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Working Without Laws

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For the past thirty years, the gospel of lean and mean has reordered the world of work, setting off a race to the bottom in which employers circumvent and evade standards that once seemed inviolate. That race has now taken us to a logical low point: many employers are ignoring workplace laws altogether.

Take the restaurant workers who line up for paychecks after twelve hours of work only to be told there's no money, or the nursing home aide who routinely works well into the night without extra pay, or the temp worker who packs food in an ice-cold warehouse without protective gear only to have the temp agency illegally deduct money from her wages every week.

This is just a sampling of the ways America's laws are failing to protect workers at the start of the twenty-first century. And until recently, public agencies often lacked the resources or political will to respond to such abuses. As Congressional investigators documented shortly after President Obama took office, employers who violate minimum wage and overtime laws are rarely caught or prosecuted.

Now, in a [new report](#) released September 2, we have measured for the first time the effect of decades of deteriorating labor standards and slack enforcement.

In a survey of 4,387 low-wage workers in New York, Los Angeles and Chicago, we and our colleagues found severe and widespread violations of employment and labor laws. One in four workers were paid below the minimum wage in a given work week. Fully 76 percent of those who worked overtime were not paid the required time and a half. More than two-thirds did not get the meal breaks they were entitled to. And of those who came in early or stayed late, 70 percent did not get any pay at all for the work they performed outside their regular shift.

As a result, the average worker in our survey lost \$51 per week, or more than \$2,600 per year for a full-time worker. We estimate that 1.1 million workers across the three cities are robbed of \$56.4 million every week because of employment and labor law violations.

In our survey, only a fraction of workers complained when they encountered abuse, even though the problems they experienced were serious. The rest kept quiet, and their fears were well founded: nearly half of those who *did* complain experienced some form of illegal employer retaliation.

These tales are not limited to an underground economy or a few bad employers. The violations we found permeated every sector of the economy: from retail, restaurants and grocery stores to car washes, building services and industrial laundries; from home healthcare and childcare to construction, warehousing and transportation. These are the industries and jobs that make our economy run: eight of the ten occupations projected to grow the most by 2016 are low-wage jobs.

Higher-paying occupations are affected too. In the scramble to cut costs, employers have farmed out work to subcontractors, who may be more likely to skirt labor regulations. Meanwhile, responsible employers in many industries have been forced to compromise their standards to remain competitive.

Business as usual? Perhaps. But that's exactly why it needs to change.

For starters, workplace violations are ultimately the result of employer decisions--and not all employers choose to violate labor laws. We found specific workplace practices--offering health insurance, providing paid vacation and sick days, and giving raises--were associated with lower violation rates. This suggests that employer decisions about whether or not to comply with the law are part of broader business strategies regarding the workplace, strategies that can be shaped by public policy.

There's also reason for optimism on this, the first Labor Day of the Obama administration. Not only is there a new sheriff in town, Labor Secretary Hilda Solis; there's also a White House and Congress whose leaders openly proclaim their support for America's workers.

But reversing a thirty-year race to the bottom won't be easy. We need to shore up enforcement, as Solis has promised, to curtail abuses that became routine in an era of antiregulatory fervor. That means more investigators, coupled with aggressive tactics and stronger penalties to send a resounding message to offending industries that they are being monitored. This kind of proactive enforcement was once common. It can be again.

Legislators also need to strengthen the laws. Raising the minimum wage, updating occupational health and safety standards, ending exclusions that deny workers coverage and strengthening the right of workers to organize--all are key improvements that would raise compliance in the workplace and enhance the competitive position of employers who play by the rules.

Now is the time to make a national commitment to rebuilding our economy on a foundation of strong worker protections. Otherwise, more and more Americans will hear what a car wash

worker heard from his employer when he asked for a raise from \$4 an hour: "If you don't like it, there's lots of others who need jobs."