

Deregulation, Safe Work, and Undocumented Workers in the New Economy

*An Analysis of Novel Programming for
America's Most Vulnerable*

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America's Most Vulnerable Workers

- 11.9 million undocumented persons in US
- 81% of undocumented from Latin America
- 8.3 million workers are undocumented (5.4% of the US workforce)
- Concentrated in low-wage, dangerous industries
 - Construction
 - Food processing
 - Garment Manufacturing
 - Hotels (Hospitality)
 - Landscaping (Gardening)
 - Agriculture

(Pew Hispanic Center Report, Apr. 2009)

Hispanic/Latino Workers

- 19.6 million in 2009 overall – native& foreign born
- Hispanics in 2009, 50.1% of foreign born labor force and 8% of the native labor force
- In 2008, 804 Hispanic workers fatally injured (4.2 per 100,000)
- Hispanic occupational fatality rate 13.5 percent higher than for US workers overall
- In 2008, 835 foreign born workers fatally injured, 60 percent were Hispanic/Latino (503 workers)
- Hispanic unemployment 12.4% in 2010

Labour Law is Ossified and Outdated



- Protective statutes have failed to keep pace with new forms of work organization/non-traditional employment relationships
- Statutory definitions of “employee” vary
- Courts and government agencies use differing methods to determine who is an employee, who is an independent contractor




Deregulation Has Been Ascendant & Regulatory Capture Evident

- Occupational Safety & Health Administration (2001 – 2008)
 - Withdrawal of proposed workplace regulations
 - Deliberate delay of other
 - Modification of warnings in response to industry pressure
 - Overall bias in favor of industry/regulatory incompetence
- Occupational Safety & Health Administration (2009 – present)
 - Agency moving forward with new regulations
 - Enhancing enforcement

Immigration Law & Policy Unfavorable



- Aggressive enforcement
 - Workplace raids
 - Large scale employment record audits
 - Deportation/Voluntary Departure FY 2009:
387,790
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Mechanisms for Change During Deregulation



- National Institute of Occupational Safety and Health
 - Principles of scientific management help research have impact
 - One key focus: OSH and new forms of work
- Rise of Worker Centers and Trade Union-Supported NGOs for Non-Unionized Workers



UCLA LOSH & UC Berkeley LOHP

- UCLA Labor Occup. Safety & Health Program (est. 1978)
 - Receives federal & state funding
 - Activities in three areas
 - Education & training
 - Research & policy
 - Outreach
- UC Berkeley Labor Occup. Health Program (est. 1974)
 - Receives federal & state funding
 - Community outreach program
 - Training
 - Technical Assistance
 - Publication of educational materials
 - Library resource center

Characteristics of LOSH & LOHP Projects

- Capacity Building
 - Worker Occup. Safety & Health Training & Educ. Program (WOSHTEP – LOSH, LOHP, UC Davis)
- Navigation
 - Workers' Comp. Navigator Training (LOHP)
- Networking
 - Working Immigrant Safety and Health Coalition (WISH – LOPH plus over 50 organizations & govt depts)
- Information Sharing
 - LOSH Spanish OSH Resource Library
 - LOSH/NIOSH study on Mexican consulate materials

Concluding Thoughts



- OSH challenges for vulnerable workers significant and even in era where hard law regulation is back in vogue, remain daunting.
 - Nonetheless, government-funded soft law efforts and bottom up efforts from NGOs represent promising developments. Not a replacement for government regulatory and enforcement efforts but items supplementary to it.
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