

## **Post-2008 Crisis in Labor Standards: Prospects for Labor Regulation Around the World**

Michael J. Piore

*David W. Skinner Professor of Political Economy  
Department of Economics  
Massachusetts Institute of Technology*

Prepared for Presentation at:  
Fundacion Jose Ortega y Gasset  
Madrid, Spain  
October 14, 2010

Over the course of the last thirty years, government policy has been increasingly dominated by neoclassical economic thought and neoliberal public policies. This has been especially true in the United States, but the trends are evident in one way or another in every part of the world. They reflect in part the weight and influence of the United States in the international economy and the institutions which govern its operation, but they also seem to reflect the balance of power among the economic interests not only in the world arena but also in the domestic politics of the countries which compose it. In some ways as well – perhaps in very major ways – they reflect the intellectual power of the idea which underlies these policies and sustains and justifies the distribution of power and responsibility in the political process.

Many of us have found these trends disturbing, both from a normative and from a positive (or scientific) point of view. And for those of us who share this perspective, the economic crisis as it emerged in the fall of 2008, and which coincided with the election of a new Democratic administration in Washington, was a moment of hope and anticipation. The crisis seemed to undermine the credibility of an unregulated marketplace and to belie the promise of growth and prosperity which neo-liberalism argued it would offer. At the same time, the political moment seemed to offer not only the opportunity for new policy measures but also an opportunity to reframe the policy debate. From this point of view, the last two years have proven to be an enormous disappointment.

I would like to take advantage of the platform which I have been offered here to reflect on the opportunity which had been lost and upon the lessons we might learn from that process. In doing so, I realize that I am drawing heavily on the experience of my own country, which may seem to you here in Spain enormously parochial. Indeed, for your own sake I hope that it does. But because of the continuing power and influence of the U.S. in the world – and particularly in economic thinking – I trust that it will be of some relevance to your own attempt to reflect on recent economic events and the policymaking process through which they have been refracted.

My starting point here is a very specific understanding of neoliberalism and of the neoclassical economic framework of thought which underlies it. That understanding centers around two key ideas. One is an understanding of human behavior as motivated primarily by a drive toward maximizing monetary income. The other is the notion of the competitive market as a template for the organization of economic and social activity. These two key ideas interact with each other in complex and subtle ways that constitute much of the intellectual attraction of this approach for understanding the world in which we live. In public policy, they have led to the progressive withdrawal of government from the regulation and management of economic activity and the devolution of government activities to private actors where they are thought to be regulated by the competitive market.

Where privatization has not proven to be feasible politically or practically, the approach leads to simulated markets and market-like incentives in the management of public institutions. Thus in the U.S.: incentive pay for teachers based on student test scores; the continuing emphasis on bonuses for management in financial institutions which are owned and controlled by the Federal government; and cap-and-trade for CO<sub>2</sub> emissions.

The point I will argue is not that these policies are in and of themselves wrong, or even that they are misguided—although I certainly think that in some cases they are. But my argument is rather that they yield an overly narrow set of policy instruments through which to guide the evolution of the economy. The evolution of the economy which has accompanied their deployment has been, at least in terms of my own values, unfortunate. In particular, it has led over the course of the last three decades to an

increasingly unequal income distribution, skewed toward the upper tail, and now to a severe economic crisis which leaves enormous quantities of resources unemployed—and hence wasted—and large numbers of people without the means of material support.

As a result of the crisis, the U.S. government was thrust back into an active role in the economy in a major way. It acquired effective control over the country's automobile industry and over major financial service companies; and these added to its role in the education, medical care, and energy sectors—a role which the Obama administration has sought to expand, successfully in the case of education and medical care, less so in energy and environmental policy. The federal government became directly responsible for the management of more than half of the economy. But the new administration has managed its expanded responsibilities in a totally neoliberal way. Its overriding goal in the automobile industry and in financial services has been to maximize the market return on the assets the government acquired in the crisis, not to use the assets to pursue public ends. And even in the face of significant political opposition, and despite occasional public expressions of anger—which the President himself seems to have viewed as demagogic—the Administration has basically ratified the enormous bonus payments in the financial institutions supported by government funds, this despite the fact that it is widely believed that these bonuses have been fueling the progressive expansion of the relative income of the extreme upper tail of the national income distribution. Indeed, the President's own view of economic policy as essentially technical, and his insensitivity to its moral dimension, was signaled at the very beginning when he persisted in the appointment of a Secretary of the Treasury whose own record of compliance with the tax laws which he would be charged with administering was significantly compromised.

What really are the alternatives to a technocratic neoliberal approach? What I would like to suggest here is that there is a very different understanding of motivation of human beings and the way in which social relations are constituted. Exactly how this understanding relates to an economic understanding is complex, and I think difficult to comprehend. But I do believe that the two forms of understanding are not as incompatible in practice as they are in terms of their theoretic foundations. And that the disappointments of the last two years reflect as much our own failure to articulate the alternative in a way which makes a viable foundation for public policies as they reflect

the political balance of power. In the remainder of my time here I would like to briefly articulate what that alternative looks like and then illustrate its application in two very different domains of public policy: labor market regulation and product innovation.

The alternative understanding might be called sociological or anthropological to distinguish it from neoclassical economics, although to the extent it attempts to explain and proscribe policy for the economy it is equally economics. It would emphasize first the role of meaning as motivating human behavior and, second, the institutional structures in which meaning is embedded as the way in which social cohesion is achieved. It would emphasize as a template for social organization not the market but language and the way in which language communities are constituted and evolve over time through conversation (as opposed to exchange). The monetary rewards generated in a market are fungible and hence can be used to support and sustain a variety of different roles. In this sense, the anthropologist's and the economist's view of human motivation are not necessarily incompatible. But the anthropological view points toward modes of social organization which the economist's view does not, and in this sense toward a larger repertoire of policy instruments than the economist's view alone.

How this insight might be used for public policy is illustrated by two research projects in which I am currently engaged, both focusing on institutions of government policy, one in the area of labor market regulation, the other in the management of research and development.

I begin with R&D because it contrasts so starkly with the conventional view of the role which government has actually played in the recent evolution of the U.S. economy. The study I have been conducting focuses on DARPA, the Defense Department's Advanced Research Projects Agency. The Agency was founded in 1958 as a response to the USSR's surprise launching of Sputnik. The surprise was widely attributed to the conservative bias of U.S. R&D funding. DARPA was designed to overcome that bias by supporting "radical" technological breakthroughs. By most accounts it has been extremely successful in this regard. Major technology breakthroughs which generated the reputation of the American economy for innovation in the 1990s, including the world wide web, GPS (global positioning system), and a host of

new materials as well as a variety of military technologies, are attributed to DARPA support.

Most research support from the U.S. government is distributed by the NSF and the NIH. These are traditionally hierarchical, bureaucratic organizations. By and large, funding is allocated to the various academic and scholarly disciplines. The priorities are decided at the top of the organization and converted into RFP's. The responses to those RFP's are reviewed by a panel of peers drawn from the relevant scholarly disciplines, typically a panel consisting of three members. Each member scores each proposal, the proposals are ranked by the score and the funds are distributed in rank order. The peer review process protects the agencies from charges of favoritism and personal bias, but it imparts a conservative bias to the research program. An adverse reaction by any of the three peers effectively lowers the score below the funding threshold. Funded research thus tends to hove very close to the core orthodoxy of the discipline. The conservative bias of the program thus reflects the bureaucratic process through which it operates and is very much in keeping with the neoliberal critique of the rigidity of government institutions.

DARPA, which is also a government institution, overcomes this conservative bias by granting enormous discretion to the program managers. They are essentially responsible for devising the research program and drawing people from outside the organization, in the academy and business, into their orbit to conduct the research. The PM's seek the advice of outside experts to evaluate the research, but they themselves decide what proposals to fund.

The PM's in turn use their authority to create new research communities. They begin this process before any contracts are awarded by drawing outsiders into debate and discussion with the agency and among themselves in a series of conversations that over time create what is in effect a language community. Only after these conversations have matured, and in effect a new community has been created which speaks in a common language and thinks in a common way, does the program manager begin to outline the research program itself, to define projects and solicit proposals. And the conversations continue after the contracts are let out and the research is in progress through continual meetings and seminars in which the research results are presented, discussed, criticized

and debated. The conversations focus importantly on both the goals of the research—what good are any of these projects if they succeed—and the specific findings or products which emerge.

But at the same time that the program manager is engaged with outsiders building this new research community, he or she is engaged in a separate set of conversations within DARPA itself. The internal conversations take place among the various PM's and with the Director and the Director's staff. In this second set of conversations, each PM is continually forced to defend his or her research projects, again not only in terms of the specific results which have been achieved, but also in justifying the stated goals of the program itself; debating not simply the achievements but the criteria by which the achievements are judged: Why are we doing this research and why is it more valuable than other programs which the organization could be supporting instead.

The result of these processes is that a new group of researchers drawn from the larger scientific community comes into being. Its members come to see themselves and to value their work in terms of a new set of reference points and to look to other members of that community for the recognition that validates the roles which they are playing in their careers. The PM's come to be motivated in the same way, looking for recognition and validation, and ultimately seeing their careers either in terms of the external community which they have in effect created or in terms of DARPA and a broader mission as a research director and manager. Peoples' concern with their standing in this new community motivates them in the way that monetary reward does in economic theory. The process of community building is like the competitive market in that it is a form of social coordination. Thus, from the perspective of the policy debate, the salient characteristic of DARPA is its ability as a government institution to exhibit the dynamism and flexibility in innovation which is usually attributed in economic theory and neo-liberal thought to the private marketplace alone.

These same dynamic characteristics can be found in a totally different domain: The institutions of labor market regulation, the very institutions to which the neo-liberal arguments attribute the rigidity of the labor market and by extension of the economy as a whole. This critique, however, originates in the United States and is based primarily on the model of regulation characteristic there. This is a model where each type of

regulation is administered by a separate agency; there are thus nearly ten separate agencies, one for the minimum wage, one for pensions, one for health and safety, one for union certification and protection, another for labor mediation, etc. Each has a very narrow jurisdiction and the law is enforced literally. A very different model of labor market regulation originated in France, and from there spread to Spain and Italy, and from Spain to Latin America. In this Franco-Latin model, the whole of the labor code is administered by a single regulatory agency, the Inspection du Travail or the Inspeccion de Trabajo. The code is too vast to be enforced literally when an inspector visits an enterprise. The inspector effectively decides which parts of the code to focus on, in which enterprises, and over what period of time. This gives the inspectors enormous discretionary authority, a discretionary authority analogous to that of the DARPA program managers. That discretion can be used to adjust the code to the peculiarities of particular enterprises and to the economic and social environment in which they operate. Just like DARPA, it gives the regulatory system the potential for flexibility and dynamism similar to that of the private marketplace as envisaged in economic theory. The question is how to manage an organization like this in order to realize that potential.

I do not have the time here to discuss the details of how this might be done, nor how much current practice actually exploits the potential of this middle. But the key is that the labor inspectors as a group constitute a community with its own code of conduct governing individual decisions. The inspectors adhere to that code because, like the program managers in DARPA, their identity is embedded in the organization; they are evaluated by their peers and, in some cases but significantly not all, by their superiors, in terms of the way in which their behavior conforms to the code and expresses the values which underlie it. Because of this, their own sense of self worth is determined by their performance within the organization. But that code and the way in which it evolves over time, and adjusts to the peculiarities of the enterprise and its social and economic environment, can be managed and directed through well conceived and directed discussion and debate within the organization, just as the criteria through which the DARPA program manager evaluate and promote innovation evolve through discussion and debate.

It is in that sense that labor regulation by government organizations, like innovation by government organizations, can be as theoretically effective as a private market, and has the potential in practice to be even more effective.