Enforcing Worker Rights  
Fall 2014  
37:575:481:01 and 38:578:611:01  
Mondays 7:15-10:05 pm  
Labor Education Center 130/131  
Professor Janice Fine  
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Office: LEC 152

Office Hours: Mondays 4:30-5:30 pm, Tuesdays 2-4 or 7:15-8:15 pm or by appointment

Already struggling to get by on salaries that are barely enough for basic subsistence, in a development that gives new definition to the phrase “adding insult to injury,” many low wage workers in the United States today cannot even count on employers to accurately report the hours they have worked, pay the wages they are owed or follow safety and health laws. Non-compliance is at historic levels:

- 26% of low wage workers in the nation’s three largest cities suffered minimum wage violations in the week prior to a 2009 national survey by Bernhardt, DeFilippis, Milkman and Theodore
- 76% of low wage workers who labored more than 40 hours in the prior week were not paid according to overtime laws according to the same survey
- Regional non-compliance levels were over 50% in nursing homes, poultry-processing, daycare, restaurants and healthcare according to USDOL’s own surveys
- The number of fatal and nonfatal injuries in 2007 was estimated to be more than 5,600 and almost 8,559,000, respectively
- 4,628 workers were killed on the job in 2012 [BLS revised 2012 workplace fatality data*] (3.4 per 100,000 full-time equivalent workers) – on average, 89 a week or more than 12 deaths every day.
- 748 Hispanic or Latino workers were killed from work-related injuries in 2012– on average, more than 14 deaths a week or two Latino workers killed every single day of the year, all year long.
- Fatal work injuries involving contractors accounted for 15 percent of all fatal work injuries in 2012.

This class will analyze the root causes of these twin crises of wage theft and worksite injury and strategies for strengthening enforcement of wage and hour and health and safety laws. I have been exploring these questions in my research for several years and have spent the past year conducting five case studies that we will use as lenses through which to explore “co-production”--enforcement strategies that involve government working with organizations of civil society to improve compliance levels. My hope is to use this class to refine and workshop my own ideas.
Questions we will explore include:

- What is the nature and extent of labor standards and health and safety violations taking place in the US today? Where are they concentrated?
- Why is there so much non-compliance?
- How did the drafters of the Fair Labor Standards Act envision enforcement working? How have “logics of enforcement” evolved over time?
- How was enforcement of the Occupational Safety and Health Act envisioned?
- How do the two acts differ in terms of their enforcement regimes and the role given to workers, unions, worker centers, community organizations or other institutions of civil society?
- What role might these institutions play in enforcement?
- What kind of experimentation is going on at the federal, state and local levels to strengthen enforcement through co-production?
- What is the relationship between enforcement of existing minimum standards and raising them? Relatedly, what is the relationship between enforcement and organizing?

Grading

(1) Weekly one page reaction papers referencing the homework reading (30%)

(2) Mid-term Exam (30%)

(3) Final Exam (30%)

(4) Class Participation (10%)

(Please note that all unexcused absences will lower your grade. Unexcused absences in excess of 3 classes may result in a failing grade.)

Course Materials: Course reading materials are found in the Sakai Announcements section. The Instructor reserves the right to supplement, substitute, and/or modify the listed reading selections.

Academic Integrity: The conduct of all students is governed by the Rutgers University Academic Integrity Policy:
Class Schedule and Readings

Class 1 September 8th
Introduction: the Problem from Hell

Readings for Class Two:

http://nelp.3cdn.net/1797b93dd1ccdf9e7d_sdm6bc50n.pdf
Read:
Bobo, Kim Wage Theft in America, Chapters One and Two

Class 2 September 15th
Roots and Dimensions of the Wage Theft Problem

Invited Guests: Marien Casillas-Pabillon, Interfaith Worker Justice and Craig Garcia, New Labor

Readings for Class Three:
Read:
Restaurant Opportunities Centers United, Serving While Sick: High Risks & Low Benefits for the Nation’s Restaurant Workforce, and Their Impact on the Consumer
**Class 3 September 22nd**
Health and Safety in Crisis

Invited Guests:
Eric Frumin, Change to Win
Rick Engler, Work Environment Council
Carmen Martino and Michelle Ochsner, Rutgers and New Labor

Readings for Class Four:


**Class 4 September 29th**
Roots and Dimensions of the Crisis: Sectoral strategies, Subcontracting, Joint Employer Union Decline

Invited Guests: Jason Rowe, Unity Square
Teofilo Reyes, ROC-United
Keith Talbott, New Jersey Legal Services

Readings for Class Five


**Class 5 October 6th**
What’s Politics Got to Do With It?

Readings for Class Six:


Class 6 October 13th
Theories of Enforcement I.

Readings for Class Seven

Class 7 October 20th
Theories of Enforcement II.

Readings for Class Eight

Class 8 October 27th
Introducing Co-Production of Enforcement

Readings for Class 9
(note: these are all very short)
Brief Excerpts from the OSHA Field Operations Manual and Regulations on Representation of Employees
March 7, 2003 OSHA interpretation of 1903.8
February 21, 2013 OSHA interpretation of 1903.8, 11: 1952.10 and 1903.20
Brief Congressional History of the Walk-Around “Inspections and Investigations”
National Guestworkers Alliance, August 17, 2011 Notice of Health and Safety Hazards by Exel North American Logistics Inc. SHS Onsite Solutions, and Cultural Exchange Travel USA (CETUSA)
US DOL OSHA Citation and Notification of Penalty to Exel, Incorporated and its successors, February 21, 2012
USDOL OSHA Citation and Notification of Penalty, February 21, 2012
OSHA News Release, February 13, 2012 “US Labor Department’s OSHA cites 2 companies, proposes $288,000 in fines for workplace safety and health violations involving foreign students”
Settlement Agreement, Stipulation and Compliance Agreement, Hilda Solis, Secretary of Labor, US DOL, Complainant v. Exel Inc and its successors, Respondent

Class 9 November 3rd
Case #1: National Guestworkers Alliance, OSHA and the Hershey Case…and Co-production!
Invited Guests: JJ Rosenbaum, National Guestworkers Alliance

Readings for Class Ten
(note: these are also short)
Building Austin, Building Injustice: Working Conditions in Austin’s Construction Industry Workers Defense Project, 2009
Build a Better Texas: Construction Working Conditions in the Lone Star State, January 2013 Amy Price et al and Workers Defense Project
“Agreement Renewing an Alliance Between Austin Area Office of OSHA and Workers Defense Project”
“Memorandum of Understanding between Workers Defense Project and the Department of Labor Wage and Hour Division”
OSHA Austin Area Office, Citation and Notification of Penalty to Wolff Construction LP
Texas Penal Code: Section 31.04 Theft of Service

Class 10 November 10th
Case #2: Co-production in Austin, Texas: OSHA, Wage and Hour and the Workers Defense Project

Readings for Class 11
“Check Please! Health and Working Conditions in San Francisco Chinatown Restaurants” A Report by the Chinese Progressive Association, September 2010
Chapter Eight “Enforcement of Labor Standards” by Miranda Dietz, Donna Levitt and Ellen Love in When Mandates Work: Raising Labor Standards at the Local Level, Michael Reich, Ken Jacobs and Miranda Dietz, editors, University of California Press, 2014
San Francisco Administrative Code Chapter 12R: Minimum Wage
“Minimum Wage Ordinance Annual Report FY 2012-2013”, Office of Labor Standards Enforcement, General Services Agency, City and County of San Francisco
“SF’s Minimum Wage, Highest in the Nation, Eludes Thousands as Enforcement Efforts Face Obstacles” Aaron Tilley and Michael Stoll, San Francisco Public Press

Class 11 November 17th
Case #3: Co-production in San Francisco: the San Francisco Office of Labor Standards Enforcement and the Chinese Progressive Association, Filipino Community Center, La Raza Centro Legal and Young Workers United

Readings for Class 12:

“Cleaning Up the Carwash Industry: Empowering Workers and Protecting Communities: A Report by the Carwash Workers Organizing Committee of the United Steelworkers” March 27, 2008
“Regulating the Carwash Industry: An Analysis of California’s Car Wash Worker Law” Kevin Barry, Marcy Koukhab and Chloe Osmer, UCLA School of Public Affairs, April 2009
Clean Carwash Campaign Cal/OSHA Timeline
“Labor and the Civic Integration of Latino Immigrant Workers in the United States: the Los Angeles Clean Carwash Campaign” revised case study, Denisse Roca-Servat, August 2010.
“The Carwash Worker Law”, Clean Carwash Campaign
“Voluntary Recognition Agreement”, Clean Carwash Campaign

Class 12 November 24th
Case #4: Co-production at the Carwash: Labor and the California Division of Labor Standards Enforcement

Readings for Class 13

Barndt, Deborah, “Mexican Migrant Workers Take on the Fast Food Giants” York University, June 9, 2009
Eric Schlosser, “Penny Foolish” November 29, 2007
Estabrook, Barry “Building a Better Tomato” in Gastronomica, Fall 2011
Asbed, Greg and Sean Sellers “Worker-led Enforcement”
Skim:
 Fair Food Standards Council “Fair Food Program Report, 2011-2013”
 Fair Food Standards Council, Expedited Preliminary Audit Findings, Tomato Grower, January 2013, Fair Food Program Corrective Action Plan

Class 13 December 1st
Case #5: The Coalition of Immokalee Workers and the Fair Food Standards Council

Class 14 December 8th
Synthesis and Celebration