

“Labor Inspectors: The Front Line in the Battle for Decent Work”

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1. Focus. My focus here will be on the potential role of labor inspectors as active agents in the pursuit of decent work and the transition away from the role which they have played over the last twenty years as the rear guard against deteriorating working conditions in an increasingly open and global economy.
2. Background: We are at a turning point in social and economic policy, turning away from the neo-liberal retreat of government, and toward a revival of the state as an active agent in the promotion of economic development and social welfare. But this is occurring largely in reaction to neo-liberalism and not as a positive response to a renewed faith in the potential of government. Especially in the area of labor standards, we have yet to respond to the neo-liberal critique, and as long as we have not done so, the revival of the state's role is fragile.
3. The basic neo-liberal critique of labor standards is that they are too rigid and inflexible and generally hinder economic growth and efficiency. But this critique gives too much credit to the judgment of management about the most productive technology and business strategy, and misunderstands and distorts the way in which at least some systems of labor inspection actually operate.
4. In the areas of business judgment, our own research at MIT (as well as the work of a number of other analysts) suggests that businesses are often overwhelmed by the pressures of international competition and fall into violations of labor standards inadvertently in an attempt to make up for deficiencies in production or business practice. This is especially true of small and medium sized enterprises in economies newly opened to global competition. But studies of even large subcontracts suggest that violations of

standards, especially hours regulations, result from the buying practices of large, branded retailers who are unaware of the impact of their own policies. This leaves room for improvements where compliance with norms would have little or no cost in terms of efficiency and competitiveness and, in the case of some, may actually improve their economic performance. We shall argue that labor inspectors who move across many firms in the economy and see a particularly wide range of practices are in a strong position to recognize and promote these improvements by transferring best practices from the stronger firms which they visit to the weaker firms and teaching them how to implement those practices.

5. There are, however, several distinct models of labor inspection. The critique of labor standards originated in the U.S. and is based on American practices. We focus here on the model of labor inspection which originated primarily in France in the 19th century and was then adopted by other southern European countries, particularly Spain and Portugal, from where it migrated to Latin America. This Franco-Iberian model offers the best base for the role of labor inspectors as active agents in the promotion of decent work. The U.S. model is distinguished by a number of different agencies, operating independently of each other and each responsible for a narrow section of the labor code. It is a sanctioning model in which violations are punished through fines, and the payment of the fines discharges the companies' obligations to the law.
6. The Franco-Iberian model is, by contrast, generalist. In principle, the whole of the labor code is enforced by a single agency, the labor inspectorate. The model is also a compliance model. The enterprise is expected to come into compliance with the law, and the inspector is authorized to develop, in consultation with the enterprise, a plan that brings it into compliance over time.
7. These characteristics give the labor inspector a wide margin for maneuvering and places him or her in a position to adapt to the particularities of a given enterprise. Since the labor code is so vast, it cannot be literally enforced item by item and the inspector must pick and chose what to examine and ultimately focuses on underlying patterns and their root causes rather than the individual violations. It leaves room for the inspector to play a conciliatory role, but also to serve as a consultant or tutor to the enterprise in upgrading not only labor conditions but the production practices and business strategies in which those violations are rooted.

The power that the system places in the hands of the inspector makes the Franco-Iberian model of labor inspection a street-level bureaucracy, a bureaucracy in which, in contrast to the classic hierarchical bureaucracy, decision-making power resides in the line officers at the base. Other bureaucracies of this type include police, classroom teachers, and social welfare workers. In the reforms of private sector management associated with the end of mass production and the movement toward more flexible organizational structures, it has become increasingly characteristic of private enterprise as well. It requires special forms of management, very different from the command and control techniques of classic bureaucracy. But it is here that the potential of labor inspection as an active agent in the pursuit of decent work resides.

8. There are essentially three areas that are critical to the realization of that potential:
 - a. increased resources
 - b. linking labor inspection to government programs providing real services to business
 - c. a focus in the management of labor inspection on
 - i. organizational culture
 - ii. functionally specialized units within the organization
 - iii. the surfacing of the tacit knowledge and criteria upon which inspectors make their decisions and the subjecting of that knowledge once surfaced to systematic discussion and examination by the inspectors themselves and by more formal evaluation techniques embedded in a research program designed to expand the range of understanding and the tools available to the inspectors to implement it.
9. Increased Resources: Labor inspectors in many developing countries already play the kind of tutelary role we are advocating here. But their ability to do so is severely handicapped by the meager resources available to them. France provides the model of what a well-funded inspectorate looks like: the inspectors themselves are recruited through a competitive exam; they have job security and civil service status; they are trained in an 18-month program centered on a special campus, living in dormitories, in modern classrooms near Lyon and then supplemented by systematic on-the-job training. They each receive their own laptop computer when they enter the program, when on the job they have private offices to meet with workers and managers, secretarial support, and a fleet of cars is at their disposal for field visits. In many developing countries that I visited, inspectors have to take public transportation when they go into the field, they work in crowded offices shared by five or six inspectors where conversations with visiting workers and managers are easily overheard, and they are lucky to share a manual typewriter with their colleagues. Under these circumstances, it is difficult for them to command the respect required for a proactive role, let alone to perform it.
10. Most governments these days, even in developing countries, have a number of programs designed to provide real services to enterprises to sustain their competitive position. These almost invariably include training programs and subsidies housed in the labor ministry where labor inspection resides. But they also typically include industrial extension programs advising on technology and business practice, and sometimes subsidizing equipment purchases, export promotion, and the like. They also include special credit programs. These resources need to be linked to the labor inspection program and be accessible to the labor inspectors in developing compliance plans for substandard enterprises.

11. Managing Street-level Bureaucracies: The literature suggests that three elements are important in managing systems such as labor inspection which do not respond to traditional command and control.

- a. Organizational Culture: The decisions of the inspectors are guided by the organizational culture through which practices are passed on from one generation to another and reinforced by colleagues in informal interactions on the job. Training on the job by accompanying experienced inspectors is also an important vector in the transfer of organizational culture. The management can gain some control over this culture through recruitment and selection practices (since new inspectors bring certain predispositions with them when they enter the service), by training, and by the way higher level management interacts with line inspectors on a regular basis. The expansion and reform of labor inspection that is happening in a number of countries is an opportunity to break with the traditional culture by introducing lots of new members into the organization with different backgrounds and different orientations.

Cultural management is, however, a complex and subtle process. That it is so is illustrated most pointedly by France where despite (or maybe because of) the elaborate recruitment, selection and training, and the resources devoted to the system, there is enormous distrust and hostility between the line inspectors and their superiors. There is, however, a growing literature, much of it from the private sector, on the management of organizational culture, and labor inspection needs to pay much more attention to it. And the ILO has to make this a part of its own research and advisory program.

- b. Specialized Units: Much greater consistency and control can be imposed over how cases are managed and resolved, where they can be grouped in specialized units. These units need to be defined, not in terms of a list of violations, but in terms of some set of analytical distinctions related to the underlying causes of the violations or the remedies which are required. A number of inspectorates have created such units on an essentially ad hoc basis. France, for example, makes a sharp distinction between small enterprises handled by controllers and large enterprises handled by the inspectors themselves. Almost all countries distinguish between agriculture, transport and other enterprises. A number of countries have special programs for child labor which link enforcement of labor standards with the educational system and incentives for keeping children in school. In Guatemala, there is a special unit which handles maquilas; a number of other countries have de facto practices which make this distinction. Again, the management potential of these specialized units needs to be more widely recognized at the national level, and the ILO needs to give greater attention to their potential in its research and advisory programs. There is already much variation on this score among different countries, so that the evaluation and dissemination of existing experience would be very helpful in stimulating interest and heightening recognition of the potential as an instrument of management.

12. **Surfacing Tacit Knowledge:** The most important decisions which labor inspectors make for economic efficiency and development are based on a kind of tacit knowledge that the inspectors themselves have developed in moving across enterprises in the normal course of their work and through watching their colleagues, listening to war stories and discussing difficult cases. Labor inspection is a kind of clinical practice, like the practice of medicine. In medical practice, and also in manufacturing, major efforts have been made in recent years, particularly as part of the effort to apply information technology, to surfacing tacit knowledge, systematizing it, subjecting it to evaluation, and supplementing it through research. This has generally been a process in which practitioners discuss particular cases in small groups, and, on the basis of their own experience, develop protocols. The protocols are then evaluated and corrected by other groups of their own colleagues, and submitted for a vote to all of the practitioners in a given administrative unit. Once approved, practitioners are encouraged to use these protocols and/or to justify deviations from them either to their superiors or to a committee of their colleagues. The protocols can also be subjected to systematic evaluation and supplemented by research designed to test improvements. They can also be used as tools for personnel evaluation. The ILO ought to move in cooperation with selected national inspection services to experiment with a program of this kind.

A Concluding Remark. This is, as I suggested at the outset, a critical moment for labor inspection and for active government social and economic policy more generally. The nature of labor inspection under the Franco-Iberian model provides enormous potential for the inspectors to become active agents in the pursuit of decent work, and as such to vindicate a more proactive government role in socio-economic policy more generally. But the very power which resides at the base of the inspection organization and the difficulties of managing it in a command and control style creates a potential as well for the kind of abuse in the form of arbitrariness, clientelism, nepotism, and outright corruption which discredited government and opened the door to the neo-liberal critique in the past. The way in which the withdrawal of government over the last ten years and the social disintegration and, in many areas, even whole countries, economic stagnation which has followed, offers a redemptive opportunity for active social and economic policy. But as the memory of the neo-liberal moment recedes into the past and their costs are forgotten, the reemerging government policies will be subject to increasing scrutiny and criticism. To meet that scrutiny and survive, we must address the limits of existing programs and seek to manage and direct them in a more effective way. This is a moment of opportunity. A program of decent work has the potential to take that opportunity to realize that its potential through labor inspection.