



How America Can Better Enforce Laws to Protect Workers

Andrew Schrank, Brown University

The United States has laws on the books to make sure employees work in safe conditions, get paid what they are due, and have the right to join a union if they choose. But these laws are often ignored – and even very serious violations go unpunished and uncorrected. Workers suffer as a result. For example, surveys show that more than a quarter of all low-wage workers in the largest U.S. cities are paid less than the legally mandated minimum wage; and many put in overtime without pay. American workers die on the job more often than in most other developed nations. And employers routinely threaten union activists and supporters.

What explains the prevalence of unchecked workplace abuses in America – and what can be done to improve labor law enforcement?

Too Few Inspectors – Working for Too Many Agencies

To do a good job at enforcing labor laws, a nation needs well-trained officials who can regularly visit workplaces. But the United States does not fund enough inspectors – and existing officials work at cross-purposes.

- **Not enough funding.** At the end of the Bush administration, America had only 2,100 inspectors to work on behalf of 156 million employees. Each U.S. inspector was responsible for ensuring proper working conditions for 74,000 workers – a load far too big to do the job right. By contrast, France deployed one inspector for every 20,000 workers, and Germany deployed one for every 10,500 workers. Even countries like Brazil, Morocco, and Russia field more inspectors per worker than the United States.
- **Divided, inefficient efforts.** Responsibilities for enforcing labor laws are divided and scattered across a huge array of agencies. At the national level, inspectors go out from different parts of the U.S. Department of Labor – from the Wage and Hour Division; the Office of Federal Contract Compliance Programs; the Office of Labor-Management Standards; the Office of Workers' Compensation; the Occupational Safety and Health Administration; the Mine Safety and Health Administration; and Employee Benefits Security Administration. Add to those agencies the Immigration and Customs Enforcement division of the Department of Homeland Security; the Labor Relations Board; the Equal Employment Opportunities Commission; and a host of state and local authorities. Each kind of inspector is responsible for just a small part of the whole effort. Given the shortage of inspectors and the high cost of getting to an inspector to an enterprise, piecemeal efforts make impossible to do an adequate job.

Lawbreaking Firms are Often Multiple Offenders

If different kinds of violations happened in different firms, it might make sense, for example, to send wage and

hours inspectors to some workplaces and safety officials to others. But research shows that firms and plants that violate one standard are likely to fall short in other areas, too. Sweatshops often cheat on wages, and they also employ children and undocumented workers in unsanitary conditions. Similarly, a lot of industrial accidents happen in firms with contingent laborers, because such workers lack the skill and experience to operate equipment correctly.

Dividing enforcement responsibilities is therefore doubly self-defeating. Not only does it cost too much to get different inspectors to the same enterprises at different points in time; piecemeal inspections make it harder to see how problems are interrelated and correct the root causes. Other nations get better results from unified efforts. Labor inspection should move beyond checking off boxes on a dizzying array of forms to help everyone involved – employers, officials, and worker representatives – improve conditions overall.

The Obama Administration Has Improved Enforcement – but More Can be Done

Since taking office in 2009, President Obama's Secretary of Labor Hilda Solis has recruited hundreds of new safety and wage and hours inspectors, including officials who speak more than one language. Officials have doubled the number of investigations of prevailing wage violations on public works projects; and they issued a record-breaking \$87,430,000 in fines to British Petroleum for willful violations of safety and health laws and failure to meet the terms of a legal settlement following a huge refinery explosion in 2005. The Department of Labor has also developed a smart phone application that allows workers to calculate their anticipated wages – and thus notice if they are receiving less than they are due.

Building on this good start, additional steps are possible, ranging from quick fixes to longer-term reorganizations:

- Officials can keep each regularly informed. For instance, inspectors from the Occupational Health and Safety Agency who notice possible violations of wage and hours standards would notify officials in the Wage and Hour Division – and vice versa.
- Inspectors should be trained to notice various kinds of violations. Doing this in the future would save money and time, because a variety of kinds of problems could be addressed during each visit to an enterprise.
- Joint task forces can be formed to deploy investigators promptly to high-risk workplaces. Dangerous violations can be more promptly corrected, and violators quickly sanctioned.

In due course, U.S. labor laws should be enforced through inspections run by a single agency – the way it works in many other countries. With a more effective cop on the beat, repeat violators of labor laws would have to change their ways. Employers who want to do the right thing would benefit from less piecemeal bureaucracy – and get the information and advice they need to put workplaces on the road toward fair and safe conditions for all employees.

Read more in Andrew Schrank, "A Second Regulatory Divide? Labor Inspection Regimes in Comparative Historical Perspective," in *Economy and Society: Essays in Honor of Michael J. Piore* (MIT Press, 2012).