

# TURNING RULES INTO RESOURCES: WORKER ENACTMENT OF LABOR STANDARDS AND WHY IT MATTERS FOR REGULATORY FEDERALISM

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Labor standards are not just enforced; they are enacted, and often in ways that are different from their stated intention. This distinction creates an opening to consider the ways that frontline workers extend and repurpose enforcement practices. Drawing on qualitative research in two US cities, the authors focus on Latino immigrant construction workers to identify the strategies they use to rework formal safety mandates to advance technical knowledge, create skill-based alliances across organizational hierarchies, and protect career trajectories. These resourcing strategies were present in both locations, but workers' ability to affect the quality of their jobs through the collective enactment of labor standards varied significantly by city and depended on the enforcement practices in play. Workers' attention to these localized resourcing opportunities suggests possibilities for progressive innovation at the multiple levels of government driving emerging research on regulation and federalism.

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Labor standards are intended to protect workers from unsafe, harmful, and exploitative working conditions. Scholarship in this area has examined innovations in regulatory structure and explored the creative practices that enforcement officials, including labor inspectors, use to push employers into compliance. New research on federalism in labor standards has drawn attention to the increasing decentralization of work-focused regulation in

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the United States and has documented the resulting heterogeneity in labor standards and enforcement strategies across local contexts. By studying a range of decentralized regimes, new federalist research captures the impacts of various administrative techniques on prevailing working conditions and reveals new sets of actors that advance compliance. This increased attention to granular differences in labor standards design and enforcement has also created an opening to consider the role that workers play in this space.

Recent scholarship has documented the alliances that workers form with advocacy organizations, such as labor unions and worker centers, to target employers more strategically, especially by supplying enforcement agencies with critical information about questionable employment and industry practices. While this research has foregrounded the alliances workers have established with actors outside the worksite, it does not yet provide a complete picture of how workers use labor standards regulations to amend workplace practices *from within*. What is missing is a deeper sense of how workers draw channels for regulatory compliance into the worksite and use labor standards regulations to reshape the practices and routines involved in production. Also missing is a clear understanding of how workers enact labor standards in their daily interactions at the workplace—sharing insights, knowledge, and resources and adapting workplace routines—in order to build and rebuild protection from the inside out.

To fill this gap, we examine the enactment of labor standards by Latino immigrant workers at worksites in the US construction industry. Latino immigrants often have less formal protection against workplace abuse and less access to external labor standard institutions, for reasons that have less to do with labor standards enforcement than with the implementation of immigration controls. With barriers that prevent them from accessing formal labor protections, we must be especially attentive to the subtle yet creative practices they use to engage with and enact regulatory standards at their jobsites.

We examined two labor market settings, one in the Research Triangle region of North Carolina and the other in Philadelphia, Pennsylvania, to understand how immigrant workers use formal safety standards to create better working conditions on the job. In both research sites, we observed common strategies through which workers use safety regulations to achieve an array of job quality improvements. Workers at both sites strengthened connections between workplace safety standards and skill development opportunities—and with that integration, sought other advances, including higher pay, occupational promotion, and greater job and income security.

Still, while linkages between skill and safety were present in both locations, the workers' ability to affect the quality of their jobs through the collective enactment of labor standards, and indeed the strategies they used to do so, varied significantly. Immigrant workers were employed in distinct segments of the construction market in each setting, with organizational profiles, levels of formality, and degrees of spatial concentration that

differed between settings. Workers' access to formal regulatory structures was informed by the characteristics of the industry segment in which they worked. Specifically, the reach, design, and accessibility of local regulations, and the relative involvement of local enforcement actors within construction sites, all shaped the intensity with which workers were able to advance their rights. These differences suggest that the federalist trends we are now observing in the development and enforcement of labor codes may have significant implications for workers' ability to extend and repurpose regulatory standards as a resource for worksite action. How local governments define and enforce standards will shape how workers can use those standards to upgrade workplace practices.

### **The Missing Work in Labor Standards Scholarship**

In recent years, labor standards scholarship has expanded past an emphasis on compliance with labor codes to provide a more granular picture of *how* compliance is accomplished. It has shifted the focus from the ways that regulators with top-down coercive powers enforce labor codes to more closely examine the ways in which regulatory actors use interactive and interpretive processes to change firm practices and influence organizational cultures (Piore 2011; Silbey 2011). This research has drawn our attention in particular to the observation that campaigns to enforce workplace rights are most effective when they draw on organizational actors and institutional networks that may not typically be associated with enforcement, including regulatory bodies that manage international trade (Postnikov and Bastiaens 2014), labor unions (Milkman, Bloom, and Narro 2013; Milkman and Ott 2014; Theodore 2019), community organizations and worker centers (Fine 2006; Connell et al. 2009; Theodore 2019), consumer groups (Bartley 2007; Locke 2013; Levy, Reinecke, and Manning 2016), and even, in the case of immigrant workers, consular staff (Bada and Gleeson 2015).

One important stream of scholarship in the analysis of collaborative enforcement homes in on the open processes of *information sharing* they support (Fine 2017). Weil and Pyles (2005) found that compliance rates are highest when strong collaboration occurs between state agencies and labor unions, with the latter in the unique position to draw out shop-floor workers' knowledge of less-visible worksite problems. Amengual and Fine (2017) have likewise demonstrated gains for enforcement when worker support organizations forge alliances with frontline workers: These organizations act as a conduit for bringing workers' in-depth knowledge of firm-specific processes to enforcement agencies. The funneling of shop-floor information from worker support organizations to regulators is so critical to the design and implementation of enforcement strategies that they are more accurately described as practices of co-enforcement, which is to say "ongoing, coordinated efforts of state regulators and worker organizations to jointly produce labor standards enforcement" (2017: 131).

A second strand of labor standards scholarship reinforces the contribution of collaboration to *organizational learning and experimentation* in support of enforcement. Piore and Schrank (2018), for example, highlighted a deeply collaborative enforcement approach used in many European and Latin American countries, which they called the “Latin model.” They explained that its effectiveness stems from the fact that labor inspectors are empowered and expected to develop ongoing, trusting relationships with firm owners and top-level managers. Inspectors in this enforcement model work with a firms’ owners to pinpoint the “root-cause” of labor violations, and they draw on their exposure to practices at other firms, both within the same industry and across sectors, to recommend solutions that allow firms to make job quality improvements without affecting their productivity or bottom line. Scholars on enforcement in the United States have also found that regulators use a pedagogical approach (Haines 2011) but in ways that are more tacit and less intentional than their European counterparts. Huising and Silbey (2011), for example, described how safety and environmental regulatory agencies have collaborated with the organizations they monitor to improve their internal production and quality control systems. Studies in this vein concur: The success of enforcement depends on the degree to which regulators are able to engage directly with work processes and develop the in-depth procedural knowledge they need to recommend and require changes to firm practices.

A third stream of research builds on these insights about the importance of shared learning and applied industry knowledge, and adds that for the pedagogical approach to gain real traction, it must be backed by *regulatory sanction*. Pires (2008), for example, in a study of Brazilian labor codes, noted that labor inspectors seeking to nurture processes of firm learning and transformation through employer engagement still rely on the threat of penalty to gain access to the worksite. Once inside, these inspectors help employers reinterpret workplace practices and work with them to create solutions to bring their production processes into compliance. They use the threat of fines to ensure that firms actually adopt the collaboratively devised solutions. However, many studies caution that the effectiveness of legal sanction as a lever for organizational change depends on the political and organizational strength of the external enforcing institutions; only organizationally and politically robust enforcing agencies can make credible threats (Galvin 2016; Anner 2017).

When considered together, we find that these various threads in the labor standards literature point to a set of complementary actions—collaboratively sourced information about industry structure and the organization of production; the development of a deep and contextual knowledge of the work processes through which production occurs; and the presence of credible legal sanction for noncompliance. Still, while the labor standards literature has widened the field’s lens to include new strategies, coalitions, and forms of interaction, analysis of how frontline workers engage with labor standards

and the ways they may apply and adapt similar practices has received less attention.

To some extent, this oversight is a shortcoming of the new labor standards scholarship's normative emphasis on compliance. Labor standards research has spotlighted the intentional and layered strategies that regulators and their allies use to gain organizational compliance with externally imposed rules. Such research has emphasized the importance of shop-floor knowledge for refining enforcement procedures and has highlighted the contribution of unions and other worker-supporting institutions in improving the aim of targeted compliance efforts. But, at base, the literature's attention to these processes and resources has been primarily driven by their usefulness for compliance, and specifically, to how the institutional actors external to the worksite have drawn on them. As a result, this new scholarship gives us less insight into the everyday processes that workers themselves initiate to identify, resist, or resolve problematic practices.

This singular focus on enforcement has not only obscured practices that workers use to push enforcement *within the flow of workplace processes* but has also edged out of the picture the varying ways that workers use labor standards for purposes *other than immediate enforcement*. As a result, existing research on labor standards offers only a partial and sometimes incidental analysis of how workers use enforcement practices tactically to mold aspects of their jobs that the regulations do not explicitly address: using their engagement with labor standards to reshape job definitions, contest entrenched workplace hierarchies, or even deepen job-related skill and firm-specific knowledge.

Regulatory compliance is even more pronounced as an analytic motivation in the subfield of scholarship concerned with the enforcement of occupational health and safety regulations. Mainstream analysis of safety standards has focused primarily on whether workers follow externally imposed safety rules and protocols (Nadvi and Raj-Reichert 2015), with a subset of this literature drawing on psychology frameworks to explain non-compliance as a product of workers' attitudinal resistance—including claims that noncompliance is an expression of masculinity (Paap 2006; Stergiou-Kita et al. 2015); or, in the case of immigrant workers, a cultural predisposition that supposedly makes immigrant workers, and Latinos in particular, cavalier toward risk (Menzel and Gutierrez 2010; Landsbergis, Grzywacz, and LaMontagne 2014).

By contrast, research that uses a process-based approach to safety standards provides an important challenge to this perspective. While they share an analytic focus on collaborative labor standards, process-based studies have shown that the role of safety protocols is more complex, and often less protective, than measures of worker compliance assume. Specifically, they point to the ways in which existing safety protocols may reflect the desire of employers to cheapen or expedite processes, or to shift blame

and liability, in ways that conflict with the underlying goal of performing work most safely (Silbey 2009; Gray and Silbey 2011).

To explain safety gains, these process studies have also started to explore the contribution of collective interpretive processes, thus opening a space to consider worker agency (Perin 2005; Almond and Gray 2017). Yet here again, they overlook the full extent of frontline worker involvement, including the ways in which workers collectively use safety codes to advance organizational goals that are *broader* or *tangential* to achieving compliance. To be sure, many studies on occupational safety highlight the importance of worker agency in enacting safety protocols, even drawing attention to instances when workers have refused to work as a means to draw attention to safety violations (Gray and Silbey 2011). One strand of this research highlights the role of workers' skill and job-related competence specifically in applying safety rules, but workers' expertise is generally framed as a resource that workers draw on to better comply with safety practices, rather than a resource that workers use to improve other elements of jobs (Theodore 2019). This perspective is particularly notable in studies on construction safety practices, which feature the training systems that management or worker organizations, such as unions or worker centers, can offer their construction workforce (Meléndez, Visser, Valenzuela, and Theodore 2010; Demirkesen and Arditi 2015; Evanoff et al. 2016). While these studies demonstrate the relationship between worker skill and safety, and thus by implication, between worker agency and safety outcomes, they tend to overlook the ways in which workers use safety practices, collectively and creatively. As a result, they miss the practices through which workers draw on safety standards to shape aspects of work—workplace routines, organizational structures, and job quality gains—that are unanticipated by the safety regulations and have only a tangential relationship to safety.

The literature on organizational behavior offers yet another glimpse of the tactical ways that organizational actors engage regulations and thus provides additional insights into how regulations can be used *from within* to reshape work practices. The model of organizations as open polities—increasingly central in organizational studies—is based on the premise that organizations are political entities, comprising jockeying sets of interests and coalitions, which interact with an external environment that is just as political and layered (see Weber and Waeger 2017 for a review). In this framework, organizational actors' use of regulations is analyzed as a political strategy, and regulations are highlighted as a tool that actors use to chisel organizational process from within (Silbey 2011). The leverage that regulations afford organizational actors is not unmitigated, however, and is limited by factors internal to the organization, such as the distribution of power, organizational norms, and social networks. To deal with these organizational constraints, actors use many of the same strategies highlighted by the new labor standards literature: They rely on networks for the collection of information, collaborative and interpretive processes, and the ability

to set in motion processes of sanction by external agencies. Actors use these practices strategically to push organizations toward modes of regulatory compliance as a means to advance their interests within the organization (Khan, Munir, and Willmott 2007; Kellogg 2011; Briscoe, Gupta, and Anner 2015).

Yet while this research helps identify a myriad of strategies that internal actors use to bring organizations into compliance, it nevertheless shares a set of analytical habits with the new labor standards research that limit its usefulness to understanding the ways that workers in particular use labor standards, tactically and creatively, to shape and reshape their jobs. In this regard, it reflects the same bias of the labor standards research toward compliance as the end goal and pays less attention to the ways in which organizational actors use external regulations for purposes and aims other than those explicitly intended in the regulations themselves. This scholarship generally bends toward the view that organizational actors' engagement with external environments and regulations is intentional and unmediated—"genuine" as Weber and Waeger (2017) describe it—leaving little room for strategic, indirect, or shrewd action. It overlooks "off-label" ways in which actors repurpose formal regulations, along with the pressures applied by external enforcement agents, to amend organizational practices to their own benefit. Without an examination of the ways that workers use and repurpose labor standards and safety regulations, we cannot fully speak to the implications that regulatory diversity may have for workers' ability to structure their jobs and workplaces, nor can we identify the full scope of possibilities enforcement innovation offers for worksite action, as identified by emergent research on regulatory federalism.

### **Methods**

Our study of the enactment and appropriation of labor standards by immigrant workers draws on data from a larger study on immigration and the transformation of knowledge. The empirical material presented in this article is based on 225 in-depth interviews conducted with Latino immigrant workers, primarily Mexican in origin, from late 2006 to 2011. In both cities, we relied heavily on a snowball sampling strategy to construct our sample, asking initial study subjects to help us recruit others in their networks. We selected this method because it allowed us to bring interviewees into the study in a manner that was sensitive to the legal and cultural vulnerabilities that Latino immigrants might experience in participating in academic research (Sadler, Lee, Lim, and Fullerton 2010). Although human subject protocol prevented us from asking workers directly about their legal status, our open-ended questions on prior work experience and migration journeys suggested that a large share of the workers we interviewed in both locations were undocumented.

Our snowball sampling strategy was informed by the structure of the industry in each city as well as by the spatial location of the construction projects and residential neighborhoods where Latino migrants had settled. In Philadelphia, Latino immigrant construction workers were mostly relegated to small-scale home renovation projects and shut out of large-scale commercial and institutional building sites that were under the close control of labor unions. To understand the immigrant work experience, we focused our research on small-scale residential projects. These projects were concentrated within a few blocks in south-central Philadelphia. As employers were often absent from these sites, we were able to walk through the neighborhood and approach workers with an interview request as they entered the building. By contrast, the vast majority of construction workers on large-scale projects in North Carolina were Latino immigrants—attributable to both lower union density in North Carolina and industry restructuring that had resulted in local subcontractors taking over responsibility for hiring and deploying labor pools, with immigrant workers often asked to recruit others from their social networks. In North Carolina, we also approached Latino workers as they were exiting the construction site, making arrangements for off-site conversations in a neutral or unsupervised location. As part of our snowball sampling approach, current participants connected us to other construction workers in their networks and welcomed us into their community spaces—churches, taquerias, and laundromats—where we spoke about our research project and invited others to join the study.

We used an interview guide that was comprehensive: We asked about life and employment histories; housing; transportation; and employment in US construction specifically, with attention to wages, job tasks, access to jobs, skill levels before employment and skills development on the job, occupational ladders, and job quality. The interviews themselves were open-ended, and although we sought to explore all themes in each interview, the conversation was guided primarily by the person being interviewed. In both settings, we also completed extensive interviews with employers, superintendents, industry experts, government representatives, and, especially in Philadelphia, union representatives. These interviews addressed industry trends, with attention to employment, job quality, and skill; covered the regulatory and institutional context for the industry in both cities; and explored industry reactions to and engagement with the recent influx of Latino immigrants in these two new destination cities.

During the process of conducting worker interviews, we visited several construction project sites in each location. While on-site, we were often able to observe work processes and, in some instances, engage in discussions with workers, at times conducting spot interviews as appropriate. This process proved more challenging in North Carolina, as site visits were typically led by non-immigrant superintendents. Nonetheless, these site visits allowed us to understand the technical processes described to us in interviews. Site visits in Philadelphia were more reflective, with workers directly sharing their



perspective on the work processes we were observing, often providing running commentary on their tasks as they worked. These worksite observations were designed to provide a better understanding of the work experience of immigrants, including documenting their daily work routines, the breadth of skills they developed and deployed at their jobs, and their levels of engagement with co-workers and supervisors.

The processes through which immigrant workers engage and promote safety standards emerged organically from this fieldwork, which was originally designed to capture technical and tacit skill development as previously documented elsewhere (Iskander and Lowe 2010, 2013; Lowe and Iskander 2017). We did not start this project with a concern about safety compliance—it was through the examination of other worksite practices, namely around training and skill building, that we soon observed their connections to safety and labor standards enforcement.

In-depth conversations with immigrant workers in Philadelphia initially raised our attention to workplace safety as a recurring theme as workers there placed concerns about safety in relation to their collective interpretation of production processes. This connection motivated us to look more closely at our initial interviews in North Carolina to explore how construction workers there were engaging safety standards. The theme of safety was most explicit in initial discussions with immigrant foreman and project supervisors in North Carolina, most of whom noted, often in passing, the connections they forged between technical skill development and safety training.

Seeing this connection repeat across supervisory interviews, we added more explicit questions about safety to our North Carolina worker interview guide, expanding that list over time to better reflect the breadth of strategies mentioned by previously interviewed workers. Because regulatory interventions to promote safety standards were more commonplace in North Carolina, we included a final research step to build out that case—participation in worker safety trainings and related informational sessions at the jobsite. From there, we conducted in-depth interviews with immigrant and non-immigrant participants in order to understand their use and repurposing of formal safety standards to advance other rights and protections. This information was supplemented by a review of secondary and archival documents pertaining to construction safety standards in North Carolina. To better understand why Philadelphia's downtown construction market was largely untouched by formal safety inspections, we also interviewed staff at the local agencies that regulated construction practices as well as health and safety protocols. While the iterative nature of our research design makes it impossible to measure the frequency of individual strategies across the full sample of interviews, every worker that was asked questions about safety mentioned their use of at least one of the informal strategies we document, with most referencing several at a time.

In interpreting the data we collected through these multiple methodologies, we used a grounded theory approach to explore the social and labor processes we observed (Eisenhardt and Graebner 2007). Our process of coding and analysis centered on the identification of themes, clusters of practices, and patterns of interpretation that were informal, organizational, or institutional (Starks and Brown Trinidad 2007). But we did not start our analysis with a predefined coding strategy. Rather, our codes emerged out of and were refined through cross-case comparison and our joint interpretation. In Philadelphia, the connection between safety and other workplace practice was messy and chaotic, and the deeper significance of certain worker-led actions, including the invention of sanction, was not initially obvious until we set that case in contrast with what we observed in North Carolina. On Philadelphia sites, injuries were also sites for skill development; this relationship was less apparent for North Carolina, where injury rates, at least for large-scale project sites, were lower. Workers in Philadelphia drew our attention to this connection, allowing us to search earlier interviews from North Carolina for comparison. In this regard, our study comparison not only helped draw agentic processes into sharper relief but also allowed us to iterate our analysis in order to discern how the dynamics we observed were informed by institutional context, regulatory structure, and industry profile.

### **Formal Resourcing in the US South**

The construction industry in North Carolina's Research Triangle has gone through a series of changes in recent decades, one of the most significant being the rapid incorporation of Latino immigrant workers into the state's construction labor market in the 1990s and 2000s. At the time we initiated our research in approximately 2005, estimates show that Latino immigrants made up close to 70% of North Carolina's urban construction workforce. In contrast to Philadelphia, the Latino immigrants in North Carolina were not confined to small-scale home renovation projects in urban areas of the state; they comprised a significant share of the state's mainstream construction workforce, visible to anyone passing by a large multi-unit residential development or commercial or institutional building site.

Starting in the 1990s, commercial construction companies throughout the Research Triangle region took concerted action to revamp their worksite safety procedures and, in particular, they transformed training materials and pedagogies to make this information more accessible to native Spanish speakers. This shift was partly in response to a documented rise in injury and fatality rates among North Carolina's Latino construction workforce and reflected the recommendations—and in some cases requirements—of insurance companies, labor advocacy groups, and industry associations, including North Carolina's division of the Associated General Contractors.

Recognizing the need to enhance workplace safety procedures, many commercial construction companies in the Research Triangle opted to translate safety-related materials into Spanish, including training manuals, instructional handouts, and worksite safety signage. At some companies, safety videos were dubbed in Spanish and even replaced written manuals as the preferred training tool to reach the growing Latino immigrant workforce. General contracting companies in the region hired translators to conduct concurrent safety sessions in Spanish at the jobsite. Over time, the responsibility for language translation shifted to the Latino immigrant workers themselves, especially those promoted to safety coordinator or field supervisor—coveted positions designed to further promote safe working conditions on large-scale construction projects.

Most immigrants we spoke with in the Research Triangle received some form of initial classroom instruction at each new project site, with some completing a 10-hour Occupational Safety and Health Administration (OSHA) refresher course once every three years. At the project site, immigrant workers also participated in weekly or twice-weekly training sessions. At some projects, general contracting companies required additional attendance at daily pre-task planning meetings. These mandated training sessions lasted anywhere from 15 minutes for daily meetings to 40 minutes for those scheduled at the start of a workweek. One general contractor described the standard approach used in the longer, weekly sessions: “We get everyone together in the morning. . . . We have an English and a Spanish version. We read it through. If they have any questions they can ask afterwards.” And he also noted that they try to cycle through topics to cover all bases—“This week it’s going to be heavy equipment. Next week, fire control. The next week, helmets and safety glasses. Then dust control. I’ll even throw in something like hydration just to keep [them] fresh.” These structured trainings not only formalized the safety procedures that workers on-site were expected to follow; they were also designed to convey to workers the risk in breaking with established protocol—the potential for bodily harm, of course, but also stressing the loss of income as repeat violations could result in a worker being temporarily dismissed or even fired.

In addition, the immigrant workers in the Research Triangle received structured guidance from safety coordinators who patrolled the jobsite looking for potential safety violations. As they toured a project site, these coordinators would frequently stop groups of workers mid-task to show them how to perform their tasks more safely—how to alter their grip on a specific tool to avoid injury or repetitive stress, where exactly to stand on a ladder or scaffolding when performing a given task to reduce the likelihood of a fall, how and when to alter or attach their safety harness to improve its function and fit, or even how to disconnect an electrical product from an outlet to reduce the likelihood of electrocution. As one safety coordinator explained, “All day long I have to walk around and check electric cords,

scaffolds, and make sure that everything is in order. I don't have a routine. I have to walk out there because every day is different." And to reinforce worker learning, he and other coordinators would often perform tasks in front of the worker or crew in question: "I approach the person who is doing something that we consider dangerous, and I have to stop them from doing what they're doing and make the corrections." This protocol enabled the workers to observe best practices and also gave them an opportunity to repeat these same practices in front of the coordinator, who in turn provided constructive feedback.

### **Safety Training as Interpretative Space**

These interactions with safety coordinators helped prevent accidents and injuries by enabling immigrant workers in the Research Triangle to adapt and apply a set of rules initially learned through formal training sessions to the actual circumstances of the jobs or tasks they were performing each day or week. Safety training was a serious matter at large-scale construction projects in the Research Triangle, and because of this, Latino immigrant workers at those sites were given access to protected spaces for developing and mastering safe work practices. As a result, few immigrant workers we interviewed suffered an injury while working on a large-scale commercial or institutional project in the Research Triangle. Some even took steps to informally diffuse those standards by training co-workers during side projects they completed on the weekends or evenings, especially on smaller residential construction sites, where safety procedures were lax and poorly regulated.

But low injury and fatality rates were not the only gains from this approach to safety enforcement. As they ascended to quasi-supervisory roles, immigrant safety coordinators used their authority over safety to extend learning opportunities to immigrant co-workers and to protect jobs in the process. All the immigrant safety coordinators we interviewed in the Research Triangle had moved up the ranks of a well-defined industry career ladder, starting at lower rungs initially as laborers or helpers and eventually working their way up to foreman or task supervisor. Most had at least 10 years of construction work experience in North Carolina, were fluent in both Spanish and English, and were employed as safety coordinators at general contracting firms or at top-tier subcontractors. As experienced construction workers themselves, these coordinators had intimate knowledge of established production processes and routines, but more important, as Latino immigrants they also understood the opportunities and threats facing fellow immigrants under their supervision.

Through their intensive interactions with workers, Latino safety coordinators created a space for collective interpretation in which they and their fellow immigrant co-workers could connect around work practices and discover common interests and forge shared work-based identities. Safety supervisors used these interpretive spaces to develop and share procedural knowledge

with immigrant co-workers about how to complete construction tasks safely and well. As they moved through, inhabited, and even pushed the boundaries of these spaces, the immigrant workers themselves found ways to integrate and connect safety standards to other aspects of their daily work and, in doing so, ultimately pushed for better working conditions. In these spaces, immigrants at all organizational levels collectively leveraged and repurposed safety rules to secure other work-related improvements, including career- and skill-enhancing opportunities and stronger protections against workplace abuse.

### **Connecting Safety with Procedural Knowledge**

Safety coordinators helped motivate broad repurposing of required safety training to deepen the technical knowledge of the immigrant workforce. In a classroom setting, immigrant coordinators would sometimes pause or replay a segment of a safety video to show workers how a task was performed and to explain why that mattered for overall worker safety. These sessions provided an especially helpful learning opportunity for new workers. As one coordinator explained, “I find that when we have new employees, the pre-task [safety session] goes a long way in helping those guys. Because a lot of new guys, in particular with this economy, are a lot less willingness to say, ‘I don’t know what I’m doing.’ And you almost see guys now relying entirely on the pre-task [safety sessions] to tell them what to do and what they should be doing. And you know, you get a new pipe fitter, he looks at the pre-task [safety session] and goes, ‘Okay, I’m supposed to be welding pipe, and I’m supposed to have a fire extinguisher, and I’m supposed to do this.’” When patrolling a jobsite in search of potential safety violations, coordinators would reinforce technical skill development by sharing construction tips, often reinforcing their value to worker safety.

Immigrant workers acknowledged acquiring considerable technical knowledge during officially sanctioned safety training sessions. In our interviews, many workers explicitly linked these safety sessions to vocational training. As Efrain, an immigrant worker from Guerrero Mexico, described it: “The majority of us arrive [in North Carolina], and the first thing we do is look for work. It’s only on the job that we learn to use the tools and all that. Each Monday we had a safety meeting where we learned how to use tools, when to use a certain tool and when to not use it, all that. It was the best thing for the supervisor to do for us: first to teach us safety.” Additionally, some workers pointed to the essential role that safety standards played in expanding their access to other kinds of formal training supports, especially reputable courses and certificate programs offered through the community college system. As one worker explained it, “The guys in charge [of safety] take note of who is the most safety-conscious laborer. Then he is recommended to go take a course in Raleigh [at Wake Community College].” While these courses were officially listed as safety-related, they also helped to broaden

technical and supervisory skills and thus enabled the immigrant workers who participated in them to return “to the site and teach it to another,” including to “employees of another company or whomever.” In this regard, safety training was more than just a protective veil for promoting and advancing other types of construction skills. It also provided the foundation for career advancement.

Beyond technical skill development, immigrant coordinators used their control over safety standards to protect job security for fellow immigrant workers. With this in mind, Latino coordinators modified their approach to enforcing worksite violations. Traditionally, the response involved punishing individual workers or groups of workers by removing them from the jobsite for one or more days after they were caught committing a safety infraction. But the immigrant safety coordinators were cognizant of the detrimental impact of this punitive approach. As one immigrant safety coordinator acknowledged, “If we send them home today, they will come back tomorrow and do the same thing. That’s why we have taken the approach to teaching people.” He also stressed, “I’ve been accused of being too soft for not sending people home, but that’s not my approach. I don’t believe in that. They don’t learn anything. Besides, it’s going to hurt their pay.” Underscoring this last point, the immigrant coordinators also recognized that the removal of workers from the jobsite could result in a lost connection. By keeping the immigrant workers on the jobsite and using collective learning processes to reinforce safety protocol, immigrant safety coordinators not only protected essential income flows and work hours but also maintained close relationships with immigrant workers over the course of a project. This approach allowed them to advance technical knowledge and raise quality production standards.

Non-supervisory immigrant workers were not simply passive beneficiaries of safety standards repurposing by higher-ranked immigrant safety coordinators. Latino immigrants at all levels of the construction job ladder, including those new to construction, found ways to appropriate safety standards in an effort to build comradery with fellow immigrant workers and collectively assert their rights as workers. Immigrant workers acknowledged using group safety training sessions to work through and overcome a range of work-related issues and barriers. Immigrants with more construction work experience typically used pre-project and pre-task safety training sessions to learn about the specific sequence of steps they should perform when completing a given task. This not only allowed them to make their existing technical skills visible to project supervisors but also established them as quick learners for future task assignments. Many immigrants used these sessions to develop their English language skills, which they recognized as critical to occupational advancement. This was made possible as most formal sessions, including pre-task planning meetings, were conducted first in English, followed by Spanish translation. Immigrants would listen carefully to both versions to improve their own translations, and they often varied their

learning focus across different language sessions—stressing vocabulary development when English was spoken but switching to their theoretical knowledge development during Spanish language sessions and exchanges. Some workers also talked about the communication skills they developed during group exercises around safety—skills they recognized as essential for future roles as foremen, supervisors, or even safety coordinators.

### **Safety as Sanction**

An especially important element of repurposing by immigrant workers involved the use of safety standards to defend their status as workers and to protect themselves against employers and supervisors who undermined that status. When speaking to fellow immigrant safety coordinators, immigrant workers would make it known when an employer or supervisor—especially an Anglo supervisor—obstructed their ability to perform their work safely or to quality standards. Channels for direct confrontation with bad supervisors were severely limited, and immigrants acknowledged the considerable risk of reprisal from doing so. By quietly making shared concerns known to immigrant safety coordinators, they not only gained an advocate but one with considerable rank and authority who could introduce sanctions against individuals who stood in the way of or undermined safety and quality production goals. One illustration of this involved the simple, yet essential, act of drinking extra water on an extremely hot summer day in June 2011. Immigrant workers attending a regularly scheduled morning safety training session were reminded by an immigrant safety coordinator of the importance of taking frequent water breaks to stay hydrated throughout the course of the day—on that particular day, the heat index was close to 100°F. After hearing this message repeated several times over, the immigrant workers began to speak up, saying that they were afraid to take additional breaks because their boss would probably say, “What are you doing?” (Although that discussion was in Spanish, they made it a point to present this phrase in English, thus highlighting differences in ethnic background.) The immigrant workers in the group also expressed concern that this supervisor would yell at them to get back to work. Through this discussion, the workers transferred the burden of responsibility onto the safety coordinator, who in turn stressed to them that he would monitor the situation carefully and look out for them if they got into any trouble with technical supervisors.

As this example helps to illustrate, the workers did not just respond to advice passed down by safety coordinators; they also helped those coordinators improve their own job performance by drawing their attention to less-visible inequities in power or authority that undermined or obstructed safety standards on the jobsite. With this information in hand, safety coordinators could better target their interventions and use the threat of sanctions against abusive supervisors to remove the bottleneck. Ultimately, the safety coordinators and workers connected the collective

interpretation and skill development initially reserved for safety training with the power to transform workplace dynamics from the bottom up.

### **Improvising Safety in Philadelphia**

Just as in North Carolina's Research Triangle, Philadelphia saw an important influx of Latino, primarily Mexican, immigrants into its construction labor market in the early 2000s. However, the industry segment that immigrants entered differed markedly from the one in North Carolina. Instead of the high-end residential and commercial construction jobs in Raleigh-Durham, these new immigrants worked smaller-scale construction projects, such as residential building and housing renovations, which the building trades unions in Philadelphia had ceded to non-union actors.

In contrast to the projects immigrants worked on in North Carolina's Research Triangle, no formal structures to support safety existed on the small-scale residential construction and renovation sites. Workers received no formal training in safety procedures; they had no formal access to safety advocates or coordinators; and the sites were rarely, if ever, inspected for safety and other work-related violations. Furthermore, the immigrants in our sample spoke of the lack of external resources to help them stay safe on the job. OSHA ran basic trainings for staff at immigrant advocacy centers, organizations that addressed a wide array of immigrant community needs but which the immigrants in our study seldom frequented. Additionally, OSHA followed a complaints-based system, following up on specific information of violations. But none of the workers we interviewed knew what OSHA was or how to file a complaint, and none of them had seen an OSHA staff member on any of their sites.

In part, this lack of formal safety support was due to the organization of the labor market in which immigrants participated. Employers recruited immigrants, in teams of two to six workers, for the duration of a housing renovation project, or longer, if the employer was renovating several homes. Beyond this initial contact, however, the employers were largely absent from the jobsite: Often, they arrived in the morning to provide supplies and give direction and would not return until the next day. Employers provided little guidance on how to complete the tasks they requested. As a result, the workers generally had the latitude to organize their work processes in whatever way they felt would allow them to complete the job quickly and competently.

### **Creation of Interpretative Spaces**

In most cases, the immigrant workers self-organized into flexible teams that allowed them to pool their knowledge about the construction process and to mentor one another as they were able. The mentorship strategy that we observed workers developing on-site was as much a process of collective experimentation as it was of guided learning. The workers applied their



varied construction experience—whether acquired in Mexico prior to migration or at a previous jobsite in Philadelphia and occasionally other cities in the United States—to the unfamiliar materials and tools they confronted and to the tasks that they deciphered even as they completed them. In the process of learning-by-doing, they discovered how to use the tools although, in many cases, the workers developed ways of using tools that were nonstandard and manipulated materials in unexpected and innovative ways.

This process, however, involved numerous cycles of trial and error, and errors often resulted in injuries. The workers' experiments with pneumatic tools or their jiggered solutions for working at heights or moving material sometimes failed, and those miscalculations and shortfalls in worker skill had significant safety consequences. Fully a third of the immigrants in our sample sustained injuries grave enough that they were unable to return to work for a week, with many getting hurt through falls off of unstable scaffolding or the misuse of power tools.

The workers we spoke with were concerned about the frequency of these injuries, especially given that an injury meant days without work and without wages and, in some cases, medical bills. To address these injuries, the immigrants in Philadelphia developed self-driven strategies to promote safety on-site. Their approach combined the three elements we observed in the Research Triangle but in versions that were adapted to the informal profile of the segment of the construction industry in which the Latino immigrants in our study were employed. They drew upon reflection on injuries and an interpretation of the practices that caused them. They then folded these insights into the procedural knowledge they were developing on-site through collaborative mentoring about how to complete construction tasks, and they backed their self-authored safety practices with whatever sanction they were able to invoke to pressure their employers to institute basic safety measures. The immigrant workers interpreted their injuries and the work processes that produced them through everyday conversation. In ways that bore striking similarity to the informal conversations that the workers in the Research Triangle had with on-site safety coordinators, these conversational exchanges supported practices of interpretation that were essential to improving safety. In Philadelphia, the immigrants discussed the nature of any injuries they had personally sustained or injuries that they had heard about at jobsites but also during leisure time—at taquerias, at church receptions after Spanish-language mass, at soccer fields. To illustrate the accidents they spoke about, they displayed scars and other evidence of their wounds. In one conversation during a Sunday afternoon gathering at a local taqueria, Abel pointed to the crisscross of scars on his wrist, which had to be surgically reconstructed after it was shattered during a bad fall. As he did so, he described pushing a wheelbarrow up a narrow plank to move bags of cement to a platform elevated some 10 feet off the ground. He recounted losing control of the wheelbarrow, which careened off the

plank, and falling after it, he landed on his wrist. In addition to pointing to evidence on their bodies, many also traded cell phone photos of their injuries. This practice was so common that the workers in our sample had photos of their own injuries on their phones as well as numerous photos of injuries on other workers' bodies, and they could recount the causes of those injuries as well. Rafael, an immigrant worker from Mexico City, showed a photo of his eye swollen shut, which he had injured badly when he lost control of the mallet he was using for demolition and it swung back to hit him in the face. He then scrolled through photos of a foot shot through with a nail, an injury he described his friend as having sustained in the clumsy handling of nail gun; a dislocated shoulder in a torn shirt, an injury sustained from a fall off a low scaffold; and a deep cut to a fingertip, caused by the misuse of an electric saw.

In addition to personal experiences as a result of injury, the immigrants shared information gleaned from chance encounters with city building inspectors about safety and skill. In Philadelphia, new construction and renovation required the owner of the building or of the land to obtain a permit. Staff from the city's Department of Licenses and Inspections (L&I) conducted site visits throughout the city to verify that permits had been filed and building codes were adhered to. These spot checks were often conducted in response to particular complaints, and many of the largely unlicensed housing renovations in central Philadelphia were reported to the city by building trades union members who were working on building projects that abutted them. The staff at the L&I were concerned with building permits and construction safety and viewed the safety of workers as being formally outside their jurisdiction. However, when inspectors observed construction practices that seriously imperiled the safety of workers, they used their discretion to stop work on the site. "A lot of contractors will put their employees in positions that make us cringe," explained one inspector, "and that is when L&I will issue stop work orders to get people out for their own safety."

In those cases, the inspectors stopped to explain to the immigrant workers they came into contact with why their practices were unsafe. As an L&I supervisor explained, "If an inspector notices something serious or dangerous . . . they might issue a stop work order or give specific instructions on how to make the site safe, even have an engineer come out and give directions on how to repair whatever is wrong." L&I staff focused in particular on scaffolding and on temporary retention structures built to support walls during demolition—two areas that had important implications for the safety of the workers and for the structural soundness of the building. The immigrants confirmed L&I's account, noting, for example, that L&I staff would point out specific elements of a scaffold that made it unstable and dangerous. "When the inspectors come," explained an immigrant worker, "we pretend we don't know who our employer is or when he is coming back or that we don't understand what he is saying. But sometimes, the official

will talk to us anyway. Like this one time, the inspector said that the ‘feet’ of the scaffolding were all wrong, and he got down on the ground near the feet and showed us how to make sure that they were solidly planted on the ground. He also told us that the planks on the scaffolding had to be fixed—you couldn’t just put them over the grill.” Rigoberto, an immigrant from Mexico City, concurred: “If you ask, an inspector will always explain how to correct something if there is a problem, and through this, one can learn a lot about the correct way of doing things.”

### **Safety and Procedural Knowledge**

In their collective interpretation of their experiences, immigrants in Philadelphia coupled understandings about how to avoid injury with observations about how to execute a task or use a tool more skillfully. Stories about falls off of scaffolding, for example, included details about what feature of the scaffolding had made it unstable and what steps had been omitted or rushed through when the scaffolding was erected. Folded into those details was knowledge about how to build a freestanding level structure, and, in the telling of the story, tips about how to create level frames for drywall in houses that had settled unevenly were exchanged. Similarly, accounts of laceration by power tools communicated information on the precautionary steps required to avoid injury but also surfaced insights about how to achieve greater precision when using fast-moving tools.

The more experienced workers reported that they tried to introduce their less-skilled colleagues to tools that could be hazardous, especially the power tools involved in manipulating wood. “Working with wood is the most dangerous parts of the job in terms of learning how to use tools because we never build with wood in Mexico, so if you know how to use those tools, it is your responsibility to show others, watch them practice until they know how to use the tools safely,” explained Gregorio. “At the same time you make sure that they cut the wood to the right measurement. This is not easy, but if we ruin a piece of lumber, the contractor charges us.” Others reported seeking out guidance in response to the stories they had heard. “You hear about so-and-so getting hurt, not being able to work,” explained Jesus. “Just yesterday, I heard about this guy who was injured badly near his eye when something flew into his face. So I watch and learn, and if I don’t understand something, I make sure to ask.”

The immigrant workers in Philadelphia merged safe building practices and the development of building skill on their own initiative. But when the immigrants tried to marry safe practices with skill development in their teams, they often encountered resistance on the part of employers, many of whom felt that the extra safety precautions workers wanted to take were unnecessary, costly, and slowed the project. Unlike in North Carolina, where contractors were mandated to provide safety training, where guidelines

issued by government agencies such as OSHA were explicitly drawn into safety training material, and where workers had recourse if they felt their safety was being imperiled, the immigrant workers on the small-scale and largely unregulated housing renovation projects in Philadelphia had little access to formal mechanisms to enforce safety practices.

### **Invented Sanction**

Because they had no contact with agencies or actors that could provide a source of formal sanction for the implementation of workplace safety measures, the immigrants instead appealed to sanctions that were informal, ad hoc, and, in some cases, invented. The workers in our study recounted instances in which they collectively invoked regulatory sanctions by stressing to their employers that they had acquired their safety instruction from government inspectors who could be called on to verify building practices. Strictly speaking, the jurisdiction of the L&I inspectors was confined to the safety of building structures rather than construction practices. Nevertheless, for contractors who were unlicensed or not fully licensed, any complaint to the city would have led to fines and delays. Scaffolding was a particularly tense site of struggle, and the comments of Jose Ignacio on the topic were emblematic of many that we heard: “Before I would just do what my employer wanted. The government [L&I] inspector showed me how to do it right. If my employer gets upset about the extra time it takes, I just tell him that the inspector said this is how we have to do it. The inspector pointed out other things too—the boards on the scaffold have to be fixed, you have to have protective netting—I am willing to let that go. If you fight with your boss too much, you won’t have a job; but now, I insist on the scaffolding being leveled.” Julio’s comments were even more forceful: “If the scaffolding is even one inch off, then it will move like crazy at the top. I won’t go up on a scaffold that is not put up safely. I just won’t go up. I’ll walk off the job. I did it once, and I told my employer that I was going to report him to the government.” The immigrants we interviewed conceded that while this strategy was a bluff, they were moved to act because of the support they received from fellow immigrant workers. They did not know how to contact government inspectors and generally did not even know which office they were from, but they reported that this strategy was effective, and employers did, in their observation, respond by providing some of the additional materials they needed to build more stable scaffolding structures.

The immigrant workers also resorted to what might be best termed “invented sanction.” In several instances, the immigrants pretended they received counsel from legal or medical professionals when talking to their employers. In one example, Memo’s brother, Carlos, was badly injured while trying to hoist a heavy bag of sand to a third-floor platform. Carlos lost his balance and fell off the unbalanced scaffolding platform he stood on, a story above the ground, and shattered his forearm. He received

emergency treatment at the hospital, including emergency surgery but required long-term physical therapy to regain the use of his arm. Carlos's employer refused to pay for the treatment, so, in a ruse, Memo asked, as he put it, "a gringo-looking friend who had a nice suit and a car" to accompany him to his brother's employer. Memo confronted him and pointed to his friend, who had stayed in the car, claiming that the person who had accompanied him was a lawyer he had retained. He detailed the safety violations of the poorly leveled scaffold and listed the equipment to strengthen the scaffold base that Memo, Carlos, and the other workers on-site had for weeks asked the employer to supply, thus far to no avail. He added that unless the employer agreed then and there to cover the rehabilitation costs for his brother and to commit to providing the necessary materials to build sound scaffolds, he would authorize the lawyer to sue. The employer capitulated, and the following week gave Memo an envelope with a few hundred dollars in cash for Carlos's medical expenses.

### **Cases Synthesized**

In our two cases, Latino construction workers collectively enacted safety practices in ways that were deeply interwoven with the labor process. In both North Carolina and Philadelphia, Latino workers created a protected space for the identification and interpretation of shared interests. They also drew on procedural knowledge about the production process to advance those interests, and they invoked regulatory sanction to pull in the support they needed to advocate for their collective interests.

The way that workers combined these strategies of safety enactment was deeply informed by the institutional context in which they unfolded. In North Carolina's Research Triangle, the workers developed these practices within a formal segment of the construction industry. They repurposed and extended existing industry safety protocols, enlisted help from fellow immigrants who were employed as on-site safety coordinators, and drew on formal levers of sanction initially focused on safety to mobilize broader workplace protections and alliances. They reworked formal safety mandates to advance technical knowledge, create skill-based alliances across the organizational hierarchy, and protect career trajectories. In Philadelphia, meanwhile, the immigrant workers doing informal housing rehabilitation developed solidarity practices in relationship to the building process on their small-scale, poorly supervised building sites. Together, they interpreted the causes of the injuries they suffered and then created the peer-to-peer mentoring practices needed to fill the skill gaps that had precipitated them. To enforce safety standards on worksites that largely escaped institutional oversight, workers in Philadelphia collectively invented sources of regulatory sanction to override employer reluctance to adhere to safety norms.

The workers at both our study sites used these strategies in concert, layering one upon the other in ways that enabled them to improve their

safety outcomes and their job quality in tandem. They combined the opportunity for action offered by the recognition of shared interests with the knowledge of production processes and leveraged the power offered by regulatory backing in order to transform bad jobs into good jobs with pathways for occupational growth.

### **Implications for Labor Standards Research and Regulatory Reform**

Viewed together, their actions speak to the importance of broadening the analysis of labor standards research beyond enforcement and compliance. Workers in our cases adapted and retooled the processes that new labor standards research identifies as critical to enforcement into creative resources for strengthening complementary activities in support of better working conditions and opportunities. They extended labor standards to cultivate dimensions of skill that employers themselves did not prioritize or adequately support. And equally, they engaged these standards to forge supportive networks across occupational or industry hierarchies, refocusing the locus of power in ways that helped to rebalance workplace hierarchies.

This expanded view of labor standards enforcement requires us to revisit the role of regulatory sanction. Generally, sanction, or the threat of sanction, is presented as a tool that actors can use to elicit compliance. But our cases reveal the need to also understand sanction as a creative resource in the hands of workers, used toward goals other than compliance. For workers, the usefulness of sanction was its symbolism as a state-backed requirement, even if workers themselves were not in a position to introduce formal penalty. Workers iterated sanction in a continuous and ongoing way, and repurposed the threat of penalty, enforced by regulatory actors, to reshape worksite practices. In North Carolina, workers aided on-site safety coordinators in reducing labor violations, much like workers in Philadelphia helped L&I professionals enforce structural safety and integrity. In essence, workers in both cases knew what to do with the resources and knowledge these officially empowered actors brought into the fold—that is to say, how and when to act upon that advice and support and when to leverage it to power creative, at times improvised, strategies to push recalcitrant employers or supervisors into compliance.

In a reflection of regulatory diversity, however, our cases also reveal that workers were able to draw on enforcement resources—including the threat of sanction—in disparate ways depending on the institutional environment that governed their industries locally. In Raleigh-Durham’s formal and regulated construction sites, immigrant workers were able to utilize state-mandated on-site safety procedures and training requirements to master new technical skills and rebalance workplace power. In Philadelphia, where the small-scale residential projects in our study were informal and

largely escaped regulatory oversight, workers developed safety knowledge inductively, through iterative practice, and then invented formal sanction to defend their informal protocols against employer demands. The response by workers in our two cases demonstrates that an analysis of the organizational setting is incomplete if it does not take into consideration the way that the external institutional environment influences the formal and informal resourcing strategies of workers. The move toward regulatory federalism creates greater heterogeneity in standards and enforcement practices and heightens the importance of examining the effect of specific regulatory designs on the kinds of strategies that workers can develop when they tactically use regulations to improve their jobs and livelihoods.

Still, it is also important to note that while regulatory structures, in all their variety, can inform worker-led practices and shape the resources they can draw on, they do not guarantee them. In neither Philadelphia nor Raleigh-Durham were all workers able to access and enact the practices we feature here: Some worked at sites where these practices had not emerged or where the workers were not in a position to combine the three components needed to create the basis for the worker power and job transformation we detail. Other studies help reinforce this point, noting that even with formal safety regulations in place in North Carolina, immigrant worker safety is not guaranteed and can vary tremendously across regions and types of projects (Theodore 2019). Moreover, the regulatory environment has changed considerably since we concluded our field research. During the Trump administration, many workers in the construction industry were subjected to a concerted and punitive campaign against immigrants at the local and national levels. Worse still, this targeting of immigrant workers distorted local labor standards enforcement, with safety inspections, for example, used as a ruse for federal immigration raids. This regulatory regime has placed many of the workplace practices we have documented—and the immigrant workers who enact them—in great peril.

In light of this change, one might argue the need to reorient our gaze to external regulatory reform and the potential for legal challenges to defend labor protections. This perspective has taken on greater salience in light of COVID-19 and attempts by elected officials and employers alike to remove regulatory sanction and shield firms from liability for worker deaths and health complications. But as we advocate against regulatory weakening, it is important that we not focus too narrowly on how that rollback would undermine efforts to achieve compliance. We must also consider the resources these regulations represent beyond their stated purpose, allowing workers to defend themselves, shape work practices, create better job opportunities, and forge ties of solidarity. Attention to this more encompassing role of labor standards opens additional opportunities for progressive innovation at the multiple levels of government that drive the emerging research on regulation and federalism.

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