Left Behind: The Politics of Labor-Markets in Latin America

The study of formal institutions dominates comparative politics. Yet much of politics in developing countries happens, not before laws are passed, but rather at the enforcement stage. Do elected officials manipulate enforcement to advance political goals? And if so, under what conditions? Understanding how law making and law enforcement interact, and how law is enforced, is crucial both from the perspective of social science and public policy. In the following pages, I explore the politics of enforcing workers’ rights in developing democracies. In these countries, firms frequently ignore the letter of the law to the detriment of workers, particularly of those in informal, unprotected jobs. Lacking control of their conditions of employment, many workers are denied key labor rights inscribed in labor codes, such as the right to an eight-hour workday, a minimum wage, and compensation in the event of workplace injuries. Studies that focus on labor standards treat compliance as an economic phenomenon, shaped primarily by employer characteristics. Those that focus on labor politics either ignore the gap between de facto and formal regulations or take legal violations as evidence that developing countries are unable to monitor and sanction firms. Yet state capacity and enforcement—i.e., the act of compelling compliance with a law, rule, or obligation—do not always move together; poor countries sometimes have better law enforcement agencies than more developed countries. Enforcement also varies greatly across policy areas, geography, and time.

Many factors influence firms' compliance with labor regulations, including the clarity of the letter of the law, the functioning of courts, and the strength of unions, who are supposed to keep workers informed about their rights and compel employers to comply with labor regulations. In developing countries, where unions are weak and judicial corruption is rampant, labor inspectors are the first line of defense for workers, compelling firms to observe the law and making sanctions credible. Labor inspectors are in charge of enforcing the whole of the labor code, ranging from elementary health and safety regulations to those governing wages, hours, and workers’ registration with tax agencies. Given the broad powers in the hands of inspectors, inspections systems are frequently subject to high degrees of politicization. In my dissertation, I explain why some governments enforce the law more aggressively than others, by focusing on the political returns of enforcement. I show that, in labor markets divided between insiders (formal, unionized workers) and outsiders (poor workers who have not made it to stable employment), leftist governments do not invest in stronger inspectorates than do parties of the right, nor do they conduct more inspections, or increase the productivity of inspectors. On the contrary, they seem *less* likely to do either. This lax enforcement is counterintuitive, given that left-leaning parties have, historically, supported policies aimed at protecting workers.

In their attempt to preserve the job benefits of their core insider constituency and, simultaneously, create employment opportunities for unskilled workers (an ever-larger group of voters), left governments, I argue, facilitate the emergence of precarious forms of employment by favoring a more lax approach to enforcement. Lax enforcement, however, comes at a political cost for leftist incumbents. When hazardous working conditions turn into workplace accidents, voters do not judge all politicians with the same measure. I show that sudden increases in workplace fatal accidents substantially decrease incumbents’ vote share and re-election probabilities, but only for those on the left of the political spectrum.

By focusing on the political challenges that left parties face on garnering the support of heterogeneous labor constituencies, my dissertation identifies the conditions under which labor enforcement takes place in developing countries and the type of enforcement favored by governments with different partisan identities. By studying the electoral repercussions of weak labor standards, and how partisan identities condition voters’ retrospective evaluations of elected officials, my research helps understanding the electoral tradeoffs that leftist incumbents face in segmented labor markets. In maximizing the employment opportunities of unskilled workers, leftist incumbents may ignore that voters will held them accountable for the unintended consequences of lax oversight. Finally, my research helps to understand why labor standards remain fragile in poor and middle-income countries, despite the stability of protective labor codes and changes in state capacity, economic development strategies, electoral realignments, and increased international pressure to improve the quality of labor standards.

I apply these insights to the study of Latin American labor markets, which are characterized by strong and stable labor codes; a large numbers of informal, low-skilled workers; politically influential unions with long-standing ties to left parties; and atomistic labour relations (because unions are small and distant from the shop floor). Besides being characterized by high levels of informal employment (in both the formal and informal sector), workers in Latin America face one of the highest fatality rates in the world (higher than India, the former socialist economies of Europe, and China). My analysis features a cross-national analysis with data on enforcement and governments’ ideology from 18 Latin American countries between 1985 and 2015 as well as in-depth case studies of Brazil and Argentina. In these two cases, I combine extensive fieldwork with quasi-experimental methods to draw causal inferences, on the one side, on the effect of partisan identities on enforcement and, on the other, on labor standards on left parties’ electoral fortunes.

In the following section, I introduce a simple theoretical framework to explain why elected officials sometimes pass regulations that, later on, they choose not to enforce. Then, I introduce the main characteristics of Latin American labor markets and the challenges that parties in the left face in assembling electoral coalitions with fragmented labor constituencies. Next, I introduce the main characteristics of the enforcement systems prevalent in Latin America and how these systems shape the enforcement preferences of different types of workers. Finally, I briefly summarize the main quantitative findings of the dissertation and suggest future research.

*Law-Making and Enforcement*

The idea that enforcement has distributive consequences and that elected officials shape bureaucratic decisions is well established in the literature. Studies of bureaucratic decision-making highlight the tension between democratic responsiveness and bureaucratic neutrality. Scholars of American politics show that congressional committees dominate bureaucratic agencies and that powerful interest groups influence the daily work of bureaucrats (e.g., Huntington 1952; Scholz et al. 1991; Weingast and Moran 1983). We also know that bureaucrats adjust the intensity of oversight in response to changes in the political environment (Gordon 2014; Scholz and Wei, 1986). In developing countries, politicians modify the level of enforcement to maximize votes or collect bribes (Holland 2015). Bureaucrats and politicians may engage in forbearance, deciding to withhold enforcement for political ends (Holland 2014a). Underlaying these models is the idea that there is a correspondence between actors’ policy preferences and their enforcement strategies. A crucial piece of the puzzle, then, is why actors use the level of enforcement as a political strategy rather than simply changing policies?

I argue that *governments with heterogeneous constituencies frequently use enforcement to reduce the costs of policies that are favored by some members of their coalitions but opposed by others*. I connect, in a single theoretical framework, actors’ preferences for formal rules and the enforcement of such rules, showing that preferences for one and the other do not always go hand in hand. I stress three factors shaping politicians’ incentives for regulatory enforcement: (1) whether groups have heterogeneous preferences on the regulations being considered by government officials, (2) whether these officials depend on the votes of these groups to win office, and (3) how costly it is to pursue formal policy change.

Politicians favor enforcement when relevant actors in their support coalition benefit from the existing regulatory framework. When enforcing existing regulations is harmful to their support coalition, politicians favor formal policy revision. When such change is off the table, elected officials will block enforcement, withdrawing resources from enforcement agencies and interfering with their normal operation.[[1]](#footnote-1) For instance, Gordon (2014) finds that the Bush administration in the U.S. reduced regulatory scrutiny of mine companies after failing to change the Mine Act. Similarly, in 2012, President Obama suspended the deportation of young illegal immigrants. Despite having the budget and agents to deport them, the President decided not to follow the letter of the law (Holland 2014b). In both examples, politicians (or their constituencies) oppose existing laws and, because changing them is not possible, because of partisan and institutional veto points, or too costly, they choose not to enforce them.

Weak enforcement can also be a rational response of governments officials In highly unequal societies, where they frequently need to appeal to groups with opposing distributive preferences. When some actors in their support coalition benefit from a set of regulations but others are hurt, politicians may pass laws but not enforce them, or, at least, may enforce them unevenly. In my dissertation, I show that left parties with fragmented labor constituencies, formally embrace laws protecting labor, but frequently reduce enforcement and shift enforcement efforts away from places where labor law violations are more frequent. Leftist leaders are concerned with the negative effect of the regulations favored by their core constituency of organized formal workers on the employment opportunities of unskilled workers. Politicians prioritize the enforcement of certain laws or decide not to enforce the law in some sectors/firms, not because of budget constraints, but because they seek to reduce the political costs of regulations.

In all cases, weak enforcement is attractive because it is less visible (or “traceable,” in the words of Arnold 1990) by stakeholders (firms, unions, and workers) and public opinion in general. Enforcement takes place outside normal budgetary channels; it happens within the bureaucracy; and it is typically more technical and obscure to external viewers. When formal reform is off the table or when policies on the ground affect positively some members of the ruling coalition but hurts others, government officials will weaken enforcement—or design enforcement patterns to protect their constituencies from the negative effects of enforcement. Yet pursuing seemingly contradictory law-making and enforcement strategies may create its own political costs: it may dilute party labels and may also backfire with the general public, once the gap between formal regulations and enforcement becomes politically salient.

I work from three assumptions. First, politicians understand how regulations affect different groups in their support coalitions. In interviews I conducted with leftist politicians and union leaders, in Argentina and Brazil, many of them expressed concerns about the harms inflicted by the regulations they were advocating, such as unemployment or lower productivity, calling for more “flexible” and “responsible” enforcement. Inspectors, they suggested, should prioritize the jobs of unskilled workers. I also assume that politicians have ways to influence the operation of enforcement agencies. For instance, they can reduce the number of inspectors or the number of automobiles available for inspectors to visit worksites. In Brazil, for instance, 3,000 inspectors are in charge of overseeing a workforce of more than 90 million workers. Inspectors work in regional offices, headed by politically appointed superintendents. To travel to one of the 5,500 municipalities, inspectors depend on the superintendent to approve travel allowances, which are frequently denied based on political considerations. Finally, politicians have the state capacity to enforce the law but decide not to. The agricultural protest against a tax increase in Argentina, which took place in early March 2008 and resulted in a tremendous political defeat for the national government, is telling in this respect. In the three-year period 2005-07, labor inspectors covered a total of 30,858 workers, 11,074 of whom were informal salaried workers. After the protest, in 2008-10, enforcement increased suddenly: labor inspectors covered 106,038 workers, 20,066 of whom were informal. That is, the number of covered workers nearly tripled, and the number of detected informal workers almost doubled.[[2]](#footnote-2)

This framework helps explain why gaps between de facto and formal rules persist in highly unequal societies. One scholar of labor politics has argued that “where labor laws exceed skills, excluded low-skill workers will push for change… out-of-equilibrium outcomes will not last long, because they create incentives for rewriting of laws” (Carnes 2014, p. 66). However, studies frequently highlight the resilience of labor codes despite changes in economic development strategies, the decay of union membership in recent decades, electoral realignments, and even regime transitions. Other scholars—mainly economists and sociologists—underscore the low quality of labor standards, despite many countries having protective regulations, because firms (and, sometimes, workers) often fail to comply with the law. In Latin America, informal salaried workers (typically younger, poorer, and less educated than formal workers) represent more than 30 per cent of urban employment (Perry et al. 2007).[[3]](#footnote-3) Schneider (2009) claims that “the absence of unions and weak enforcement of legal protections make workers… vulnerable, and this vulnerability is even higher in the informal sector where workers, by definition, lack protection and representation” (p. 9). In Argentina and Brazil, for instance, large firms regularly outsource many labor-intensive activities and claim that collective agreements bind only workers employed directly by the firm. Others even hire or set up workers’ cooperatives or misclassify workers as independent contractors in order to bypass labor regulations (Cardoso and Gindin 2009).

Given that compliance with labor codes is low and formal regulations benefit only a minority of workers, why have low-skilled workers in informal or unprotected jobs not succeeded in reducing the barriers that keep them out of the formal labor force? Why do left parties, that must assemble electoral winning coalitions that include outsiders, not introduce external flexibility (e.g., the ease of hiring and firing) and personal security (e.g., unemployment insurance) in labor regulations? My dissertation provides one reason why “out-of-equilibrium” outcomes survive. Governments, from both the left and the right, enforce the law in order to ameliorate or hide the costs of highly protective labor regulations, creating labor opportunities for outsiders while keeping (and even strengthening, in the case of leftist governments) protections for insiders. This situation, however, is far from ideal for left governments, who are punished by their constituency when de facto flexibility in labor markets creates hazardous working conditions for workers.

Recent studies of industrialized economies advance our understanding of regulatory change, in the context of stable rules (Hacker 2005, Hacker et al. 2013). Likewise, in developing countries, some highlight the development of norms (non-written rules and procedures) that conflict with formal rules and shape outcomes despite the absence of formal policy change (Levitsky and Helmke 2003; Levitsky and Murillo 2009; Tsai 2006). Both these strands of research suggest ways in which political outcomes deviate from the letter of the law even though institutions do not change. The first strand describes ways in which formal institutions are enforced but changing circumstances produce significant changes in political outcomes. The second strand shows that formal institutions that contradict entrenched norms are frequently ineffective. My dissertation, in turn, investigates circumstances under which politicians have incentives to enforce the law and circumstances under which they choose not to, with close attention to how the enforcement affects different members in their support coalitions. Laws are stable because politicians are able to hide some of the costs of regulations by manipulating enforcement to adapt governance to changing economic and political circumstances. Thus, outcomes change despite labor-law stability—what Cook (2007) calls de facto flexibility—because governments weaken enforcement strategically, to reduce labor costs, maximize employment opportunities for unskilled workers, and keep insiders’ protections on the books.

*Labor-Markets in Latin America*

The insights developed in the previous section are applied to the study of developing labor markets. Previous analyses suggest that parties of the left, when in government, will enforce labor regulations aggressively: workers care about effective rules rather than formal ones and left parties have consistently opposed reforms to deregulate the labor market, such as loosening job security. In contrast to this expectation, I argue that whether governments of the left promote or deter enforcement depends on how regulations affect the wages and employment opportunities of different types of workers: the “insiders” and “outsiders.”[[4]](#footnote-4)

Consider the case of a left party with long-standing ties to organized labor. Insiders are the incumbent workers, protected by high severance and seniority payments, and outsiders are unsuccessful new entrants. They are either unemployed workers, self-employed workers in the informal sector, or workers employed in informal jobs. Outsiders are precluded from getting “good jobs” in the formal sector because insiders have tenure protection (Lindbeck and Snower 1988, 2002). Unions only represent the interests of insiders.[[5]](#footnote-5) De-industrialization and the growth of the service economy have reduced the number of industrial, unionized workers. Simultaneously, market reforms have weakened the clientelistic ties between outsiders (poor, predominantly informal, workers) and conservative parties. The left needs to win the votes of these ever-larger group if it is to craft winning coalitions. However, the left cannot court both insiders and outsiders in the labor market simultaneously, because, as mentioned, outsiders and insiders have opposing preferences.[[6]](#footnote-6) Parties of the left, then, face a difficult dilemma: either they enforce burdensome regulations aggressively, reducing employment for unskilled workers, or reform labor institutions and alienate their core working-class supporters. Under these circumstances, enforcing labor laws weakly becomes an attractive option for left parties.

The segmentation of workers between formal, protected employment and informal or unemployed status has been a characteristic of developing labor markets. As mentioned, informal, unskilled workers do not have the same preferences for labor regulations as formal, more skilled workers. For the former, labor regulations are a barrier to entry the formal sector. In this setting, the *level* and *type* of enforcement determines the overall costs of regulations and how employment rents (i.e., wages above the reservation wage) are distributed between workers. In their attempt to preserve the job benefits of their insider constituency, left governments, I argue, facilitate the emergence of precarious forms of employment by favoring lax enforcement of labor regulations and by re-directing enforcement efforts to reward their insider allies. Insiders can use their organizational power to enforce the letter of the law or exchange compliance with some regulations to extract concessions from employers. Under existing regulatory frameworks, outsiders are also better off with less enforcement, the alternative being unemployment.

I apply these insights to Latin American labor markets. These countries rely heavily on severance payments as a means of employment protection. Heckman and Pagés-Serra (2000) estimate that dismissal costs in every Latin American country are higher than in any other developed countries. At the same time, these countries have weak or no system of unemployment insurance. Both factors mean that laid off workers look to get rehired as soon as possible and thus are more willing to accept unprotected or informal jobs. Also, despite considerable variation between countries, union representation at the firm level is weak and labour unions are comparatively small and highly politicized.[[7]](#footnote-7) Lacking leverage in direct negotiations with employers, unions invest heavily in ties to political parties to promote protective labor codes and wage setting mechanisms that favor them but apply to all workers. Finally, firms’ possibility of using flexible employment within the firms or through subcontractors reduces their opposition to high levels of regulation. All these characteristics reinforce the insider/outsider cleavage and reduce governments’ incentives to enforce regulations that would decrease activity and employment. In line with these arguments, I show that, in Latin America, left governments are not more likely to invest in stronger inspectorates, conduct more inspections, or increase the productivity of inspectors than other parties in government.

This process resembles the politics behind the dualization of labor legislation in Europe, although with some differences. There, the generosity of labor institutions, which benefit insiders the most, has been preserved at the expense of outsiders, who are excluded from the benefits attached to permanent employment (Palier and Thelen 2010; Rueda 2005; Rueda 2007). Rueda (2005) shows that social democratic parties have favored policy changes that have made employment relations more flexible, by introducing nonstandard (i.e., part-time) contracts, to preserve the benefits of insiders, making outsiders the “buffer” bearing the brunt of economic cycles (p. 61). But similar formal changes did not occur in Latin America. During the Washington Consensus period (1985-1999), when external constraints were, presumably, at their peak, conservative governments introduced labor reforms that were limited in scope (Murillo 2005). Leftist presidents who rose to power, beginning in 2002, reduced employment flexibility, making it more difficult to hire and fire workers. Similar reforms were not observed in unemployment insurance schemes that benefit outsiders the most.[[8]](#footnote-8)

Political parties in Latin America face a highly divided social structure. Left and union-backed parties have historically prioritized the interests of insiders over those of outsiders, despite the fact that outsiders comprise a majority of the workforce (Collier and Collier 1991). Historically neglected by left parties, over the last two or three decades outsiders have increasingly organized themselves in territorially-based associations and left parties have been under pressure to loosen their ties to unions and to garner support among the larger pool of poor workers (Collier and Handlin 2009; Levitsky 2003). Left parties have addressed the distributive demands of the outsiders in a piecemeal fashion and by implementing social policies such as conditional cash transfers, but not through labor market policies. In developed countries, where labor insiders constitute a majority of voters, Rueda (2005) shows that social democratic parties have favored the creation of “atypical” contracts, dismissing the interests of outsiders and excluding them from social protection systems. In contrast, the left in Latin America has reduced flexibility in labor markets (Aleman 2011; Murillo et al 2011). Instead, left governments have enforced labor regulations in a way that preserves insiders’ benefits while facilitating access to the labor market for unskilled workers in informal jobs.

Thus, similar to their left counterparts in Europe, Latin American left governments have favored some degree of flexibility in the labor market. Unlike social democratic parties in Europe, though, left governments have weakened enforcement, particularly with respect to outsourcing and workers’ registration, instead of favoring the introduction of flexible contracts. Yet they also have increased enforcement in firms with more insiders as well as in places where insiders and outsiders do not have conflicting preferences, such as in some agricultural activities, where unions are more encompassing and the insider/outsider distinction is less pronounced. The difference with European labor markets steams from three factors: the institutional landscape (high dismissal costs and absence of unemployment insurance in Latin America); organized labor’s opposition to employment flexibility (see Karcher and Schneider 2010); and the fact that, while insiders are better organized (as in Europe), outsiders are more numerous in Latin America. Given that outsiders have been increasingly necessary to win elections, left parties have been concerned about alienating this group. They have used enforcement to appeal to electoral bases with opposing distributive preferences.

Center and rightist parties have come to power on platforms promising to reduce government spending and lower labor costs, which are comparatively high in the region. Despite being overwhelmingly poor, outsiders have frequently turned to conservative parties, who promise to take away benefits from insiders. Although outsiders should lean left when it comes to redistributive policies, insider-outsider theories suggest that outsiders, by opposing employment protection legislation, are closer to the conservative side of the political spectrum. In fact, outsiders have frequently supported conservative parties and voted for parties favoring labor market de-regulation (e.g., Fujimori in Peru). Many conservative governments have attempted to reform labor codes, engaging in costly political fights with labor unions. While they favor deregulation, weakening enforcement creates its own problems for conservative parties, because large firms, while taking some advantage of reduced enforcement, for instance, via the outsourcing of services, are pressured into compliance by unions and more qualified workers. Large firms frequently complain about unfair competition from small and medium size firms (SMEs), whose workforce is less likely to be unionized and thus can ignore regulations more easily.

*Insiders, Outsiders, and Enforcement*

Policymakers and scholars alike acknowledge the importance of state oversight to improve labor standards and reduce economic informality. For instance, the International Labour Organization (ILO) compels its members to adopt the 1947 Labour Inspection Convention (No. 81) to “secure the enforcement of the legal provisions relating to conditions of work and the protection of workers” (art. 3). Similarly, policymakers in the U.S. sometimes condition trade agreements to labor law compliance. This puts pressure on trade partners to oversee local firms (Schrank 2009). In line with these efforts, several studies show that labor inspections have a noticeable effect in reducing the number of labor violations (Almeida and Carneiro 2012; Levine, Toffel and Johnson 2012; Ronconi 2010).

In Latin America, as in most of Southern Europe and North Africa, labor inspectorates follow a *generalist* model to labor regulation (Piore 2005). In these countries, specialized, unified agencies are in charge of overseeing the entire labor code as well as the provisions of collective-bargaining agreements.[[9]](#footnote-9) Inspectors regularly visit workplaces to determine the existence of violations. In the process, they discuss working conditions with workers, receive complaints, and act as mediators between workers and employers. Labor inspectorates can focus on enforcing workers’ registration, compelling employers to formally register workers that have been kept off-the-books; they can oversee health and safety conditions in the workplace; they can enforce the minimum wage; and they can verify that employers are complying with payroll taxes, such as social security payments.

Piore and Schrank (2008) argue that inspectors have substantial flexibility to “reconcile the need for regulation with the exigencies of economic efficiency” (p. 11). They have the ability to increase or decrease the costs of enforcement according to the exigencies of particular enterprises, balancing “particular regulations against each other and against the broader role of the enterprise in providing employment and goods and services” (p. 12). Yet both Pires (2008) and Amengual (2014) show that there is substantial variation in the style of inspections, even within countries, ranging from more punitive (i.e., inspectors raising the expected penalties for non-compliance) to more educative (i.e., inspectors helping employers to redress problems while meeting production demands). Also, while inspectors have some flexibility over which rules to enforce, inspectors rarely select *whom* they inspect, and they also need to meet targets on redressing particular violations and collecting fines, set by higher-level offices, which also reduces their flexibility on *what* to inspect. (Unplanned inspections triggered by individual claims are also rare for inspections not related to health and safety conditions.)

Broadly speaking, inspectorates can engage in three types of action: *fiscal* action, when they oversee the payment of labor taxes; *social* action, when they compel employers to formally register workers who had been kept off-the-books and combat child labor and degrading (slave-like) working conditions; and finally, they can enforce *health and safety* regulations.

Is enforcement a measure of insider or outsider protection? While a substantial increase in enforcement can create unemployment for unskilled workers, a lot depends on the style of enforcement (punitive vs. educational) and the type of regulations enforced by inspectors (e.g., health and safety conditions vs. taxes). The generalist model of regulation prevalent in Latin America is far more adaptive to local conditions and to the demands of particular stakeholders, compared to the system prevalent in Anglo-Saxon countries (Piore and Schrank 2008). Yet flexibility on the hand of inspectors is also a double-edge sword for workers and unions, who may want to “exchange” compliance with some regulations for wage premiums or other benefits they deem more important. Workers, firms, politicians, and inspectors are aware of the cost of specific regulations and how they can be traded off one for another.

Insiders want to safeguard their their labor protections—the payroll taxes employers pay on their behalf, severance benefits, overtime pay, and the like. To see these regulations enforced, insiders have at their disposal a number of resources. They are represented by unions and can threaten employers with collective action measures or demand unions to exert influence over labor inspectors to visit a workplace. These workers are also better educated than outsiders, have more access to legal resources, and have more leverage over their employers, given the steep severance payments that protect them. Therefore, insiders welcome the enforcement of their employment protections (what I have called *fiscal* inspections) and may even file claims against their employers when they violate health and safety rules (health and safety inspections).

There are two scenarios in which insiders will be better off with less enforcement. As mentioned, inspectors in Latin America are generalists, thus they may enforce regulations that workers would like to trade for wage premiums. Also, inspectors can oblige firm managers to regularize the situation of outsourced and undeclared workers, reducing firms’ profits. In this context, insiders are best served—in the form of wage premiums and other work-related benefits—when firms informally contract or subcontract low-skilled workers and the government holds back on inspections.

Unions represent both the interests of insiders and their own. In Brazil, for instance, a single union represents all workers in a given professional category and territory (typically, the municipality). Workers cannot choose which union will represent them and there is no shop floor representation. Workers can decide whether or not to join the union but all workers must, regardless of their affiliation to the union, pay an annual “union tax” (the equivalent of one day’s work, paid annually). In return, all workers are covered by collective agreements—firm-specific or area-wide—negotiated by their respective union. In the interviews I conducted, few unions expressed an interest in enforcement—at most, they called for “tripartism”: joint negotiations between firm managers, unions, and state inspectors on how to address problems of compliance.

Reasons for this reluctance to enforcement are variegated. Unions frequently compete against other unions, either in their same or similar category.[[10]](#footnote-10) Thus, unions show moderation in their demands to employers in order to, at the time of signing collective agreements, be rewarded with being the interlocutors of workers. Ronconi contends that, because labor unions in Latin America are relatively weak, particularly in the private sector, “they are more likely to lobby the inspection agency to focus on their own sectors than pressing for an overall increase in enforcement” (Ronconi 2012, p. 666). With few exceptions, such as construction workers in Brazil, Bensusán (2006) argues that unions have showed no interest whatsoever in strengthening (or collaborating with) inspection systems: “It would be reasonable to expect unions and employers’ organizations to favor the elimination of undeclared work for a number of reasons, including unfair competition. However … [unions and employers’ organizations] can be reluctant to acknowledge the informal economy because they do not represent the employers and workers in the informal economy and because *implementing effective policies would imply giving government inspectors key powers in the workplace*. Perhaps it is because of this that the ILO and its supervisory bodies have exerted caution in discussing informal sector policies” (p. 666). She goes on to say that “the attitudes of unions toward informal workers… are still ambivalent and, in some cases, negative. *Reservations expressed by union activists include the potential conflict of interest between informal and formal workers* and the operational difficulties of organizing the latter” (p. 666; emphasis added).

In sum, holding back on inspections gives unions leverage over negotiating wages, preserves the wages of formal workers in industries with informal and formal workers, and may also allow them to collect bribes from businesses violating, partly or as a whole, labor legislation.[[11]](#footnote-11)

As mentioned, in classic insider-outsider theories, outsiders want to bring labor costs down. They can maximize their chances of keeping a job by not filing claims against their employers or demanding them to comply with labor law.[[12]](#footnote-12) This allows them to keep their (unprotected, low-quality, informal) jobs as well as the welfare transfers directed to unemployed or informal workers. In the case of Mexico, for instance, Levy (2008) shows that extending social benefits, which are funded by general revenues, to informal workers gives these workers incentives to keep their employment relations underground. In Brazil, Carneiro and Henley (2001) argue that employees and employers frequently collude to avoid costly contributions to social protection systems that are perceived as inefficient. Outsiders may opposeenforcement, in the context of the *generalist* approach, when what is being enforced are regulations they value little—e.g., social security payments—and they do so for the sake of benefits they value more—e.g., higher wages in the near term.[[13]](#footnote-13)

In turn, outsiders will profit from more aggressive enforcement when they are employed by firms that can, but choose not to, provide the benefits mandated by law. In my fieldwork in Brazil and Argentina, I asked respondents (inspectors, union leaders, businessmen) to identify the causes of non-compliance. Around 80% of respondents answered that a majority of non-compliers can, in fact, afford the costs of compliance (see also Amengual 2014, p. 15). This, combined with the style of regulations prevalent in these countries, where inspectors can adjust enforcement to particular firms and sectors, should moderate outsiders’ preferences for enforcement upwardly. In particular, unskilled workers should be more favorable to *social* actions, particularly when employers can work with inspectors to improve working conditions.

Thus, the effect of enforcement will depend, ultimately, on the causes of non-compliance (are firms able comply with the law without firing workers?), the type of regulations inspectors decide to enforce (are inspectors enforcing “insider” protections or pressing firms to register underground workers?), and inspectorates’ approach to enforcement (educative or punitive).

*Main (Quantitative) Findings*

* Using a cross-national database on labor enforcement, with data from 18 Latin American countries between 1985 and 2015, and fixed-effects OLS, I show that, in Latin America, left governments are not more likely to invest in stronger inspectorates, conduct more inspections, or increase the productivity of inspectors. On the contrary, they seem *less* likely to do either.
* Using a regression discontinuity (RD) design in close mayoral races in Brazil, I show that mayors from leftist parties—in particular, the Workers’ Party (PT)—in fact reduce the level of labor enforcement and re-locate enforcement efforts to the benefit of formal workers in their municipalities. That is, in PT-governed municipalities, inspectors focus on collecting severance payments (fiscal action) and the number of undeclared workers that are offered a formal contract as the result of an inspection (social action) goes down. A similar process occurs in Argentina at the provincial level, where I am still collecting data. I explore heterogeneous treatment effects and find that the negative effect of the PT on enforcement takes place in the Southeast region, the cradle of the party and its allied unions, and in states governed by the party.
* Using the same RD design as above, I show that the PT is not more likely to engage in training programs for informal workers.
* Similarly, a PT victory at the municipal level increases the segmentation of the labor market: at the end of a mayoral term, municipalities governed by the PT have between two and three percent less formal workers (over the adult population) than municipalities governed by other parties. (The mean of the dependent variable for municipalities where the PT came first or second on the mayoral race is 10.17%). The effect is only significant at the the .1 level. Additional evidence on labor market segmentation comes from the collection of social security taxes. Tax collection drops in PT-governed municipalities between 270 and 370 *reais* per capita for the whole mayoral term.
* Using the 2003 Enterprise Surveys (with information on 1,642 registered firms in 419 cities and 13—out of 27—states) and an RD in close mayoral races, I show that a firm located in a PT-controlled municipality is 25%-30% less likely to be visited by a labor inspector compared to municipalities where the PT barely lost the mayoral race. In turn, a firm located in a PSDB-controlled municipality is 17% more likely to receive an inspection. Local inspections follow a similar pattern. Partisan effects are moderated by the size of the firm, for both federal and local inspections. Small firms located in places governed by the PT receive *fewer* inspections than the average, and large firms receive *more* inspections than the average. Moving one standard deviation away from the average firm (54 employees) reduces the negative impact of the PT over the likelihood of a firm receiving a federal inspection in almost 30%.

*Next Steps*

* Analyze *social action* data further: I have data on the number of farms inspected, the number of workers found in slave-like conditions, and the size of fines imposed on Brazilian employers since 1996. There is conflict between insiders and outsiders in rural areas, so I expect either a positive or null effect for left party incumbency on the number of inspections on farms and the number of rescued workers. Rural unions in Brazil have been more successful in organizing undeclared workers than industrial and public-sector unions.
* I am in the process of collecting data on *health and safety* inspections for Brazilian municipalities, but getting this data will take time. These inspections affect the overall cost that regulations impose but, presumably, do not create as much conflict between insiders and outsiders. These inspections are likely to be favored by unions and their members (unless unions/workers are trading safer workplaces for higher wages?).
* I plan to use the cross-national dataset on labor inspectors and inspections to see if there is an interaction effect between regulatory costs (measured with Lora’s Labor Legislation Index (LLI) which measures the degree of flexibility of labor regulation affecting individual contracts in Latin America since 1985) and left parties on the three enforcement measures I collected at the national level. If parties of the left are trading higher protections for less enforcement, I should see a negative interaction effect between formal protections and left incumbency on enforcement. The LLI measures the ease with which employers can hire a new worker, the expected cost of firing a worker, the length of a workday, the cost of payroll taxes, and minimum wages.
* I have to analyze the firm-level data from the Enterprise Surveys in more detail: for instance, this dataset contains information on the proportion of permanent and temporal workers within a firm. I expect more insider-outsider conflict in firms that employ a combination of permanent and temporary workers. Does the PT inspect these type of firms less than other parties? These data may also allow me to examine other relevant variables (besides size, which I have already done) such as sector and location (i.e., locally based businesses vs. non-locally based businesses). Does the PT protect small firms that produce the same things and compete in the same markets as larger firms? The survey includes questions on the number of sales made locally vs. nationally, and on whether the firm has branches in other municipalities or is a subsidiary of a larger firm.
* I expect that the linkages between organized labor and local incumbents and the capacity of unions to represent informal workers will temper the enthusiasm of left parties for enforcement. To probe this argument, I have started collecting biographical data on Brazilian mayors to determine their relationship with unions. I will look for heterogeneous treatment effects for mayors with and without a union background on the several enforcement measures I have analyzed so far.
* This data will be useful for investigating heterogeneous treatment effects in an electoral coattails paper I have been working on. Previous research claims that local incumbents are a positive force for their parties. But is this true? My research shows that holding office at the local level, when local and national branches pursue contradictory electoral strategies, hurts programmatic parties. My analysis, which features a regression discontinuity design for Brazilian mayoral races, shows that PT presidential tickets suffer a penalty of between six and ten percentage points in municipalities governed by co-partisans. The PT’s main challenger—the PSDB, a loosely organized federation of regional leaders—does not suffer from a similar disadvantage. I argue that while the PT national leadership seeks to expand its electoral base by appealing to labor outsiders (informal, part-time, and unemployed workers)—a movement observed around the world—subnational politicians in some localities remain anchored to organized labor, thus failing to attract the votes of informal workers.
* Finally, one implication of the argument advanced in these pages is that this hidden distributive strategy (i.e., weakening enforcement) should have consequences once the costs of the strategy become more evident. I cannot test this directly, but I can investigate whether leftist governments get punished for an increase in work-related fatalities, which are, presumably, connected to weak enforcement and the neglect of governments for lived labor standards, particularly when parties have run on a pro-workers’ platform. In Latin America, around 30,000 fatalities happen in work places every year. According to statistics from the Ministry of Social Security of Brazil, in 2009 there were 723,452 cases of employment injury and occupational diseases. On average, 43 workers per day are affected by disability or death. Do parties in general get punished by voters for work-related accidents/deaths that happen around election times or during a mayor’s or president’s term? Are left parties punished more? There are two relevant literatures that I would like to address in this paper/chapter. One is on blame attribution and democratic accountability; the other is on expectation setting and retrospecting voting. Clearly, I cannot manipulate workplace accidents, but there may be ways to circumvent problems of endogeneity. As a first approximation, I have used difference-in-differences design to estimate the effect of a sudden increase in the number of fatal accidents near the election on PT’s and PSDB’s vote share, vote change, and probability of winning a local election. I find that a shock in the number of workers dying in the workplace negatively affects PT’s electoral performance but not the PSDB.

1. A large institutional literature has explored the institutional rules and distribution of preferences that promote change or, on the contrary, foster stasis (Moe 1989; Sheple 1986; Tsebelis 2005). [↑](#footnote-ref-1)
2. This trend was not visible in other sectors. For instance, in the manufacturing sector, in 2005-07, labor inspectors covered 155,107 workers, 30,115 of whom were informal salaried workers. In 2008-10, labor inspectors covered 127,117 workers, 33,749 of whom were informal. [↑](#footnote-ref-2)
3. The “informal sector” includes those firms that are not registered with tax authorities. The informal economy refers to the contractual status of workers. [↑](#footnote-ref-3)
4. The literature on Western Europe defines “outsiders” as those without secure employment and “insiders” as protected, unionized workers (Esping-Andersen 1999). In developing countries, outsiders are doubly excluded from secure employment and formal social policy protections. [↑](#footnote-ref-4)
5. Saint-Paul (1996) argues that “insiders create outsiders” (p. 666). [↑](#footnote-ref-5)
6. Luna (2014) and Levitsky (2003) note that the Frente Amplio (FA), in Uruguay, and the Justicialist Party (PJ), in Argentina, solved this dilemma by developing non-programmatic ties to informal workers. [↑](#footnote-ref-6)
7. Schneider and Karcher (2010): “Even in Argentina unions are only weakly represented on the shop floor. In the comparatively well-organized metal sector, less than 20% of the firms that are covered by the industrial level bargaining agreement have union delegates” (p. 666). [↑](#footnote-ref-7)
8. The only two countries that made unemployment benefits more generous, between 2000-2009, where Chile, an outsider in my enforcement dataset, and Colombia, a country governed by a center-right party (Murillo et al. 2011, p. 792). [↑](#footnote-ref-8)
9. In other countries, such as the U.S., the enforcement of different types of regulations is separated across different administrative bodies with exclusive jurisdiction. [↑](#footnote-ref-9)
10. In Brazil, while there cannot be two unions of “metalworkers” in the same municipality, there can be a union of drillers, one of spinning drillers, one of hammers, and so on (Cardoso and Gindin 2009). [↑](#footnote-ref-10)
11. Amengual claims that “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 the associated union is strong).” Amengual’s argument begs the question of why unions are unable to collaborate with inspectors when inspectors are not politically captured by them. [↑](#footnote-ref-11)
12. The World Bank defines this behavior as “coping strategies”—a response of unskilled workers to underemployment in the formal sector. [↑](#footnote-ref-12)
13. See also Carnes (2014, p. 35). [↑](#footnote-ref-13)