

Labor Standards and Worker Organization Strategy

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Executive Summary

This paper explores a new strategy for workplace-based worker organizations. The strategy is suggested by the contrast between the U.S. system of work regulation, in which regulations are administered by a number of different agencies, each with a relatively narrow jurisdiction, and the system prevailing in Southern Europe and Latin America, where a single agency administers the whole of the labor code. The latter is particularly effective where, as is generally the case, the work practices of a company are interrelated and “patterned.” The patterns typically reflect the company’s production practices and business strategy; these are the ultimate determinant of work practices and need to be adjusted if violations are to be remedied. The Franco-Latin approach encourages the regulatory agency to recognize these patterns, and then to look for remedies that address the root causes. Workplace-based worker organizations could simulate the Franco-Latin approach by identifying instances of multiple violations, bringing complaints simultaneously to all the different agencies that have jurisdiction over them, and then pressuring those agencies and employers involved to work together as a group with the worker organization to identify the underlying causes of the problem and develop remedies. This strategy could be developed by a local organization operating on its own or in coordination with other organizations at the local, state, or national level, on the model of recent campaigns to raise the minimum wage.

This paper explores a new strategy for worker organizations aimed at improving the conditions of their constituencies in the workplace. It would appear particularly attractive to non-union organizations that do not have a collective bargaining relationship, but could be employed by union organizations as well. It is based on the contrast between the way government-mandated work standards are conceived and enforced in the United States and an alternative model of government work regulations developed in France and Spain and widely prevalent in Southern Europe, North Africa, and Latin America. The latter, Franco-Latin model has several advantages; we place particular emphasis here on the way in which it promotes a focus on the underlying determinants of working conditions and how they are rooted in technological processes and business strategies. The U.S. system, we will argue, focuses instead on particular practices, essentially treating the symptoms rather than the disease.

It would be difficult to simply replace the U.S. system with the Franco-Latin alternative, but we will argue that workplace-based organizations can force U.S. agencies to work together in a way that simulates Franco-Latin practice. In so doing, these organizations could assume an active role in overseeing and potentially even directing managerial practice comparable to the role assumed by works councils in the German industrial relations system. It would involve a role for workers’ organizations very different from that to which they have become accustomed in the postwar period; however, this new strategy could be more effective in the current economic and technological environment, which is itself so different from the 1930s and the early postwar decades in which union organization and collective bargaining emerged.

The argument is developed in four sections as follows. The first section lays out the basic contrast between the U.S. and the Franco-Latin models of work regulations and discusses the relative

advantage of the second approach for contemporary work regulation. The next section then discusses how, even without legislative reform, workplace-based organizations might move U.S. practice toward the Franco-Latin approach by filing simultaneous complaints with multiple agencies and then pushing those agencies to work together with the employer and the workers to identify and address the underlying causes of the identified problems. The third section then discusses what we know about the underlying causes of regulatory violations, how they are rooted in managerial practices and business strategy, and, more generally, how a recognition of this relationship shifts the focus from a punitive to a remedial approach to work regulation. The last section concludes with some general observations about the implications of this approach for protecting and enhancing worker welfare.

The U.S. vs. the Franco-Latin Models (Two Models of Work Regulation)

The U.S. approach to work regulation is, to borrow the terms used by international agencies to characterize it, specialized and sanctioning. It is specialized in the sense that work regulations are administered by a series of different federal agencies, each with a particular focus and a relatively narrow jurisdiction: the Wage and Hour Division (WHD) of the Department of Labor, the Occupational Safety and Health Administration (OSHA), the Employee Benefits Security Administration (EBSA), the Equal Employment Opportunity Commission (EEOC), the National Labor Relations Board (NLRB), the Federal Mediation and Conciliation Service (FMCS), Immigration and Customs Enforcement (ICE), the Bureau of Consular Affairs of the Department of State, and so on. Many of these agencies have counterparts at the state and/or local level with which they share jurisdiction. Typically, a given enterprise will fall under the jurisdiction of many (indeed most) of these agencies at the same time, but there is little or no communication, let alone deliberate coordination, among them.

The system is sanctioning in the sense that violations, once identified, are punished through the imposition of a penalty, typically in the form of a fine, although occasionally by an order for specific performance and in certain extreme cases by incarceration. The penalty generally discharges the obligation of the enterprise under the law. The system tends to be viewed, and is often administered, as creating a series of individual rights; therefore, sanctions are often assessed as compensation to particular individuals. Agencies respond to complaints rather than monitoring broader indicators of violations, engaging in regularly scheduled inspections, or proactively upgrading labor conditions in a particular industry or the economy as a whole over time.

The U.S. system lends itself to analysis in terms of the economic model of rational choice behavior. Employers are assumed to weigh the cost of compliance with the law against the penalties they are likely to incur for violations. Compliance then comes to depend on the size of the penalties and the chances of getting caught. The latter is in turn a function of the number of inspectors and the effectiveness of the way in which they are deployed. The number of inspectors and the penalties for violations then become the principal factors that produce compliance with the law.

The Franco-Latin model is, by contrast, general and remedial. The whole of the labor code (including certain provisions of collective bargaining agreements and restrictions on foreign workers) is enforced by a single agency. When the agents of that agency (the work inspectors) inspect an enterprise, they can examine any aspect of the work process or the way the business is conducted that might have a bearing on working conditions. This approach does not preclude the punishment and deterrence that is the keystone of the U.S. system: Malicious and/or repeated violators are subject to fines or even criminal sanctions. But the enterprise is expected to come into compliance with the law; obligations cannot be discharged through payment of a penalty. Compliance is, moreover, viewed as a process (rather than simply as a condition), and a part of the inspector's role is to guide and direct that process. The agents are therefore expected to identify the underlying causes of violations and to develop a plan of action that addresses those causes and corrects them, over time if necessary.

In this model, the system of work standards is understood as a social institution and violations as a threat to the viability of that institution in a competitive market. Thus the damage caused by any violation goes well beyond the particular individual or individuals directly affected; violations undermine the welfare of all workers in the same market. As a consequence, the system cannot be maintained by addressing particular complaints (at best, complaints serve to provide information about market conditions). To the extent that regulations create individual rights, those rights are pursued through other channels. In France, for example, there are labor courts, analogous to the grievance procedure in U.S. collective bargaining agreements, through which individual remedies can be sought (Von Richthofen 2002).

The Franco-Latin model would appear to have several advantages over the American approach to work regulation (Schrank and Piore 2007; Piore and Schrank 2006, 2008). First, from the point of view of the enterprises that are subject to regulation and inspection, the Franco-Latin model reduces the number of separate agencies with which they have to deal and the number of inspectors visiting their work sites. The last is not insignificant, since inspectors typically divert managerial time from other issues even when they do not uncover any violations. They often also call workers off the shop floor and disrupt the production process.

Second, from the point of view of government efficiency, the Franco-Latin approach reduces the number of inspectors required to survey a given number of enterprises and hence directly or indirectly increases the deterrence effect of a given budgetary expenditure. We will discuss the potential advantages to workers and to workers' organizations at some length shortly.

Lastly, from a social point of view, the advantages are twofold: First, this approach fosters a more holistic understanding of the determinants of working conditions and of the range of policies which can be brought to bear to correct them. Because inspectors deal with multiple violations in a single enterprise, they can readily see that work standards come in packages. Moreover, standards are related not only to each other but also to other managerial practices, seemingly distant from the work process—for example, the choice of technology or the enterprise's strategy in the product

market. As a result, upgrading working conditions sometimes requires consideration of the whole way in which an enterprise does business (Gill and Meyer 2008). Under this model, infractions cannot be treated as independent, discrete violations of the law; to do so would be akin to a doctor treating the symptoms a patient presents rather than identifying and treating the underlying disease. For example, Richard Locke traces the failure of major retail brands in the United States to control standards in their subcontractors abroad—a failure that ultimately led to the collapse of Bangladeshi garment factories and the death of more than 1,000 workers—to an approach to fashion that leads companies to delay freezing designs and placing orders until as late as possible and then pressure the producers to make up for that delay with rapid delivery (Locke 2013).

The garment industry “sweatshop” is the classic example of a constellation of characteristics reflecting a single managerial system but treated under the U.S. system of regulation as a series of separate working conditions (Piore 1990). The conditions that characterized the sweatshop were low wages, long hours, and a series of health and safety hazards including crowded workrooms, blocked fire exits, clogged aisles, excessive temperatures, and the use of child labor. The consequences of these conditions were starkly rendered in the Triangle Shirtwaist Factory fire in New York City in 1911, which killed 146 workers. Ultimately, the sweatshop reflected an approach to production in which the only fixed cost was real estate. Wages were paid by the piece; the customer typically supplied the material in the form of cut fabric; the single piece of capital equipment, the sewing machine, could be rented on short notice and for very short periods of time, and the workers were sometimes forced to pay that rent. Since real estate was the major fixed cost, the employer tried to cram as much production into as little space as possible and minimize the cost of heat and ventilation, thus causing health problems and creating multiple physical hazards. Piecemeal corrections in violations proved transitory; the violations reappeared in the same factories, much as they did one hundred years later in the subcontracts of the major brands that Locke studied.

The cure in the case of the sweatshop was an hourly minimum wage, which suddenly incentivized the boss to organize the shop so as to maximize the hourly production of the workforce. To do so, children and slow workers were excluded and the shop was organized in an orderly fashion with clear, unobstructed aisles and workspaces to facilitate the flow of work. In other industries that featured long runs of standardized products and capital-intensive mechanization with dedicated equipment, the economics of production foreclosed the sweatshop early in the process of industrialization in a way that a series of separate agencies each focused on a different symptom of the process could not.

The underlying point here is the fact that there are alternative ways to organize production with very different implications for worker welfare. Labor inspectors are in a unique position to identify what these alternatives are because they move back and forth across so many different enterprises and are exposed to a much greater variety of practices than virtually any other actor in the economy. In the Franco-Latin system, where they are responsible for the whole of the labor code, they are able to see the underlying relationships governing work arrangements. These relationships are not apparent when looking at one, or even a few, labor standards or work practices in isolation,

as the U.S. approach leads inspectors to do. The inspectors in the Franco-Latin system are, in other words, led by the nature of their job to see the forest rather than the trees. In addition, because they are supposed to actually bring enterprises into compliance with the law, they are in a position to act on this knowledge. This knowledge is, however, clinical; it does not rest on a systemic scientific base as does, for example, medical practice—a point to which we shall return.

A second advantage of the Franco-Latin model from the broad social perspective is that it fosters flexibility and hence facilitates adjustment to changing economic and social conditions. The flexibility derives from the enormous discretion given to inspectors. When inspectors visit a shop, they cannot possibly review every aspect of the labor code; they are forced to decide which aspects of work to focus on and under what circumstances. Their discretion is further enhanced by their ability to work out a plan that brings the enterprise into compliance gradually over time instead of forcing immediate adjustment. This flexibility is important because it preserves companies that might not be able to survive if forced into compliance suddenly, but also because the goals of work regulation are complex, not necessarily compatible with each other at any moment of time, and weighted differently depending on the economic and political climate. In communities with high unemployment or in periods of general economic recession, when jobs are scarce, enforcing rigorous compliance with health and safety standards to the point where a firm is driven out of business will be viewed very differently than when the labor market is tight and alternative employment opportunities are plentiful. Similarly, undocumented immigrant workers will be more welcome when jobs are abundant and labor is scarce than when there is substantial unemployment among native workers.

Implications of the Two Models for Workplace Regulation More Broadly

It is not altogether clear how or why the distinctively American approach to government work regulation emerged. Early proponents of labor standards favored a general system approach much closer to the Franco-Latin model. But it is important to recognize the parallels between this system of government regulation and the kind of job control unionism that emerged in the U.S. during World War II and the immediate postwar period and that continues to provide the basic framework for union–management relations. The parallels imply that a change in the approach of government regulation is likely to challenge the logic of collective bargaining and of union control as well. This would open up new opportunities for work-based organizations more generally, but it would also challenge practices with which organized labor has become accustomed to working.

The salient characteristics of the postwar system are threefold. The first is a strict division between labor and management. The second is the way in which the role of labor has been limited to imposing a set of rules or constraints upon managerial behavior and then monitoring compliance with those rules through a legalistic grievance procedure, without entering into the operation of the business. The business strategy and the choice of the production process itself are defined as “management prerogatives” lying outside the domain of worker purview. The union in this way is confined to the essentially passive role suggested by the aphorism “management acts and unions

react.” Third, the rules are associated with a production system which is thought of as consisting of a series of well-defined “tasks,” which are in turn combined into “jobs”; work standards are attached to and defined as part of those jobs. In other words, the union in effect negotiates a set of job definitions and then monitors the production system to ensure that those definitions are respected. In both non-government work regulation and the administration of government labor standards, this leads to a tendency to see each job and each labor standard in isolation rather than as part of a production system or business strategy.

American unions did not invent this system; it actually emerged from government regulators’ efforts to contain the threat that organized labor posed to war production in WWII, and was then reinforced and extended by management in an effort to limit and control the role of unions in the workplace in the postwar period. But unions have, over time, become accustomed to operating within this system and adept at using it to their own advantage; hence they are often resistant to the kinds of reforms that another model might imply (Piore 1983, 1982 a and b).

The postwar definition of the role of the unions and the administration of legally mandated labor standards contrast sharply with many pre-war labor practices, some of which survived in the shadows of the postwar system. These labor practices more closely resemble the Franco-Latin approach. The closest analogue is the system of labor relations in commercial construction. There, contracts tend to be composed of a long list of rules reminiscent of those in industrial shops. But the business agent typically negotiates a specific site agreement for large jobs that tailors the work regulations to the peculiarities of the particular project, suspending regulations that are irrelevant to the job and sometimes introducing protections that are not in the master agreement. The construction unions also sponsor extensive apprenticeship programs that sustain a labor force of skilled workers and a system of hiring halls to ensure that that labor force is effectively deployed (Wikipedia 2014).

A second exception was the International Ladies’ Garment Workers Union (ILGWU). The ILGWU built its contracts around a very detailed set of rules inspired by Taylorist industrial engineering, but then maintained a separate industrial engineering department that served as a technical consultant for the firms covered by the collective agreement and would send the unions’ own engineers to reorganize a shop so that it would be possible to comply with the rules (Disher 1947).

A third exception was the Teamsters Union, which used its pension funds to provide capital to firms to upgrade and adjust their business practices in order to sustain labor standards. That this system of financial support opened the union to charges of corruption and abuse should not distract from the strategic idea of linking work practices to other aspects of the business and encouraging the kinds of adjustments in business strategy and production practices that would support standards (James and James 1965).

All three of these examples, it should be noted, were involved in developing policy for their industry in a way that industrial unions, given the role assigned them in the postwar system, were discouraged from doing.

Could the U.S. move at this late date toward the Franco-Latin model? In many ways, trends in technology and management seem favorable. The well-defined division between labor and management in collective bargaining and in production process jobs grew out of an approach to industrial engineering developed by Frederick Taylor, which was associated with mass production and with the stability of markets and of work assignments which mass production fostered. Production practices in large-scale manufacturing industries like automobiles and steel have changed substantially from those prevailing in the early and middle of the 20th century. The new approach places a premium on “flexibility” and “adaptability.” Management now sees the way in which jobs and work rules are defined in traditional union plants as introducing excessive rigidity. Similarly, the service industries that are increasingly salient in the U.S. economy do not lend themselves to the elaborate division of labor that once characterized manufacturing. The attachment of unions to the older system of job control cannot explain management opposition to unions, but it certainly does not help unions gain acceptance in the way it might have when strict job definitions were viewed as “best” engineering and management practice and hence union organization seemed to promote efficiency (Piore and Sabel 1984).

Moving Toward an Alternative Approach

The question is how, in particular, to build this new approach. It seems unlikely that in the current political environment one could achieve a wholesale reform of the U.S. system of work regulation. Management is much more inclined to make the adjustments necessitated by the evolution of production technology and management practice by eliminating union organization and government regulation altogether. Indeed, the risk is that in the attempt to create an alternative regulatory system, one would end up opening the door to laws and amendments that would weaken the protection workers already have. But it might be possible to move toward a more general and more remedial system of labor regulation through other strategies. One could envisage at least three approaches.

One approach would be actions on the part of workplace-based organizations. The basic strategy would be to file complaints against the targeted enterprise or enterprises with a variety of different regulatory agencies at once. The actions could be ad hoc and opportunistic, depending upon which workplaces had the organization and leadership required to carry them out, but the approach could also be coordinated by an umbrella organization or alliance of workplaces in the same industry or region. Researcher Jessica Garrick documented one example of this approach in a Dallas immigrant workers center (2014).

The coordinating organization could combine multiple complaints and exert pressure on the targeted enterprises and government agencies involved. The precise pressures would depend on the

nature of the worker organization and the particular vulnerabilities of the enterprises and regulatory agencies, but they could include traditional strikes and boycotts as well as demonstrations and publicity campaigns exposing poor working conditions or suspect regulatory practices. One might pressure not only the enterprises themselves but industrial associations with which they are connected, e.g., the Korean grocers association in the New York State campaign against substandard conditions in that industry (Greenhouse 2002). But the point would be to use the pressure to bring about negotiations that would lead to an agreement on a plan to upgrade employment practices in the industry. One could also bring in other agencies and NGOs providing services such as worker training and industrial extension to facilitate the process. Such agreements might allow conditions to improve over time, with the worker organization and regulatory agencies agreeing not to lodge additional complaints against the enterprise during that period.

A second approach—essentially an extension of the first—would be to develop a coordinating and upgrading mechanism out of the various local campaigns to raise the minimum wage. In other words, one would take one (or a couple) of the most progressive cities that have raised the local minimum wage as the starting point for a campaign on working conditions more broadly, bringing to bear all of the various local, state, and federal agencies along with civil society actors, the unions, the churches, and hopefully local employers and/or employer associations. This campaign would emphasize the adjustments within firms that are required to remain efficient and competitive at the higher minimum wage. This model could then potentially be extended to other cities.

The third approach to transforming the U.S. regulatory system could be modeled on the financial regulations, such as the Dodd-Frank Act, that followed the 2008 crisis. Financial regulation has many of the problems of labor regulation: a lot of different agencies, each touching a different part of the elephant, and little coordination or communication between them. The crisis itself was generated by the interaction of different markets controlled by these independent agencies, but there was no one place in the system with the responsibility to think about the interrelationships among the various markets and the power to regulate and control the interactions between them. This handicapped the attempt to contain the financial crisis, leaving no individual with the power or the responsibility to mount a coordinated response. Ultimately the Chairman of the Federal Reserve Board and the Secretary of the Treasury assumed this coordinating role, operating outside their formal legal authority, and exerted extraordinary pressure on the other regulatory agencies and financial enterprises over which they had authority (Geithner 2014).

One model for coordinating labor regulation would be for the Secretary of Labor to assume a role comparable to that of the Secretary of the Treasury and take a much more aggressive stance on coordinating different agencies—even those outside of the Department of Labor's direct jurisdiction. One could claim that the increasingly wide disparity in the distribution of income is a systemic crisis comparable to the financial crisis. One could even claim—with some justification—that the income disparities are responsible for the crisis. As a larger and larger proportion of income goes to the very top, inordinate savings accumulate, which then feed bubbles like the high-tech boom that burst in the crisis of 2001 and the housing bubble that burst in 2008. The parallels

between the labor market and the finance market are thus surprisingly rich. But this strategy depends on having an aggressive Secretary of Labor who is willing to articulate the need for a new labor policy and then implement it by stretching existing statutory power across jurisdictions, much as the New York Fed and the Federal Reserve Board did in 2008–10. The Dodd-Frank legislation, which was the response to the crisis, created a board composed of the heads of the different financial regulatory agencies and led by Fed chairman. The law empowered this new board to do what the Fed did unilaterally in the crisis.

Ultimately, of course, the three strategies just outlined are not independent. Coordinated action in particular cities built around minimum wage campaigns probably requires some pioneering work by strong, enterprise-focused worker organizations to demonstrate the potential of the strategy and create a model of how it might work. Local campaigns in different industries and different parts of the country are probably necessary to catalyze the Secretary of Labor and press what has become a very secondary part of the executive branch to assume a prominent leadership role in the formulation of social and economic policy.

Diagnosis and Cure

An organizational strategy that uses the threat of multiple complaints to leverage worker power need not necessarily be combined with a remedial approach to labor standards violations. But the real contribution of the approach to worker welfare (as opposed to bargaining power) has to come by combining coordination with remediation. And this leads to the question of how to think systematically about the relationship of standards to broader practices. That question is very broad and to do justice to it would require a separate paper. But several general comments are in order:

1. The issue here is that of what is the relationship between different work practices and between work organization and other business practices. As suggested earlier, we know that these are interrelated; they come in bundles and are not easy to separate (indeed, to change at all) in isolation. That, as noted, is part of the underlying reason why general systems of enforcement are preferable to specialized systems. But what we actually know about those relationships is limited, and the knowledge that we have developed is fragmentary and disparate (see for example, Gill and Meyers 2008; MacDuffie 1995; Combs et al. 2006).
2. The popular discourse, at least on the left, has adopted the distinction between the “high road” and the “low road” to market adjustment and work organization (Appelbaum and Batt 1994). This is a useful heuristic in the broader political debate and it predisposes people to think in terms of systems. It also provides a framework for thinking about upgrading. It is particularly good in making the point that there is more than one way of organizing the production process, that some ways of doing so are more conducive to worker welfare than others, or that management does not automatically pick the best way to maximize worker welfare or business efficiency. Several groups and organizations have developed templates for the high road in particular industries. These include the Restaurant Opportunities Center in New York City (Restaurant Opportunities Center and Batt 2012), the Keystone

Institute in Pennsylvania working in the day care industry, and the SEIU in nursing homes (Eaton 1997).

But however effective forensically, the high road/low road approach leaves open a number of questions that are not addressed in the scholarly literature (Cappelli and Neumark 1999). Are there actually two ways or multiple ways of organizing work effectively and efficiently? Is, as proponents often suggest, the most effective organization for worker welfare also the most effective for the business? Are the organizational forms that are conducive to conformity with some labor standards actually conducive to all labor standards? Is there only a high road and a low road, or many roads? All of this is open to debate.

3. The literature of which I am aware does not effectively distinguish between the transition costs of moving from one system of human resource management to another and what might be called the operating costs of different systems once they are in place and being administered effectively. A much earlier literature on different kinds of pay systems makes clear that this distinction is critical in the sense that managers and workers who are accustomed to operating under a piece-rate system cannot operate effectively under hourly pay systems, and vice versa.

But even when the transition is possible (and the studies about hourly versus incentive pay actually show only that it is difficult and costly, not that it is impossible), it requires training and education. A number of government programs—particularly, as mentioned earlier, employment and training programs and industrial extension programs—could be brought to bear as part of an employment-based strategy to finance the transitional costs. But we need to separate those costs out, at least conceptually, in order to pursue this strategy effectively.

4. While the scholarly literature has focused, at least theoretically, on the notion of systems (as opposed to separate practices), and there are several elegant models of how a system might affect cost (Milgrom and Roberts 1994), relatively little attention has been paid to how the impact of particular practices is affected by the way they fit into and are interpreted in the context of a particular strategy. For example, a key element of the Japanese lean production system is just-in-time delivery. But in the U.S. automobile industry there are two interpretations of this reform. One is to eliminate the in-process inventories that isolate different operations from each other, and thereby force suppliers of parts to solve problems cooperatively rather than wait for direction from above. The other is to shift the inventory costs to the suppliers. Similarly, some managers interpret cooperative relations with unions—another element of the lean production formula—to mean genuine cooperative problem-solving; others simply as an instrument in the contest for worker loyalty.

The potentially relevant scholarly literature is extensive. As suggested earlier, it stretches back into the early 20th century and includes engineering studies of incentive pay, the famous Hawthorne experiments, the Tavistock Institute studies, Douglas McGregor's theory X and theory Y, as well as the more recent literature inspired by the Japanese lean production models, and of course the high

road and low road literature (Gillespie 1991; McGregor 1960; MacDuffie 1995). The Hitachi Foundation has been sponsoring a competition on alternative human resource practices, and there is a literature inspired by Catholic business entrepreneurs that is a kind of rightwing version of the high road/low road distinction. My impression is that very little of this literature speaks directly to the questions outlined above, and it is unclear whether it could be reorganized to do so. However, the fact that such a literature exists suggests that if there were a constituency for studies that attempted to answer questions of this kind, the academic community would be responsive to their needs.

Conclusions

This paper has sought to outline a new strategy for workplace-based organizations, one that draws upon the existing framework of labor market regulation, the legacy of the 1930s and 1940s, but seeks to reposition and redirect the components of that framework in the light of an alternative, Franco-Latin approach. The strategy could be pursued by work-based organizations acting independently in an ad hoc manner; it could also be coordinated by a local, or even national, alliance of such organizations under the leadership of a voluntary association or government officials (e.g., mayors, governors, the Secretary of Labor). The strategy is not a panacea for the problems of the America worker, nor is it necessarily a substitute for other approaches to improving worker welfare or even improving labor standards narrowly conceived. It would not preclude the need for enforcement agencies to level penalties against employers who are maliciously and repeatedly violating labor standards, and it is certainly no substitute for union organization nor for political strategies that change the law to facilitate organization. But it will increase the effectiveness of existing budgetary resources, both by limiting redundant inspections and by using remedial programs such as worker training and industrial extension services to reduce the cost of compliance and help enterprises transition to more labor-friendly management styles. Ultimately, if supported by a new base of academic knowledge, it could transform the way in which work is understood and organized.

On one level, this strategy can be thought of as a way of restoring the balance of power between labor and management that has been progressively undermined in the last 30 years by the decline of trade union membership and the withdrawal of government from active management of economic activity, particularly in the workplace. But at another level, it could be thought of as a part of the ongoing attempt to create and maintain a system of economic coordination that combines economic prosperity and technological dynamism with social equity and protection of workers and the environment.

The United States has a reputation as a “liberal market” economy. We tend to understand ourselves in those terms, and this is certainly the way in which our society is understood abroad. The economy in this view is organized and directed by the prices generated through transactions in a competitive market among business firms, among workers, and between workers and their employers. Governmental rules and regulations are minimal, as is direct cooperation between

businesses and between labor and management. These relationships are thought to distort market signals. In this, the U.S. approach contrasts sharply with that of other countries: Germany, for example, which has a tradition of worker participation in business decisions, or France, in which business operates under continual government surveillance.

But the U.S. economy has not always been a liberal market economy in this sense. In the period stretching from the 1930s through the 1970s, economic interactions were organized by larger corporations with strong internal administrative systems for labor allocation, insulated from market forces; government regulation and guidance was extensive; and trade unions played a prominent role in limiting the excesses of business management and of the competitive market. The current administration of labor standards is a legacy of this period. And the liberal market philosophy that has guided policy in the last 30 years was conceived in no small measure in reaction to this approach. Both political debate and academic discourse have come to equate government regulation and worker organization with the institutions of this earlier period.

But in fact the role of government in the European countries to which we tend to compare the U.S. is actually very different from the role in the U.S. system of the initial postwar decades. (Indeed, there is not “one” European system, and the initial postwar system differs in turn from the pre-war patterns of government and union regulation in the workplace in the United States.) Moreover, the liberal market economy in the United States is losing its appeal. It has not produced either the economic stability or the rising incomes that characterized the U.S. economy in the immediate postwar decades. And its price in terms of decreased social mobility, increasing income inequality, degradation of health and safety in the workplace, and the exploitation of a growing population of undocumented immigrants with uncertain legal status and ambiguous social protection is becoming increasingly apparent.

It seems unlikely that we can return to the regime of the earlier postwar period. New technologies have combined with globalization to make markets too unstable and unpredictable for the rigid rules and regulations which constrained business behavior in that earlier regime. It seems still less likely that we could simply borrow the model of some other country whose culture and history are so different from our own. But the variety evident in our own history, and in the experience of other countries, does suggest that there are many alternative ways of organizing and managing the pursuit of material wellbeing on a national scale.

These alternatives were not created by design. Rather they seem to emerge out of the pragmatic responses of actors on the ground to the pressures of day-to-day existence, drawing upon inherited institutions but repositioning those institutions in different ways—informed, perhaps, by their own history and that of other countries—which then gradually coalesce into what amounts to a new economic regime. The broader promise of the strategy outlined here is that it will catalyze a process of this kind.

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