

# Pathways to Enforcement: Labor Inspectors Leveraging Linkages with Society in Argentina

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**ABSTRACT:** Regulations essential for improving labor standards are often ignored to the detriment of workers. In many countries, the agencies charged with enforcement lack resources and are subject to political interference. How can inspectors in flawed bureaucracies overcome these barriers and enforce labor regulations? Based on case studies of subnational variation in Argentina, this article develops a theory to explain enforcement in places with weak and politicized labor inspectorates. The framework focuses on two factors: the strength of linkages between bureaucrats and allied civil society organizations, and the level of administrative resources in the bureaucracy. Linkages facilitate routinized resource sharing and the construction of pro-enforcement coalitions, and administrative resources determine whether bureaucrats use societal resources passively or strategically. By identifying pathways to enforcement that are obscured by dominant approaches to studying labor inspection, this research opens up new possibilities for crafting strategies to improve labor standards.

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In many countries, firms violate labor regulations more often than they comply with them.<sup>2</sup> As a result, labor standards suffer even when there are strong laws on the books. Researchers have shown that labor inspectors can counter these violations through enforcement, which strengthens labor market institutions and improves standards (Weil 2008; Piore and Schrank 2008; Pires 2008; Ronconi 2010; Levine, Toffel, and Johnson 2012). But inspectors often fail to respond to violations, and there are widespread doubts about the capacity of most states to undertake enforcement. The dominant argument holds that since inspectorates in the vast majority of countries lack resources, staff, and, most importantly, independence, they are overdetermined to fail (ILO 2006a; ILO 2011). Given these constraints, how can inspectors enforce labor regulations?

This paper explores the possibilities for enforcement in weak and politicized states through a study of labor inspection in Argentina, which is an ideal context in which to research enforcement because labor law is national, but inspection is organized federally and differs across subnational jurisdictions. Most inspectorates in the country suffer from the common pathologies that are known to undermine enforcement: widespread political interference, limited resources, and endemic corruption. In these ways, Argentina has many of the “flaws” that make it appear to lack the preconditions for enforcement emphasized in the literature. The expectation from dominant arguments about labor inspection is that regulators should universally fail. A closer look, however, reveals broad variation in enforcement over time, across subnational units, and across industries. This outcome departs from the expectations of standard theories and provides

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<sup>2</sup> c.f. (ILO 2009) on unregistered work in Latin America.

an opportunity to examine ways in which enforcement can be promoted in countries with imperfect labor inspectorates and weak institutions.

To account for enforcement despite constraints, this paper proposes a framework built around the interaction of two variables: linkages between the state and society, and the administrative resources of the inspectorate. A key insight from this analysis, which draws on theories of state-society relations, is that enforcement is often contingent upon whether and how labor inspectors mobilize resources outside of the state. Politicized bureaucracies are not all subject to the same kinds of political interference; at times, pro-enforcement groups gain preferential access to the state, and in turn, regulators can use these groups to make up for state weaknesses. In contrast to standard expectations, lack of independence in these cases can promote, rather than undermine, state action. This finding suggests that research on labor inspection should be reoriented from a narrow focus only on building independent inspectorates that are autonomous, and towards understanding how ties form between regulators and their allies, as well as how to reform enforcement bureaucracies.<sup>3</sup> Ultimately, the argument advanced in this paper helps identify new opportunities for developing enforcement capacity that can improve labor standards in a wide variety of contexts.

## **Regulation and Enforcement**

Research on comparative labor regulation has been focused primarily on accounting for variation in legal frameworks across countries. For example, prompted by the rise of neoliberalism in Latin America, scholars sought to explain the persistence of

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<sup>3</sup> This finding is very much aligned with the conclusions of recent studies of labor inspection in the context of advanced industrial countries. See: (Hardy and Howe 2009; Fine and Gordon 2010).

the labor rights provisions kept in place during a period of deregulation (Etchemendy and Palermo 1998; Murillo 2005; Murillo and Schrank 2005; Cook 2007). Domestic political coalitions and legacies from authoritarian periods proved to have as much, if not more, of an effect on domestic legislation than the advocacy of international organizations to liberalize labor markets. Although studies of policymaking were important corrections of the view of convergence around deregulation, they were incomplete because regulatory changes often failed to translate into practices in the labor market (Anner 2008). For example, half of the workers in Latin America are in the “informal” sector, meaning that they do not benefit from many protections of labor law (ILO 2008). The intense battles that were fought over changes in regulatory laws were not the end, but rather just the beginning of politics. Designing the institutions of labor markets is only part of the story; enforcement and making those institutions work in practice is equally important.

Labor inspection is at the center of the challenge of implementing regulations. Inspectorates are specialized agencies tasked with enforcing labor law and in many instances, supplying information and support to workers and employers to make compliance possible (Von Richthofen 2002).<sup>4</sup> The organization of inspectorates varies considerably around the world—some countries divide responsibility for distinct aspects of labor law among separate agencies (e.g. the Wage and Hour Division and the Occupational Safety and Health Administration of the United States Department of Labor), while other countries have general agencies that are charged with overseeing a wide range of laws (e.g. the Ministry of Labor’s inspection service in Brazil). In the latter set of countries, including Argentina, inspectors regularly visit workplaces to assess

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<sup>4</sup> See ILO Convention 81 for a general description of labor inspection.

compliance with the full range of labor legislation, receive workers with complaints about violations, and mediate conflicts between workers and management. Inspectors also serve as gateways to other parts of the state apparatus, bringing cases in courts and referring employers to government services (such as worker training). Due to their key role in strengthening weak institutions, scholars have begun to examine inspectorates in industrializing countries that have high levels of non-compliance (Marshall 2007; Piore and Schrank 2008; Pires 2008; Schrank 2009; Ronconi 2010). These studies have demonstrated that enforcement, when it does occur, can have an impact on labor market outcomes. However, as suggested above, there are many constraints on labor inspectors in practice, thus limiting their actions and impact.

There are two dominant approaches to explaining why enforcement occurs in some cases and not in others. The first set of explanations examines political control of the enforcement agency—from both “above” and “below” (Moe 1985; McCubbins, Noll, and Weingast 1987; Ronconi 2012). These theories focus either on the interaction between regulators and political leaders in terms of principal-agent relationships, or on the direct demands that groups, such as unions, make on bureaucracies to hold them accountable. Since interest groups do not directly assist the state in the tasks of enforcement, these political explanations tend to have difficulty accounting for enforcement in places with low levels of state capacity, in which “throughput” from demand to response is problematic (Abers and Keck 2009).

The importance of state capacity leads to a second set of explanations, dominant in policy debates, which center on the internal organization of the labor inspectorate. Instead of focusing on the political will for enforcement, scholars examine whether or not

the state has the ability to enforce. Cases of failure to protect workers stress the absence of state capacity (Bensusán 2006; c.f. Cooney 2007; Bernhardt, McGrath, and DeFilippis 2008; Seidman 2009). For example, Seidman (2009, p. 385) argues “even if Lesotho wanted to enforce its laws and improve working conditions, it is hardly in a position to do so” due to its “impoverished, weak and unstable” government institutions. Similarly, the ILO’s recent report on labor inspection voiced concern about the “severe strains” that scarce resources have placed on the “professionalism, independence, and impartiality of inspectors” (ILO 2006b p. 4). By contrast, cases of successful enforcement in the literature tend to emphasize a set of bureaucratic characteristics that provide the inspectorate with high degrees of internal coherence (c.f. Piore and Schrank 2008; Pires 2008; Schrank 2009).

The theoretical foundations of this explanation derive from the Weberian ideal of the bureaucracy and an account of state capacity built around autonomy (Skocpol 1985; Evans and Rauch 1999). Autonomy is defined as the ability of a state to take actions on its own accord and to resist the influence of organized interests through unsanctioned channels. For an inspectorate to be autonomous, it needs specific elements, such as meritocracy, civil service protection, long-term career prospects, dedicated employment to the state, rational rules, and hierarchy. Flawed inspectorates are those that are missing these characteristics. Autonomy is not sufficient for enforcement, but it appears necessary because when bureaucracies are politicized (i.e. when they can be directly influenced by organized interests working outside of formal hierarchical channels), resources are redirected for patronage, and powerful actors block state action (Geddes 1994). According to this set of theories, when inspectorates lack the organizational

features leading to autonomy, enforcement should fail. The policy implication of this argument is that the path to enforcing labor regulation must entail far-reaching reforms towards building autonomy, and all other concerns are secondary.

The political control and bureaucratic autonomy approaches outlined above provide an important starting point for explaining enforcement. Their weakness, however, lies in the way they assume that resources for enforcement are generated primarily through the organization of the bureaucracy. Both approaches can only account for enforcement in places where regulatory agencies have the internal capability to respond to demands and resist political interference by powerful actors that seek to avoid regulations. Variation in enforcement across sectors of the economy in these cases derives mainly from choices made by political elites, technical planning, or rationing processes by street-level bureaucrats (Lipsky 1980). As suggested above, however, even if there is the will to enforce labor laws among elected officials and street-level agents, there is no way to do so without capabilities inside the state. In addition, the bureaucratic autonomy line of argument bundles the administrative resources of the inspectorate with organizational coherence. As a result, this theory homogenizes all bureaucracies that lack features of autonomy—treating those with high levels of administrative resources the same as those with low levels. In short, dominant explanations for the enforcement of labor law are designed only for contexts in which states are strong in a specific sense: professional inspectors, bureaucratic coherence, low levels of political interference, and substantial resources. This limitation is significant because most inspectorates around the world do not meet these criteria (ILO 2011). The challenge, therefore, is to develop a theory that can account for the enforcement that does occur in places with weak and

politicized inspectorates. By doing so, it will be possible to identify practices that can enhance enforcement and, consequently, the impact of regulation on labor standards.

This paper advances one such approach, which draws upon insights from work on state-society relations and state capacity that have not been brought into debates on labor inspection (Mann 1993; Evans 1996; Ostrom 1996; Tandler 1997; Schneider 1998). A central claim in the argument advanced in this paper is that, in order to explain why enforcement occurs in some places and not others, it is necessary to examine *whether, and how, bureaucrats generate resources for enforcement through their relationships with civil society organizations* (broadly defined to include labor unions, neighborhood groups, and business associations). This claim builds on the work of scholars who have shown that state capacity is not just a function of bureaucratic organization, but also related to the ties that states have with society.<sup>5</sup> The framework highlights the interaction of two variables: 1) the linkages between bureaucrats and civil society organizations that support enforcement, and 2) the administrative resources in the bureaucracy. These two factors are described below, followed by an analysis of enforcement in two Argentine provinces that assesses the ability of the framework to account for variation.

In order to enforce regulations, inspectors must be able to undertake three key actions. First, labor inspectors need information about violations in an economic sector or geographic area. This information can be gathered actively, by sending inspectors out to firms, or passively, by waiting for individuals and civil society organizations to bring the information to the state. Second, labor inspectors must be able to process the information and craft a response that creates incentives for firms to comply and that

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<sup>5</sup> See, for example: (Evans 1996; Ostrom 1996; Tandler 1997)



enables them to respond to those incentives. Third, labor inspectors must be able to resist efforts by organized interests to block enforcement. Compared with firm owners or managers for whom regulations can impose costs or constraints, the beneficiaries of regulations are generally diffuse or in a position of weakness. State agencies, therefore, need some way to counter the power imbalance. While recognizing the complexities of regulation, distilling it into this stylized process helps clarify how competing explanations account for the constituent components of enforcement.

One key factor influencing inspectors' ability to undertake these actions is the structure of state-society linkages, which consist of routinized processes of consultation and agreements that facilitate direct interaction between labor inspectors and civil society organizations that promote enforcement. Linkages derive from political alliances between regulators and groups in society. They determine whether regulators can mobilize the resources of particular groups and, therefore, they play a central role in whether or not inspectors can undertake the key tasks of enforcement. First, linkages enable information about violations to flow into the bureaucracy from informed groups outside the state. Second, linkages facilitate the sharing of material resources that bureaucrats need to respond to violations. Third, linkages between labor inspectors and civil society organizations that share the joint project of enforcement help bureaucrats overcome resistance by organized interests. In a weak and politicized bureaucracy lacking autonomy, the internal organization of the bureaucracy cannot be counted on to prevent political interference. In most regulatory systems, violators always have a seat at the table and, therefore, an opportunity to influence bureaucrats. In contrast, beneficiaries of enforcement are often either in a position of weakness (i.e. the employer

has the power to fire the worker or withhold wages) or are diffuse (i.e. the benefits of generalized compliance are shared by many workers in the industry). Therefore, linkages with pro-regulation groups create opportunities for building micro-level coalitions across state and society that can be used to resist efforts to block enforcement.

The establishment of linkages to organizations in society that support enforcement and have resources can play a critical role in enabling weak bureaucracies to generate the three key capabilities. For example, unions can provide intelligence about labor law violations, offer transportation to inspectors, and be countervailing forces when firms resist enforcement efforts. Without linkages, mobilization of such resources becomes frustrated or completely blocked, leaving weak and politicized inspectors on their own (even if there is a strong union). Therefore, the impact of a union in a particular industry, to a large degree, is contingent on the linkages it has with regulators because they open up informal channels of influence that can translate political support into enforcement. Similarly, the functioning of linkages depends on societal groups having resources to offer the state. If inspectors have ties with a union but the union does not have information on violations or the ability to subsidize the state, enforcement will be hindered. In sum, linkages shape the arena of politics within the state and influence operations of the state. This dual role differentiates the concept of linkages from the apolitical way state-society ties are treated in the literature on statist development (c.f. Evans 1995; Montero 2001).

A second key factor in explaining enforcement is the level of administrative resources inside the state. Administrative resources include the bureaucracy's staff, material resources (cars, computers, etc.), and planning capabilities. Again, it is helpful

to analyze this factor in terms of its influence on enforcement tasks—gathering information and crafting a response to violations. Staff, transportation, and information systems allow regulators to gather information *on their own* and to organize responses to violations that regulators uncover. At the extreme, an inspectorate with almost no resources will become irrelevant, and societal forces will completely dominate.

Administrative resources do not, however, have a direct effect on enforcement. Instead, enforcement capacity is jointly determined by the structure of state-society linkages that influence access to resources outside the state, as well as by administrative resources inside the state. The expectation that derives from this argument is that when inspectorates have low levels of administrative resources, enforcement will be society-dependent. As a result, the intensity of enforcement will be determined by the existence of a societal group with resources to support the state *and* linkages between that group and the inspectors. In such cases, whether enforcement is sustained over time will depend on the durability of the linkages. In contrast, when administrative resources are greater, regulators are less dependent on societal groups. In these circumstances, alignments between state and society result in high intensity, co-produced, enforcement. In addition, the allocation of enforcement does not have to simply mirror the inputs from linked groups in society. Even in bureaucracies without autonomy, administrative resources create the possibility that enforcement can be shaped by policy, as well as by political input from societal groups.

This argument builds on, and refines, dominant approaches to explaining enforcement of labor regulations in three ways. First, whereas commonly used theories homogenize all labor inspectorates that depart from the ideal, the argument advanced in

this paper unbundles the political independence of the inspectorate from its operational capacity.<sup>6</sup> Second, in contrast with theories that obscure the influence of societal organizations on inspectors by allowing bureaucratic autonomy or the discretion of street-level agents (e.g. Lipsky 1980) to do a large portion of the work in explaining outcomes, my argument employs the concept of linkages to reveal differences in the structures of porous bureaucracies. By doing so, it corrects the view that political interference always prevents enforcement, opening up the possibility of capture leading to enforcement. Third, unlike political approaches that are silent regarding the key steps between demands and state action when hierarchical control is weak, the argument advanced in this paper provides a way to integrate political and administrative challenges that face labor inspectorates. By doing so, it teases out the difference between lack of political will and lack of ability. In addition, it helps identify how political support for enforcement can have highly different outcomes depending on whether that support translates into ties with capable partners in society. Ultimately, the argument develops a fuller account of state enforcement capacity than is commonly applied to labor regulation.

## **Research Methods**

This paper draws upon data I collected from over sixteen months of field research in Argentina during 2008 and 2009, including over 190 semi-structured interviews with government officials, labor leaders, and managers; an original survey of 169 labor inspectors across six provinces; a review of over 1,400 articles about labor regulation in

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<sup>6</sup> The practice of analyzing bureaucracies primarily by examining their approximation to the autonomous ideal is not unique to the literature on labor inspection. Research on inspection largely follows dominant theories of state capacity (e.g. Evans 1995). Therefore, the argument advanced in this paper departs from the literature on the developmental state by adding dimensions beyond autonomy through which to analyze state capacity.

local newspapers; as well as data and documentary evidence from government sources.<sup>7</sup> Using these data, I constructed case studies that examine the process of enforcement in a variety of industries across Argentine provinces, varying in terms of political party, level of socioeconomic development, and industrial structures. Working at this micro-level provides a way to locate causal mechanisms at work and to measure key explanatory variables as well as enforcement levels.

My approach to analyzing enforcement differs from studies of labor inspection that either use primarily quantitative indicators (e.g. numbers of inspectors) or eschew measuring levels of enforcement altogether (e.g. opting only for comparison of enforcement styles, such as whether inspectors tend to be flexible and instruct firms that fail to comply, or inflexible and penalize firms).<sup>8</sup> Both approaches are problematic. Using only a small number of quantifiable indicators of enforcement levels leaves out much of what regulators do in practice and can result in tremendous measurement error. Focusing only on enforcement styles provides little traction for comparing *how much* enforcement there is in a particular industry or place. In this paper, I contrast these conventional measurement approaches with an alternative that considers patterns of enforcement (e.g. how enforcement is distributed), as well as relative intensity of

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<sup>7</sup> The interviews lasted between twenty minutes and over four hours; the majority were recorded and transcribed. The survey was a written 69-point confidential questionnaire given to inspectors with permission of the provincial authorities. The inspectors filled out the questionnaire and returned them to the leadership of the inspectorate in envelopes. Four of the provinces (Córdoba, the Federal Capital, Santa Fe, and Tucumán) were selected for case studies in comparative analysis and two were added (Corrientes and Santa Cruz) to vary on political party in power, region, and provincial GDP. Overall, approximately 40% of the provincial labor inspectors in Argentina were surveyed. This article draws primarily on data from Córdoba and the Federal Capital. Response rates were approximately 63% in the Federal Capital and 67% in Córdoba, driven mainly by the fact that not all inspectors are in the office (some are in the field) at any given time. The newspaper searches used a variety of keywords in nine newspaper archives from 1999 to 2009.

<sup>8</sup> For example, see: (Marshall 2007; Ronconi 2010; Murillo, Ronconi, and Schrank 2011; Ronconi 2012) on quantitative, and (Piore and Schrank 2008; Pires 2008) on style. For an analysis of the difficulties of aggregation in measuring enforcement, see: (Coslovsky, Pires, and Silbey 2011)

enforcement at the industry level by drawing on a wide variety of data sources (e.g. numbers of inspections, first-hand accounts of enforcement strategies, and assessments of which firms are included). Through the case studies, I show that such a measurement strategy is better suited for identifying important differences in enforcement.

The context of the study is Argentina during the period of economic growth (2003-9) after its last major economic crisis. This period is especially useful for studying enforcement because there had been a broad failure of labor market institutions—with informality peaking at over 50%—thus bringing into greater relief variation in the responses of regulators.<sup>9</sup> In addition, in 2003, there was a rejection of the deregulatory policies of the 1990s, a shift to the left with the election of Néstor Kirchner, and a resurgence of union strength (Etchemendy and Collier 2007). Yet, as described above, the ability of the Argentine state to translate these political changes into stronger labor market institutions seemed unlikely without a massive reform of its inspectorates. Although these changes were national, labor inspection falls primarily under the jurisdiction of provincial governments, thereby creating a wide range of inspector responses to increased non-compliance. The uneven state action generates a series of puzzles through which competing explanations of enforcement can be evaluated using case comparisons. Since this variation was nested within the same national context, it controls for a variety of variables—including labor legislation, structures of union organization, and macro-economic conditions—and allows for a high degree of comparability across cases (Snyder 2001).

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<sup>9</sup> Estimate from the Ministry of Labor

In this paper, I present evidence from two provinces: Córdoba and the Federal Capital.<sup>10</sup> These two provinces are similar with respect to key explanations found in the literature. As will be described in more detail below, neither province had anything resembling an autonomous inspectorate. Moreover, during the time period of the study, both provinces had elected governments that were broadly in favor of implementing labor laws and broadly similar rates of union participation.<sup>11</sup> Notwithstanding these similarities, there were puzzling differences in enforcement that cannot be accounted for using standard approaches.

The analysis leverages within- and across-case variation by focusing on patterns of enforcement, which are the ways in which enforcement is allocated in the economy. In Córdoba, enforcement occurred, but inspectors were highly dependent on labor unions. The pattern of enforcement was *society-dependent*, which can be traced back to strong inspector-union linkages combined with low levels of administrative resources. To better understand this pattern and to more clearly identify the drivers of enforcement, I contrast two industries—brick-kilns and metal manufacturing—that vary dramatically in terms of violations, union strength, and enforcement intensity. In the Federal Capital, inspectors also leaned heavily on civil society organizations for enforcement, but the range of organizations was greater and the inspectors' ways of using them were different from those in Córdoba. The latter pattern, which more resembled *co-production* than

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<sup>10</sup> Although the Federal Capital is not a province, it functions as one for the purposes of labor inspection.

<sup>11</sup> Córdoba's governor was from the Peronist *Partido Justicialista* (PJ), which has traditionally been aligned with unions, and the head of the Federal Capital was from the center-left Alianza Party. For a discussion of the relationship between the PJ and the unions, see: (Levitsky 2003). Estimates of unionization come from the author's analysis of a household survey (SIEMPRO) conducted in 2001, which asked if people pay union dues. The responses were not statistically significantly different (43% in the Federal Capital and 39% in Córdoba,  $p=0.12$ ). For more on SIEMPRO's use to estimate unionization, see: (Marshall and Perelman 2008)

dependence, was the result of high levels of administrative resources combined with linkages to unions and non-union organizations. To better assess this pattern of enforcement and to contrast the Federal Capital with Córdoba at a lower level of analysis, I juxtapose enforcement in the metal manufacturing and garment industries. Metal manufacturing provides a direct comparison across provinces, and the garment industry shared key similarities with the brick-kilns in Córdoba (both had high levels of violations, many workers were Bolivian migrants, and unions were weak). In sum, both provinces departed from expectations of the literature because relationships between state and society were politicized but there was variation in enforcement, which created an opportunity to locate drivers of enforcement that are masked by dominant explanations.

### **Society-Dependent Enforcement in Córdoba**

The division of Córdoba's Labor Secretariat (*Secretaría de Trabajo*, STC) charged with enforcing wage and hour regulations conducted over 10,000 inspections a year in the post-crisis period.<sup>12</sup> Put in comparative context, there were 8.6 inspections per thousand residents in Córdoba's capital—a figure that is equal to or greater than that of other countries (e.g. Chile 8.3, Dominican Republic 5.1, France 3.8, Mexico 0.3).<sup>13</sup> The STC found a substantial number of violations (approximately 26% of inspections resulted in infractions in 2008). These inspections triggered a process through which regulators negotiate a plan for the firm to come into compliance or apply a fine to the firm. In some cases, regulators forced firms to pay back wages or suspended operations

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<sup>12</sup> The STC is divided into health and safety inspectors and “*laboral*” (wage and hour) inspectors who focus on all issues unrelated to health and safety. This paper focuses on the latter.

<sup>13</sup> Inspections per capita are used instead of per worker because of the large uncertainty in estimates of the number of workers in Argentine provinces. Federal Capital and Córdoba data are for 2007. Chile: (Rosado Marzan 2010); Dominican Republic: Secretaría de Estado de Trabajo; France: ILO; Mexico: (Romero Gudiño 2008).



in unsafe workshops.<sup>14</sup> Using common indicators, it would appear that Córdoba's inspectorate was enforcing labor regulations at high levels. However, as will be shown below, these numbers provide only a partial view of enforcement, which is highly uneven in the economy.

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<sup>14</sup> Dozens of interviews with labor leaders, business leaders, and officials.

Table 1: Pedagogical Inspections (N=64)

| During inspections, how often do you:   | Province        | Never | Sometimes | Almost Always |
|---|-----------------|-------|-----------|---------------|
| 1. Orient managers about their obligations  | Córdoba         | 3 %   | 24 %      | 72%           |
|   | Federal Capital | 9 %   | 31 %      | 60%           |
| 2. Orient workers about their obligations   | Córdoba         | 0 %   | 7 %       | 93%           |
|   | Federal Capital | 3 %   | 40 %      | 57%           |
| 3. Make suggestions to businesses to improve their management system or production? | Córdoba         | 7 %   | 48 %      | 44%           |
|   | Federal Capital | 51 %  | 31 %      | 17%           |

Table 2: Theories of Non-Compliance (N=64)

| Do you agree or disagree with the following statements?  | Province        | Agree | Disagree |
|--|-----------------|-------|----------|
| 1. The majority of businesses that do not comply do not have an understanding of the law                   | Córdoba         | 14%   | 86%      |
|  | Federal Capital | 20%   | 80%      |
| 2. The majority of firms that do not comply do not have the ability to pay all of the costs of compliance. | Córdoba         | 28%   | 72%      |
|  | Federal Capital | 29%   | 71%      |
| 3. The majority of firms that do not comply do not want to pay the costs of compliance.                    | Córdoba         | 76%   | 24%      |
|  | Federal Capital | 76%   | 24%      |
| 4. Inspectors should be more demanding with profitable firms than with firms having difficulties?          | Córdoba         | 36%   | 64%      |
|  | Federal Capital | 37%   | 63%      |
| 5. Inspectors should be less demanding when there is an economic crisis?                                   | Córdoba         | 48%   | 52%      |
|  | Federal Capital | 39%   | 61%      |
| 6. Sometimes, it is more important that to advise a firm than to sanction it?                              | Córdoba         | 79%   | 21%      |
|  | Federal Capital | 56%   | 44%      |
| 7. Sometimes, it is more important that workers have a job than that a firm complies with all of the laws? | Córdoba         | 37%   | 63%      |
|  | Federal Capital | 33%   | 67%      |

In addition to the number of inspections, studies of labor inspection have also emphasized styles as important components of enforcement. It would be difficult,

however, to fit the STC into any single “style” of inspection. Within the STC, neither pedagogical nor punitive tactics dominated.<sup>15</sup> For example, some officials argue that “*inspectors have to give advice*”<sup>16</sup> and that there is always “*persuasion before coercion*,”<sup>17</sup> while others contend that “*it is not the function of the inspector to be a teacher*.”<sup>18</sup> Inspector survey results support the semi-structured interviews (see Tables 1 and 2). On the one hand, inspectors responded that they believe that (in the majority of cases) the source of non-compliance is not the inability of firms to comply, but rather the managers’ unwillingness to do so (Table 2, questions 1-3). On the other hand, inspectors were split as to whether or not they should be flexible with firms having economic difficulties (Table 2, questions 4 and 5). In addition, inspectors indicated that they should (Table 2, question 6), and often do (Table 1), take steps to instruct managers and workers in order to help bring firms into compliance. In sum, inspectors craft a variety of responses to violations, combining elements of enforcement styles that are often seen as alternatives in the literature. Furthermore, since the inspectors in the Federal Capital have similarly eclectic enforcement styles (as I will describe below), comparing the styles of inspectors does not expose important variation across cases. To more completely unpack enforcement, it is necessary to go beyond indicators of total numbers of inspections or enforcement styles and, instead, to focus on patterns and industry-levels.

Using data from the survey of inspectors, Table 3 shows the industries where enforcement is concentrated, along with an indicator of which unions request the most

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<sup>15</sup> Similarly, Pires (2011) finds that there is no single approach dominant in the Brazilian inspectorate, but rather conflicting visions of enforcement strategies.

<sup>16</sup> Interview: C45, Senior Official, STC, Córdoba, 6/19/2008

<sup>17</sup> Interview: C43, Inspector, STC, Córdoba, 6/25/2008

<sup>18</sup> Interview: C22, Senior Official, STC, Córdoba, 06/23/08 & 03/05/09 & 03/07/09

inspections.<sup>19</sup> These data show that there was a very strong relationship between union demands and enforcement; the correlation between unions that make requests and inspections is high (0.92). In addition, according to internal data from the STC, in 2007 and 2008, 73% of inspections were at the request of unions, and 27% were either programmed or from individual complaints. Therefore, the inspectors themselves only selected a small portion of the firms that were visited. In sum, not only is the distribution of enforcement skewed towards industries with active unions, but enforcement occurred largely in firms selected by union leaders.

*Table 3: Distribution of Inspections and Union Requests in Córdoba (N=29)*

| Sector           | Which sectors are inspected the most? | Which unions request the most inspections? | Difference Between Inspections and Requests |
|------------------|---------------------------------------|--|---|
| Commercial       | 21%                                   | 20%  | 1%  |
| Construction     | 17%                                   | 17%  | 0%  |
| Restaurants      | 11%                                   | 6%   | 5%  |
| Metal            | 10%                                   | 15%  | -5%   |
| Gas Stations     | 7%                                    | 7%   | 0%  |
| Shoes            | 6%                                    | 7%   | -1%   |
| Cleaning         | 4%                                    | 2%   | 2%  |
| Health Clinic    | 4%                                    | 5%   | -1%   |
| Hair Cutting     | 3%                                    | 2%   | 0%  |
| Private Security | 3%                                    | 2%   | 1%  |
| Transportation   | 3%                                    | 7%   | -5%   |
| ...              |                                       |  |   |

*Table 4: Distribution of Inspections and Union Requests in the Federal Capital (N=34)*

| Sector       | Which sectors are inspected the most? | Which unions request the most inspections? | Difference Between Inspections and Requests |
|--------------|---------------------------------------|--|---|
| Construction | 19%                                   | 20%  | -1%   |
| Commercial   | 18%                                   | 8%   | 9%  |
| Textile      | 12%                                   | 8%   | 3%  |

<sup>19</sup> The survey results are consistent with available data from the STC of the number of union-led inspections over a five month period; nine out of ten of the top unions identified by inspectors in the survey were also in the top eleven unions requesting inspections in the archival data.

|               |    |    |     |
|---------------|----|----|-----|
| Restaurants   | 8% | 3% | 5%  |
| Service       | 7% | 0% | 7%  |
| Industry      | 7% | 0% | 7%  |
| Casinos       | 4% | 0% | 4%  |
| Call Center   | 4% | 0% | 4%  |
| Nursing Home  | 4% | 2% | 3%  |
| Health Clinic | 4% | 5% | -1% |
| ...           |    |    |     |

Focusing in on two industry-level cases, brick-kilns and metal manufacturing, provides an opportunity to identify the processes that drive enforcement. The production of bricks in Córdoba is a highly marginalized activity. The basic technology and method of production are rudimentary—workers form mud into bricks and bake them in relatively small kilns. In 2008, there were approximately 700 worksites that employed workers from approximately 4,000 families.<sup>20</sup> The labor is unskilled, and over 50% of workers are migrants, mainly from Bolivia and Peru. The primary market for the bricks was the local construction industry, which grew extremely rapidly after the crisis and created a spike in demand for bricks.

Labor violations in the brick-kiln industry were pervasive and severe by all measures. Rates of informality in the sector were extremely high, upwards of 96% (compared to the provincial average of 39%), which means that nearly all workers were denied their legally mandated benefits and protections (e.g. social security and severance pay).<sup>21</sup> Wage violations in the industry were also common.<sup>22</sup> Furthermore, workers lived in substandard encampments on the worksites, often lacking basic services such as

<sup>20</sup> *La Voz del Interior (LV)* “Intensificarán controles en los cortaderos” 11/08/08

<sup>21</sup> The estimate of informality in the brick-kilns is based on an STC survey (Pizaro 2008). See also: *LV* “Flojos de papeles” 12/24/06. Informality in the province is based on the author’s calculations using the *Encuesta Permanente de Hogares* (EPH), which is conducted by the Argentine Ministry of Economy.

<sup>22</sup> *LV* “El otro lado del “boom” inmobiliario” 4/16/06; “Intensificarán controles en los cortaderos” 11/08/08; “Investigan nuevas denuncias por maltrato a bolivianos” 06/15/06

potable water, sewage, and electricity,<sup>23</sup> and on multiple occasions, children were killed on unsafe worksites.<sup>24</sup> In sum, this industry proved to be one of the most precarious in Córdoba.

There were two civil society associations that could have potentially pushed for enforcement from below. One group, the Center for Bolivian Residents of Córdoba (*Centro de Residentes Bolivianos en Córdoba*), took the plight of the brick-kiln workers to a variety of government agencies seeking assistance.<sup>25</sup> Another group, the local branch of the union that represents brick-kiln workers, UORLA (*Unión Obrera Ladrillera de la República Argentina*), was quite weak with only 200 workers as affiliates, few resources, and a relatively inactive leadership (that was displaced in 2008).<sup>26</sup>

Officials in the STC have been aware of the problems in the brick-kiln sector for years, and in the post-2003 period, a number of incidents could have potentially triggered enforcement. These events included a series of investigative newspaper articles covering tragedies on the worksites that involved children dying due to unsafe conditions. A senior official from the time recalled: “*They put the issue of ‘those poor migrant Bolivian workers’ in fashion.*”<sup>27</sup> In addition, in 2008, the newly appointed Secretary of Labor made child labor a priority and created a special roundtable to address the issue, which was endemic in the brick-kilns.<sup>28</sup> His plan was not met with any real resistance from the employers in the industry—the brick-kilns were largely unorganized and the construction

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<sup>23</sup> LV “Buscan normalizar situación de inmigrantes” 04/21/06

<sup>24</sup> LV “Clausuran por primera vez un cortadero” 11/07/08

<sup>25</sup> Defensor del Pueblo de la Provincia de Córdoba, “Informe Anual 2006”, 2006.

<sup>26</sup> Interviews: C22, Senior Official, STC, Córdoba, 06/23/08 & 03/05/09 & 03/07/09; and C42, Senior Official, STC, Córdoba, 3/9/2009; See also: LV “Cortaderos de ladrillos, tumba para 5 niños” 12/09/09

<sup>27</sup> Interview: C04, Former Senior Official, STC, Córdoba, 3/11/2009

<sup>28</sup> Interview: C45, Senior Official, STC, Córdoba, 6/19/2008. See also: LV “Comisión provincial para eliminar el trabajo infantil” 04/10/08; “Hallan a niños que trabajan en cortaderos” 06/12/08

industry association has worked collaboratively with regulators across a variety of issues.<sup>29</sup> An analysis using the lens of political control from above would expect that the stated preferences of the appointed leaders of the STC should have induced enforcement.

Notwithstanding these factors, enforcement levels remained very low in the brick-kilns. In 2007, there was a handful of inspections and a survey conducted to gather information about violations, but the campaign ended quickly without shutting any worksites. In the second half of 2008, there were an average of 1.8 inspections a month in the industry, which constituted only 0.4% of all inspections conducted by the STC. There was also a lack of routine information gathering about specific worksites through civil society organizations that regulators could use to monitor the industry. Moreover, the STC never crafted a strong response to violations and did not use penalties or pedagogy in a systematic way to improve compliance.<sup>30</sup> The former head of the inspectorate concluded that “*more needed to be done*” for enforcement.<sup>31</sup> Not surprisingly, working conditions have not improved in the industry.<sup>32</sup>

The metal industry in Córdoba contrasts sharply with the brick-kiln industry in many ways, most notably in its relatively lower levels of violations and higher levels of enforcement. The metal sector is made up of 1,900 firms, small and large, that manufacture parts for farm machinery and others industries.<sup>33</sup> Although there were violations of labor laws in the metal industry—employers attempted to avoid contract

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<sup>29</sup> Interview: C15, Argentine Construction Association (CAC), Córdoba, 3/3/2009

<sup>30</sup> LV “Clausuran por primera vez un cortadero” 11/7/08

<sup>31</sup> Interview: C04, Former Senior Official, STC, Córdoba, 3/11/2009

<sup>32</sup> LV “Cortaderos de ladrillos, tumba para 5 niños” 12/09/09

<sup>33</sup> According to the Economic Census of 2004 there were 1,877 localities. Interview: C37, Córdoba Metal Components Industry Association, Córdoba, 7/15/2008

obligations and approximately 30% of workers are unregistered—they were below the provincial average and significantly less extreme than those in the brick-kilns.<sup>34</sup>

Even though the metal industry was not the place of the most egregious or the highest rates of violations, it was one of the sectors in which the STC concentrated enforcement. The STC gathered ample information about violations through a high rate of inspections. For instance, there was an average of 28 inspections per month in the metal industry in 2008 (in contrast with the 1.8 inspections per month in the brick-kilns). With less than 2% of the workers in the province, the metal industry accounted for over 7% of the inspections.<sup>35</sup> Moreover, inspectors collected detailed information about the firms to target inspections from the metal workers' union (UOM), which had a group of nine leaders who regularly checked compliance in the metal workshops and a network of approximately 200 delegates. In addition, inspectors mobilized resources from UOM for transportation and follow-up after the inspection to see if firms complied.<sup>36</sup> Once they found violations, inspectors crafted responses that used a variety of strategies, including negotiations over the terms in which the firms will comply. To avoid resistance, inspectors involved union leaders, even at times the powerful head of UOM who was also a member of the provincial legislature.<sup>37</sup> In sum, inspectors undertook the three key tasks of enforcement—gathering information, crafting responses, and overcoming resistance. There was also a decrease in violations that local observers attributed, in part, to the

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<sup>34</sup> Author's estimate using EPH. Interview: C46, Metal Workers' Union (UOM), Córdoba, 3/18/2009

<sup>35</sup> Percentage of workers based on the 2001 Argentine census. "Cuadro 9.24 Total País. Población ocupada de 14 años o más por provincia según rama de actividad económica."

<sup>36</sup> Interviews: C07, Metal Workers' Union (UOM), Córdoba, 3/18/2009; C46, Metal Workers' Union (UOM), Córdoba, 3/18/2009. See also: *LV* "La reactivación también sumó nuevas afiliaciones a los gremios" 10/16/06

<sup>37</sup> Interviews: C38, Inspector, STC, Córdoba, 7/18/2008; C43, Inspector, STC, Córdoba, 6/25/2008; C07, Metal Workers' Union (UOM), Córdoba, 3/18/2009



STC.<sup>38</sup> However, inspectors only acted when the union made requests and provided resources. Despite the fact that enforcement in the metal industry was uneven, it still was at a much higher level than enforcement in the brick-kiln industry.

### *Explaining Enforcement in Córdoba*

Enforcement clearly occurs in Córdoba, but it follows a particular pattern in which inspectors are highly dependent on union resources. How can this pattern of enforcement be explained? First, enforcement cannot be easily accounted for using standard bureaucratic arguments. Quite simply, the STC lacks most of the features of bureaucratic autonomy. Although most inspectors have civil service protection, they are largely patronage hires chosen not based on merit but for their political connections. In addition to their official duties, most hold jobs outside of the inspectorate, which are tolerated by senior officials who recognize the need for inspectors to (informally) supplement their low salaries.<sup>39</sup> The bureaucracy is governed more by “*uses and customs*” than by “*written down rules*,”<sup>40</sup> with significant space left to direct influence by organized interests. In short, enforcement was not made possible by bureaucratic autonomy.

Second, standard political approaches could not explain enforcement. If the principals of the STC were simply pro-labor and directed inspectors to enforce broadly, inspectors should have responded to the problems in the brick-kilns. The leadership of the STC articulated a policy of helping the brick workers, there was no strong employer association that could push back, and stories about the brick-kilns in the media

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<sup>38</sup> LV “Acción de la UOM por trabajo en negro” 12/17/2004. These estimates align with survey data from the EPH.

<sup>39</sup> Interview: C31, Senior Official, STC, Córdoba, 7/17/2008

<sup>40</sup> Interview: C42, Senior Official, STC, Córdoba, 3/9/2009

embarrassed the administration. Enforcement in the metal industry, on the other hand, should have been more problematic; the metal industry association had enough political weight in the provincial government to gain key cabinet appointments, and the union often stood in opposition to the government. Consequently, the costs of enforcement for STC's principals should have been greater in the metal manufacturing industry than in the brick-kiln industry. Yet these differences clearly did not determine the enforcement levels.

An explanation of enforcement in Córdoba needs to account for its dominant features: by all measures there is enforcement, but it is skewed towards industries with large numbers of union demands. One factor that prevented the inspectors from enforcing without union support was the STC's low levels of administrative resources. Inspectors had extremely short supplies for transportation to visit worksites—in 2008 there were only two cars for approximately 50 inspectors—which limited the ability of the inspectorate to take action without borrowing the transportation of unions.<sup>41</sup> Moreover, the inspectors had no information management system that would allow it to assess which firms had been inspected and to know the results. Inspectors worked few hours because their salaries were low and they had to hold second jobs. As a result, even though the number of inspectors met international standards, manpower was inadequate.<sup>42</sup> In addition, the quality of inspector training was relatively low, and there was no minimum educational requirement to be an inspector; only 10% of inspectors

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<sup>41</sup> Interview: C22, Senior Official, STC, Córdoba, 06/23/08 & 03/05/09 & 03/07/09

<sup>42</sup> The wage and hour division had approximately 50 inspectors, or 35,000 economically active workers per inspector (including health and safety). This is in range of the ILO recommendations for inspectors per worker and at a medium level compared with other Argentine provinces.

completed university and 4% of inspectors went only to elementary school.<sup>43</sup>

Consequently, there was a group of inspectors who could not respond to complex problems without additional support.

Low level of administrative resources helps explain why the STC failed to enforce regulation in industries in which there was clearly a need for enforcement, such as in the brick-kiln industry. Quite simply, on their own, the inspectors did not have the capability to gather information about violations and to organize a response that could bring firms into compliance. They could not reproduce political demands or social need for enforcement with the resources they had. Given these substantial limitations, it becomes clear why, even when appointed officials made child labor a priority, the inspectorate did not effectively react and increase enforcement levels in the brick-kiln industry.

With such constraints, it is surprising that inspectors in the STC were able to enforce labor laws at all. Administrative resources, however, are not the only component of state capacity. To explain for enforcement, it is necessary to take into account a second factor: the structure of linkages between inspectors and civil society organizations. Inspectors in Córdoba have strong linkages with labor unions (and only with labor unions). Union leaders have unfettered access to the inspectors and can contact them directly.<sup>44</sup> For example, inspectors routinely wait for labor union leaders before making decisions about where to conduct inspections at the beginning of each day. As a result,

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<sup>43</sup>To put the education levels into context, MERCOSUR countries agreed in 2006 that all labor inspectors should have completed university. For example, in the Dominican Republic all wage and hour inspectors are lawyers and in Brazil all inspectors have college degrees and 34% have graduate degrees (Pires 2008; Schrank 2009).

<sup>44</sup> Multiple interviews, including: C38, Inspector, STC, Córdoba, 7/18/2008; C43, Inspector, STC, Córdoba, 6/25/2008

there are no barriers between inspectors and union leaders that prevent regulators from mobilizing specific resources outside of the state.

Linkages help explain the capacity of inspectors to undertake the key tasks of enforcement. Regulators gain information from unions throughout the entire process: before inspections when union leaders request action; during the act of inspection when union leaders act as “*auxiliaries*”<sup>45</sup> by interviewing workers and directing inspectors towards violations; as well as after inspections when union leaders follow up to see if firms corrected the problems.<sup>46</sup> Unions also furnish transportation and supplement wages when inspectors work overtime, allowing regulators to visit firms that would otherwise be out of their reach.<sup>47</sup> Inspector-union linkages also provide a way for inspectors to draw on the political support of unions during enforcement. As described above in the metal industry, union leaders directly observe the inspection process and oversee how the inspector exercises his discretion. After violations are uncovered, inspectors coordinate with unions to set times for the hearings in which the firm and the inspector negotiate how to resolve violations. Consequently, the union can put its weight behind the inspector and push for strong enforcement even if a powerful firm resists.

*Table 5: Indicators of Inspector-Union Linkages (N=63)*

| During Inspections, how often does a union representative: |                 |              |                  |                      |
|--|-----------------|--------------|------------------|----------------------|
|  |                 | <i>Never</i> | <i>Sometimes</i> | <i>Almost Always</i> |
| 1. Accompany the inspection                                | Córdoba         | 0%           | 29%              | 71%                  |
|  | Federal Capital | 9%           | 76%              | 15%                  |

<sup>45</sup> Interview: C43, Inspector, STC, Córdoba, 6/25/2008

<sup>46</sup> Interview: C33, Garment Workers' Union (SOIVA), Córdoba, 6/25/2008

<sup>47</sup> Interview: C03, Union of Pastry, Pizza, and Alfajor Workers, Córdoba, 7/16/2008

|   |                 |     |     |     |
|---|-----------------|-----|-----|-----|
| 2. Provide a car  | Córdoba         | 0%  | 38% | 62% |
|   | Federal Capital | 24% | 53% | 24% |
| 3. Orient the inspector towards the most important problems                   | Córdoba         | 14% | 50% | 36% |
|   | Federal Capital | 26% | 56% | 18% |
| 4. Help the inspector collect information from the workers                    | Córdoba         | 0%  | 59% | 41% |
|   | Federal Capital | 61% | 36% | 3%  |
| 5. Assist the inspector with knowledge of the collective bargaining agreement | Córdoba         | 0%  | 37% | 63% |
|   | Federal Capital | 18% | 64% | 18% |
| 6. Collaborate with follow-up after the inspection                            | Córdoba         | 0%  | 50% | 50% |
|   | Federal Capital | 55% | 39% | 6%  |

Data from the inspector survey (Table 5) provide additional evidence that Córdoba's inspectors draw heavily on unions for a wide variety of resources (the comparative differences between the two provinces will be described in detail below). The majority of inspectors from Córdoba indicated that union leaders “almost always” accompany the inspection, provide a car, assist inspectors with information from the collective bargaining agreement, and collaborate with the inspectors in follow-up. In short, the existence of strong linkages to capable unions makes enforcement possible in the absence of both bureaucratic autonomy and administrative resources.

Focusing on linkages instead of unfiltered civil society demands also helps explain why enforcement is tied to unions, not to pressure “from below” from all sources, and helps clarify the role of politics in providing an overall direction for enforcement. There are approximately 12,000 civil society organizations in Córdoba, over two-thirds of which work on social assistance, issues related to workers, or with vulnerable groups.<sup>48</sup>

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<sup>48</sup> (Luna and Cecconi 2004)

Yet, labor inspectors do not draw on these organizations for resources due to a lack of structures that cross the state-society divide to facilitate collaboration. Politics of linkage formation were most potent through the partisan alliance between the governing party and the unions, which made some, but not all, linkages viable. All governors in Córdoba since 1999 have been from the Peronist *Partido Justicialista*, which has a historic partisan alliance with labor unions. While non-union organizations could put pressure on the STC and attempt to hold it accountable, they could not enable the STC to act; pressure from the outside of the state does not automatically translate into state capacity. The failure of enforcement in the brick-kilns industry is a striking illustration of the lack of linkages between inspectors and civil society organizations that are not unions. The Center for Bolivian Residents, which was not a union, attempted to hold the STC accountable, but collaboration between the Center and inspectors never developed in a way that could enable enforcement. The inspectors only maintained linkages with the union. There was a disagreement between the Center and the union over which group truly represented the interests of workers, and the Center was unable to displace the union and establish linkages.<sup>49</sup>

Although strong linkages undermine bureaucratic autonomy, they allow unions to provide a key subsidy that enables enforcement in cases where the regulatory agency lacks resources. When union interests align with the regulator's responsibility to implement labor laws in a particular industry, capture leads to enforcement. But close examination of the pattern of enforcement in Córdoba reveals the double-edged nature of building enforcement capacity through linkages with a subset of organizations in society.

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<sup>49</sup> LV "Cruce entre un abogado y el gremio" 11/08/08

The result, in the words of senior officials, was a “*deformation*” that “*impedes*” the STC from “*creating a plan that is based on a map of informal work, fraudulent firms, and child labor*” to target enforcement.<sup>50</sup> Senior officials worried that in some cases inspector-union ties are so strong that hierarchical control in the agency completely breaks down.<sup>51</sup> The following case, however, will demonstrate that this type of distortion is not inevitable, even in a highly imperfect inspectorate.

### **Co-Producing Enforcement in the Federal Capital**

In some respects, enforcement in the Federal Capital by its labor agency, the STBA (*Subsecretaría de Trabajo*), does not appear to be very different from that of Córdoba. Regulators conducted 30,000 inspections in 2007, resulting in a per thousand residents inspection rate of 9.7 (compared with 8.6 in Córdoba).<sup>52</sup> The percentage of inspections that found an infraction was similar across the two provinces: 32% in the Federal Capital (2006)<sup>53</sup> compared with 26% in Córdoba (2008). In short, conventional measures identify few differences in enforcement between the Federal Capital and Córdoba.

Although quantity of inspections might be similar, there could be differences across cases in terms of regulatory style. As in Córdoba, however, there was no one dominant regulatory style in the Federal Capital. The survey results indicate that inspectors in the Federal Capital believe most firms have the ability to comply but choose not to follow employment laws. There is little variation in theories of non-compliance

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<sup>50</sup> Interview: C45, Senior Official, STC, Córdoba 6/19/2008

<sup>51</sup> Interview: C31, Senior Official, STC, Córdoba, 7/17/2008

<sup>52</sup> The inspection rate was particularly high in 2007, but in other years it was lower than that of Córdoba.

<sup>53</sup> Auditoria General la Ciudad Buenos Aires. *Informe Final: Dirección General de Protección del Trabajo*. 2006. p. 23

between inspectors in Córdoba and those in the Federal Capital (Table 2).<sup>54</sup>

Notwithstanding this assessment of firm motivations, some inspectors in the Federal Capital do employ pedagogical approaches. For example, one senior official said inspectors need to “*give firms education, assistance and time to register...so they can be able to obey the law.*”<sup>55</sup> Other senior officials disagreed, stating that “*we don’t teach the managers because we believe that they have enough resources to hire [advisors]*”<sup>56</sup> and “*the government inspects, it does not advise.*”<sup>57</sup> These statements closely resemble those of the officials in Córdoba. The survey data does, however, indicate that there were some differences between the provinces, as inspectors in the Federal Capital were less likely to report that they give instructions to workers and management (Table 1).<sup>58</sup>

Overall, differences in measures of enforcement that are emphasized in the literature on inspection—quantity of inspections and enforcement styles—pale in comparison to differences in patterns of enforcement. First, the percentage of inspections triggered by complaints was substantially lower in the Federal Capital than in Córdoba, 33% in 2008. In stark contrast with Córdoba, a minority of inspection requests in the Federal Capital (40% in 2005) came from unions, while the majority came from individuals or other government agencies. Second, and related, the relationship between the industries inspected and union demands was much weaker, as shown in responses to the inspector survey (Table 4, the correlation is 0.62 in the Federal Capital compared with 0.92 for Córdoba). Available data from the STBA are consistent with the survey results.

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<sup>54</sup> The difference in responses is only statistically significant for question 6 ( $p=0.04$ ).

<sup>55</sup> Interview: B08, Senior Official, STBA, Buenos Aires, 9/23/2008

<sup>56</sup> Interview: B05, Senior Official, STBA, Buenos Aires, 10/7/2008

<sup>57</sup> Interview: B07, STBA, Buenos Aires, 10/1/2008

<sup>58</sup> Questions 2 and 3 are statistically significant (Q2 chi-squared = 10.6,  $p=0.005$ ; Q3, chi-squared = 15.3,  $p=0.000$ )



For example, in 2005, 66% of all requests came from the construction union, but the construction industry only had 36% of all inspections. On the other end of the spectrum, only 0.1% of requests were from the commercial workers' union, but 7% of inspections were in the commercial sector. Unlike in Córdoba, in the Federal Capital there has been a very indirect relationship between union demands and enforcement.

Briefly comparing the metal industry in the two provinces illustrates the differences in enforcement allocation. The metal industry in the Federal Capital had approximately the same levels of violations as the industry in Córdoba and has always had the same powerful union, UOM.<sup>59</sup> However, the metal industry has relatively few inspections (2% in 2005). This was not because of lack of union demands; a union leader stated: *“it is going to be a year since we put in five requests for inspections and we still haven't gotten any response.”*<sup>60</sup> Without high levels of proactive inspections or use of the union requests, the STBA collects little information about violations in the metal industry. As a result, the subsequent tasks of enforcement, crafting a response and overcoming resistance, did not occur. In short, in the same industry, with the same union, and similar types of violations, enforcement levels are higher in Córdoba than in the Federal Capital.

In contrast to the metal industry, the STBA reacted strongly to violations in the garment industry with an intense enforcement campaign in 2006 and 2007. Garment

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<sup>59</sup> Analysis of *Encuesta Permanente de Hogares* and interviews C46 and B19.

<sup>60</sup> Interview: B19, Metal Workers' Union (UOM), Buenos Aires, 2/12/2009. Interviews with union leaders indicate that the types of violations and their frequency are similar across provinces. Estimates of the percentage of workers that were non-registered in the Federal Capital in the sector from the EPH have high levels of uncertainty due to the small sample size, but are approximately the same as in Córdoba, at around 25%. In addition, as a local measure of union strength, UOM in the Federal Capital has approximately 500 delegates, more than that in Córdoba.

manufacturing in the Federal Capital accelerated rapidly after the crisis.<sup>61</sup> By 2007, the industry had reached nearly 6 billion dollars in production, the great majority of which competed with imports in the domestic market.<sup>62</sup> An integral part of the industry is a vast network of small home-based workshops that operates through a system of outsourcing and piecework; 74% of producers have fewer than five employees and 23% have between 6 and 40 employees.<sup>63</sup> It is impossible to know the precise number of workers and workshops, but officials estimated that in 2009 there were between 3,000 and 3,500 workshops in the Federal Capital.<sup>64</sup>

By all measures, the garment industry in the Federal Capital had extremely high levels of labor violations. The factors that contribute to poor working conditions in all garment industries—relatively low skilled workers, highly fluctuating demand, and low levels of investment—were amplified in the Federal Capital by the large number of undocumented migrant workers from Bolivia. An inspection operation in 2006 checking 13,000 workers found that 1,600 were in conditions that approximated “slavery” and, in total, worker advocates estimated that 25,000 Bolivian migrants were “*reduced to slavery in clandestine workshops*.”<sup>65</sup> An investigation from the local ombudsman found workshops that violated nearly every labor law: they did not meet basic health and safety standards, there was no legal payroll, working days began at seven in the morning and lasted until past midnight with only short breaks for meals, salaries were only 100 dollars per month, and workers were denied all legally mandated benefits. In 2006, the safety

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<sup>61</sup> Centro de Estudios para la Producción. “Las marcas como motor del crecimiento de las exportaciones en el sector indumentaria” 2007

<sup>62</sup> Source: Cámara Industrial Argentina de la Indumentaria

<sup>63</sup> Source: (Fundación el Otro 2007).

<sup>64</sup> *Clarín* “Imágenes de los talleres clandestinos, una forma de esclavitud moderna”, 4/12/09

<sup>65</sup> *La Nación* “Aún quedan 25.000 bolivianos que trabajan como esclavos” 10/16/06

risks of the garment industry were brought into horrific view when a fire killed a family that was living in a garment workshop.<sup>66</sup> Many features of this industry—the predominance of migrant workers, the extreme violations and very public tragedies, the small and dispersed centers of production—were comparable to those of the brick-kilns in Córdoba.

In response to the fire in 2006, there was a tremendous shift in enforcement by the STBA.<sup>67</sup> In the eleven days that followed the fire, a series of operations by inspectors closed 122 workshops.<sup>68</sup> Within a few months, the STBA had conducted 1,700 inspections in the sector and closed 500 clandestine workshops. Compared with the reaction of the inspectorate in Córdoba to similar problems in the brick-kilns, the STBA clearly enforced at a much greater level. Enforcement, however, did not end after saliency of the issue waned. Instead, the STBA began a multipronged effort to reduce the worst forms of abuse in the garment industry.

The STBA undertook an extensive campaign to gather information about the industry. Working with a civil society organization called La Alameda, which had widespread ties with migrant workers, the STBA targeted inspections in workshops that

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<sup>66</sup> *Página/12* “El infierno del trabajo esclavo” 3/31/06. *La Nación* “Mueren seis personas en un incendio” 3/31/06.

<sup>67</sup> Interview: B39, Former Senior Official, STBA, Buenos Aires, 2/6/2009. Before 2006, there was a jurisdictional conflict between the STBA and the federal Ministry of Labor (MTESS) over the garment industry. Although the STBA had jurisdiction over enforcing labor law in the Federal Capital, the MTESS retained jurisdiction over home-based work agreements that were common in the industry. This conflict prevented the STBA from taking action earlier, but after the fire the issue was quickly resolved. On June 22, 2006, the government of Federal Capital formally signed an agreement (Convenio N° 14-GCBA/06) with the MTESS to take primary jurisdiction over home-based work. This agreement did not go into legal effect until the end of 2007, but its existence made it possible for the STBA to take the lead in regulating the garment sector.

<sup>68</sup> *Página/12* “Tras los controles, las textiles ilegales ya se mudan al conurbano”, 4/11/06. *La Nación* “Tras el incendio, combaten el empleo ilegal” 04/01/06; “Bolivia en Buenos Aires: la vida después de las clausuras” 04/26/06.

produced for well-known local brands. Inspectors then coordinated with La Alameda to send workers to look for work in these factories. These “*spies*” gathered intelligence about labor law violations, which La Alameda then passed on to the STBA.<sup>69</sup> The information that La Alameda generated through its network in the community of Bolivian migrants was extremely valuable; inspectors found violations in 97% of the workshops that La Alameda identified.<sup>70</sup>

With the information gathered, the STBA took far-reaching steps to raise the costs of non-compliance for workshops that continued illegal practices, to prosecute the firms at the top of the supply chain that sourced from clandestine factories, and to create employment in cooperatives that did not exploit workers. In the first eight months of 2007 alone, the STBA closed down 713 workshops.<sup>71</sup> To complement this strategy, inspectors, with their allies in the public prosecutors office and La Alameda, started mapping out the entire supply chain of the garment industry and began a campaign against lead firms.<sup>72</sup> This put direct pressure on the firms, embarrassing them and sparking public protests in front of their stores. The STBA also made an effort to use laws that hold firms responsible for the actions of their subcontractors in order to pressure firms further up on the supply chain. These actions began to impose costs to firms at the top of the supply chain, thereby creating a greater deterrent.<sup>73</sup> In addition to penalizing

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<sup>69</sup> *Clarín* “Trabajo esclavo: usaron a espías para investigar talleres” 09/06/06; “Se infiltró en un taller ilegal para denunciar a una marca de ropa” 09/07/06.

<sup>70</sup> Source: (Auditoria General la Ciudad Buenos Aires 2006). To put this number into context, wage and hour regulators in the United States’ garment industry found violations in 49% of their investigations between 1996 and 2000. (Weil 2005 p. 242)

<sup>71</sup> *Clarín* “Trabajo esclavo: la Comuna denunció a seis marcas textiles” 07/31/07

<sup>72</sup> Interview: B66, Former Senior Official, STBA, Buenos Aires, 2/24/2009. See also: *Página/12* “Ropa infantil con manchas legales” 01/16/07; ““Nos pagaban centavos por prendas que en vidriera estaban a 30 pesos”” 01/17/07; “Denuncian a cinco marcas deportivas por explotar a los indocumentados” 07/30/07.

<sup>73</sup> This practice is somewhat similar to the highly effective use of the “hot goods provision” by the U.S. Department of Labor to increase costs for firms that source from illegal workshops. See: (Ibid.).

violators, the STBA worked with the National Institute of Industrial Technology to create programs to support garment production that did not exploit workers. One program, which ultimately failed, gave clothing brands the opportunity to certify their supply chains as complying.<sup>74</sup> A second program was successful in building a cooperative that became a part of La Alameda and employed 200 people who had worked in the clandestine factories.<sup>75</sup> Overall, these actions are evidence of a broad effort to systematically address the conditions that promoted exploitation.

Finally, the STBA was able to resist pressure against enforcement from those firms that had immediately benefitted from labor law violations up until the end of 2007. Even though workshop owners were able to bribe police for protection, there is no evidence that they were able to bribe labor inspectors. The industry lobbied against enforcement, putting pressure on the STBA. But the large brands made little progress in changing the behavior of the agency, so they shifted tactics.<sup>76</sup> Instead of attempting to prevent enforcement, lead firms in the industry eventually made a failed attempt to alter the law to reduce their responsibility for compliance in their supply chains.<sup>77</sup>

In sum, over a two-year period enforcement levels were sustained at comparatively high levels, and the actions undertaken by the STBA approximated best practices of labor inspection.<sup>78</sup> Although the effort ultimately slowed down with a change in government at the end of 2007, for a two-year period it was substantially

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<sup>74</sup> “Programa de Certificación INTI Compromiso Social Compartido Empresas de Indumentaria” Instituto Nacional de Tecnología Industrial, 2006.

<sup>75</sup> Interview: B46, La Alameda Foundation, Buenos Aires, 2/23/2009. *Página/12* “De ilegales a cooperativistas” 12/04/07. See also: (Lieutier 2010).

<sup>76</sup> Interviews: B66, Former Senior Official, STBA, Buenos Aires, 2/24/2009; B39, Former Senior Official, STBA, Buenos Aires, 2/6/2009

<sup>77</sup> *Clarín* “Ya se generó polémica por la ley contra “el trabajo esclavo”” 8/21/08. This proposed law was eventually defeated.

<sup>78</sup> Many of the steps taken by the STBA fit in the model of “strategic inspection.” See: (Weil 2008)

higher than in any industry in Argentina. While there is not sufficient data to properly measure impact, close observers noted an end of “*total impunity*” due to the enforcement campaigns.<sup>79</sup>

### *Explaining Enforcement in the Federal Capital*

Why was enforcement so different in the Federal Capital as compared with that in Córdoba? The autonomy of the bureaucracy cannot provide an explanation. One key characteristic of autonomous bureaucracies is civil service protection that promotes independence, but nearly all (99%) of inspectors in the STBA had precarious contracts that could be terminated at any time.<sup>80</sup> One inspector described the limitations his short-term contract posed: “*in this position, if you don’t have civil service protection, you are prone to all kinds of pressure...you feel somewhat constrained in front of powerful corporations.*”<sup>81</sup> In addition, many inspectors held jobs outside of the STBA to supplement their income (a practice that is tolerated). While there have been efforts to hire inspectors with a minimum level of education (unlike in Córdoba), there has been no exam system to ensure meritocracy (in fact, the political support for the expansion of the inspectorate in 2006 was based, in part, on promises that legislators could influence the hiring process).<sup>82</sup> In combination, these features indicate that bureaucratic autonomy could not have been behind enforcement.

To explain how enforcement occurred, it is necessary to go beyond bureaucratic autonomy and examine the ways by which linkages and administrative resources influenced state capacity. Political influence of organizations in society was pervasive in

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<sup>79</sup> Interview: B13, Defensor del Pueblo, Buenos Aires, 2/26/2009

<sup>80</sup> *Página/12* “La paradoja de los inspectores” 09/18/08

<sup>81</sup> Interview: B16, Inspector, STBA, Buenos Aires, 10/14/2008

<sup>82</sup> Interview: B39, Former Senior Official, STBA, Buenos Aires, 2/6/2009

the STBA, but unlike in Córdoba, the structure of linkages did not privilege unions. For example, union leaders could not directly approach inspectors, but instead had to put in formal requests to the central inspection office, which then allocated an inspector to the task.<sup>83</sup> This practice created a friction in the flow of information from unions to inspectors, sometimes creating delays in response times by the STBA. Inspectors reported that they would collaborate with unions, but they were careful not to depend upon them. During visits to firms, for instance, the unions had a limited role in providing information and helping regulators craft a response. One inspector recounted that “*the only thing that union leaders can do is be present. They cannot intervene.*”<sup>84</sup> After the election of a center-right government at the end of 2007, further restrictions were put into place, and inspectors could only work with unions that entered into formal agreements with the STBA.<sup>85</sup> The survey data (from 2009) provide a more structured way of comparing Córdoba and the Federal Capital in terms of inspector-union linkages (Table 5). For every question, inspectors in the Federal Capital were more likely than their counterparts in Córdoba to say that union leaders “never” or only “sometimes” help with enforcement, providing additional evidence for the differences in linkages.<sup>86</sup> This particular structure of linkages explains why enforcement was not very high in the metal industry of the Federal Capital even though the union had resources to offer inspectors, and as described below, the inspectors had their own resources.

Although inspector-union linkages were comparatively weak, inspectors in the Federal Capital did have linkages with other types of civil society organizations that

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<sup>83</sup> Interview: B22, STBA, Buenos Aires, 9/15/2008

<sup>84</sup> Interview: B16, Inspector, STBA, Buenos Aires, 10/14/2008

<sup>85</sup> Interview: B08, Senior Official, STBA, Buenos Aires, 9/23/2008

<sup>86</sup> All but question 3 are statistically significant (chi-squared test,  $p \leq 0.001$ ).

opened up channels for political influence and provided key resources.<sup>87</sup> One such organization was La Alameda, a non-union civil society organization competing with a union (in this case the garment workers union) to represent workers' interests.<sup>88</sup> La Alameda put political pressure on the STBA (protesting and denouncing violations in the media) that resulted in leaders of the organization gaining access to the inspectorate.<sup>89</sup> Linkages were able to form, in part, because the center-left coalition in power was not constrained by partisan ties with unions. This development contrasted strongly with Córdoba, where political alliances between unions and the STC did not leave space for other actors to work with inspectors, even after they mobilized.<sup>90</sup> Thus, in these cases politics did not influence enforcement directly through hierarchical controls over a bureaucracy that executed the tasks of enforcement on its own, but rather indirectly by influencing linkage formation.

Once linkages were established with La Alameda, inspectors could use the group for its “*ideas and suggestions*” to go beyond an “*indiscriminate policy of inspection from workshop to workshop*” in order to have a greater impact.<sup>91</sup> At the operational level, La Alameda “*provided training and taught the garment workers. [La Alameda] told them what their rights are, what to do when a labor inspector comes, how they can collaborate*

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<sup>87</sup> There were not substantially more civil society organizations in the Federal Capital than in Córdoba (9,000 in the Federal Capital, compared with 12,000 in Córdoba) (Luna and Cecconi 2004).

<sup>88</sup> The garment workers' union was widely considered to be captured by management and did not push for enforcement. La Alameda attempted to change the union from within by running candidates in elections, but was largely unsuccessful. In Argentina, only one union is certified to represent any given industry.

<sup>89</sup> Interview: B46, La Alameda Foundation, Buenos Aires, 2/23/2009. On the protests and attention that La Alameda was able to generate, see: *La Nación* “Marcha de trabajadores bolivianos” 04/05/06; “Protesta contra el trabajo esclavo” 09/15/06.

<sup>90</sup> Although both the heads of government in Córdoba and the Federal Capital were from the left of the political spectrum, the governing coalition in Córdoba had partisan ties with unions that crowded out other civil society organizations. This was not the case in the Federal Capital, in which many unions were part of the opposition.

<sup>91</sup> Interview: B39, Former Senior Official, STBA, Buenos Aires, 2/6/2009



*with the inspectors.*”<sup>92</sup> In other words, La Alameda not only lobbied the STBA to enforce, but was essential in providing “*logistics, and [information] before, during and after*” inspection operations.<sup>93</sup> The structure of linkages was crucial for enabling enforcement in the garment industry. If La Alameda only put political pressure on the STBA and did not assist in the operational side of enforcement, it is unlikely that inspectors would have been able to enforce in such a systematic and strategic fashion. If inspectors in the STBA had linkages only with unions, as did their colleagues in Córdoba, it is unlikely that enforcement would have occurred at such a high level given the lack of action by the garment workers’ union. The garment workers’ union, SOIVA, simply did not request many inspections of the STBA;<sup>94</sup> an official in the division of the STBA responsible for the garment workshops recounted: “*To me, the unions don’t come.*”<sup>95</sup> Senior officials at the STBA invited SOIVA to participate in the operations and press conferences when clandestine firms were discovered and closed, but they did not.<sup>96</sup>

The linkages with La Alameda were extremely important, but they alone cannot explain why enforcement had such a broad reach. If inspectors of the STBA worked with La Alameda in the same way that the inspectors in Córdoba worked with unions, enforcement would be limited to occasions in which La Alameda subsidized inspectors by giving them necessary material resources, such as transport and overtime pay. This clearly was not the case, and the STBA went well beyond responding to immediate complaints. To understand how, we need to examine administrative resources. The

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<sup>92</sup> Interview: B11, Senior Official, STBA, Buenos Aires, 02/12/09 & 02/17/09

<sup>93</sup> Interview: B39, Former Senior Official, STBA, Buenos Aires, 2/6/2009

<sup>94</sup> Auditoria General la Ciudad Buenos Aires. “Informe Final: Dirección General De Protección Del Trabajo” 2006.

<sup>95</sup> Interview: B11, Senior Official, Federal Capital Labor Subsecretariat, Buenos Aires, 02/12/09 & 02/17/09

<sup>96</sup> Interview: B66, Former Senior Official, Federal Capital Labor Subsecretariat, Buenos Aires, 2/24/2009

STBA had an advanced database, which allowed officials to plan and keep track of their actions. This technology made large campaigns targeting workshops, and analysis of the results of these campaigns, possible. The STBA also had a relatively high number of inspectors, with one per 15,000 workers (compared with one per 35,000 workers in Córdoba). And in 2007, the Federal Capital created a specialized division within the labor inspectorate to enforce only regulations in home-based work. This change made it more probable that inspection capacity would be apportioned to the garment industry, even if other industries demanded many inspections.<sup>97</sup> Although the inspectors were not protected from political interference through civil service protection (or other organizational features), they were able to take a broader set of actions when they built a coalition that provided political backing. Furthermore, they did not have to depend materially on their partners outside of the state to such a large degree as in Córdoba. State capacity for enforcement was created, therefore, through a combination of high levels of administrative resources and linkages, instead of through bureaucratic autonomy.

## Conclusion

There is a tremendous gap between regulations on the books and the *de facto* protections afforded to workers in most of the world. Labor inspectors can play a key role in strengthening labor market institutions and improving standards through enforcement, but they often do not. Pessimistic about the prospects for enforcement of state regulations, many activists have shifted their attention towards non-state initiatives, such as private-voluntary regulation and certification schemes (Bartley 2007). Private initiatives, however, have had limited success and show the greatest potential when

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<sup>97</sup> Interview: B11, Senior Official, STBA, Buenos Aires, 02/12/09 & 02/17/09

combined with capable state regulators (Amengual 2010; Locke 2013). Dominant approaches to studying inspection suggest that the only way to improve enforcement is to build strong, preferably autonomous, bureaucracies. As a result, they offer little guidance for short-term improvements in state labor regulation, reinforcing the view that state regulation is not a viable response to the challenges of improving labor standards in much of the world.

This paper has shown that analyzing labor inspection primarily in terms of autonomy is at best incomplete. First, notwithstanding problems of political interference, patronage, and limited resources, labor inspectors can, and do, undertake the key steps of enforcement. As a result, there is considerable variation in enforcement among inspectorates that are highly imperfect. These differences in enforcement have been obscured by common methods of measurement, which focus either on regulatory styles or inspection counts. Closer investigation reveals differences in patterns of enforcement—how states allocate enforcement—and the intensity of enforcement in any given industry even when regulators conduct similar numbers of inspections overall or have similar styles. Detecting this variation goes hand in hand with developing explanations for enforcement that go beyond autonomy.

Second, as the cases presented above illustrate, enforcement can be made possible, and state capacity extended, by establishing linkages between inspectors and pro-enforcement societal groups that allow inspectors to mobilize the resources of these groups. By identifying the factors that allow constrained inspectors to implement regulations, it is possible to locate opportunities for enforcement in a much broader range of contexts than is commonly understood. Wherever there is a pro-enforcement societal

group, linkages may be key to creating the conditions for state action, even in highly imperfect states. Policy makers should not conclude that states will invariably fail when they lack the ability to allocate resources and undertake reforms to regulatory bureaucracies. In addition, societal groups that seek to improve labor standards should not simply place political pressure on the state, but should work to develop linkages with regulators in order to share material resources and information.

Expanding regulatory capacity by mobilizing resources in society is not limited to Argentine cases. A similar mechanism was found by Fine and Gordon (2010), who propose revitalizing partnerships between enforcement agencies and worker organizations in the United States. This pathway is also broadly congruent with research from other policy domains, in which combinations of actors across state and society strengthen institutions (Dobbin and Sutton 1998; Braithwaite 2006). Collectively, these findings suggest that labor inspection research should be reoriented away from an exclusive focus on reforming bureaucratic organization and move towards identifying factors that influence linkage formation.<sup>98</sup> In doing so, researchers can build on studies of politics in emerging markets that take a broader view of state capacity and offer a series of hypotheses about the political origins of distinct configurations of state-society relations (Montero 2001).

With these opportunities, however, come many challenges. Enforcement that relies heavily on organizations outside of the state can have serious limitations. When the inspectors are completely dependent on society for enforcement, inequalities in social organization become exacerbated. Responses to social demands can crowd out strategic

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<sup>98</sup> For an analysis of linkage formation, see: (Amengual 2011)

state action, potentially leaving the most vulnerable workers unprotected. Moreover, enforcement through linkages can be fragile; if relationships between inspectors and their allies outside of the state are severed, the agency becomes crippled. For these reasons, it remains an important goal to allocate resources to labor inspectorates. However, the challenge is not to build labor inspectorates *ex novo*, but to foster transitions between state dependence on societal organizations towards an ultimate goal of strengthening *both* the internal and external components of state capacity. As research on labor inspection moves beyond a narrow view of the depoliticized state, it will be possible to understand a fuller range of strategies for improving enforcement. And when more states can give firms the incentives and ability to comply with regulations, there will be greater possibilities for improving labor standards.

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