and accountants, today viewed as highly skilled, are just as vulnerable to the advance of artificial intelligence, in the very near term, as factory workers and clerical staff (Manyika et al., 2017).

The changes in production are felt now as disconcerting tremors in the labor market. They manifest as wage stagnation and wage loss for the middle and working classes, underscored by a vertiginous rise in inequality, with profits accruing to the owners of capital, who are, increasingly, also the owners of the robots. Arguably, the resurgence of right-wing nationalism and aggressive populism is a reaction to economic assumptions about work and livelihoods shifting underfoot; these political movements can be interpreted as a call to forestall the coming economic earthquake and to return to the old economic order, when jobs, skill, and career trajectories were stable and clear.

The disruptive implications that the increase in automation and reliance on artificial intelligence will have for notions of skill are likely to play out in occupations in which undocumented immigrants are today the most concentrated. According to the Pew Research Center, undocumented immigrants are disproportionately represented in service and construction jobs: about a third of undocumented workers (32%) are employed in the service sector, compared with less than a fifth (17%) of U.S.-born workers. Likewise, undocumented workers are employed in construction at a rate triple that of U.S.-born (Passel & Cohn, 2016) workers. Jobs in these occupational categories tend to be less routinized and therefore are likely more resistant to being wholly displaced by new technologies. As technological change recasts the value of certain kinds of human labor and leads to a revaluing of the kinds of situational and embodied skill that nonroutinized work requires, we are likely to see a recalibration of the social status and wages associated with occupations that are currently viewed as jobs for unskilled immigrants. Depending on the economic stress that robots cause with their rise, we may also see a concomitant push to reserve those jobs for nonimmigrant workers.

With these economic and occupational changes looming, detention may be playing a role in protecting skill categories that are quickly losing their valence and in imposing the constraints on political agency associated with those skill categories. Patterns of enforcement and detention show a clear bias against migrants who are viewed as belonging to the category of unskilled. It is not that immigrants who are professional white-collar workers are always in status and always documented. Rather, it is that the ICE raids, the identity checks, and other enforcement practices target areas where migrants considered unskilled live and work. To put it bluntly, universities, hospitals, and Google headquarters are not subject to targeted ICE raids, but meat-processing plants and construction sites are. As a result, detention has become tightly associated with the category of the unskilled, and by default, being detained has become equivalent to proof that one is unskilled, regardless of the actual expertise and competence the immigrant may have. Detention assigns a skill category to immigrants by force, rather than through any form of skill evaluation. Its function in this way suggests that the potential for detention be used as a tool to enforce skill categories in the future, even after technological change has made those categories obsolete. The use of carceral strategies of immigration enforcement opens up the troubling possibility that

skill will become ontological, derived first from the bodies of migrants in an overt return to a racial logic of immigration control, rather than merely enacted on them through detention practices, as I have argued is the case today.

## **DACA, Innocence, and the Trouble With Administrative Grace**

A notable and unanticipated challenge to this definition of skill and its inscription onto the bodies of immigrants is the Deferred Action for Childhood Arrivals (DACA) program in the United States for undocumented youth and young adults. The program's consideration of formal markers of skill acquisition is one of the reasons that it has become a lightning rod for the immigration debates that have riven the country. The DACA program, instituted under the Obama administration in June 2012, granted immigrants who entered the country as minors and were out of status a renewable 2-year period of deferred action from deportation, along with legal permission to work. An explicit recognition of learning was built into the DACA program. To qualify, applicants had to be in school, have graduated from high school, have obtained a GED, or have been honorably discharged from the Coast Guard or armed forces. The permission to remain in the United States was granted based on clear institutional signifiers of acquired competence—in other words, based on proof that the applicant had engaged in agentic and socially recognized learning practices.

With the program's creation, some 800,000 DACA recipients—the DACAdmented—crossed the border between skill categories, moving from the category of illegal and unskilled to the category of legal and skilled (Capps, Fix, & Zong, 2017). This border crossing called the categories themselves into question and challenged the ways in which these skill classifications were marked onto the bodies of migrants. DACA, in one fell swoop, created a group of migrants who had the bodies of the unskilled, bodies associated with illegality and criminality, but who were nevertheless granted the status of the skilled, with the legality and rights that the designation conferred. Prior to the program, DACA recipients had been as exposed to threat of deportation and to the bodying practices associated with carceral detention as any other immigrant without documentation, and their vulnerability to those practices marked them as unskilled, irrespective of their actual skill level. But once shielded from deportation, the DACAdmented took their place among the nation's youngest generation of educators, health care workers, soldiers, and even law enforcement officers. Within 4 years of the program's launch, more than half of DACA recipients were employed, many of them in white-collar and high-end service jobs, and two thirds of those not working were in school (Zong, Soto, Batalova, Gelatt, & Capps, 2017).

On September 5, 2017, the Trump administration rescinded the DACA program and attempted to shove DACA recipients back across the line between skill categories. The administration argued that the program was unconstitutional and that it had caused grievous economic injury to native workers. Attorney General Sessions, in remarks announcing the program's nullification, stated that the program had “denied jobs to

hundreds of thousands of Americans by allowing those same jobs to go to illegal aliens.”

The Trump administration’s decision to terminate the program ran counter to public support for DACA. Polls conducted over the following year indicated levels of voter endorsement that ranged from a low of 63% (Harvard, 2018) to a high of 83% (Newport 2018). The strong public backing for the program arguably grew out of the representation of DACA recipients—in the press, by politicians, by advocates, and in their own narratives—as “model” immigrants, with perfect English, strong educational credentials, and unblemished criminal records. It rested on a claim about the “innocence” of DACA recipients who came to the United States “through no fault of their own.” The youth granted a stay from deportation were innocent victims, children forced to cross the border independent of their will, at an age when their agency was held in trust for them by their parents, and as a result, they were not culpable for the illicit crossing they had been compelled to make.

But the claim of innocence necessarily had to be built on a concession that something illicit had happened in the first place; there had to be some transgression of which DACA recipient could be absolved. The pardon extended to DACA recipients only reinforced the equation of undocumented status with criminality. It ended up justifying the use of bodying practices against those immigrants who had been denied DACA protection: If they had not been deemed worthy of a furlough, it was presumably because they had not, through their efforts and in particular through their skill development, overcome the criminality associated with their undocumented status. The rhetorical dodge of innocence opened up space for proposals made by some lobbyists and legislators that the DACA protections be extended only if recipients were stripped of future rights to sponsor the immigration of their family members. In invectives against “chain migration,” proponents of these proposals, including the president, argued that unless constrained, DACA recipients would use rights afforded to them to extend amnesty to immigrants who are unauthorized and, by implication, unskilled. Put differently, these proposals allowed DACA recipients to ascend to the category of skilled, based on the skills they had demonstrably acquired, but not to benefit from the rights associated with that category. Moreover, denial of the right to family in particular meant that regardless of their skill category, they remained marked bodily as criminals and as subversives readying to smuggle in other potential violators of immigration law.

Court injunctions have kept the DACA program open for renewals by past recipients, but the program has remained closed to undocumented youth who missed the administrative window when the program was active but who would otherwise have been eligible. Those who do have DACA protections are trapped in a kind of legal limbo, authorized and documented, counted among the skilled for now, even as legal challenges to the program are mounted by the Republican party’s right flank. At the time of this article’s publication, numerous attempts to pass legislation to protect DACA recipients and other undocumented youth from deportation and to grant them a pathway to citizenship had failed, stymied by the congressional gridlock and the president’s tweets.

As the uncertainty around the DACA program has become entrenched, the program has been drawn into the web of carceral practices used against immigrants in the United

States. DACA recipients have been denied the right to family and to future. Meanwhile, hundreds of thousands of undocumented youth with the same educational and occupational achievements as the DACAmented have been excluded from the program, and many have been detained and deported. Against this backdrop, the protections offered by DACA appear as a capricious form of grace awarded to those the state deems innocent, for reasons of its own. The arbitrary and temporary character of this furlough have made it clear that, at present, the use of carceral practices, backed by the threat of detention and deportation, has become the state default approach to govern the immigration trajectory for those immigrants viewed as at once illegal and unskilled. As both the DACAmented and the un-DACAmented can attest, the skill designations invoked in policy and in anti-immigrant political rhetoric refer less to actual expertise than to the political rights that immigrants can access, especially exclusion from enforcement dragnets. The hollowness of these skill categories, however, is precisely what has made them useful justifications for detention, with carceral approaches to immigration enforcement repackaged as protection against the economic threat that unskilled immigrants supposedly represent. In a kind of violent tautology, the bodying practices associated with detention, whether carried out in carceral settings or in the broader community, have been used to designate those who are subject to them as unskilled and undeserving of basic political rights, regardless of the skill they actually possess. The intermingling of carceral practices with skill definition and skill sorting has significant implications for immigration policy to be sure, but its influence may spread more broadly into policies for labor market governance. With major technological changes poised to trouble our basic understanding of skill and its relevance in the labor market, the dyadic approach to skill enacted and enforced through carceral practices, complete with its racial connotations and its embroilment with questions of legality and criminality, may soon be one of the most entrenched definitions remaining in policy spheres.

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## Author Biography

**Natasha N. Iskander** is an associate professor of urban planning and public policy at New York University's Wagner School of Public Service. Her research focuses on labor migration, economic development, and definitions of skill.