Private & State Regulation: Combining Two Approaches for Maximum Effectiveness

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Overview

- How can do private and state regulation relate to one another?
- Fundamentals of co-production
- Fundamentals of reinforcement
- Policy lessons and implications

A Division of Labor - Towards Coproduction

Institutional plurality raises the possibility of complements

Private already supports the state, and visa-versa

Monitoring and Issue Focus

Private	State
Police patrol: Private regulation conducts preventative, timed, audits of factories, as well as follow-up audits.	Fire alarm: State regulators rely on complaints of workers, unions, and NGOs.

Sanctions & Rewards

Private	State
Commercial incentives of factories losing business. Rarely applied, but highly costly	Fines and court settlements. Rarely applied, but highly costly

Pedagogy

Private	State
Teach factories how to manage production Teach managers about international standards of worker-management dialogue	Teach managers about the content of the law and obligations. Teach workers about their rights.

Conciliation & Adjudication

Private	State
Preventative training. Difficult to conciliate conflict between workers and management when it hits a high level.	Inspectors conciliate conflicts between workers and management. If solutions cannot be found or a legal question needs to be resolved, inspectors adjudicate these conflicts

Examples: Different problems, same factory in the Dominican Republic

- **Private**: Health and safety, contracts, overtime
- **State**: Freedom of association conflicts

Drivers of Complementary Regulation

1. Non-substitutable inputs into regulation by private and state actors – different capabilities and objectives

2. Reducing pressure on the resources of state regulator to attend to industries outside removed from global regulatory networks

Beyond coproduction: Thinking about how private can reinforce state institutions

Factory responses to formal rules:

REINFORCEMENT

1. Engage in state institutions and follow the rules of the game

1. Defect from state institutions, ignore formal rules and

Garment Factory Responses to Minimum Wage Increases in Indonesia

REINFORCEMENT

1. Pay higher minimum wage
2. Go through legal process of "postponement"

1. Informal negotiation to gain illegal approvals from workers & local regulators for lower wages. would be approved by supervised formal process
2. Imposition of lower wages without any negotiation

BWI Response to Minimum Wage: Pushing Factories to Engage with the State

1. **Incentives**: BWI marked factories as non-compliant when they did not pay or legally renegotiated. Resulted in strong pressure from buyers sensitive to wage violations

2. **Information**: BWI issued four "Legal Updates" informing all factories & buyers about requirements, based on MOMT interpretation

BWI’s Response: Factory in Jakarta

1. Minimum wage increased to US $197/month in 2012
2. Managers “*explained*” to workers that “*we cannot survive because there are many expenses*,” and union was “*silent*.” Management offered $185 and the union agreed.
3. BWI said this was invalid, factory had to go through formal process of renegotiation. Management asked: “*Do we have another way*?” The answer was **no**.
4. BWI coached factory through supervised renegotiation process, the $185 wage was rejected by governor.
5. After supervised renegotiation, the factory paid $189.

Quantitative Analysis

- Were BWI factories morel likely to file for postponement compared with:
  – Non-BWI factories
  – BWI factories in districts without mobilization
- Data: Directory of Manufacturing, participation in supervised wage renegotiations
- Subsetted regression analysis, DV=renegotiation, key IV is participation in BWI

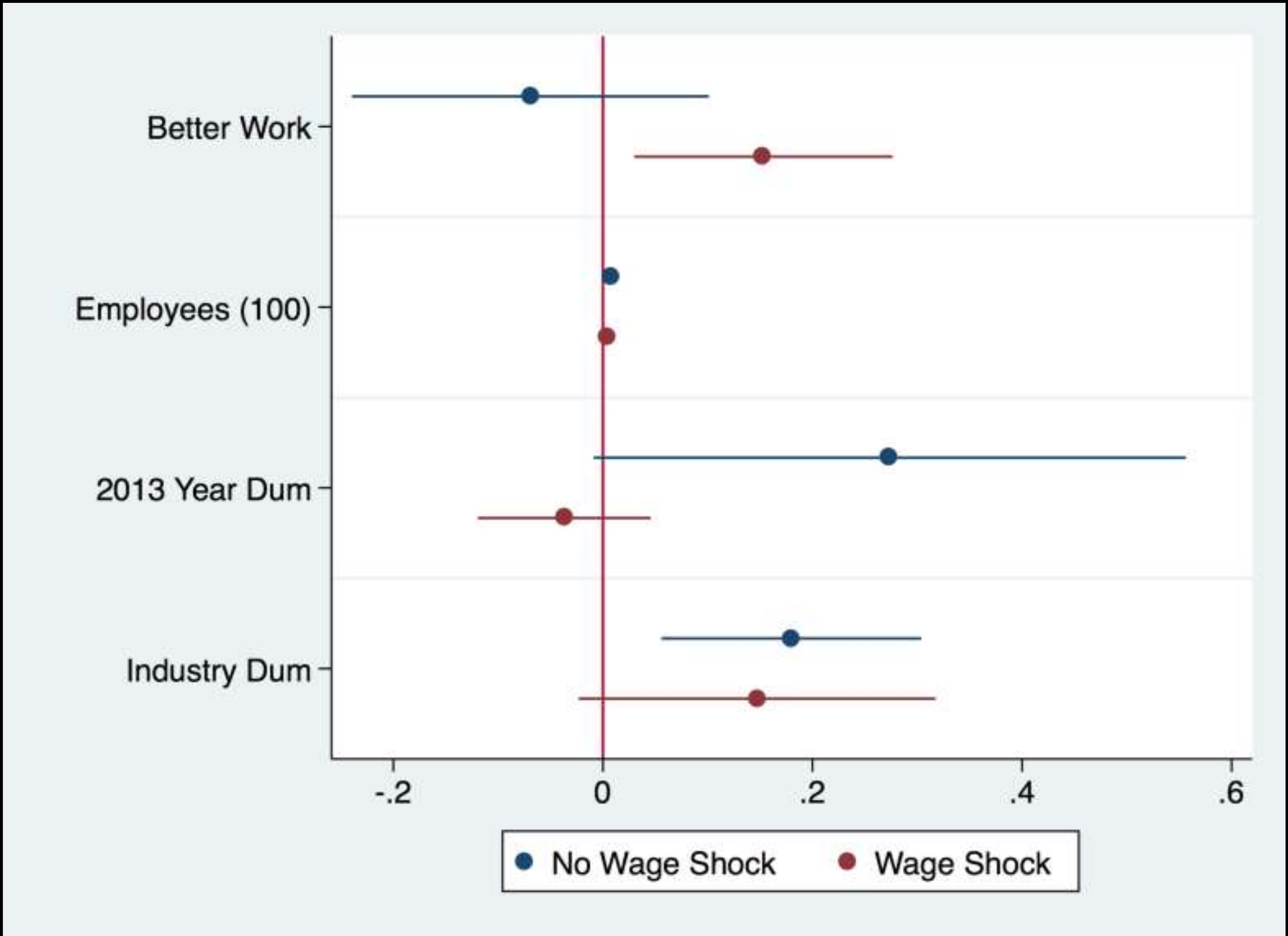
Summary Statistics

Table 1: Summary statistics on Direktori Industri Manufaktur, BWI and non-BWI garment factories

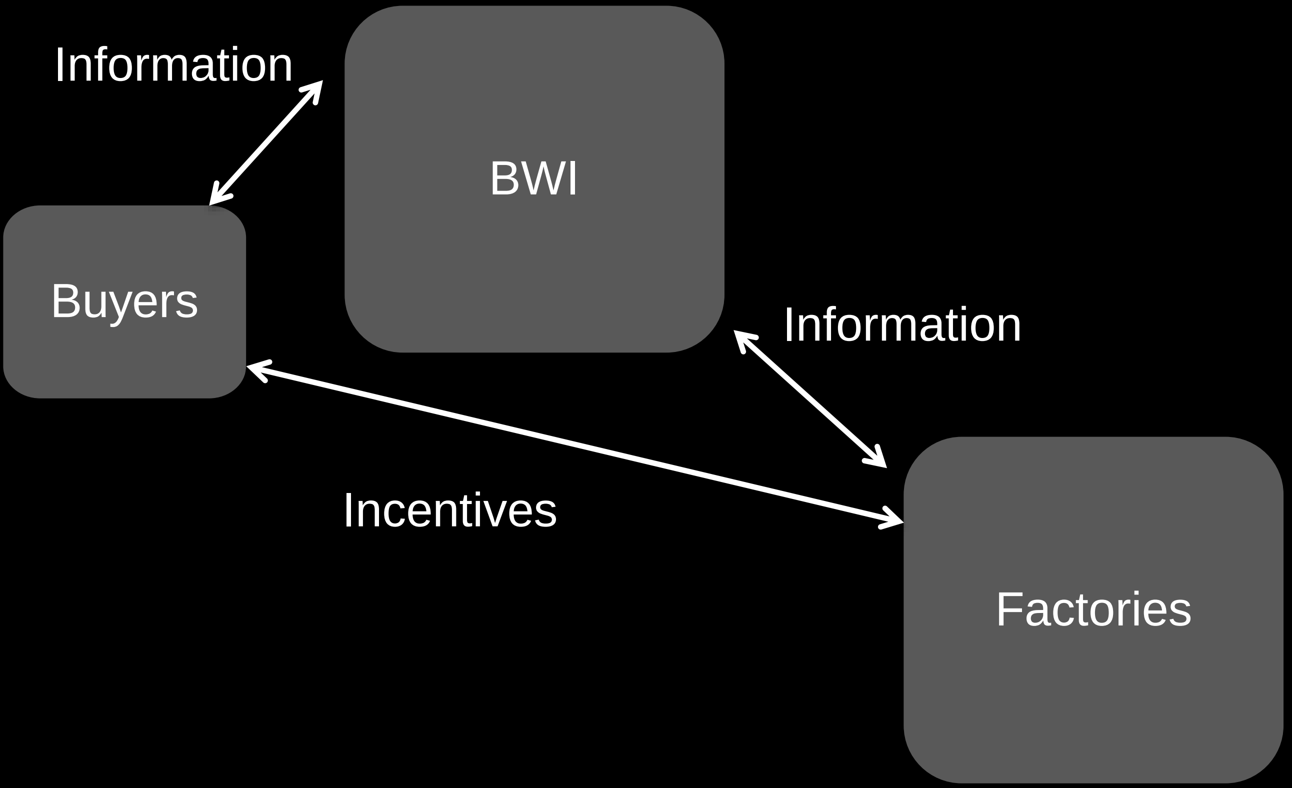
	BWI	Non-BWI (>500 workers)	All non-BWI
Employment size (median)	1492	920	283
# factories (unique)	34	137	338
% with wage postponement	42%	29%	14%
Main product			
% apparel manufacture[148]	84%	90%	86%
% knitwear	16%	10%	14%

Data from BPS Industrial Manufacturing Directory

Regression Analysis (separated by districts)



Regulatory Structure



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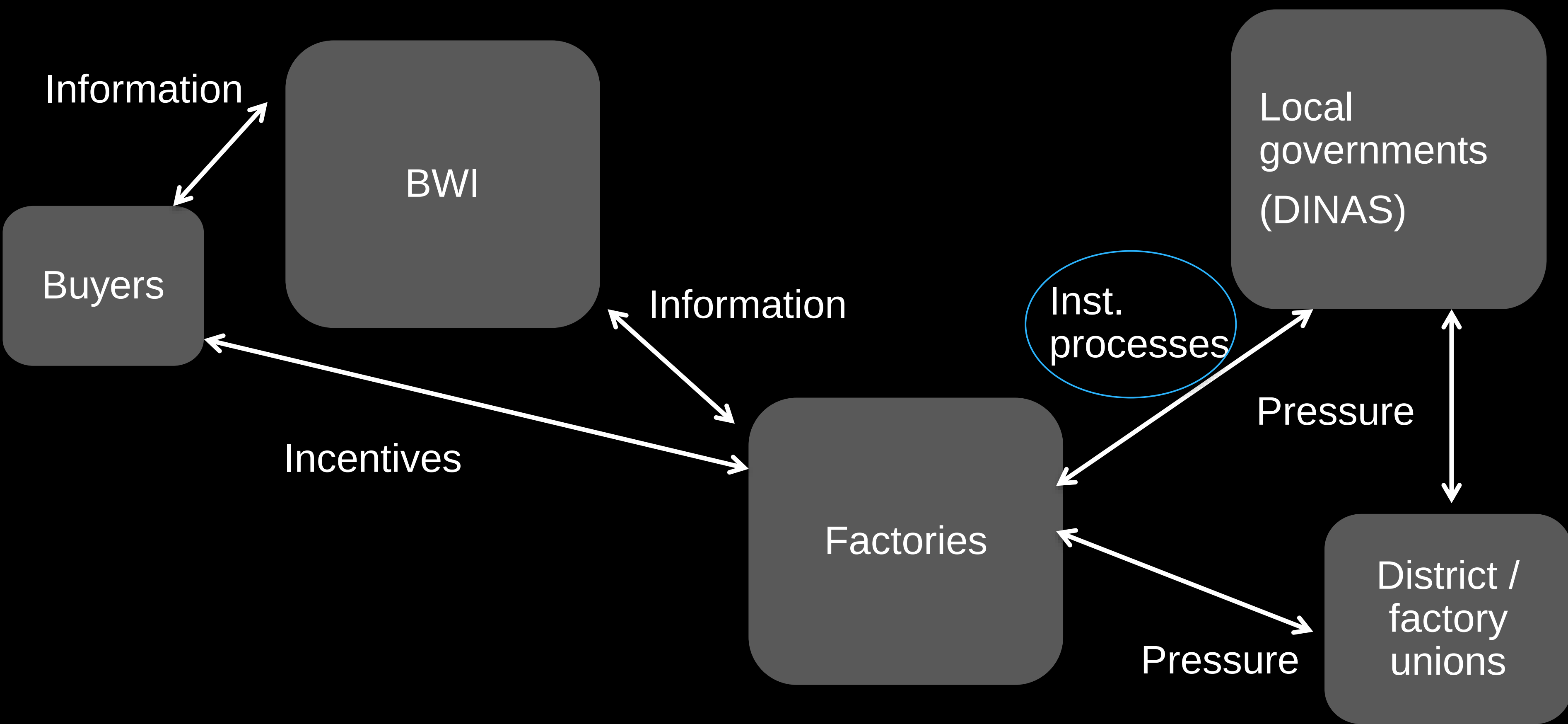

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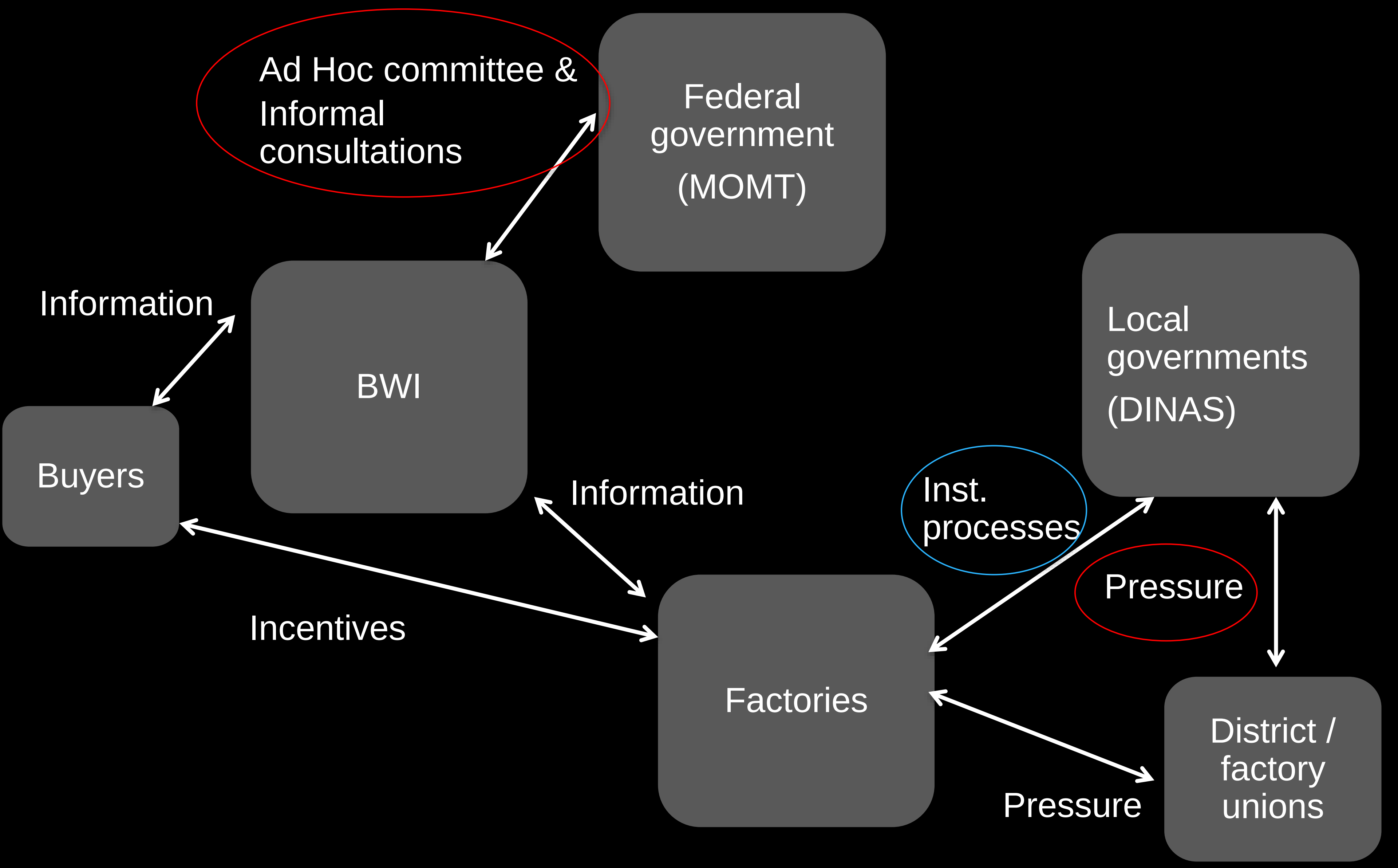

Policy Implications

- Design private regulatory initiatives to meet the specific weaknesses of labor inspection
- Do not expect that private regulatory initiatives can substitute for the state, as they have their own weakness
- Private initiatives are most likely to strengthen state ones when there is social mobilization activating state institutions, and when there is authoritative guidance on legal questions