

Governing Regulatory Discretion: Innovation, Performance and Accountability in Two Models of Labor Inspection Work

Roberto Pires

Massachusetts Institute of Technology - MIT
(rpires@mit.edu)

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Question

Understanding innovation in regulatory enforcement

(Lit.) In some cases regulatory inspectors limit themselves to the narrow boundaries of their formal mandate, while in other cases they work collaboratively with other organizations, develop innovative strategies and solve complex problems...

...different potential explanations for variation in the way regulatory agents behave: e.g. legal traditions, regulatory cultures, industries' characteristics, firms' management systems, among others...

...however, current debate has not explored or tried to explain:

Q: to what extent (and how) management models and the ways through which supervisors organize inspection activities affect the opportunities for learning and innovation?

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The Research

- Brazilian labor inspection service
- 2 ways of organizing and monitoring the work of labor inspectors

NPM

Experimentalist Governance

Assumptions

Policy problems/goals are well known – “agent-principal”. Reform is about determining targets and incentive systems.

Policy problems/goals are NOT well understood – there are no such “principals”. Reform is about how to learn.

Mechanisms

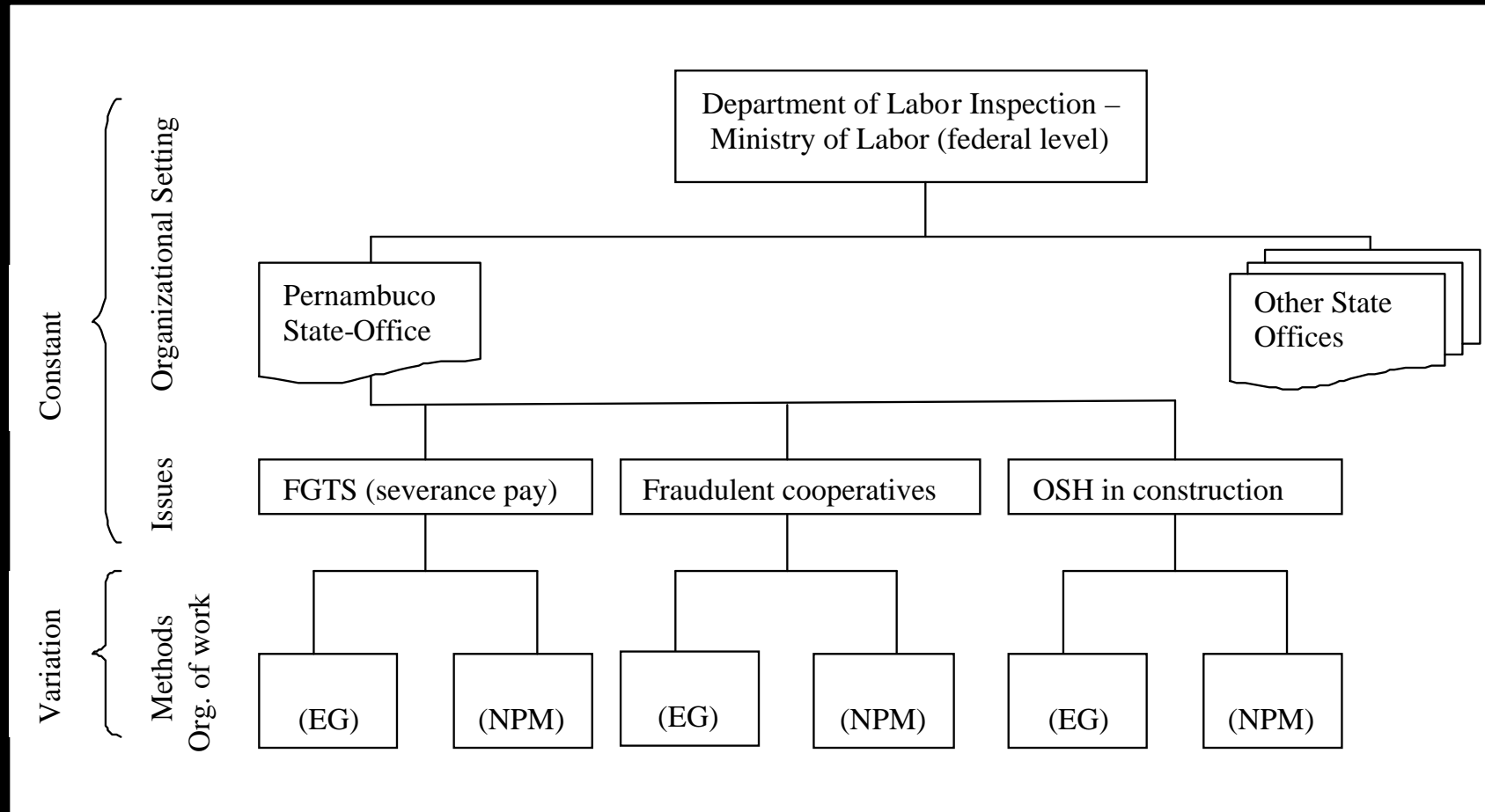
Pay-for-performance: quantitative measurement of outputs – individual performance + bonus on salaries.

Learning by monitoring: goals are provisional, error detection and correction at lower levels.

Monitoring

Supervisors evaluate attainment of performance targets (indicators).

Supervisors evaluate progress reports (reason giving, justification for cont.), peer and public review.



= Job security fund, dismissal or retirement
(severance payments – 8% over wages/month)

- **NPM:** geographic zoning system, pairs of inspectors, responsive, performance targets (# of firms and \$ collected) + bonus

vs.

- **EG:** GO-FGTS (4 inspectors immune to pay-for-performance scheme), info system (collaboration with CEF), targeting larger debts, standardized procedures (conversations).

Table 2: Comparing the outcomes of FGTS by labor inspectors in the Pernambuco State Office, 2007

	Number of inspectors	Inspected firms	Total FGTS collected and notified by inspection (US\$)	% of firms inspected	% of total FGTS collected	FGTS collected per firm (US\$)	FGTS collected per inspector (US\$)
<i>Zoning System (individual performance targets)</i>	141	12,959	12,583,883.16	98.57%	34.81%	971.05	89,247.40
<i>GO-FGTS</i>	4	188	23,568,255.16	1.43%	65.19%	125,363.05	5,892,063.79
Total Pernambuco	145	13,147	36,152,137.96	100%	100%	2,749.84	249,325.09
Total Brazil	3,174	285,462	566,486,244.08	--	--	1,984.45	178,477.08

Rapid expansion, not matched by adequate H+S conditions; top in number of fatal accidents – electrocution and falls

- **NPM:** pairs of inspectors (zoning system) pursuing quantitative performance targets, use of severe sanctions (shutting down)
- **EG:** Local Tripartite Committee (union, firms, gov. orgs), permanent channel of interaction (meets twice monthly) to discuss the implementation of H+S norms.

DR (differential residual device):

- Fundacentro researcher invited Siemens representative to LTC meeting (adaption of product to construction sites).
- Progressive firm owner to pioneer implementation and develop the necessary adaptations to electrical circuitry
- Training of electricians (Fiepe)
- In 2004, LTC deliberation makes DR mandatory
- In 2006, a survey found only less than 1% of sites without DR... and a sharp decrease in the number of accidents
- ...the DR required improvements that made sites more energy efficient

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- Matrix: main patterns
 - Three main conclusions
 - Monitoring by supervisors vs. staff motivation
 - Practices, routines, strategies vs. problem-solving
 - Sector-wide operations vs. responsiveness
 - “=” and “≠” across cases suggest:
variations in managerial practices and structures play a significant role, creating opportunities and incentives for the perception and construction of relational interdependency within and across organizations.

Matrix: Cross-case comparisons

<i>Elements of comparison</i>	<i>Methods for organizing inspection work</i>	<i>Issues of inspection (cases)</i>		
		FGTS Collection	Fraudulent Cooperatives	Safety in Construction
Accountability / control by supervisors	NPM	Measurement of quantifiable outputs – “FGTS collected by inspector”; “number of firms inspected”; “number of labor contracts formalized by inspector”; “number of fines per month”, etc.		
	EG	Assessment of progress reports justifying the continuation of the operation (based on quantifiable and non-quantifiable results).		
Inspection practices, routines, and strategies	NPM	Zoning system. Responsive and random inspections of firms in geographic jurisdictions. Non-uniform (inconsistent) procedures for firms in the same sector. No detailed investigations (evidence collection)		
	EG	Continued interactions between inspectors and relevant partners (co-production and revision of strategies, plans, etc.). Use of diagnostic information (databases, partners, etc.). Sector-wide operations (strategic focus on economic activities). Customized inspection procedures by sector (with standardization in each operation).		
Outcomes	NPM	Increased FGTS collection at the expense of mobilizing too many inspectors.	Little impact in changing firms’ hiring practices. Difficulties in investigation.	High number of sanctions with little impacts on reducing risks to workers.
	EG	Efficient and productive FGTS collection, mobilizing minimum resources (optimization).	Change in hiring practices (underlying reasons for non-compliance). Detailed investigations. Demonstration effects.	Development of technical and managerial solutions linking health and safety with production quality/costs.