An Introduction to

The Gloves-Off Economy:
Workplace Standards at the Bottom of America’s Labor Market

Edited By
Annette Bernhardt
Heather Boushey
Laura Dresser
Chris Tilly

Presented at Migration, Work and Citizenship: Toward Decent Work and Secure Citizenship
York University, October 1, 2009
A set of employer strategies and practices that either evade or outright violate the core laws and standards that govern job quality and protect workers in the U.S.

**The laws:**
Wages & hours, health and safety, anti-discrimination, right to organize, and social security, UI and workers’ comp

**The standards:**
Norms that have enough weight – and organizing force behind them – to shape employers’ decisions about wages and working conditions (e.g. annual raises, health benefits, sick days, etc.)
Examples of ‘gloves-off’ employer strategies

<table>
<thead>
<tr>
<th>Evasion strategies</th>
<th>Violation strategies</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Employment and labor laws</strong></td>
<td>Outright violation of employment and labor laws</td>
</tr>
<tr>
<td>Subcontracting, misclassifying workers, using temp and contract workers -- in order to create legal distance between employer and worker</td>
<td></td>
</tr>
<tr>
<td><strong>Erosion strategies</strong></td>
<td><strong>Abandonment strategies</strong></td>
</tr>
<tr>
<td><strong>Normative workplace standards</strong></td>
<td></td>
</tr>
<tr>
<td>Increasing worker contributions to health insurance; shifting to defined-contribution pensions; shifting to piece-rate or project-based pay; legal union avoidance tactics</td>
<td>Dropping health insurance and pensions; freezing wages and instituting two-tiered pay systems; converting full-time to part-time jobs</td>
</tr>
</tbody>
</table>
1. Representative employer surveys (very few)
2. Representative worker surveys (very few)
3. Convenience samples of workers (few)
4. Administrative data (promising but under-used)
5. Qualitative research on unregulated work (most developed)
6. Indirect indicators (deunionization, industry deregulation, declining enforcement), which correlate with violations

How prevalent are violations?
How common are workplace violations?

• **Overall framework:** Employers’ decisions about how to organize work and production are shaped by competitive forces and regulatory & institutional constraints – each of which they also influence.

• **Structuralist explanation:** Unregulated work is generated by capitalist strategies to contain/reduce labor costs.
• Changes in business self-regulation
  • Vertical integration, oligopoly
  • Internal labor markets, human resource management
  • Rent sharing

• Changes in government regulation of employers
  • Early state laws: child labor, minimum wage, hours
  • 1930s: federal laws, FLSA, NLRA
  • 1960s-70s: Civil Rights Act, OSHA

• Changes in union/civil society regulation of employers
  • Rapid growth of unions, federally-funded Legal Services

• Changes in government regulation of workers
  • Social Security Act – safety net, especially unemployment insurance

The gloves go on: 1890-1975
Changes in business self-regulation
- Vertical disintegration, mobile capital
- Subcontracting, outsourcing, increased use of nonstandard work

Changes in government regulation of employers
- Not a decrease in number of regulatory programs
- Reductions in staffing, resources, and regulatory stance
- Failure of laws to adjust to new employment relationships

Changes in union/civil society regulation of employers
- Union density fell, funding for Legal Services fell

Changes in government regulation of workers
- Criminalization of undocumented immigration
- “End of welfare as we know it”
- War on Drugs

- Number of investigators: -31%
- Number of compliance actions: -61%
- Number of workers: 52%
- Number of workplaces: 112%
Putting the gloves back on

- **Public policy**
  - Strong laws, strong enforcement

- **Organizing**
  - Worker centers, unions, living wage movement, accountable development movement, etc.

- **For both:**
  - Local, state and federal strategies
  - Industry-specific strategies
Better enforcement of employment and labor laws
- Proactive government enforcement
- Stronger penalties
- Better anti-retaliation protection

Stronger standards for the 21st century workplace
- Robust standards in employment and labor laws
- Broader reach of workplace regulation

Equal status for all workers in the workplace
- Comprehensive immigration reform
- Firewall between enforcement of immigration and labor laws

Three principles for public policy