

## Law breaking and law bending

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**Law Breaking and Law Bending:**  
**How International Migrants Negotiate with State Borders**  
Forthcoming, *International Studies Quarterly*

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Many countries have become increasingly aggressive in their efforts to stop unauthorized migration, but most evidence suggests that immigration enforcement policies do not effectively deter migrants. We draw on literature from social psychology, specifically the dual-system model of decision-making, which differentiates between judgments that are subject to considerations of risks and costs and judgments that are ‘non-consequentialist’. Non-consequentialist decision-making is founded in moral intuition and rejects rational considerations of costs and benefits. This mental process would render the deterrence tools of the state powerless. We posit that some, but not all, forms of unauthorized migration will invoke non-consequentialist decision-making. When considering semi-legal strategies, which individuals may perceive as ‘bending the law’ rather than breaking it, aspiring migrants are likely to weigh the risks and costs of enforcement policies. Meanwhile, when considering fully illegal migration strategies, aspiring migrants will prioritize moral considerations for breaking the law rather than the consequences of breaking the law. We find evidence for our theory using original population-based list experiments along with focus groups with aspiring migrants in an origin country.

# 1 Introduction

Countries across Europe, Africa, the Americas, and the Middle East have become increasingly aggressive in their efforts to stop unauthorized migration (Vallet 2016). However, most empirical evidence suggests that devoting more resources towards immigration enforcement does not effectively deter individuals from migrating through irregular channels.<sup>1</sup> In the United States, coinciding with increases in public spending on enforcement, unauthorized migration has more than tripled since 1985 (Dixon and Gelatt 2005, Massey et al. 2016, Passel and D’Vera Cohn 2009, Hoefer et al. 2010). Massey, Durand and Pren’s (2016) review of studies assessing the impact of enforcement during this period suggests that, “whether measured in terms of personnel, patrol hours, or budget, studies indicate that the surge in border enforcement had little effect in reducing unauthorized migration” (p. 1558). Indeed, using a data-driven computational model, Simon et al. (2018) show that extremely high rates of apprehension do not effectively eliminate unauthorized migration.

Why does unauthorized migration resist enforcement? A rich literature in international relations suggests that the delegation of immigration control powers to local authorities and ‘street-level’ decision-makers - such as police forces, intelligence agencies, private security actors or vigilantes - can generate a gap between policy goals and actual effects (Guiraudon and Lahav 2000, Doty 2007, Andreas 2003, Salter 2008, Bigo 2007, Sanchez 2009, Urpelainen 2012). This literature highlights the importance of individual actors in sovereignty decisions, but it still regards the problem of enforcement from the perspective of the state and those actors who represent the state’s interests. With few exceptions (e.g. Carlson et al. 2018, Brigden 2016), international relations literature has not paid due attention to how aspiring migrants interact with enforcement

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<sup>1</sup>Immigration enforcement refers to the policies aimed at apprehending and punishing violators of immigration law.

policies beyond the territorial boundaries of the state and, therefore, can only provide one-sided answers to the puzzle of enforcement.

We extend the micro-level approach to international borders to examine how aspiring migrants engage, negotiate with, and reject enforcement policies. We argue that aspiring migrants do not interact with enforcement policies in mechanical ways. It is often taken for granted that individuals cross the border when economic benefits outweigh the risks and costs of breaking immigration law (Todaro and Maruszko 1987). However, research has shown that moral considerations – which help individuals delineate what is right, wrong, and fair – are key to understanding how individuals engage with immigration law and enforcement policies (Ryo 2013; 2015, Chauvin and Garcés-Mascareñas 2012).<sup>2</sup> Ryo (2015), for example, finds that immigrants often make a distinction in line with a long-standing tradition in Anglo-American law, between actions that are deemed ‘*mala in se*’ or wrong in themselves (such as murder, rape, or theft), and acts considered ‘*mala prohibita*,’ which are simply unlawful. Many unauthorized migrants endeavor to be law-abiding in other aspects of their lives, as evidenced by the bulk of empirical studies on migration and crime (Ousey and Kubrin 2018, Adelman et al. 2017, Lee and Martinez 2009, Chauvin and Garcés-Mascareñas 2012).<sup>3</sup> However, they may reasonably perceive that violating immigration law – though not necessarily all actions associated with violating immigration law – to be ‘*mala prohibita*’ and not ‘*mala in se*’.

We draw on literature from social psychology, specifically the ‘dual-system’ model of decision-making, to examine how rational considerations of risks and costs, and moral considerations of right and wrong come to bear on migrant decision-making. As will

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<sup>2</sup>To be clear, our use of the word ‘moral’ does not imply any normative judgment or direction. Rather, we use the term in a way that is consistent with moral and political psychology to describe a particular way of thinking.

<sup>3</sup>Empirical evidence on immigration and crime overwhelmingly suggests that immigration does not increase crime – despite the popular misconception – and, in many instances, reduces crime. See Lee and Martinez (2009), Adelman et al. (2017) and Ousey and Kubrin (2018) for extensive reviews of the evidence.

be discussed below, individuals make normative judgements through two separate and distinct mental systems. One system places value on the expected consequences of an action – for example, “if I deceive, I might get caught.” The other process assigns value to the action itself – for example, “I must tell the truth because lying is wrong” (Cushman 2013). Judgments rendered through this latter process are referred to as “non-consequentialist” because they often conflict with or reject rational considerations of risks and costs (Bartels and Medin 2007, Baron and Spranca 1997). Intuitively, if you feel strongly that a ‘good’ person does not steal, then your decision not to steal does not depend on the odds of getting caught or the potential gains to be made.

We apply this dual-system model to the topic of unauthorized migration. We posit that some, but not all, forms of unauthorized migration will invoke non-consequentialist decision-making. In line with case studies of aspiring migrants, we differentiate between two types of unauthorized migration strategies - *fully illegal strategies*, where laws are circumvented entirely, and *semi-legal strategies*, which involve some lawful engagement with state institutions (Düvell 2011, Engbersen and Van der Leun 2001, Ruhs and Anderson 2010, Gammeltoft-Hansen and Sorensen 2013). Examples of semi-legal strategies include overstaying and working under-the-table, while fully illegal strategies include clandestine border crossing and document falsification. We hypothesize that semi-legal strategies will invoke consequentialist decision-making, as individuals may perceive such strategies as ‘bending the law’ rather than fully breaking it. Fully illegal strategies, on the other hand, *will* invoke non-consequentialist thinking. Consideration of fully illegal migration will likely rely on strong moral justifications, and, therefore, might not be decided by considerations of risks and costs associated with enforcement. This has important implications: If breaking the law invokes non-consequentialist thinking, the deterrence tools of the state – which rely on rational choice – may not work.

We test our expectations using original data from Jamaica, an origin country where

roughly 60% of the population aspires to move abroad (Zechmeister 2014). Whether or not an issue evokes a strong moral reaction is contingent on social context (Ryan 2014, Haidt et al. 1993). As such, we first examine transcripts from 42 original focus group discussions and show that aspiring migrants distinguish between fully illegal and semi-legal strategies, ascribing a stronger moral quality to the former. We then analyze list experiments to test how moral justifications and enforcement policies drive support for common instances of fully illegal and semi-legal migration strategies. List experiments help mitigate social desirability bias associated with sensitive topics. We find that support for semi-legal strategies decreases when individuals perceive higher levels of risk. Meanwhile, support for fully illegal strategies appears to be non-consequentialist – driven by moral justifications and not by perceptions that the risks and punish of enforcement are high.

The primary contribution of our paper is to show that the effectiveness of immigration enforcement policies depends on the perceptions, beliefs, and moral justifications of aspiring migrants. As such, we extend the literature on borders in international relations by focusing on a set of actors that has traditionally been ignored – potential migrants. We also add to the growing international relations literature that delves into the psychology and agency of migrants (see Brigden 2016, Carlson et al. 2018). And finally, this paper helps to fill the theoretical vacuum on the effects of immigration policies on migration (Hollifield and Wong 2015). Migration flows are “only a fraction of what might potentially result if left to operate without state interference” (Massey et al. 1998, p. 7). To the extent that political scientists are concerned with the effects of policies – particularly for an issue as politically divisive as unauthorized immigration (Wright et al. 2016) – it is important to take a closer look at the effects of government control on migration decisions.

## Deterrence and Non-Consequentialist Thinking

While international relations scholars have recently come to incorporate immigration policy into their statistical models of migration flows (e.g. Fitzgerald et al. 2014, Neumayer 2005), the role of the state in shaping migration remains, as of yet, largely undertheorized (Hollifield and Wong 2015).<sup>4</sup> The main theoretical framework used to understand how migrants respond to border enforcement is the deterrence model. This model, based on rational choice, maintains that individuals make decisions through a calculation of expected costs and benefits (Coase 1937, North 1990, Ostrom 1990, Przeworski and Maravall 2003), whereby states drive up the costs of illegal behavior by increasing the risk of apprehension and the severity of punishment (Becker 1968, Ehrlich 1973, Klepper and Nagin 1989). Theoretically, if migrants make decisions through rational calculation, then increasing the costs of lawbreaking through state-based sanctions should reduce unauthorized migration (Cornelius and Rosenblum 2005, Todaro and Maruszko 1987). In essence, the deterrence model implies that “migration can be turned on and off like a tap by appropriate policy settings” (Castles 2004, p. 858). However, migration scholars have found little empirical evidence to support the deterrence model (Donato et al. 1992, Espenshade 1994, Durand et al. 1999, Massey et al. 2016).

It is possible that the lack of focus on migrant decision-making and its normative layers has hampered our ability to understand why migration resists enforcement efforts. Research has long suggested that moral considerations may be key to understanding why individuals do not comply with laws (Nagin and Paternoster 1991, Robinson and Darley 1995, Tyler 2006, Bodea and LeBas 2016, Levi 1988). Indeed, recent work suggests that unauthorized migrants consider their lawbreaking to be morally justifiable or even morally imperative, if it is needed to protect their families (Ryo 2015).

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<sup>4</sup>Two recent exceptions are Carlson et al. 2018 and Simon et al. 2018. In theorizing about the role of the state, these studies demonstrate that immigration policies can have unanticipated consequences for migration flows.

Research on the ‘dual-system model’ in social psychology suggests individuals base their judgments on either moral intuitions *or* rational considerations. That is, normative judgements may be processed in one of two *separate and distinct* mental systems. The first system – which we describe as consequentialist – places value on the risks, costs and benefits of a choice. When engaging this system, individuals carry out some version of cost/benefit analysis. The second system – which we describe as non-consequentialist (following Bartels and Medin 2007, Baron and Spranca 1997) – assigns value to the action itself, with consequences playing a smaller role or perhaps no role at all (see Cushman 2013, Ryan 2019, Fiske and Tetlock 1997, Baron and Spranca 1997, Tetlock 2003).

Judgments made within the non-consequentialist framework differ in several important ways from the consequentialist domain. Issues within the non-consequentialist domain cannot be traded in exchange for rational gains (Ryan 2017, Tetlock 2003). As such, they are not decided by perceptions of what is easy or profitable, or even what might lead to the greatest material benefits. When an individual is deliberating a decision from the moral domain, she will consider a trade-offs of one moral imperative for another, but she will not exchange a moral imperative for rational gain. The apparent incompatibility of rational thinking and moral thinking explains why individuals, motivated by protecting key norms, are often paradoxically unwilling or unable to consider costs and benefits (Tetlock 2002; 2003, Haidt 2012).

In a classic example from psychology studies (Cushman 2013), most people prefer not to reroute a runaway trolley that is hurtling towards a mass of people if it means that the new route would still hit one person. Though it may be rational to save the largest number of people, subjects do not reroute the trolley due to a moral intuition: To refrain from ‘causing’ the death of any single person (Ritov and Baron 1999). As Ryan (2017, p. 411) suggests, “the obstacle to these trade-offs is not that they are costly; it is that they preclude considering cost.” The quantity of consequences or the probability

of negative consequences resulting from an action is irrelevant.

To be clear, some normative judgments are processed in the consequentialist framework, and others are not. It is not always clear which decision-making process will be most prominent for any particular issue, as the ontology of the dual-system model of decision-making is not well understood (Ryan 2014). However, evidence in political psychology suggests that the answer depends on moral conviction – i.e., the intuition that something is right or wrong. Individuals imbue attitudes towards particular issues with differing degrees of moral conviction. Normative judgements may be associated with some level of moral conviction, or some intuition of wrongness, but that level might be low or it might be very intense. This theory expects normative judgements associated with intense moral conviction to be processed through the non-consequentialist system (Ryan 2017; 2019).

## The Illegality Spectrum

We expect that the ‘dual-system model’ can shed light on why unauthorized migration is not easily deterred by the costs and risks of enforcement. We expect that unauthorized migration *can*, but is not *always*, associated with high levels of moral conviction. Some transgressions against immigration law simply feel more wrong than others. Therefore, understanding the mode by which decisions are processed needs to consider the wide diversity of irregular strategies available to aspiring migrants.

Most research considers noncompliance to be a binary choice: individuals either comply or they do not. But in reality, there are gradations of noncompliance. Individuals may circumvent the law entirely, or they may negotiate with it, eschewing some aspects and complying with others. Consider, for example, an elected leader who violates electoral laws to remain in power. She may undertake a vote-buying scheme, abuse pub-

lic finance or, alternatively, she may suspend elections. None of these strategies is fully legal, but suspending elections fully bypasses electoral laws while the other two strategies comply with some key aspects of the electoral system. Complying with certain aspects of the law and not others is often perceived as simply ‘gaming the system’ or ‘bending the law’ to one’s advantage. Because there are gradations in illegality, we expect some transgressions to trigger stronger moral reactions than others. Consequently, we expect judgements of these transgressions to be processed through the non-consequentialist mental system, which disregards risks and costs.

Migration is the ideal context to examine these gradations in illegality. Many irregular migrants exist within a state of “legal ambivalence,” where their status consists of both regular and irregular aspects, and the classifying threshold is often a matter of legal dispute (Düvell 2011, p.292). Within the actions considered to be illegal in receiving states, individuals often draw a subjective, fuzzy line between what they perceive as legal and illegal (Engbersen and Van der Leun 2001, Ruhs and Anderson 2010, Schuck 2000). Based on existing case studies of unauthorized migration (e.g. Düvell 2006, Ruhs and Anderson 2010, Gammeltoft-Hansen and Sorensen 2013<sup>5</sup>), we define fully-illegal migration strategies as those where no attempt is made to engage with immigration law or formal authorities. These strategies include clandestine border crossings and using forged entry documents. On the other hand, semi-legal migration strategies are those in which the migrant obtains a visa legally but violates its conditions. Examples include students who work more than the hours allowed by their visas or take a job not stipulated by their permit. Other common examples include marriages of convenience – where entry is legal but the stated motivations for obtaining the visa are dishonest – and overstaying temporary visas.<sup>6</sup>

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<sup>5</sup>These studies are mainly descriptive; our paper builds on this literature by developing an explanatory model of the different mechanisms deterring these types of unauthorized migration and engaging with the literature on moral psychology.

<sup>6</sup>See Appendix A for information on legal categorization and punishment associated with these strategies.

Despite the fact that semi-legal strategies violate the law, migrants may perceive these strategies as *gaming the system*, rather than breaking the law (Garrison and Weiss 1979, Ruhs and Anderson 2010). As such, we expect that semi-legal migration strategies are less likely to be associated with strong moral convictions, and consequently, less likely to be processed through the non-consequentialist system. Instead, they are likely processed through what we refer to as the consequentialist mental system, which is subject to considerations of risks and costs. These expectations yield the following hypotheses for semi-legal migration:

*H1 (a):* Support for semi-legal migration will not be significantly associated with moral justifications to break the law

And therefore:

*H1 (b):* Support for semi-legal migration will be negatively associated with rational considerations of risks and punishment

Meanwhile, fully illegal migration strategies clearly and unambiguously constitute lawbreaking. As such, we expect that support for fully illegal migration strategies is more likely to be associated with moral convictions. According to the dual-system model, a decision that triggers moral conviction is likely to be processed by the non-consequentialist mental system, which adheres to “perceived duties, obligations, and prohibitions, that bear on what a ‘good’ person should do” (Bennis et al. 2010). Individuals hold competing norms. Within the non-consequentialist domain, individuals will only trade a norm in exchange for another norm; they will not trade norms in exchange for rational gains (Tetlock 2002; 2003, Haidt 2012). In other words, when a decision is driven primarily by moral intuitions, perceived risks or costs will not be considered a factor. These expectations yield the following hypotheses for fully illegal migration:

*H2 (a)*: Support for fully illegal migration will be positively associated with moral justifications to break the law

And therefore:

*H2 (b)*: Support for fully illegal migration will not be significantly associated with rational considerations of risks and punishment

It is important to emphasize that migrants who support these strategies are *not* behaving in a way that is inconsistent with morality. A restrictive immigration policy puts individuals' duty to obey the law at odds with other moral imperatives – such as the moral imperative to support one's family, for example (Hidalgo 2018, Ryo 2015; 2013). Because support for lawbreaking is underpinned by competing moral justifications, the action of breaking immigration law can be perceived to be the moral choice.

## Unauthorized Migration in the Jamaican Context

Our empirical analysis is based on an original survey and focus groups fielded in Jamaica. By collecting data from a source country, our analysis is not limited to individuals who have either migrated successfully or were apprehended at the border, improving upon studies that use border apprehension data or surveys in destination countries, both of which reflect selection biases. Jamaica's natural oversample of aspiring migrants and its diversity of irregular channels make it an ideal case to study the modes and deterrents of unauthorized migration. Data from the 2014 LAPOP survey indicate that 58% of Jamaicans intend to move abroad within the next three years (Zechmeister 2014). This figure compares with 13.7% of Mexicans, the most common case study for migration research. Indeed, some estimates suggest that the Jamaican diaspora is as large as the island-based population (Glennie and Chappell 2010).

Jamaicans' main possibilities for legal migration are seasonal guest worker programs for agricultural harvesting and the hotel industry in the US and Canada. Due to the large Jamaican diaspora abroad, family reunification provides another legal alternative for migration (Thomas-Hope 2003). In 2010, only 6% of the Jamaicans who emigrated to the top three destination countries (the US, Canada, and the UK) did so as asylum seekers (Thomas-Hope et al. 2012).

According to the US Department of State, the 2015 acceptance rate for Jamaicans applying for visitor permits was 68% (U.S. Department of State 2015). Data for the UK suggests a lower acceptance rate of Jamaicans (57%) for that same year (Home Office 2015). Jamaicans may be refused a government-issued visa because they are unable to convince immigration authorities they are unlikely to overstay a tourist visa. This may be because they were deported once before, or because they have a criminal conviction – among several other reasons (US Department of State nd).

According to Elizabeth Thomas-Hope (2003, p.1), “Under dire circumstances, and as legal channels for entry into potential immigration countries (particularly those in North America and Europe) remain selective on grounds of nationality, education and occupational status, there is likely to be a continuing flow of [Caribbean] migrants trying to circumvent formal channels by resorting to informal ones.” She identifies two main irregular migration strategies pertaining to Jamaicans: entering with a legal visa but violating its conditions and entering with illegal documentation (Thomas-Hope 2003, p.9).<sup>7</sup> Unlike Haiti, Cuba, and the Dominican Republic, Jamaica is not among the significant sources of irregular boat migration (Thomas-Hope 2003). Instead, Jamaican irregular migration usually takes place through regular airline routes, with the use of (violated) legal or falsified visas.

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<sup>7</sup>Thomas-Hope (2003) also mentions entering by crossing a border illegally as a relevant strategy for Caribbean nationals. However, as she notes, in the Caribbean, the only international land border crossing of significance is between Haiti and the Dominican Republic and, as such, is not relevant to Jamaicans.

## Evidence from Focus Groups

Do aspiring migrants perceive variations in legality when considering migration strategies? If so, do variations in legality correspond with different levels of moral conviction? Psychological literature does not delineate which issues will be associated with high levels of moral conviction or why. Ryan (2019, p.429) advocates a “bottom-up approach” to characterize moral conviction: “Individuals are asked whether some attitude connects to their sense of right and wrong, and the researcher takes the responses at face value.” As such, we begin the empirical portion of our paper by exploring different migration strategies, moral associations, and the role of enforcement from the words of potential migrants themselves.

We conducted 42 focus groups among aspiring migrants<sup>8</sup> in Eastern Jamaica to observe how individuals grouped and evaluated different migration strategies. Our groups were formed of 8 aspiring migrants on average, and we aimed to maintain a balanced gender composition. In total, we had 330 focus group participants. Approximately 35% of focus groups took place in rural parishes (Clarendon, St. Catherine and St. Thomas), with the remainder taking place in the Kingston Metropolitan Area (Kingston and St. Andrew). Due to the sensitive nature of the topics under discussion, respondents were specifically asked not to speak about their own experiences or identify themselves or any contacts by name. To ensure anonymity, participants were assigned anonymized identifiers.

In this context, respondents discussed a series of topics – including risk, punishment, and variations of morality – relating to migration strategies. To prompt discussion, the moderator mentioned four common unauthorized migration strategies – visa overstaying,

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<sup>8</sup>We used the following 7-point item to define this group: “Whether or not you think you would be ABLE to move abroad, how much would you LIKE to move to another country?” Aspiring migrants would like to migrate at least “a little.” This aspiration measure is used consistently throughout the paper.

working on a tourist visa, getting a fake visa, and entering through a border in secret without any visa – to assess the prevalence of these behaviors. The moderator only mentioned these four strategies once, and they were mentioned in the context of a single question. Respondents were not asked to refer to these specific strategies in the ensuing discussion (see Appendix H). This allowed us to evaluate how or if respondents classified strategies according to our theorized strategy types in a conversational setting.

Our analysis of the transcripts found that participants consistently grouped visa overstaying and working on a tourist visa – two instances of semi-legal migration – and also grouped obtaining fake visas and entering clandestinely – examples of fully illegal migration. In total, 303/330 or 92% of participants mentioned at least two of these four strategies at some point in the focus group session and classified them in line with our defined strategy types. The remainder either did not mention specific strategies or classified them out of line with defined strategy types. For example, when asked which of the strategies were most common, MF14 said, “I think overstaying and working on a visa is very common for us. Most common, though, is working on a visa. A lot of person do this... They would go away like three times for the year or so.” When asked about the relative difficulties associated with each of these strategies, FG10 said, “working and overstaying on a visitors’ visa is, of course, the easiest to pull off. First thing is you would be entering the country legally, no sweat there.”

We also find considerable evidence to suggest that aspiring migrants consider fully illegal strategies to be more ‘wrong’ than semi-legal strategies. Approximately 67% of participants (220/330) indicated that not all strategies were equally wrong once or more times during the session. The remainder either did not mention strategies or indicated they believed these strategies were equally wrong throughout the session. As expected, when asked directly whether they believed it is wrong to migrate through any strategies, many participants provided short guarded answers such as “Yes.” However,

other individuals engaged with the question. For example, FA17 said, “they are all not equal. When you look at some things that some people do to go abroad – it’s so shameful. Overstaying and working on a visa is not that bad.” FF26, for example, said “sometimes water more than fire and you have to do what you have to do... No, they are not all equal, some are more wrong than others. I wouldn’t buy a visa or try to cross the border.”

However, participants appeared to be more comfortable deliberating on moral considerations when the topic was raised more indirectly. In particular, participants often made moral judgments when asked to consider punishments associated with these strategies. Approximately 62% of all participants (204/330) suggested that semi-legal migrants should either not be punished or be punished more leniently. Participants justified this argument by suggesting that such migrants were only making an honest living, or were driven by economic need, or escaping domestic abuse. For example, FF28 said, “Crossing the border and using a fake visa should get the same punishment [...]. Yes the punishment is fair. The most lenient is working on a visa because what if this is the person only means of work and they are the only one working and it is a single mother or father, the punishment is unfair.” Approximately 17% of these participants also suggested that these types of strategies were victimless crimes, or that they should not be considered crimes at all. Participant ME4 said, “We know that working on a tourist visa is wrong, but it’s not so wrong. We didn’t steal anything from anyone. We did a task and got paid to do it.”

It is noteworthy that such statements should not technically be limited to semi-legal migration strategies. Fully illegal strategies may also be driven by economic need or personal hardship. However, when discussing punishment, participants felt the need to defend or justify the actions of semi-legal migrants, and not those of fully-illegal migrants. In fact, migrants pursuing fully illegal strategies were often evaluated as

strange, extreme, or ‘criminal.’ For example, MG11 suggested: “You have to have the mindset of a criminal to even think about getting a fake visa.” Others considered fully illegal migrants to be “crazy” (e.g. ME42) or “stupid” (e.g. FD42) and, therefore, deserving of a tougher punishment than semi-legal migrants. Participants were not asked to provide these moral justifications. They were simply asked to guess at how punishments might differ across strategies and whether they were fair. Haidt’s (2012) extensive review of the literature on moral intuitions, explains how most people do not know how to articulate or justify their objection to issues within the moral domain. People often attempt to invent victims or imagine steep punishments – as they did for fully illegal migration – when the reality is simply that they find the action to be morally objectionable.

We take this as evidence that individuals consistently and naturally group unauthorized migration strategies into fully illegal and semi-legal types, and they attach different normative qualities to these strategy types. This supports our expectation that unauthorized migration, from the point of view of potential migrants, is not a uniform concept. It suggests that morals appear to play a stronger role when it comes to evaluating fully illegal strategy types. Our list experiment results will allow us to evaluate whether moral intuitions, in fact, dominate the decision-making process, crowding out considerations of risk and punishment.

## **Evidence from List Experiments**

The focus group evidence reveals an important methodological challenge to research on unauthorized migration: some migration strategies are perceived as immoral or criminal. This perception reduces the likelihood of self-reporting and will likely bias estimates of fully illegal strategies more so than semi-legal strategies. Moreover, as reluctant as

individuals are to *report* immoral or criminal thoughts, they are especially hesitant to suggest that they consider immoral actions out of self-interest, or rational considerations (Tetlock et al. 2000, Ryan 2017). This tendency complicates our ability to test the rational and normative mechanisms behind unauthorized migration.

To mitigate the effects of social desirability bias, we measure support for unauthorized migration using list experiments (see Blair and Imai 2012, Glynn 2013).<sup>9</sup> List experiments allow us to protect respondents’ anonymity on sensitive items while generating meaningful data. List experiments have been found to provide unbiased - albeit noisy - estimates of taboo or illicit behaviors (Aronow et al. 2015). After extensive pre-testing, we incorporated specific design accommodations such as cue cards and dry-run practice questions, in addition to extensive enumerator training, to ensure proper implementation and respondent understanding of the technique.<sup>10</sup>

It is important for our study that we focus on *support* for an irregular strategy rather than *intention* to migrate through that strategy. Intention to migrate through irregular channels compounds several attitudes – aspiration or ability to migrate and support of law breaking – but it is possible to have one without the other. Many individuals wish to move abroad, but they are unwilling to consider irregular channels. Conversely, many individuals feel unable migrate, but if they were to move abroad they would be willing to do so illegally. Therefore, in order to distinguish between psychological deterrents and pure resource arguments, we measure support rather than intention to migrate irregularly.

To construct our list experiments, we choose a clear case to exemplify semi-legal migration and another to depict fully illegal migration. For the former, we chose the case of violating the work conditions of a tourist visa and, for the latter, obtaining a

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<sup>9</sup>To be clear, this sample is collected independently from the focus group sample.

<sup>10</sup>See Appendix B for more details on our list experiment implementation and design.

fake visa. We identified these two cases because, as demonstrated in the focus groups, it was likely our respondents would be familiar with them. They also clearly constitute a situation where the law is fully circumvented and one where only certain aspects of the law are violated. We frame these strategies independent of geography such that they may be generalizable across migration corridors. We avoided common depictions of unauthorized migration such as trekking across land borders or taking journeys by boat, which are unique to the geographic relationship between origin and destination. Our selected cases are also strategies that can be executed immediately upon entry. There are certainly instances where individuals enter legally but then fall out of status – i.e., overstaying one’s visa. However, such decisions may be made many months after arriving in the destination country, and eliciting support for these strategies would force respondents to make a cognitive leap and, potentially, lead to biased estimates.

These two experiments were embedded into a face-to-face survey of 1,166 Jamaican adults across the island<sup>11</sup>, fielded between April and June 2016.<sup>12</sup> The surveys were conducted on tablets using the *Qualtrics* off-line application to allow for complete randomization and customization. We used a multistage sampling strategy – blocked by parish and clustered by enumeration district. Clusters were proportionally allocated based on the latest (2011) census data and randomly selected.

For the experiment on fully illegal migration, control group respondents were shown “a list of things that people sometimes do to move permanently to a foreign country”. The enumerator listed three potential responses: “apply to a university in the new country,” “ask family members abroad to sponsor you,” and “be smuggled across the border.” Similarly, the semi-legal experiment presents a list of things that people sometimes do to work in a foreign country. The control list includes the following items: “get an employer to sponsor you,” “build an online profile for recruiters,” and “deal drugs.” For

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<sup>11</sup>Treatment assignment was randomized independently for each experiment.

<sup>12</sup>The sample includes all 14 parishes – or large administrative units – in Jamaica.

each list, the first two items are likely unobjectionable. The third item is designed to be more extreme or controversial so that most respondents do not necessarily respond affirmatively to all three control items. We limit our number of control items to three, as increasing the number of control items can prove cognitively burdensome and increase non-strategic error (De Jonge and Nickerson 2014).

Half of respondents were randomly assigned to a treatment group, to which the survey enumerator lists the three potential responses listed above as well as a fourth, sensitive item. In the case of fully illegal migration, the treatment group list included an option to *obtain a fake visa*. In the semi-legal experiment, we included the option to *work under the table while on a tourist visa*. Respondents are instructed to reveal only the number of migration strategies they would support, but not *which* strategies. Under conditions of complete randomization, the difference between the average number of items in the treatment and control groups represents the percentage of the sample that would support the sensitive behavior. More information on the design and diagnostics of our list experiments can be found in Appendix B.

## Operationalizing Moral and Rational Considerations

Rational considerations of enforcement were operationalized as perceptions of risk and punishment for each irregular strategy. To measure perceived risk, we asked all participants: “Suppose 10 people try [strategy], how many of these 10 people do you think will get caught by authorities [in your top destination country]?” To measure punishment, we asked all participants: “Based on what you know, how serious do you think the punishment would be for someone getting caught [strategy]?”<sup>13</sup> Individual-level

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<sup>13</sup>The respondent’s top destination country was determined early in the survey, when respondents were asked, “If you could move to any country, where would you go?” For the 14% of respondents who, for one reason or another, do not have or did not provide a top destination country, we averaged their responses for a set of five strategically selected countries: the US, the UK, Canada, the Cayman Islands, and Sweden.

variation in these two items reflects subjective perceptions of immigration enforcement.

To operationalize moral considerations, we follow existing literature on moral psychology (Haidt 2012). In particular, we examine the effects of two of the classic moral foundations – “Care/Harm” and “Fairness/Cheating” – for their universal importance to moral considerations. “Everyone – left, right and center – says that concerns about compassion, cruelty, fairness, and injustice are relevant to their judgments about right and wrong” (Haidt 2012, p.183).<sup>14</sup> These two principles feature prominently in the literature on legal non-compliance (Tyler 2006), and have specifically been cited by aspiring migrants as moral justifications to break immigration law (Ryo 2015).

First, aspiring migrants may believe that laws impeding their international movement prevent them from taking care of their families. We measure the “care” principle by asking respondents, on a 7-point scale, if they agree with the statement “It is OK to break the law if you need to do it to support your family” (*Support Family*). Second, immigration law may be perceived to be unfair if aspiring migrants feel that they immigration authorities discriminate against them. As Thomas-Hope indicates, entry criteria to top destinations generally involve “the disproportionate selection of the educated, highly skilled and the young to the exclusion of others” (2003, p. 4). As such, poor countries such as Jamaica, where almost 20% of the population is below the poverty line (The World Bank nd) are considered low priority for immigration. We measure the “fairness” principle by asking respondents, on a 7-point scale, if they agree with the statement that, “Immigration authorities treat Jamaicans fairly,” This item is coded such that an *increase* in the scale indicates *disagreement* and, as such, is labelled *Authorities Unfair*. These survey items were drawn from Ryo (2013), which examines would-be migrants’ support for crossing the US-Mexico border.

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<sup>14</sup>According to Moral Foundations Theory, there are five foundations of morality: Care/Harm, Fairness/Cheating, Loyalty/Betrayal, Authority/Subversion, and Sanctity/Degradation. Care/Harm and Fairness/Cheating indicate individual-level morality, while the last three foundations are conceptually and empirically distinct, as they refer to the morality of group dynamics (Graham et al. 2009).

In order to identify the effects of rational and moral considerations, we include a number of control variables. The determinants of migration are outside the scope of this paper, yet we expect migrant resources and characteristics to confound the relationship between psychological deterrents and support for irregular strategies. Most demographic variables – sex, age, education, and household income – are generally straightforward to measure, but as often occurs with survey data, household income yielded a high proportion of non-response. More than a quarter of the sample declined to provide this information. We imputed missing values by modeling household income as a function of gender, age, education, marital status, employment status, sector of employment, and household remittances received. To verify that our imputation did not substantively influence our findings, we provide the results for models without income imputations in Appendix C.

We also controlled for the respondent’s international support network. Potential migrants use their contacts and networks abroad as resources to acquire information, get jobs, and establish themselves in a new country (Massey et al. 1993). In the context of a battery of questions on each of the respondent’s international contacts, we asked, “Do you think you could count on this person to help you settle into a new country? For example, they could help you find a place to live or find a job.” We include the size of each individual’s resource network as a control variable in each model.

## **Analysis and Results**

In this section, we test our theoretical expectations by analyzing the list experiments. First, we estimate the average treatment effects to measure support for each strategy. We then test each theory individually and evaluate how support for the fully illegal and semi-legal strategies is related to rational and normative factors. Lastly, we compare all

of the relevant variables against one another in one fully-interacted model.

Table 1 shows the average treatment effects for both list experiments. Differences between the groups – the average treatment effect – may be interpreted as the proportion of respondents who support an irregular migration strategy. The models estimate item count as a linear function of group assignment, and we adjust each model to account for the sample design by including fixed effects for parishes and clustering standard errors by enumeration district.

We run each model among a subsample of aspiring migrants, drawn from our full sample of Jamaicans. As with the focus groups, we believe that this subsample is the appropriate population to test our theoretical expectations, as they are more likely to have earnestly deliberated on the migration process.<sup>15</sup> In total, 802 respondents (69% of the total) are included in the aspiring migrant subsample. As with the focus groups, aspiration to migrate is based on the 7-point item, “Whether or not you think you would be ABLE to move abroad, how much would you LIKE to move to another country?” Aspiring migrants would like to migrate at least “a little.” Because the treatment was randomized at the level of the full sample, we include our control variables (gender, age, education, income, networks abroad) in our estimates of average treatment effects. In Table 1, we show results for both the aspiring migrant subsample and the full sample to provide a reader with a benchmark.

As is shown in Table 1, the list experiment treatment effects, all of which are statistically significant below an alpha level of 0.05, show comparable levels of support for both types of unauthorized migration. Models 1 and 3 show that 14% and 15% of the full sample support the illegal strategy and the semi-legal strategy, respectively. Within the subsample of aspiring migrants (Models 2 and 4), 16% of respondents support the illegal strategy, and 15% support the semi-legal strategy.

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<sup>15</sup>All results for the full sample can be found in Appendix D

Table 1: *Average Treatment Effects for Fully Illegal and Semi-legal List Experiments, Amongst Full and Aspiring Migrant Sample*

	Fully Illegal		Semi-legal	
	Full Sample	Aspiring Migrants	Full Sample	Aspiring Migrants
	(1)	(2)	(3)	(4)
	0.138 (0.052) $p = 0.008$	0.162 (0.056) $p = 0.004$	0.145 (0.046) $p = 0.002$	0.145 (0.054) $p = 0.008$
Fixed Effects	Yes	Yes	Yes	Yes
Observations	1,162	797	1,154	793

*Standard errors in parentheses adjusted for sample design*

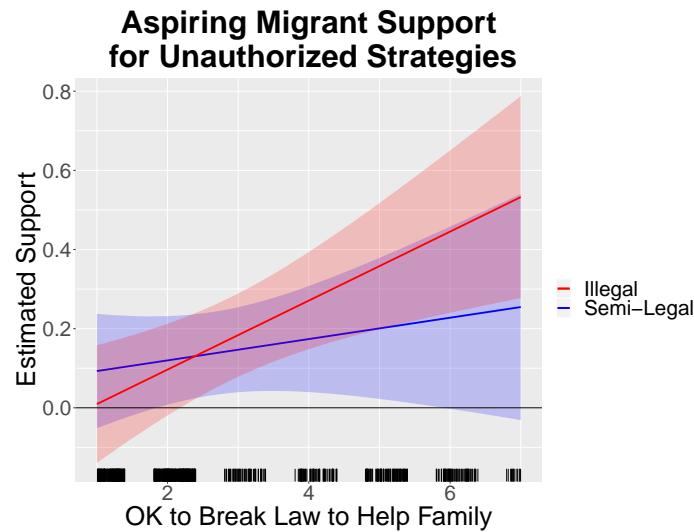
These average treatment effects compare with direct estimates in predictable ways. Later in our survey, we asked direct questions that were meant to capture support for each strategy with a slightly modified question wording.<sup>16</sup> In response to these statements, 16% of the full sample (17% of aspiring migrants) supported working without valid documentation, and 6.3% of the full sample (7.2% of aspiring migrants) supported entering without documents. This evidence indicates that social desirability bias varies greatly by strategy: Individuals are willing to openly report support for the semi-legal strategy, but estimates of the illegal strategy can be highly biased. List experiments help to provide comparable measures of both strategies.

Next, we examine what factors predict support for these strategies among aspiring migrants. Figures 1-4 plot the conditional effects, or the interactions between treatment assignment and our theoretical mechanisms. In these figures, we evaluate the effect of each theoretical mechanism separately. Each model includes a dummy variable for treatment assignment, the conditioning variable, the interaction term, control variables, and parish fixed effects. The interaction term identifies the difference between treatment

<sup>16</sup>Our direct questions asked how strongly the respondent agreed or disagreed with the following statements: “It is OK to work in a foreign country without legal documentation” and “It is OK to enter a foreign country without legal documentation.”

and control groups (the treatment effect) for each unit increase of the conditioning variable. The plots present the conditional marginal effects as recommended by Brambor, Clark and Golder (2006). We present the conditional treatment effect for illegal (red) and semi-legal (blue) strategies. A rug along the x-axis depicts the distribution of the conditioning variable. The ribbon represents the 95% confidence interval.

Figure 1: *Treatment Effects Conditional On Belief That It Is OK To Break the Law, If It Is Necessary To Support Family (Includes Controls).*



Figures 1 and 2 examine the effects of *Support Family* and *Authorities Unfair*, respectively, on support for both forms of unauthorized migration. According to our theory, when a judgment is processed through the moral domain, competing norms may be traded off against each other, but rational considerations are not taken into account. Because we expect decisions about fully illegal migration to be processed through the non-consequentialist system, individuals will draw on competing moral justifications when supporting fully illegal migration. We do not expect support for the semi-legal strategy to be significantly affected by moral considerations.

Our results in Figure 1 support our expectation that fully illegal strategies more clearly associated with moral justifications than semi-legal strategies. We find that

individuals who believe that the law should not prevent them from taking care of their families are more likely to support the fully illegal strategy. Among individuals who do *not* agree with this moral justification, the differences between treatment and control groups are not significant. Meanwhile, the slope of the line indicating support for the semi-legal strategy is nearly flat.

Figure 2: *Conditional Treatment Effects, Conditional Belief that Immigration Authorities Treat Jamaicans Unfairly, Includes Controls*

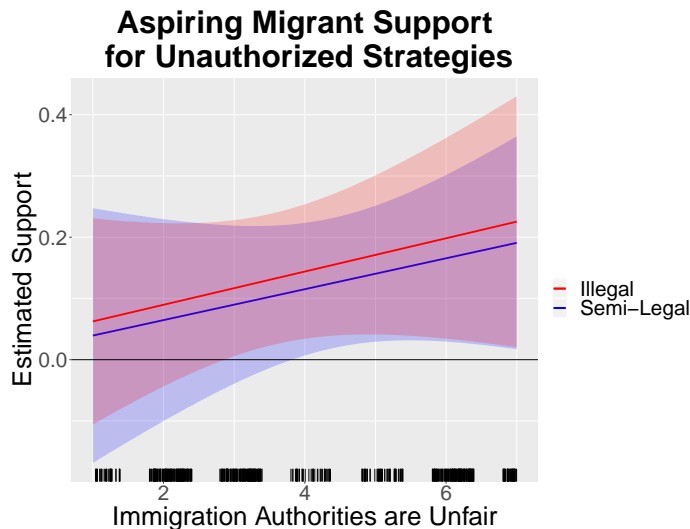
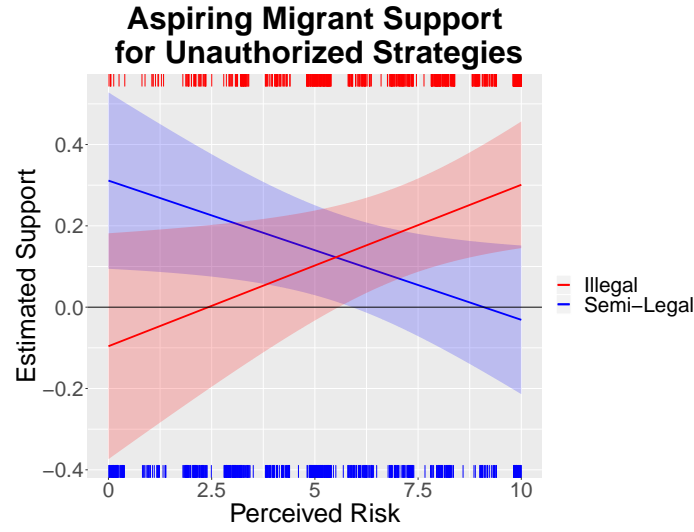


Figure 2 tests the effects of *Authorities Unfair*. We find that perceived unfairness of immigration enforcement appears to be driving support for both strategies. However, the confidence intervals for both strategies cross zero for a large portion of the scale, suggesting this moral consideration may not be a significant driver of support.

Next, Figures 3 and 4 display the conditional effects of perceived risks and punishments on support for either form of unauthorized migration. Because we measure perceptions of risk and punishment (or level of enforcement) for each strategy separately, we include two rugs – a red one on top relating to fully illegal migration, and a blue one at bottom relating semi-legal migration. We expect that both rational deterrents will significantly drive down support for semi-legal migration. However, we do not expect

Figure 3: *Conditional Treatment Effects, Conditional on Perceived Risk of Apprehension, Including Controls*



a significant relationship between rational deterrents and fully illegal migration because rational deterrents are crowded out in the non-consequentialist system.

In Figure 3 we can see that as perceived risk of apprehension increases, individuals are less likely to support the semi-legal strategy. Roughly 30% of individuals who believe that 0 people would be apprehended support this strategy. Meanwhile, there is no support among those who believe that everyone who attempts this strategy will be apprehended. This finding supports our expectation that support for the semi-legal strategy would be driven by rational considerations. In contrast, estimated support for the illegal strategy appears to increase with the perception that the risks associated with this strategy are higher, though the confidence intervals are relatively wide. This positive slope was not anticipated by our theoretical expectations.

However, we suggest caution when interpreting this result. It is possible that the positive sign results from the distribution of the independent variable. Approximately 36% of the aspiring migrant sample believe that *all individuals* would be caught when

attempting this strategy.<sup>17</sup> That is, more than one-third of observations are clustered in one out of 11 possible response options. For the sake of comparison, only 17% believe that all individuals would be caught pursuing the semi-legal strategy. Our focus groups revealed several mechanisms could underlie the high clustering of observations at the upper extreme of the fully-illegal risk distribution. First, they suggested that fully illegal migration is uncommon. It is therefore likely that respondents had little retrievable information about this strategy – other than that it is extreme – and this inability to make a well-informed estimate may have driven respondents toward an easy, extreme anchor (Van Exel et al. 2006, Tversky and Kahneman 1974). Alternatively, the strategy was also considered taboo. When confronted with taboos, individuals often invent victims of otherwise harmless actions, imagine steep punishments where there is no enforcement, or anticipate high levels of risk where there is none (Haidt 2012).

Regardless of which of these mechanisms – if either – are present, we believe that the concentration of observations at the extreme category and the lack of meaningful variation might bias our estimates. This is not to say that the clustering at the extreme end of the distribution is not meaningful, but rather that it may convey information beyond objective estimates of risk. To examine how sensitive our results are to this clustering, we test whether the positive relationship between risk perceptions and support still holds if we exclude individuals on the extreme end of the risk perception scale (Appendix E).<sup>18</sup> If an increase in risks results in an increase in support, as Figure 3 suggests, that relationship should also hold among those who believe that between 0/10 and 9/10 migrants would be caught when attempting the strategy. The results of the sensitivity test show that the positive effect of risk on support for the illegal strategy no longer holds (meanwhile, the negative effect of risk on support for the semi-legal

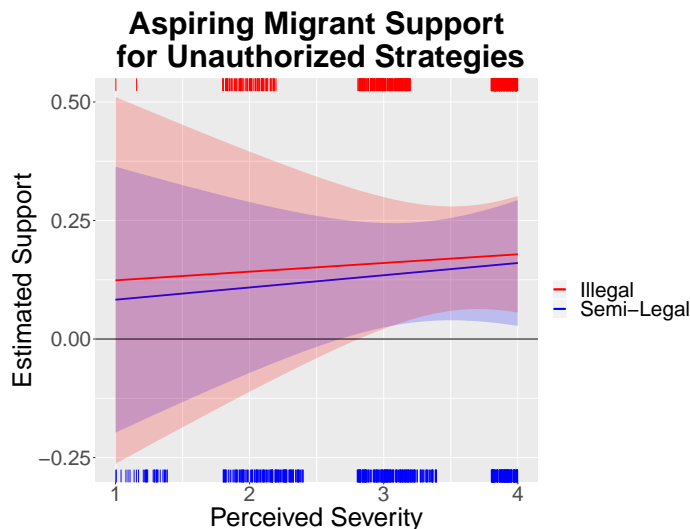
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<sup>17</sup>As a guide, according to estimates from the Mexican Migration Project, the probability of being apprehended crossing the US border in 2017 was near 30%, and has not risen above 40% since 1965 (Mexican Migration Project nd).

<sup>18</sup>Appendix E also tests the alternative explanation that this result reflects differences in risk tolerance and finds no evidence to support it.

strategy remains completely unchanged). These findings suggest that support for the fully illegal strategy may hinge largely on the cluster of observations in the extreme category. That is, we might conclude that it is widely believed that entering with false documents is an extremely risky strategy, and those who support this strategy do so *despite* this perception. If so, their support for this strategy runs counter to rational calculations in the strictest sense.

Figure 4: *Conditional Treatment Effects, Conditional on Perceived Severity of Punishment, Including Controls*



In Figure 4 we see that the expected severity of punishment, if caught, does not significantly affect support for either strategy. The conditional effects appear to be small and statistically insignificant, for the most part. For each strategy, the treatment effect is only significant around the higher range of perceived punishment, though this clearly results from the wide confidence intervals around the lower ranges rather than the steepness of the slope. Perceived risk appears to be the most effective rational deterrent, albeit only for the semi-legal strategy. This finding echoes the widely recognized finding in criminal justice literature that risk of apprehension, not severity of punishment, functions as an effective deterrent (see Nagin 2013 for a review).

Next, we test our expectations against each other in multivariate models displayed in Table 2. We depict support for the illegal strategy in Model 1, and support for the semi-legal strategy in Model 2. The models interact all theoretical and control variables with the list experiment treatment effect, and include the non-interacted independent variables which predict the mean number of items in the control list. For ease of interpretation, Table 2 does not display these coefficients.<sup>19</sup> The constant predicts the item count for the control list, and the coefficients interacted with the treatment effect predict support for the sensitive item by calculating the difference between treatment and control lists.

Our hypotheses suggest that if moral considerations are significant drivers, rational considerations will not be significant. Conversely, if rational considerations are significant drivers, moral considerations will not be significant. Table 2 shows that moral considerations can explain support for the fully illegal strategy, while rational considerations of risk appear to deter semi-legal migration only. *Authorities Unfair* does not significantly drive support for either strategy in the fully specified model. However, *Support Family* significantly increases support for the illegal strategy only, as expected.

Expected severity of punishment does not significantly affect support for fully illegal or semi-legal migration, but expected risk has divergent effects consistent with Figure 3. Individuals who perceive the semi-legal strategy to be very risky are less likely to support it. We also find that the, apparently, significant and positive effect of perceived risk on support for the fully illegal strategy still holds. However, recalling the discussion of Figure 3, we should be cautious when interpreting this coefficient. Indeed, the results in Appendix E show that the positive effect of risk in Model 1 is not robust.

In summary, the fully-interacted model finds that support for the semi-legal strategy is significantly driven by perceived risk, a rational consideration. Moral considerations

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<sup>19</sup>The full table can be found in Appendix F.

Table 2: *Model Interacting All Theoretical and Control Variables, Aspiring Migrant Sub-set*

	<b>Illegal</b>	<b>Semi-Legal</b>
	(1)	(2)
Treat	−0.590 (0.530)	0.270 (0.490)
Treat x Authorities Unfair	−0.008 (0.027)	0.027 (0.028)
Treat x Support Family	0.095*** (0.031)	0.011 (0.035)
Treat x Risk	0.036* (0.020)	−0.037* (0.019)
Treat x Punishment	0.017 (0.078)	0.076 (0.062)
Treat x Gender	0.092 (0.120)	−0.063 (0.120)
Treat x Age	0.008* (0.005)	−0.002 (0.005)
Treat x Education	−0.005 (0.050)	−0.055 (0.059)
Treat x Income	−0.0002 (0.0001)	0.0001 (0.0001)
Treat x Networks Abroad	−0.040*** (0.015)	0.00001 (0.017)
Constant	1.900*** (0.340)	2.000*** (0.290)
Fixed Effects	Yes	Yes
Observations	687	685
R <sup>2</sup>	0.140	0.130
Adjusted R <sup>2</sup>	0.093	0.085

\*p<0.1; \*\*p<0.05; \*\*\*p<0.01

*Standard errors in parentheses adjusted for sample design*

have no significant effect. Support for the illegal strategy, on the other hand, is not deterred by perceived risks, but is increased by the perception that it is OK to break the law to support one's family. Perceived unfairness of the immigration system and perceived severity of punishment were not significant predictors of either strategy.

## Discussion

Many countries have become increasingly aggressive in their efforts to stop unauthorized migration, but most evidence suggests that immigration enforcement policies do not effectively deter migrants. Why does unauthorized migration resist government enforcement?

Much of the international relations literature on migration focuses on states and what states do, presuming that aspiring migrants will respond state incentives in mechanical and predictable ways. Even the recent international relations literature, which focuses on the role of low-level border enforcers (Guiraudon and Lahav 2000, Doty 2007, Andreas 2003, Salter 2008, Bigo 2007), is mainly concerned with actors who represent the state and its interests. In doing so, this literature has largely conformed to ‘methodological nationalism’ – de-emphasizing the transnational nature of migration and immigration policy (Wimmer and Schiller 2003).<sup>20</sup> Given the transnational nature of border studies, the role of the state cannot be fully understood until we examine the decisions of individuals who engage with the border from the outside.

We argue that the psychology of aspiring migrants can hamper the deterrence tools of the state. We draw on literature on the ‘dual-system’ model in social psychology, which holds that individuals make normative judgements through one of two discrete mental systems. One system places value on the expected consequences of an action, while the other system places value on the action itself and disregards consequences. Strong moral intuitions tend to elicit the latter, ‘nonconsequentialist,’ system and crowd out considerations of costs and risks, such as those associated with border enforcement. We posit that some, but not all, forms of unauthorized migration will invoke ‘non-

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<sup>20</sup>There are three variants of ‘methodological nationalism’: 1) ignoring the importance of nationalism for modern societies; 2) assuming the boundaries of the nation-state define the unit of analysis; and 3) limiting the study of social processes to the political and geographic boundaries of nation states (Wimmer and Schiller 2003, p. 577-578).

consequentialist’ thinking. Aspiring migrants may perceive some strategies –*semi-legal strategies* – as ‘bending the law’ rather than breaking it, and will be influenced by the risks of enforcement. *Fully illegal strategies*, which are likely to invoke a stronger moral reaction, will trigger non-consequentialist thought, which would not be influenced by the risks and costs associated with enforcement.

We examine the case of Jamaica – a country with a large population of aspiring migrants – to avoid selection biases that result from migrant samples in destination countries. To examine our theoretical expectations within the social context of our case, we conduct 42 focus groups. The focus group evidence suggests that aspiring migrants distinguish between semi-legal and fully illegal strategies and attach a stronger moral quality to the latter. We then conduct list experiments, which allow us to mitigate the effects of social desirability bias when examining sensitive topics. Our average treatment effects show that approximately 14% to 16% of our sample would support migrating through irregular channels. We find evidence that perceived levels of enforcement only reduce support for the semi-legal strategy, while moral justifications underlie support for fully illegal migration. Taken as a whole, this evidence suggests that the ‘dual-system’ model may be at play when aspiring migrants are thinking about unauthorized migration.

These findings have important implications for politicians and policymakers. First, political rhetoric increasingly contends that swarms of unauthorized migrants threaten to overwhelm national borders. We find this is not even close to reality. Nearly 70% of our sample aspires to migrate, yet our list experiment estimates – unburdened by social desirability bias – show only a small fraction would support an irregular strategy. This is despite the considerable difficulties most aspiring migrants encounter when attempting to migrate legally. We need to take this finding seriously. As Elizabeth Thomas-Hope (2003, p. 5) suggests, “there is the danger of politicians exploiting or responding to public

anxiety and hurriedly formulating poorly conceived policies and short-term decisions.”

Second, our findings yield important implications for evaluation of policy effectiveness. The robust research that has found limited effects of immigration policy (see Massey et al. 2016, Ryo 2013) focuses primarily on clandestine border crossings. We caution researchers and policy evaluations against conflating this single strategy with all unauthorized migration.

More generally, our principal finding – that different mechanisms deter different forms of lawbreaking – suggests that policymakers should take seriously the differences across irregular strategies and acknowledge the unique mechanisms underlying them. Policies increasing the costs of migrating illegally (such as erecting walls and increasing border patrols) might be particularly ineffective. In practice, strategies that, this study suggests, would be most responsive to policy restrictions – i.e., semi-legal strategies in which migrants violate their visa restrictions – are often hardest to identify and contain, and they would be least affected by border policing.

Before extrapolating these policy implications, it is important to contextualize our findings within appropriate scope parameters. If anything is clear from our study, it is that there is no one-size-fits-all approach to enforcement policies. There is a wide consensus in psychology literature that moral convictions and non-consequentialist decision-making is highly dependent on culture and social context (Haidt 2012). Aspiring migrants from different countries may vary enormously in how they perceive irregular strategies, and policymakers would need to take those differences into account. In the paragraphs that follow, we outline in which contexts it might be appropriate to generalize our findings from Jamaica and where we would recommend caution.

On the one hand, there are certain peculiarities of the Jamaican case that pose limits for generalizability, and we would encourage future research to replicate this study in

other contexts. For instance, scholars may examine the motivations behind irregular strategies in a country with a land border, where undocumented border crossing (a fully illegal strategy) is more likely. It also could be interesting to consider a context with a less substantial proportion of aspiring migrants, as it is possible that the motivations would differ if migration were not a part of everyday life.

In particular, we should empirically extend our study to an area of conflict before generalizing our findings to refugees fleeing war. First, it is difficult to establish the degree to which asylum seekers from countries at war would be able to migrate using a semi-legal strategy, relative to Jamaican migrants. Asylum seekers seeking protection in Europe, for example, most often apply after having reached the territory of the asylum country through nonhumanitarian channels. It is possible for an asylum applicant to travel through nonhumanitarian, yet legal, means (e.g. on a tourist visa). However, many European policies limit access to visas for countries that produce large numbers of asylum seekers. Therefore, asylum seekers are thought to, primarily, enter European countries through unauthorized means (a fully illegal strategy) due to lack of sufficient alternatives (Fratzke and Salant 2017). Second, individuals who live in war zones are likely to make migration decisions under heightened constraints. It is difficult to speculate how the psychological theory presented in this paper would fare in this context.

However, aside from these important scope conditions, we believe that our findings do have implications for cases where security fears intertwine with economic considerations to push migrants from their home countries. Many highly salient cases in Latin America and the Caribbean fall within this scope, including the recent Central American and Venezuelan waves of emigration (Sturm 2016). Indeed, according to most recent data from the United Nations Development Program (2017), Jamaica ranks as the fourth most violent country in the world, as indicated by homicide rates, after El

Salvador, Honduras, Venezuela.<sup>21</sup> Most of our survey respondents identified being safe from crime, in addition to earning a steady income, among their top three priorities when considering migration.<sup>22</sup> These opportunities, and others, suggest a fruitful new migration research agenda for international relations scholars that – by delving deeper into how aspiring migrants make, break, bend and reshape borders – is capable of seeing like a migrant.

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<sup>21</sup>Many countries in the Middle East and Africa are reported as having missing data, so they are not included in this ranking.

<sup>22</sup>See Appendix G for the full tabulation.

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# **Law Breaking and Law Bending: How International Migrants Negotiate with State Borders Supplementary Information**

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Many countries have become increasingly aggressive in their efforts to stop unauthorized migration, but most evidence suggests that immigration enforcement policies do not effectively deter migrants. We draw on literature from social psychology, specifically the dual-system model of decision-making, which differentiates between judgments that are subject to considerations of risks and costs and judgments that are ‘non-consequentialist’. Non-consequentialist decision-making is founded in moral intuition and rejects rational considerations of costs and benefits. This mental process would render the deterrence tools of the state powerless. We posit that some, but not all, forms of unauthorized migration will invoke non-consequentialist decision-making. When considering semi-legal strategies, which individuals may perceive as ‘bending the law’ rather than breaking it, aspiring migrants are likely to weigh the risks and costs of enforcement policies. Meanwhile, when considering fully illegal migration strategies, aspiring migrants will prioritize moral considerations for breaking the law rather than the consequences of breaking the law. We find evidence for our theory using original population-based list experiments along with focus groups with aspiring migrants in an origin country.

# Appendices

## A. Irregular strategies

Migrating with fraudulent documents is a clear instance of illegal migration. Through this strategy, individuals move abroad without any consent from immigration authorities. In the United States, it is considered a criminal offence that can be punished with arrest, potentially long prison sentences, civil money penalties, deportation, and a bar on readmission (8 C.F.R. §270.3(b)(1)(ii)(B), 1270.3(b)(1)(ii)(B); 18 U.S.C. §1546). Much of the literature refers to the case of undocumented border crossing as an illustration of a fully illegal strategy (e.g. Espenshade 1995, Ryo 2013, Massey and Espinosa 1997). However, given the geography of the country, most Jamaicans must travel by air and sea, making it extremely impractical to cross a border without presenting documentation (Thomas-Hope 2005).

Working under the table on a tourist visa is a very common semi-legal strategy, containing a “mix of regular and irregular aspects” (Düvell 2011). Requirements for visitor permits are not as burdensome as those of permanent visas, and the acceptance rates are fairly high. In the United States, for example, 62.38% of Jamaican applicants are successful (U.S. State Department). However, there are strict terms associated with these visas, as visitors can only remain in-country for a limited amount of time and are unconditionally prohibited from working. Violating these conditions is certainly against the law (8 U.S. Code §1227, INA §212(a)(9)(B), INA §222(g)), but we classify this strategy as semi-legal because a legal visa is obtained.

## B. Evaluating List Experiments

It is important to assess the degree to which the list experiments accurately elicited support for irregular migration. List experiments hinge on the assumption that there are no design effects, ceiling effects, or floor effects (Blair and Imai 2012). Design effects arise when the presence of the sensitive item changes the respondent’s relative perceptions of the other items in the list, hindering comparisons between treatment and control groups. Ceiling and floor effects refer to the scenarios in which respondents support or reject every item in the control list. In the presence of these effects, the sensitive item stands out sharply from other items in the list, and treatment group respondents who support this item sacrifice their privacy.

These three challenges can be largely abated by careful design. The presence of the low-prevalence item in the list is intended to mitigate the possibility of ceiling and floor effects. We statistically test for design effects using the `ict.test` function in the R *list*

package (Imai 2011). With a Bonferroni correction for multiple testing, our minimum p-values (1 and 0.95 for *Illegal* and *Semi-legal* respectively) fail to reject the null hypothesis of no design effects for both experiments. This suggests that the list experiments were well designed to capture support for irregular migration.

List experiments protect respondent anonymity insofar as it is impossible for the survey enumerator to know which items the individual supports. In practice, however, improper implementation of list experiments can threaten anonymity. Many respondents and enumerators struggle to understand the instructions of the list experiment. Rather than reporting the number of items they would support, they may vocalise which item they support *the most*. Alternatively, they may respond to each item in the list individually, despite instructions not to do so. Finally, enumerators who read the options aloud may accidentally intone personal judgements through even slight changes in their voice or expression, inadvertently amplifying social desirability bias.

We observed all of these patterns while conducting pilot tests in Kingston. As a result, we implemented a number of practical solutions. First, we devoted a substantial portion of enumerator training to the use and purpose of list experiments. We conducted several mock interviews and highlighted which respondent behaviours were unacceptable. Second, we explained our instructions in greater detail in the survey instrument and specifically stated that the appropriate response would be a numerical sum. Third, we included a dry-run list experiment in the survey instrument, which walked the respondent through a simple example. Finally, we used showcards to identify the list items and response options, and we specifically instructed enumerators not to read any of the lists aloud unless the respondent required assistance. In the field, enumerators read the prompt, presented the showcard, and the respondents considered the list privately until they gave their answer.

### C. ATEs without Income Imputation

Table C.1: Average Treatment Effects among Aspiring Migrants (Includes Covariates), No Income Imputation

	Illegal	Semi-Legal
	(1)	(2)
	0.160	0.140
	(0.068)	(0.065)
	$p = 0.017$	$p = 0.034$
Fixed Effects	Yes	Yes
Observations	561	558

*Standard errors in parentheses adjusted for sample design*

### D. Results of the Full Sample

Figure D.1: *Full Sample Conditional Treatment Effects*

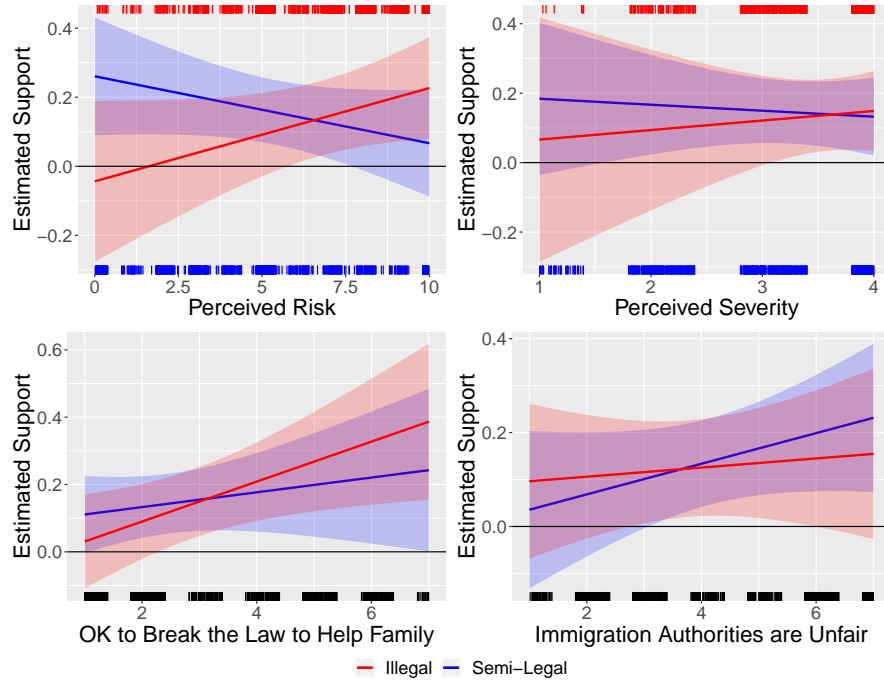


Table D.1: *Model Interacting All Theoretical and Control Variables, Full Sample*

	<b>Illegal</b>	<b>Semi-Legal</b>
	(1)	(2)
Treat	−0.417 (0.433)	0.277 (0.412)
Treat x Authorities Unfair	0.001 (0.023)	0.030 (0.024)
Treat x Break Law for Family	0.055* (0.028)	0.007 (0.031)
Treat x Risk	0.023 (0.017)	−0.012 (0.016)
Treat x Punishment	0.060 (0.069)	−0.013 (0.052)
Treat x Gender	0.037 (0.097)	−0.007 (0.104)
Treat x Age	0.003 (0.004)	−0.003 (0.004)
Treat x Education	0.006 (0.045)	−0.013 (0.045)
Treat x Income	−0.0002 (0.0001)	−0.00001 (0.0001)
Treat x Networks Abroad	−0.031** (0.014)	0.004 (0.015)
Constant	1.909*** (0.284)	2.257*** (0.245)
Fixed Effects	Yes	Yes
Observations	921	916
R <sup>2</sup>	0.130	0.173
Adjusted R <sup>2</sup>	0.099	0.143

\*p&lt;0.1; \*\*p&lt;0.05; \*\*\*p&lt;0.01

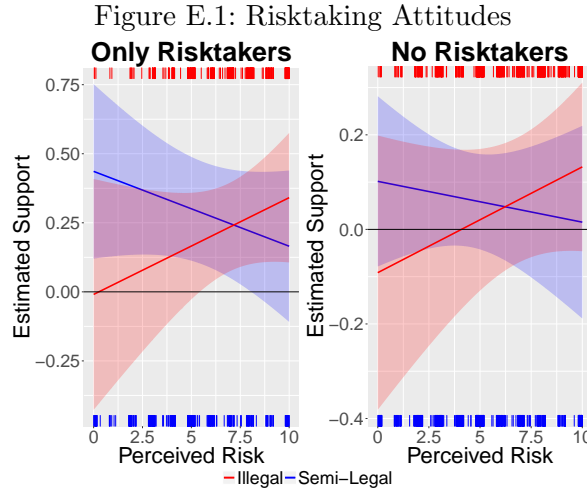
*Standard errors in parentheses adjusted for sample design*

## E. Understanding Risk and Support for the Fully Illegal Strategy

Why does the perception of risk have opposing effects on support for illegal and semi-legal strategies? We consider two plausible explanations.

First, it is possible that the divergent effects are attributed to tolerance for risk-taking. This would suggest that individuals support the illegal strategy despite the risks involved simply because they are more amenable to taking risks. Conversely, individuals who support the semi-legal strategy are not risk takers, and for that reason, they are deterred by policy restrictions.

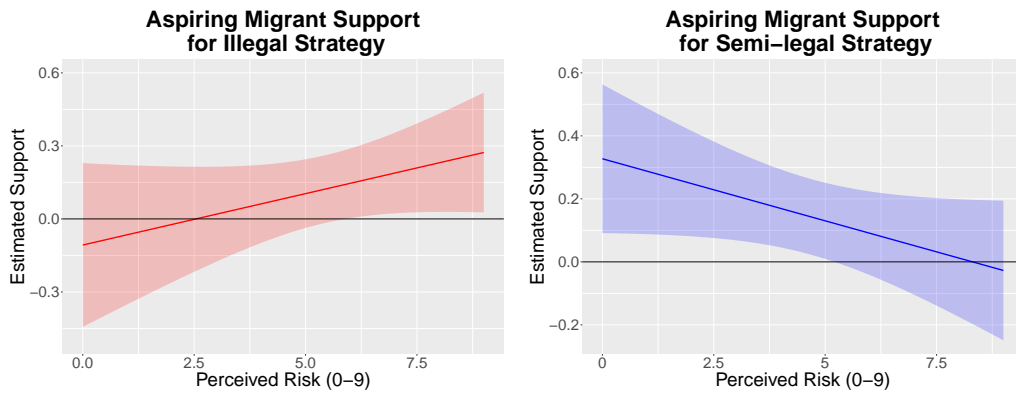
We tested for this possibility by subsetting our sample into two groups: risk friendly and risk averse individuals.<sup>1</sup> Our sample yielded 397 risk-takers and 735 risk averse individuals. We examine the conditional relationship of risk on support for the irregular strategies within these subsets. If risk attitudes, in fact, moderate the effect of perceived risk on support for an irregular strategy, we would expect perceived risks to only drive up support for the illegal strategy among the risk friendly sample. Similarly, perceived risks should only significantly drive down support for the semi-legal strategy among the risk averse sample.



The conditional effects among each subsample are displayed in Figure F.1. These results suggest that risktaking attitudes do not appear to explain the divergent result. Rather, they show that risk averse individuals are less likely to support irregular migration in general.

<sup>1</sup>We identify risk friendly individuals through an item which asks, “How would your best friend describe you as a risk-taker?” The risk friendly group consists of all respondents who self-identified as, “willing to take risks after adequate research,” and “a real gambler.” The risk averse group contains the remaining respondents, who classified themselves as “a real risk avoider” or “cautious.”

Alternatively, it is possible that the positive sign results from the distribution of the independent variable. Approximately 36% of the aspiring migrant sample believe that all individuals would be caught when attempting this strategy. That is, more than one-third of observations are clustered in one out of 11 possible response options.<sup>2</sup> For the sake of comparison, only 17% believe that all individuals would be caught pursuing the semi-legal strategy. We believe that the concentration of observations at the extreme category and the lack of meaningful variation might bias our estimates. To examine how sensitive our results are to this clustering, we test whether the positive relationship between risk perceptions and support still holds if we exclude individuals on the extreme end of the risk perception scale. This leaves us with 64% of the original aspiring migrant sample who believe that anywhere from 0 to 9 migrants would be caught when attempting the fully illegal strategy. If an increase in risks results in an increase in support, as Figure 3 in the main body suggests, that relationship should also hold among those who believe that between 0/10 and 9/10 migrants would be caught when attempting the strategy.



(a) *Support for Fully Illegal Strategy, Conditional on 0-9 Perceived Risk*      (b) *Support for Semi-legal Strategy, Conditional on 0-9 Perceived Risk*

In Figures E.2a and E.2b, we replicate the analysis for the main body's Figure 3 with this new subsample. In Figure E.2b, we see that the relationship between risk and support for the semi-legal strategy is unchanged from Figure 3 in the main body. Meanwhile, the relationship between risk and the fully illegal strategy (Figure E.2a) is quite different. The slope is much less steep than in Figure 3, and the 95% confidence interval is very close to zero.

We also replicate the analysis for Table 2 to observe the effects in a fully interacted model. The results, presented in Table E.1, indicate that risk no longer has a significant effect on support for the fully illegal strategy. In this model, morality is the only theoretical indicator that significantly predicts support for the fully illegal strategy. Meanwhile, the significant effect of risk on support for the semi-legal strategy continues to hold.

<sup>2</sup>As a guide, according to estimates from the Mexican Migration Project, the probability of being apprehended crossing the US border in 2017 was near 30%, and has not risen above 40% since 1965 (Mexican Migration Project nd).

Table E.1: *Full Models, Reduced Risk Indicator*

	<b>Illegal</b>	<b>Semi-Legal</b>
Treat	−0.760 (0.580)	0.280 (0.570)
Treat x Authorities Unfair	−0.024 (0.031)	0.055* (0.031)
Treat x Break Law for Family	0.080** (0.036)	0.009 (0.040)
Treat x Risk (0-9)	0.036 (0.031)	−0.045* (0.024)
Treat x Punishment	0.040 (0.089)	0.089 (0.067)
Treat x Gender	0.029 (0.140)	−0.055 (0.140)
Treat x Age	0.009 (0.006)	−0.007 (0.006)
Treat x Education	0.065 (0.065)	−0.050 (0.065)
Treat x Income	−0.0003* (0.0002)	0.0001 (0.0002)
Treat x Networks Abroad	−0.042** (0.020)	−0.001 (0.019)
Constant	2.100*** (0.400)	2.000*** (0.330)
Fixed Effects	Yes	Yes
Observations	542	439
R <sup>2</sup>	0.110	0.140
Adjusted R <sup>2</sup>	0.054	0.078

*Note:*

\*p&lt;0.1; \*\*p&lt;0.05; \*\*\*p&lt;0.01

## F. Full Results of Fully Interacted Model

Table F.1: *Fully Interacted Model, Aspiring Migrant Subset*

	Illegal	Semi-Legal
Treat	−0.590 (0.530)	0.270 (0.490)
Authorities Unfair	0.0004 (0.016)	0.009 (0.018)
Break Law for Family	−0.033* (0.019)	−0.006 (0.023)
Risk	−0.016 (0.013)	−0.013 (0.012)
Punishment	−0.010 (0.053)	−0.110*** (0.038)
Gender	0.130* (0.076)	0.025 (0.069)
Age	−0.014*** (0.003)	−0.007** (0.003)
Education	−0.002 (0.036)	−0.002 (0.040)
Income	0.0002** (0.0001)	−0.0001 (0.0001)
Networks Abroad	0.015 (0.011)	0.010 (0.011)
Treat x Authorities Unfair	−0.008 (0.027)	0.027 (0.028)
Treat x Support Family	0.095*** (0.031)	0.011 (0.035)
Treat x Risk	0.036* (0.020)	−0.037* (0.019)
Treat x Punishment	0.017 (0.078)	0.076 (0.062)
Treat x Gender	0.092 (0.120)	−0.063 (0.120)
Treat x Age	0.008* (0.005)	−0.002 (0.005)
Treat x Education	−0.005 (0.050)	−0.055 (0.059)
Treat x Income	−0.0002 (0.0001)	0.0001 (0.0001)
Treat x Networks Abroad	−0.040*** (0.015)	0.00001 (0.017)
Constant	1.900*** (0.340)	2.000*** (0.290)
Fixed Effects	Yes	Yes
Observations	687	685
R <sup>2</sup>	0.140	0.130
Adjusted R <sup>2</sup>	0.093	0.085

\*p<0.1; \*\*p<0.05; \*\*\*p<0.01

*Standard errors in parentheses adjusted for sample design*

## G. Priorities among Jamaican sample

Table G.1  
Priorities among Jamaican sample

	Full Sample		Aspiring Migrants	
	Total	Percentage	Total	Percentage
To have a steady income	925	79.33%	652	81.40%
To feel safe from crime	598	51.29%	414	51.69%
To save money	498	42.71%	315	39.33%
To study and get qualifications	335	28.73%	260	32.46%
To live near your close family	267	22.90%	171	21.35%
To live in a place where the government is transparent and fair	220	18.87%	142	17.73%
To live your life openly without fear of discrimination	165	14.15%	115	14.36%
To live in a place without wealth inequality	72	6.17%	48	6.00%
To be evaluated by merits, not by social class or connections	71	6.90%	43	5.37%

## H. Focus Group Topics

**Prevalence:** There are a lot of alternative ways that people can try to migrate. Some ways might be overstaying a visa, or working on a tourist visa, or getting a fake visa, or even entering through a border in secret without any visa. Regardless of whether you think it's OK to do these things, do you think these strategies are common among Jamaican migrants? Which strategies do you think are most common? Why?

**Morality:** Some individuals are unwilling to consider these kinds of channels because they think it's immoral to migrate without a visa. Do you think it's morally wrong to attempt any of these things to migrate? Do you think all strategies are equally immoral or are some more wrong than others? Why?

**Risk:** Which strategies do you think are the easiest to pull off without getting caught? Hardest to pull off? Why?

**Punishment:** Which strategies do you think have the harshest punishments? The most lenient punishments? Why? Do you think these punishments are fair?

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