

Worker Engagement in the Health and Safety Regulatory Arena under Changing Models of Worker Representation

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Abstract

This paper examines the efforts of a labor-community-university partnership in Southern California to confront violations of workplace health and safety standards by employers of nonunion workers in low-wage jobs. A worker engagement model has opened avenues for workers and worker advocates to participate in the regulatory arena absent union representation. This approach has achieved notable successes to date, including groundbreaking Cal/OSHA citations and nascent collaboration with agency officials to target enforcement of health and safety standards. We argue this model constitutes the foundation needed to support a potentially viable form of tripartism that allows nonunion workers a voice, albeit limited, in the health and safety regulatory process.

Keywords

Workplace Hazards, Occupational Safety and Health Regulations, Labor Standards Enforcement, Worker Advocacy

Introduction

More than 40 years after passage of the Occupational Safety and Health Act, debilitating work-related injuries and illness remain a problem in U.S. workplaces. Roughly 4,500 workers are killed on the job each year, and estimates indicate workers experience an additional 7.6 million to 11.4 million work-related injuries and illnesses annually (Silverstein 2008; Pegula and Janocha 2013). Associated medical and indirect costs reach \$250 billion, rivaling the costs of cancer (Leigh 2011). Although rates of occupational injury and illness have declined since the Occupational Safety and Health Administration (OSHA) was established in 1970, workplace hazards persist, while the mechanisms

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established through OSHA and its affiliated state programs to enforce health and safety standards are out of sync with the realities of the modern workplace (Howard 2010; Baron et al. 2013). Limited agency resources coupled with changes in the nature of work and employment relations have led to a crisis in health and safety standards enforcement, particularly for workers in the nonunion low-wage labor market (Bernhardt 2008).

This paper considers the role of worker organizations in confronting violations of workplace health and safety standards and supporting government agencies to carry out effective enforcement. In particular, we examine a labor-community-university partnership in Southern California that has created avenues for workers in nonunion low-wage jobs to engage in the Division of Occupational Safety and Health (better known as Cal/OSHA) complaint, inspection, and appeals process and encourages information sharing between worker advocates and government agency representatives to improve targeted enforcement efforts.

The partnership employs popular education and participatory action research approaches that enable workers and advocates to recognize hazards and document violations, promote worker leadership skills, and expand the capacity of local organizations to participate in the regulatory arena by engaging workers in the process (Wallerstein and Weinger 1992; Delp 2002; Roskam 2009). We argue this worker engagement model lays a foundation for *tripartism* as described by Fine and Gordon (2010), a strategy of labor standards enforcement that provides a means for workers and worker advocates to participate in the health and safety regulatory arena alongside employers and agency representatives.

This notion of tripartism was initially conceptualized by Ayres and Braithwaite (1992) as a “process in which relevant public interest groups become the fully fledged third player” in monitoring and enforcing labor standards in the workplace (chap. 3, pp. 54-60). In the authors’ framework, labor unions constitute a principal public interest group in unionized work settings. While they note the possibilities of tripartism in a nonunion setting, they acknowledge various challenges and pose the question of where representatives for nonunion workers would turn for technical and legal assistance. Fine and Gordon (2010) have adapted the tripartite framework to characterize the role worker organizations have come to play in “co-producing” labor standards enforcement, even in nonunion settings. (See also Fine 2013; Amengual and Fine 2013; Fine 2014.)

This paper contributes to the literature by applying this framework to the reality of health and safety labor standards enforcement, exploring the foundation and elements necessary for effective worker and worker advocate participation absent union representation. Southern California partners have achieved groundbreaking Cal/OSHA citations and nascent collaborations with the agency to inform targeted enforcement programs. We contend this regional partnership is essential to providing the education, research skills, leadership, and capacity required for workers and their representatives to prepare for and engage with government representatives. As such, the third leg of the tripartite framework may comprise multiple organizations, together forming the public interest group that gives nonunion workers in low-wage jobs an avenue to participate in the regulatory arena. Results of these regional efforts have widespread implications as worker advocates and government representatives confront the persistent erosion of worker protections in the wake of broad labor market restructuring.

Three fundamental premises distinguish this paper. First, effective enforcement of health and safety labor standards requires the participation of workers, that is, those most knowledgeable about and affected by the conditions of work. Tripartism as defined above provides a conceptual framework for worker involvement in the regulatory process; it requires application in different contexts to identify criteria essential to effective worker engagement. Second, confronting the numerous obstacles to worker engagement in a system characterized by power imbalances requires a popular education and participatory action research approach in the tradition of empowerment, or transformative, education. Finally, collaboration among a diverse set of partners is critical to provide the requisite support for workers and worker advocates to effectively engage in the process.

The paper is organized into five parts. Part I—Background—describes the current regulatory framework in the United States established to protect workers' health. It details the limitations of this framework, exacerbated by changing employment relations and industry structures. Part II—Partnership and Worker Engagement Model—describes the roots of the partnership, the role of key collaborators, and the model employed to engage workers and worker advocates in the regulatory enforcement arena. Part III—Case Studies—demonstrates the worker engagement model as it has been implemented in key low-wage industries in Southern California, including hotel housekeeping, car-wash, warehouse, waste recycling, and airport service industries, and highlights the significance of each case. Part IV—Discussion—describes mechanisms through which worker organizations have engaged in and contributed to the health and safety enforcement process and summarizes overarching themes and lessons learned. Finally, Part V—Conclusion—assesses the potential for the worker engagement model described here to lay the groundwork for a tripartite approach that empowers workers and overcomes the constraints of the existing health and safety regulatory framework.

Background

The Health and Safety Regulatory Framework in the United States

The 1970 Occupational Safety and Health Act¹ directs Federal OSHA and its affiliated state programs to establish and enforce standards designed to protect workers from recognized workplace hazards. Employers within the agencies' jurisdictions are required to comply with those standards, and enforcement is pursued through a combination of complaint-driven inspections and targeted investigations of industries identified as high hazard. Labor unions have historically played an important role within this regulatory framework—educating workers about their rights, enhancing enforcement of health and safety standards and worker protection through collective bargaining, filing complaints when violations are identified, accompanying OSHA representatives during worksite inspections, and participating in the appeals process when employers appeal citations. Labor unions have also advocated for industry-wide improvements and new standards that benefit the entire workforce (Robinson 1991; Brown 2006; Leopold 2007; Slatin 2009; Weinstock and Failey 2014; Delp et al. 2014).

However, the decline in union density, restructured employment relations, and other changes in the nature of work have reshaped the types of hazards workers encounter on the job and eroded the foundations upon which the regulatory framework for safety and

health protections was built. Union jobs in the manufacturing sector have been replaced with low-wage nonunion jobs, many in service industries (Hatch and Clinton 2000). Labor market restructuring has led to the decline of a traditional employer-employee relationship and its replacement with various forms of contingent work arrangements (U.S. Government Accountability Office 2006). Misclassification of workers as independent contractors, vertical disaggregation of firms accompanying the rise of network supply chains, and the increasing use of temporary staffing agencies across all sectors have rendered ambiguous employers' responsibility for mitigating or eliminating hazards and created a means for employers to shirk workplace safety responsibilities (Frumkin 1998; Quinlan 1999; Cummings and Kreiss 2008; Howard 2010; Hatton 2011; Lamare 2011; Fine 2013).² This "fissuring" of employment relations (Weil 2014) has also undermined labor's ability to organize and represent workers and has complicated OSHA enforcement efforts. Meanwhile, shifting power dynamics in the workplace have dampened workers' willingness to speak out about safety concerns. Economic pressures among nonunion and contingent workers to retain work and earn a livable income mean workers are less likely to report unsafe conditions, injuries, and illness if they fear retaliation (Quinlan, Mayhew, and Boyle 2001), while immigrant workers without legal documents confront the additional threat of deportation (Brown, Domenzain, and Villoria-Siebert 2002).

This context presents serious challenges to enforcement of workplace safety and health standards, which relies on accurate data on injuries and illness to direct targeted inspections, an employer entity responsible for complying with standards, and workers' willingness to report hazards, injuries, and illness and to file complaints. Like many other states, current Cal/OSHA enforcement activities are triggered "in response to ... a complaint about a hazard or as part of an inspection program targeting industries which have a high rate of occupational hazards, fatalities, injuries or illnesses."³ However, data-driven targeting strategies may be based on flawed data, given evidence of widespread underreporting of injuries and illness (Azaroff, Levenstein, and Wegman 2002; Leigh 2011). Reliance on workers to initiate complaints is similarly problematic. Weil and Pyles (2005) found gaps between the high incidence of injuries and illnesses in key industries and the incidence of complaints filed, indicating that reliance on complaints alone will fail to protect workers.

While mechanisms for workers to have a voice in the regulatory process, the focus of this paper, are highly contested and will not alone solve the problem, they are a critical ingredient of an effective enforcement system (Weil 2006; Yassi et al. 2013). Obstacles to worker participation permeate the system. Azaroff, Levenstein, and Wegman (2002) and Alexander and Prasad (2014) diagram the complex series of steps expected of workers in a regulatory system that is based on accurate reporting of injuries and illness and on worker-initiated complaints and highlight the multiple levels at which legitimate problems may escape the system. Moreover, once an investigation is initiated, worker participation is critical to inspectors' ability to uncover unsafe processes or faulty equipment that may be out of operation at the time of inspection. In the event of an employer appeal, worker participation is critical to substantiate citations, confirm employer knowledge of a violation (for a willful violation) and verify the abatement of hazards. OSHA gives a "representative authorized by his [*sic*] employees" the right to participate alongside an employer representative and the OSHA compliance officer in walk-around inspections.⁴ That right, however,

is ambiguous in settings where workers lack union representation. A Federal Standard Interpretation letter issued in 2013 clarified that workers without a collective bargaining agreement are afforded a voice through their right to “authorize a person who is affiliated with a union or community organization to act as their representative under the OSH Act.” Exercise of this right, however, is at the discretion of the inspector.⁵

These challenges—incomplete data, widespread employer retaliation, frequent employer appeals, and the protracted appeals process—are further exacerbated by resource limitations facing many OSHA programs around the country and outdated standards that do not adequately address risks found in contemporary workplaces (McGarity and Shapiro 1993; Lobel 2005; McGarity et al. 2010; Lewchuk 2013). The resulting crisis in labor standards enforcement within the health and safety realm necessitates further defining worker representation in nonunion settings and creating and testing effective avenues for worker participation absent an authorized collective bargaining representative.

The Southern California Landscape

The challenges facing effective health and safety standards enforcement are especially acute in Southern California due to the size and demographics of the region and the constraints facing Cal/OSHA. The Los Angeles metropolitan area is home to 13.1 million residents and a civilian workforce of 6.6 million—about 60% of the workforce statewide (California Department of Finance 2013; U.S. Census Bureau 2014). The region features a large population of workers in low-wage, nonunion jobs, many of whom are immigrants and people of color. Approximately 17% of LA County workers are employed in the low-wage labor market in industries such as garment manufacturing, domestic service, restaurants and hotels, residential construction, building services, and transportation and warehousing. These workers are predominantly Latino (73.4%), and over half (56.4%) are foreign born and undocumented (Bernhardt et al. 2010). This workforce constitutes a large pool of working poor; about one in four workers in LA County live below twice the federal poverty level, and nearly 30% of full-time workers earned less than \$25,000 per year (Los Angeles Alliance for a New Economy [LAANE] 2009). About one in six workers in Los Angeles and Orange counties (16.5%) is currently represented by unions, with private-sector unionization rates at 9.5%. Union representation dips to 3.2% among hotel and other hospitality workers in the region, 6.5% in manufacturing, and 8.1% in wholesale and retail trade (Adler and Tilly 2014).

A recent study of workers in Los Angeles’ low-wage labor market found widespread violations of labor standards. Almost 30% of workers were paid less than minimum wage in the prior work week, and over three-quarters who worked more than 40 hours for a single employer in a week were not paid overtime. Nearly half of respondents who had made complaints of these violations or attempted to organize reported retaliation from their employer or supervisor as a result. And among workers who had experienced a serious work-related injury within the previous three years, 42% reported they were required to work despite their injury, 30% said their employer refused to help them with the injury, and nearly 13% were fired shortly after the injury. Only 4.3% of these respondents filed a workers’ compensation claim

(Bernhardt et al. 2010). Similar results have emerged for low-wage and immigrant workers across industries nationwide (Wallace, Guendelman, and Padilla-Frausto 2007; Zoeckler et al. 2014).

The effectiveness of Cal/OSHA inspections in lowering injury rates in California has been documented (Levine, Toffel, Johnson 2012).⁶ However, Cal/OSHA resources are severely constrained. While the actual number of compliance officers is disputed (Thompson 2014), the need for additional staff is not. Employers in California face few deterrents to violating standards given an inspector-to-worker ratio of 1:109,000 (Worksafe 2013) and an estimated 179 years needed to inspect each workplace.⁷ Few Cal/OSHA enforcement field inspectors speak a language other than English⁸ despite the linguistic diversity of the California workforce and the importance of communicating directly with workers during inspections.⁹

The constraints of Cal/OSHA enforcement are especially acute in Southern California. Research (Mendeloff and Seabury 2013) demonstrates a markedly lower number of complaint inspections per 1,000 establishments in Southern California counties compared to those in Northern California. A similar disparity in the rate of targeted inspections appeared after controlling for industry. The Labor Employment Task Force is the current iteration of an innovative multi-agency collaboration to confront noncompliance with a range of labor standards in the underground economy; targeting is based on a combination of data and input from stakeholders.¹⁰ The location of meetings in Northern California, however, precludes consistent participation of worker organizations from southern parts of the state. Given incomplete data to effectively target inspections, multiple obstacles to worker-initiated complaints, and a dearth of inspectors, the Southern California labor-community-university partnership has emerged to advocate for greater government responsiveness to workers in the region, especially those in the large nonunion low-wage labor market.

Southern California Partnership and Worker Engagement Model

The Southern California partnership has its roots in early collaborative efforts between labor unions, community-based organizations, and university partners. In the early 1980s, local labor representatives joined forces with the Los Angeles Committee for Occupational Safety and Health and the UCLA Labor Occupational Safety and Health Program (UCLA-LOSH) to confront emerging hazards related to technological changes in the workplace and the need for adequate ergonomic interventions, prevention of heat illness, and stronger chemical standards.¹¹ The partnership brought about some notable policy changes (Brown, Delp, and Schneider 1986), but activity diminished with the decline in union density and resources in the region (Milkman 2006).

The emergence of a vibrant workers' rights movement in Southern California in more recent years has opened opportunities for new forms of advocacy around worker health and safety. Los Angeles is home to a number of innovative organizing and advocacy campaigns among day laborers, domestic workers, and taxi drivers and in the janitorial, homecare, garment manufacturing, restaurant, carwash, and warehouse industries. Coalitions of labor, community, consumer, economic, and environmental

justice groups have supported worker mobilization for improved working conditions, immigration reform, greater participation in the political sphere, and union representation (Delp and Quan 2002; Garcia 2009; Milkman, Bloom, and Narro 2010; Pastor and Prichard 2012).

The Southern California health and safety partnership in its current configuration draws on the energy of these campaigns and on local occupational health expertise to advocate for worker empowerment and safe jobs. At its core have been UCLA-LOSH and a revived Southern California Coalition for Occupational Safety and Health (SoCalCOSH), which, despite fluctuations in funding levels, have together provided a consistent base for regional health and safety capacity building through education and leadership development, research and technical assistance, and advocacy. UCLA-LOSH supports capacity building among worker organizations by providing Health & Safety Specialist leadership courses and Train the Trainer programs, coordinating regional conferences and leading crosscutting regional initiatives such as Cal/OSHA's Heat Illness Prevention Campaign (Riley et al. 2012).¹² UCLA-LOSH also recruits and mentors students through the Occupational Health Internship Program (OHIP), whose placement with local worker organizations supports their campaigns (Delp et al. 2013). SoCalCOSH and UCLA-LOSH collaborate each year on Workers' Memorial Commemoration events, which bring together diverse groups from across the region.

Strategic collaboration with the LA County Federation of Labor and affiliated unions, worker centers, and community groups has inspired new health and safety campaigns in industries with high concentrations of immigrant workers and/or workers in low-wage jobs. Staff from international union health and safety departments and from Worksafe, a worker health and safety advocacy organization based in Northern California, have also provided technical and legal advice to support local union and worker center participation in the regulatory arena. Collaborative efforts have focused on training staff and workers, assisting workers and worker advocates to document and compile evidence of standards violations, recruiting and training student interns to assist, and mentoring and supporting workers willing to engage in the enforcement process.

The popular education and participatory action research approach employed by members of the Southern California partnership is based on philosophies of empowerment, or transformative, education that evolved in the context of unequal power relations in a range of settings (Delp et al. 2002). The integration of dialogue, body and hazard maps, small group skills building, research, and analysis activities with legal and technical information embodies education for *concientización* (collective consciousness), critical analysis, and action as its philosophical underpinnings. Figure 1 outlines this approach as it applies to building the foundation for worker engagement in the regulatory arena. Education enables workers to collectively recognize hazards and the impact on their health, understand their rights, and identify violations of health and safety standards, all essential elements of informed decision making about whether to use the Cal/OSHA process and critical to submitting a well-documented complaint. Worker leadership skills-building activities include outreach, education and interviews with peers, role-plays, and preparation for Cal/OSHA inspections.

Popular Education	Participatory Action Research	Phase of Government Regulatory Enforcement Process
Awareness Education: <ul style="list-style-type: none"> Create collective awareness or <i>concientización</i> Identify hazards Knowledge of workers' rights 	Collectively identify hazards & work-related injury/illness: <ul style="list-style-type: none"> Hazard maps Body maps 	Phase 1: Determine if Cal/OSHA complaint is a viable strategy: <ul style="list-style-type: none"> Assess whether hazards violate Cal/OSHA standards Identify workers willing to sign complaint Determine industry structure and Cal/OSHA authority to regulate
Leadership Development: <ul style="list-style-type: none"> Train the Trainer Peer education Worker Health & Safety Committees Intensive training and mentoring about Cal/OSHA process 	Document hazards/violations: <ul style="list-style-type: none"> Peer interviews: workers interviewing coworkers Review documents: OSHA Logs & Incident Forms; health & safety programs; worker exposure and medical records Research regulations and document possible violations 	Phase 2: Workers/advocates submit complaint: <ul style="list-style-type: none"> Workers and advocates document violations in complaint; designate workers who will talk with inspector Submit complaint in person to District Manager Follow up with Cal/OSHA office requesting timely inspection Phase 3: Prepare for & participate in inspection: <ul style="list-style-type: none"> Advocates coordinate offsite meetings between workers and inspectors to minimize retaliation Designated worker leaders demonstrate hazards in their work areas to inspector Workers and/or advocates obtain third-party status to participate in all stages of enforcement process
<ul style="list-style-type: none"> Educate workers about results of inspection: citations, appeals and abatement process Identify workers to testify if employer appeals 	Document abatement or lack thereof <ul style="list-style-type: none"> Checklist of hazards, citations, abatement 	Phase 4: Participate in appeals process <ul style="list-style-type: none"> Advocates/workers meet with Cal/OSHA enforcement and legal staff Workers review proposed abatement plan and evaluate its accuracy and effectiveness of proposed solutions Workers and advocates testify at appeals hearing; participate in any settlement discussions

Figure 1. Stages of Worker Engagement and Capacity-building Model.

Thus, the model of worker engagement promotes worker leadership and organizational capacity building while supporting a more effective enforcement process. Specifically, engaging workers in the process has taken the form of workers' and worker advocates' co-signing and filing Cal/OSHA complaints, meeting with inspectors offsite before and during the inspections process to minimize the risk of employer retaliation, supporting agency representatives at hearings when the employer appeals, and monitoring the abatement of hazards. Such engagement is all the more groundbreaking given the obstacles—workers' lack of union representation, frequent undocumented immigrant status, and limited legal protection. In these cases, worker advocacy organizations have played a crucial role in supporting workers who experience threats and retaliation from employers (Narro 2005).

SoCalCOSH has also facilitated dialogue between worker organizations, core partner collaborators, and Cal/OSHA representatives, initiated in 2011 with a change in the administration of Cal/OSHA and the Division of Labor Standards Enforcement (DLSE). Regular meetings were designed to enhance the effectiveness of the enforcement process in the context of a large immigrant workforce, diverse industry structures, and employer practices that discouraged reporting and threatened retaliation. These discussions, in turn, spawned nascent efforts to inform Cal/OSHA decisions about targeted inspections of high-hazard industries and to expedite the investigation of retaliation cases, which, in California, are the purview of DLSE.

Case Studies

The following five case studies describe achievements of the Southern California partnership to date. Drawing on interviews, participant observation, and review of complaints,

citations, and meeting notes, we describe the hazards in the hotel housekeeping, carwash, warehouse, waste recycling, and airline service industries; the efforts of Southern California partners to confront violations of health and safety standards in these industries; the role of workers and worker advocates in the complaint, citation, inspection, and appeals processes; and key outcomes of these efforts to date.¹³ As depicted in Figure 2, these campaigns reflect diverse and complex industry structures, ranging from small dispersed businesses to large corporate-owned facilities that serve as critical links in the global logistics industry supplying goods for the world's largest retailers.

Sector	Demographics of Workforce	Industry Structure	Campaign Approach	Campaign Health & Safety Outcomes
Hotel Housekeepers	Spanish-speaking Latino, some African-American workers; mostly female	Corporate chains with local franchises; some privately-owned & operated	UNITE HERE: The Pain Has a Name campaign <ul style="list-style-type: none"> Target airport hotels along Century City Blvd as community economic development strategy Nationwide emphasis on workload & resultant musculoskeletal disorders among hotel housekeepers 	<ul style="list-style-type: none"> First citation of RMI standard in hotel industry (LAX Hilton, 2007) Limitations of RMI and IIPP standards prompted UNITE HERE petition to Cal/OSHA for hotel housekeeping injury prevention standard (2012)
Carwash Workers	Spanish-speaking Latino workers; mostly men; majority immigrants without legal documents	Small independent businesses	CLEAN Carwash Campaign: <ul style="list-style-type: none"> Public awareness of wage theft and hazards of the industry Raise standards across the industry through carwash agreements, legislation, high profile Cal/OSHA complaints USW worker organizing campaign 	<ul style="list-style-type: none"> Citations/fines at multiple carwashes – concrete changes: personal protective equipment, training Collective bargaining agreements include health and safety rights and protection from retaliation
Warehouse Workers	Spanish-speaking Latino workers; men and women; many undocumented immigrants	Warehouse facilities within goods movement supply chain networks with multiple layers of contracting; temp work arrangements common	Warehouse Workers United: <ul style="list-style-type: none"> Hold upstream retailers and contractors accountable for contractor working conditions by naming multiple employers in wage and hour and H&S complaints Hearing on contingent work with CA State Fed and CA Assembly on Labor & Employment 	<ul style="list-style-type: none"> Dual employer citations holding warehouse operators and temp staffing agencies responsible Cal/OSHA citation for violation of outdoor heat illness prevention standard in warehouse setting Particular hazards of warehouse industry now acknowledged by Cal/OSHA
Waste/Recycling Workers	Spanish-speaking Latinos and some African Americans; both men and women; many undocumented immigrants	Multiple employer entities, including temp staffing agencies	LAANE: Don't Waste LA Campaign <ul style="list-style-type: none"> Reform LA City franchise system to rationalize trash collection, integrate environmental protection & workers' rights into bidding process 	<ul style="list-style-type: none"> Citations against 3 employer entities in the same waste hauling-recycling company DWLA supported L.A. City ordinance, passed Spring 2014; bid requirements and solicitation pending
Airport Mechanics and Airfield Workers	Diverse workforce	International airport facility; workers employed through large contractor companies	SEIU United Service Workers West: <ul style="list-style-type: none"> Complaints against airport contractors with track records of violations Worker organizing campaign 	<ul style="list-style-type: none"> Serious willful citations issued against major airport contractor Recent death and willful citation triggers CA Assembly Labor & Employment Committee oversight hearing

Figure 2. Profiles of Key Health and Safety Campaigns.

We demonstrate how the partnership's worker engagement model has provided avenues for workers and worker advocates to participate in the regulatory arena absent union representation. This form of tripartism extends a role in the enforcement process to workers who have otherwise been excluded—nonunion workers, immigrants, and those in low-wage job settings. The cases illustrate the value of worker involvement to (1) develop leadership and build capacity, (2) minimize the costs to workers of speaking out about health and safety concerns, and (3) maximize the support for Cal/OSHA in carrying out its enforcement activities in workplaces that are high hazard and/or hard to reach.

Following these case studies, we summarize the value of worker and worker advocate involvement in the regulatory process and consider the potential benefits and constraints of a tripartite model of health and safety standards enforcement in non-union work settings.

The Pain Has a Name: Repetitive Motion Injuries among Hotel Housekeepers

Hotel industry restructuring in the 1980s led to consolidation of ownership, a decline in union representation, and cost-cutting strategies such as “lean” staffing (Stuart 2010). Simultaneously, workload demands increased with upgraded luxury amenities. Heavier mattresses, thick down comforters stuffed between sheets, and multiple pillows substantially increased the strain experienced by housekeepers, who are expected to prepare between 16 and 30 rooms per shift. Occupational injury rates among hotel housekeepers, many of whom are immigrant women from Mexico and Central America, now exceed the national service sector average (Krause, Scherzer, and Rugulies 2005; Buchanan et al. 2010).

In response to hotel housekeeper complaints of workplace pain and injury, UNITE HERE developed its “The Pain Has a Name” initiative, a component of the national Hotel Workers Rising Campaign that began in 2005 (Roskam 2009). The initiative sought to collectively identify and document work-related neck, back, and other musculoskeletal pain among hotel housekeepers across multiple cities (Lee and Baker 2002). In Los Angeles, injured workers' names and photos were compiled into a colorful quilt by hotel housekeepers and featured in rallies to highlight the personal impact of the excessive workload. UCLA-LOSH, SoCalCOSH, and UNITE HERE conducted education sessions with hotel workers that included using body maps to collectively identify patterns of injury and reviewing OSHA-mandated Logs of Injuries and Illnesses and Incident Reporting Forms at hotels of concern.

In a common strategy to dampen worker reporting of injuries and illness, the LAX Hilton responded to reports of injuries with a new program described in a March 14, 2007, memo from hotel management to “The Families of All Our Team Members”:

*To emphasize our concern for safety, we are introducing a new injury prevention awards program. Every month you will have the chance to win money or prizes, if you are injury-free. **Some month the prizes will be items that are designed to be enjoyed in your home,***

or by your children. Most months the prizes will be money. Our intent is to encourage everyone to think about safety. ... Your potential rewards will be greatest in those months when no injuries occur. (Emphasis in original memo)

Partners created a factsheet to counter the pressure on workers at LAX Hilton not to report injuries, and after extensive review of medical records and worker interviews, two nonunion, immigrant women housekeepers submitted a Cal/OSHA complaint in person signed by them and by the SoCalCOSH coordinator who accompanied them to submit the complaint. While researchers and workers had documented back and other disabling musculoskeletal injuries (Lee and Krause 2002; Krause, Scherzer, and Rugulies 2005), applying Cal/OSHA's repetitive motion injury (RMI) prevention standard¹⁴ to this worksite was challenging due to the standard's restricted scope; that is, it does not require employers to comply with protective measures until two or more workers performing the same task sustain and report, within a one-year period, an RMI that is diagnosed as an RMI *and* as predominantly work related by a licensed physician. Workers' active participation in the process at every step of the way laid the groundwork for Cal/OSHA to successfully enforce the standard at LAX Hilton. Six months after the initial complaint was submitted, Cal/OSHA issued the first citation in the hotel industry for violations of its RMI standard. The support of community, university, and labor advocates provided opportunities to educate and mobilize workers about hazards, permitting them to access a regulatory system not easily navigated by workers.¹⁵

Significance: Using the Cal/OSHA enforcement mechanism in the context of a largely nonunion, female, immigrant workforce in an industry of importance in Southern California proved daunting and was possible only through the partnership that educated workers, supported worker complainants, and included SoCalCOSH as a third-party designee in the investigation. Housekeepers from LAX Hilton were engaged throughout the entire two-year-long process, reviewing injury data and medical records, filing the complaint, and meeting with Cal/OSHA representatives before, during, and after the inspection. They also obtained party status as "affected employees" when their employer appealed the citations, allowing them to be at the table with Cal/OSHA and their employer—to share their expertise, provide collective input gathered from their coworkers about changes needed to prevent future injuries, and express concerns about the accuracy and hazard-reduction potential of the employer's proposed abatement plan. Efforts continue by workers at the hotel to confront other labor standards violations. A \$2.5 million lawsuit victory in 2012 focused on wage theft, including missed meal and rest breaks, which contribute to the causation of strain injuries.

The outcomes of this case have implications in the broader occupational health and safety regulatory arena, as California is the only state in the country with a standard, albeit weak, to address pervasive and debilitating musculoskeletal disorders.¹⁶ The groundbreaking citation at LAX Hilton affirmed the employer's responsibility to protect hotel housekeepers under the RMI standard, a feat even in unionized workplaces and more so in this nonunion setting. It also laid the groundwork for future

housekeeper OSHA complaints that resulted in Cal/OSHA information memos issued to two Los Angeles-area Hyatt Hotels in 2011, identifying bed making and on-knees floor cleaning as RMI risk factors. Later, in 2012, Federal OSHA issued a letter to the Hyatt Corporation detailing strikingly specific ergonomic guidelines, building on and extending the Cal/OSHA housekeeper memos by adding laundry and banquet departments and broadening its application to all Hyatt Hotels based in part on emerging research (Buchanan et al. 2010; Ohio State University 2010). The letter also stipulated that worker representatives, such as UNITE HERE, must be invited to participate in Hyatt's request to form an OSHA-Hyatt Alliance. And it reminded the hotel corporation of its recordkeeping responsibilities for job-related injuries and illnesses at hotels where Hyatt directly supervises contracted or seasonal employees, an increasing trend in the hospitality industry.

The LAX Hilton case also highlighted the use of employer safety incentives that effectively discourage workers from reporting injuries, increasingly common across industries in union and nonunion settings alike. Federal OSHA ultimately responded to this and similar cases with a 2012 memo denouncing the practice on the grounds that such incentives put the entire workforce at risk.¹⁷ Most recently, the challenges applying the RMI standard in the LAX Hilton case and subsequent housekeeper complaints led UNITE HERE in 2012 to petition the California Occupational Safety and Health Board for a housekeeper injury prevention standard. The Cal/OSHA Hotel Housekeeping Advisory Committee released a working draft of proposed language for such a standard in early 2014¹⁸ and received comments from stakeholders. Members of a growing community-labor-university partnership await the next steps in this rule-making process, supporting housekeepers in their fight to prevent injuries at work.

Carwasheros and the CLEAN Carwash Campaign

In contrast to the national hotel chains described in the previous case study, the carwash industry comprises small single-owner establishments. In Los Angeles, approximately 500 carwashes employ an estimated 10,000 workers, predominantly male Latino immigrants, the majority of whom lack legal documents (Garea and Stern 2010). The work is fast paced, with workers frequently exposed to caustic chemicals, heat, heavy machinery, and poor sanitation. Violations of state wage and hour laws and other forms of worker exploitation have been well documented within the industry, and employers have threatened termination and deportation against workers who attempt to speak out. Headlines such as "Carwash supervisor wields machete, LA City attorney wields charges" (Cal/OSHA Reporter 2009), while not common, nonetheless reflect an atmosphere in the industry that is not conducive to individual workers stepping forward to report hazards to their employer or to a government agency.

In 2008, the Community-Labor-Environmental Action Network (CLEAN) emerged, supported by a coalition to advance the "CLEAN Carwash Agreement," designed to create an industry standard for wages, working conditions, and the right to organize. Simultaneously, the United Steelworkers Union supported worker organizing among *carwasheros*; worker education focused on rights, and collective action and

advocacy confronted wage theft. The campaign soon expanded to include the right to safe jobs through partnership with UCLA-LOSH and the Instituto de Educación Popular del Sur de California (IDEPSCA).

LOSH and IDEPSCA involvement brought a combination of technical expertise about chemical hazards and a popular-education approach to the campaign. Through hazard-mapping activities, workers collectively identified, mapped, and prioritized hazards that were affecting their health and formed a health and safety committee to strategize across worksites. A series of Train the Trainer and leadership development courses prepared committee members and other worker-leaders to educate their peers about their rights and to collaborate with OHIP interns to gather data about “mystery” chemicals causing skin rash and respiratory problems. In 2010, CLEAN staff and worker-leaders participated in a UCLA-LOSH Train the Trainer Heat Illness Prevention program to educate workers about their rights under Cal/OSHA’s standard (Riley et al. 2012). They adapted outreach and education tools for their peers, modified water bottles to include labels with information about prevention strategies and workers’ rights under the California standard, and produced an educational comic book and heat illness-related skit. The campaign reached about 1,000 workers, many of whom began to monitor their worksites with the assistance of interns to assess compliance with Cal/OSHA requirements to provide *agua, sombra, y descanso* (water, shade, and rest) and to document employer violations.

Early in the campaign, it was clear that many carwash owners were out of compliance with Cal/OSHA regulations. Three initial complaints submitted in 2008 against targeted owners alleged violations of basic health and safety standards that prevent exposure to chemical, electrical, and heat hazards and that require protective equipment and Injury and Illness Prevention Programs. Campaign leaders compiled data generated through hazard-mapping activities and research into chemical and safety hazards, integrating it into a series of detailed Cal/OSHA complaints. The complaints were signed by representatives from CLEAN and SoCalCOSH as well as workers (who requested that Cal/OSHA keep their names confidential) and were submitted in person by workers and advocates from partner organizations.

The resulting citations were in large part due to the persistence of CLEAN representatives who participated as third-party worker representatives throughout the process—from the initial stages of filing the complaint through the inspection and citation and a protracted series of appeals. With legal support from a Worksafe attorney, worker representatives negotiated settlement conditions that required employers to provide protective equipment and to contract with an outside party to ensure quality training about chemical hazards.

Significance: The CLEAN Carwash Campaign’s health and safety activities are embedded in a comprehensive approach to wage theft and health and safety labor standards violations in an industry characterized by vulnerable workers and small, dispersed businesses. The strategy combines grassroots efforts to engage worker-leaders in uncovering flagrant violations with participation in the enforcement to support high-profile citations that create a deterrent effect in the industry. The success of the campaign has been possible through the collective and sustained efforts of partners.

With support from UCLA-LOSH, SoCalCOSH, and Worksafe, the campaign has educated and mentored worker-leaders, providing them with the confidence and expertise to engage in all stages of the enforcement process. The information and guidance that workers and advocates provide to Cal/OSHA officials has been critical to effective enforcement.

Meanwhile, workers at more than 20 carwashes in Los Angeles, and now San Diego and Northern California, have voted for a voice in their working conditions through union representation with the United Steelworkers Union. They subsequently negotiated collectively bargained agreements that sustain and go beyond what was achieved through hazard-specific settlements negotiated as part of the Cal/OSHA appeals process. The agreements require employers to furnish protective equipment, establish and implement an Injury and Illness Prevention Program, provide training for all workers concerning workplace hazards and safe work practices, and abide by other federal and state laws respecting occupational health and safety. They also prohibit employers from retaliating against workers who speak up about hazards, participate on union health and safety committees, or refuse unsafe work assignments, a particularly important protection to address workers' reality in this industry.

Warehouse Worker Campaign: Disposable Workers along the Goods Movement Supply Chain

The counties of San Bernardino and Riverside in Southern California—known collectively as the “Inland Empire”—are home to the largest concentration of warehouse facilities in the world. These warehouses serve as a critical link in the global movement of goods; products from overseas manufacturers are imported through the massive Los Angeles/Long Beach ports complex and make their way to these facilities where they are stored, sorted, and repackaged for distribution to major retail chains around the country. The estimated 100,000 workers in these facilities are employed as forklift operators, packers, shipping and receiving clerks, stock clerks, and order fillers and are often hired through temporary staffing agencies. Estimates of temp worker employment in the industry range from 15 to 30% (DeLara 2013).

Work-related hazards in warehouse facilities include exposure to chemicals, diesel exhaust, and dust; fast-paced repetitive jobs such as scanning and packaging; falls and falling objects; dangerous machinery; extreme temperatures; and production pressures to move heavy pallets of goods quickly. In addition, temporary employment arrangements have resulted in unclear employer responsibilities regarding training, protective equipment, and other health and safety requirements, while temp workers themselves experience pressure not to report injuries in a context where many feel disposable (Warehouse Workers United and Cornelio 2011).

The warehouse worker health and safety campaign integrated popular education, peer-led research, and development of worker-leaders through a collaboration between Warehouse Workers United (WWU), Clergy & Laity United for Economic Justice, UCLA-LOSH, and Worksafe. UCLA-LOSH developed a worker health and safety education program in 2010, training 20 current and former worker-leaders in an

extensive 24-hour curriculum and guiding them with the development of a peer worker education and community outreach program. A key component of the program included assessing workplace hazards of concern; the 20-member worker team, WWU, and UCLA-LOSH staff developed a 52-question assessment tool to document hazards and work-related injuries and illness through interviews with over 100 current workers. A report of the results was subsequently distributed at a Community Accountability Commission meeting in 2011 and at a 2012 hearing about contingent work sponsored by the California State Assembly on Labor and Employment and the California State Federation of Labor.

Survey findings also laid the groundwork for a series of Cal/OSHA complaints. OHIP students placed with WWU and mentored by UCLA-LOSH compiled the worker team's survey results and researched Cal/OSHA regulations to determine if hazards violated existing standards. WWU identified warehouse workers with health and safety concerns and assisted them in developing the Cal/OSHA complaints. The first complaint submitted in 2011 named both the warehouse operator and temp staffing agency. Two key worker-leaders were fired; one was subsequently recalled to work after workers protested outside the facility, and the other was ultimately hired as an organizer for the campaign. The resulting groundbreaking citations, summing over \$250,000 in fines, held both employers jointly responsible for failing to protect workers from excessive indoor heat and other serious hazards. A complaint asserting violations of health and safety standards at another warehouse facility that shipped exclusively for Walmart was submitted by WWU in May 2012. The 16 worker signatories had participated in training and role-plays, spoken with the inspector offsite, and were prepared to point out hazards in their respective work areas during the investigation. Cal/OSHA issued citations later that year asserting joint employer responsibility for more than 60 violations with penalties exceeding \$60,000.¹⁹

Significance: A review of the citations against warehouse facilities in the Inland Empire demonstrates the value of worker involvement in identifying violations. Citations were issued for exposure to chemical, safety, heat, and unsafe machinery hazards and for lack of protective equipment—all issues identified through peer-led worker interviews. Citations were supported by worker engagement in documenting hazards, speaking with inspectors during walk-around investigations, and testifying during appeals hearings. This case also raised questions about the applicability of the Cal/OSHA Heat Illness Prevention standard, given its limited scope to cover only outdoor workers. Warehouse workers' testimony about strenuous work unloading containers in triple-digit temperatures and inside warehouses with no air conditioning provided the basis for citations of excessive heat exposure under both the heat standard and Cal/OSHA requirements that employers maintain an effective Injury Illness Prevention Program. The challenge of citing hazards for which specific standards do not exist emerged in this case; to date, all citations and penalties appealed by one or both of the dual employers have been settled with the exception of this citation.

The WWU made a decision to file each complaint against all conceivable employment entities, challenging the industry's strategy of shifting responsibility for workers to other employers. They provided crucial information to Cal/OSHA regarding the

employment structure of the warehouse industry and day-to-day supervision inside the workplace. This information enabled the agency to hold both warehouse operators and temporary staffing agencies jointly responsible for controlling hazards under Cal/OSHA's dual-employer policy and procedures.²⁰ The resulting citations, beginning in 2011, signaled to warehouse operators the agency's intolerance of employers who turn to temporary staffing agencies as a means to avoid health and safety liability. A recent citation likewise signaled the agency's expectation that employers will abate hazards.²¹ Based on worker reports, Cal/OSHA issued a failure to abate notification with a penalty of more than \$300,000 in response to a WWU complaint alleging a lack of foot protection, a violation that had been previously cited by the agency. This series of complaints and ongoing communication between WWU and Cal/OSHA has resulted in the agency's recognizing the high-hazard nature of the warehouse industry and in attention to the undue risks facing temp workers hired through this employment structure.

Somos Humanos, No Somos Basura: Waste Hauling/Recycling Workers

The City of Los Angeles generates in excess of 10 million tons of trash per year, a large proportion of which makes its way to waste-recycling facilities throughout the region. Workers at these facilities sort recyclable items from nonrecyclable waste, ultimately contributing to municipal efforts to reduce the amount of waste that ends up in landfills and incinerators. Much of the work in these facilities is conducted by hand, with workers' laboring at long conveyor belts. The potential for hazardous materials to make their way along these conveyor belts combined with improper machine maintenance and inadequate personal protective equipment has raised concerns about the health and safety of workers at these facilities, many of whom are Latino immigrants.

In 2010, LAANE convened a broad-based labor-community-environment coalition to support a "Don't Waste LA" (DWLA) campaign with a multipronged approach that includes outreach, education, organizing, and policy change. The campaign sought to increase the proportion of Los Angeles waste diverted to recycling facilities while simultaneously improving conditions for workers in those facilities. In 2011, LAANE reached out to UCLA-LOSH, SoCalCOSH, and the LA County Federation of Labor to research workplace hazards and educate waste-recycling workers. OHIP student interns supervised by UCLA-LOSH interviewed sorters and drivers at waste recycling facilities throughout the region, and representatives from the three partner organizations educated workers to map hazards at their worksites and to practice, through role-plays, talking to a Cal/OSHA inspector.

Building on these research and education efforts, workers decided to contact Cal/OSHA. SoCalCOSH ultimately submitted a complaint to the agency cosigned by eight current and former workers from a waste collection and sorting facility. Representatives from the cosigners submitted the complaint in person to the Cal/OSHA district manager, and SoCalCOSH convened offsite meetings between workers and inspectors with the support of health and safety staff at the LA County Federation of Labor. In 2012, Cal/OSHA issued citations to three employers—the waste hauler, recycling

facility operator, and temp staffing agency—for violating standards to protect workers from unguarded machines, unsanitary conditions, confined space and heat hazards, and health and safety program requirements.

During the campaign, a key worker-leader and signatory to the complaint was fired on trumped-up charges, and two of the three employers appealed the citations. SoCalCOSH representatives obtained third-party status and included the fired worker in the appeals process and settlement hearings. This proved critical as she was able to educate the Cal/OSHA attorney about the hazards facing sorters in the recycling facility, rebut employer assertions that workers had been “prepped” to invent hazards to convey to the inspector, and by maintaining contact with current workers, refute inaccurate employer testimony that hazards had been abated. Ultimately the case was settled with some, but not all, improvements in workplace conditions. Now hired as a Teamsters organizer, the former worker brings firsthand experience with the Cal/OSHA enforcement process to her job. After two years, she won her National Labor Relations Board retaliation case and became eligible for work authorization through her successful application for consideration under Deferred Action for Childhood Arrivals.²² The case she filed with DLSE, the state agency responsible for investigating cases of worker retaliation, is still pending.

Significance: As with warehouses, the waste recycling industry is another example of enforcement challenges in multiemployer settings as Cal/OSHA was forced to determine which employer entity controlled workplace conditions for which workers and then respond to appeals from two of the employers. Citations were ultimately issued against all three employer entities for specific violations, again demonstrating the agency’s intent to hold multiple employers responsible for worker health and safety.

This case illustrates the very real threat of employer retaliation, the vulnerability of workers without legal documents, and the constraints and protracted legal process of a system theoretically designed to assist workers who have experienced retaliation. However, as with the other cases, it also demonstrates the remarkable courage and tenacity of workers and the value of cross-campaign support and knowledge-sharing that the Southern California partnership has been able to foster. During a popular education session with waste-recycling workers who were preparing their Cal/OSHA complaint, role-play activities about the Cal/OSHA process generated consternation about talking to government agency representatives, especially among sorters who were immigrants. A CLEAN campaign advocate and a carwash worker who participated in the training described their earlier experiences with Cal/OSHA, allaying some of the fears in the room while preparing workers for the realities of the process. CLEAN and other campaign representatives were similarly present at meetings where employer retaliation was addressed with representatives from Cal/OSHA and DLSE, urging greater interagency collaboration and DLSE responsiveness in the event of retaliation.

At a regional policy level, the DWLA coalition achieved recent success as the Los Angeles City Council passed an ordinance supported by DWLA to revamp the waste-hauling franchise system to ensure that haulers exercise greater responsibility over

working conditions along the waste stream, requiring successful bidders to develop effective health and safety programs to identify and correct the hazards in waste-processing facilities. This policy initiative will sustain and extend workers' rights and protections across this key industry.

Airline Service Workers at Los Angeles International Airport (LAX)

Mechanics, ramp operators, cargo handlers, and other "below-the-wing" airline service workers at LAX endure dangerous working conditions related to fast-moving tugs and conveyor belts, high noise levels, and exposure to diesel exhaust and jet fumes. They also work in outdoor heat and other adverse environmental conditions. While workers in these job classifications were once employed directly by airlines and protected under union contracts, industry restructuring in the 1980s and 1990s resulted in most such jobs' being contracted out to private nonunion firms. Today, most below-the-wing workers at LAX are Latino immigrants and African Americans employed by large contracting firms at a fraction of the wages offered three decades ago.

In 2012, the Service Employees International Union (SEIU) United Service Workers West (USWW) launched a campaign to improve conditions for airline service workers, connecting the campaign to larger questions about the appropriate management of the city-operated Los Angeles World Airports (which oversees operations at LAX and other airports in the region) and its vision for a modern international airport for the twenty-first century. Of particular concern was the failure of LAX to monitor safety conditions at its terminals and its reluctance to penalize contractor companies for failure to comply with health and safety regulations.

UCLA-LOSH recruited OHIP students who were placed with SEIU-USWW to research hazards and Cal/OSHA standards that might apply to this work setting and develop a survey in English and Spanish for workers to document violations. The union trained worker-leaders to administer the survey over subsequent months and gathered sufficient evidence to submit a Cal/OSHA complaint against Menzies Aviation, one of the largest aviation contractors with a significant presence at airports throughout the West Coast. SoCalCOSH and the LA County Federation of Labor assisted union representatives in their role as third-party participants on the complaint and during the inspection process. In 2013, Cal/OSHA issued citations and fines totaling \$94,550 against Menzies Aviation for numerous violations including one cited as willful; that is, the contractor was aware of the hazard and failed to comply with the standard.

Significance: Worker engagement in documenting hazards at terminal worksites and worker advocate involvement in the complaints and inspection process were influential in providing sufficient evidence to Cal/OSHA to substantiate their determination of a willful violation. The LA County Federation of Labor, Worksafe, and UCLA-LOSH continued to support SEIU-USWW efforts to educate workers and engage them in the subsequent appeals process. The death of a cargo handler at LAX in February 2014 who was employed by Menzies further spurred the union to expand its campaign around health and safety for this vulnerable workforce. Partners highlighted the fatality

during annual Workers' Memorial Day events, with the worker's family members participating in a press conference in front of Los Angeles City Hall. In August 2014, Cal/OSHA cited Menzies an additional \$77,250 for five safety violations, four of which were designated as serious.²³

Discussion

As the preceding cases illustrate, strategic partnerships in Southern California have employed a worker engagement model that builds the capacity of workers and advocates to engage in the health and safety regulatory arena. This approach has laid the foundation for a fledgling form of tripartism, opening avenues for workers in non-union low-wage jobs to participate in the Cal/OSHA complaint, inspection, and appeals processes and encouraging information sharing between worker advocates and government agency representatives in the region. In this section, we discuss the potential for this worker engagement model to overcome challenges that constrain effective enforcement of health and safety standards (Fine and Gordon 2010).

Identifying hazardous workplaces: Worker engagement can play a role in directing agencies' attention to specific high-hazard workplaces and to industries where problems have not heretofore been identified. A reliance on complaint-driven inspections misses worksites where workers are unable or unwilling to speak out, and use of injury and illness data to target inspections underestimates the extent of problems due to underreporting by both workers and employers (Azaroff, Levenstein, and Wegman 2002; Leigh 2011; Fine 2013; Alexander and Prasad 2014). By engaging workers through outreach, education, and participatory research, worker advocates can serve as "eyes and ears" on the ground and help agencies identify noncompliant employers. This contribution of workers and worker advocates is evident in each of the cases above but especially important in the hotel housekeepers' campaign, where worker involvement helped document risk factors for musculoskeletal disorders at a hotel facility where employer safety incentive programs discouraged the reporting of injuries.

Outreach and education in the field: The worker engagement model can also assist agencies in extending education and other resources to workers. The decreasing number of OSHA inspectors in many states around the country has hindered agencies' ability to inform workers about their rights or carry out enforcement activities. In California, chronic understaffing has meant Cal/OSHA is not able to meet federal benchmarks for responding to worker complaints, closing inspections, or investigating nonfatal accidents in a timely manner.²⁴ Nor is the agency able to conduct enough targeted inspections to respond to the needs of the large low-wage, nonunion, and immigrant workforce. Worker advocates play a role in reaching affected workers, as with the carwash and warehouse worker campaigns where workers are dispersed in establishments throughout a large geographic region. Dialogue between advocates and agency staff can also help agencies allocate limited resources efficiently.

Evidence to support the enforcement process: Workplace hazards may be difficult to cite if inspectors do not witness the hazardous condition firsthand, due to either a

lack of familiarity with a particular work process, the fleeting nature of the hazard, or employers' ability to cover them up prior to walk-around inspections. Designated workers or union representatives are authorized to accompany inspectors in worksites with collective bargaining agreements; where none exist, Cal/OSHA policies and procedures require inspectors to talk directly with a representative number of workers throughout the workplace. But obstacles abound in low-wage nonunion settings—language barriers between inspectors and workers, fear of government agency representatives, and/or workers' fear of employer retaliation may constrain communication. Workers and advocates addressed these challenges in a number of ways—preparing and submitting well-documented complaints to better guide the agency in its inspection activities, arranging offsite meetings between inspectors and workers in a neutral setting, and directing inspectors to areas of noncompliance in the workplace. In the case of the warehouse industry, worker-leaders prepared to talk with a Cal/OSHA inspector despite the risks, and when the inspector arrived in their departments, they joined him in limited walk-around inspections of their respective work areas to point out the hazards. In these ways, and remaining cognizant of the considerable barriers, worker engagement can support inspectors in gathering evidence to corroborate written complaints and facilitate enforcement even in cases where a walk-around worker representative has not been authorized by workers or has been disallowed by a given inspector.

Ensuring workplace changes on the ground: Following inspections and citations, workers and advocates can play a role in ensuring abatement of hazards and subsequent employer compliance. Protracted appeals processes, limited agency follow-up of cited worksites, and reductions or eliminations of fines frequently undermine improvements to workplace conditions that regulatory programs and enforcement activities are intended to bring about. Workers' ability to monitor worksites in these later stages of the enforcement process helps ensure inspections and citations have teeth. In each of the above cases, workers and/or worker advocates obtained third-party status, supporting the appeals process and ensuring that real workplace changes led to safer jobs. Hotel housekeepers and warehouse workers monitored employer compliance with requirements to abate hazards and, in the latter case, submitted a follow-up complaint asserting that employers had not provided protective footwear, a violation for which they had been previously cited. In the case of the carwash industry, the CLEAN campaign not only participated in appeals hearings of specific employers who received citations but also helped raise the profile of heat illness at carwashes with the goal of setting an industry standard that would reach small businesses county-wide to ensure compliance.

Challenging fragmented industry structures: The rise of temporary work, contracting and subcontracting arrangements, and other forms of labor market restructuring have blurred the traditional employer-employee relationship and often distance the controlling employer from responsibility for unsafe and exploitative conditions of their contractors, clients, and plants bearing their name. This is increasingly common in several industry sectors described here: warehouse, hotels, and waste recycling. Workers and advocates can support agency understanding of how specific industries

are organized and provide guidance on employer entities that may be deemed liable for hazardous conditions. In the case of the warehouse industry, WWU helped Cal/OSHA representatives understand the role of temp agencies in supplying labor to large warehouse facilities and in on-site operations—information that led to a groundbreaking Cal/OSHA citation in which both the warehouse operator and the temporary staffing agency were cited. The campaign also seeks to identify warehouses that ship exclusively for large retailers like Walmart, with the goal of exploring the potential for broader sector-based enforcement strategies at multiple points along the supply chain (Weil 2009).

Extending health and safety standards beyond individual worksites: The experiences in Southern California suggest that engaging workers and worker advocates in the regulatory arena builds their capacity to influence workplace health and safety conditions industry-wide through a variety of policy initiatives. Worker advocacy groups have responded to the limitations of the current regulatory framework by petitioning regulatory agencies for new standards and by supporting legislation. Based on experience with the narrow scope of the Cal/OSHA RMI prevention standard at LAX Hilton, UNITE HERE submitted a petition to Cal/OSHA for a hotel housekeeper injury prevention standard; it is currently making its way through the standard-setting process. LAANE, through the Don't Waste LA coalition, initiated the successful passage of an ordinance by the Los Angeles City Council that will reform the waste hauling–recycling franchise system with requirements to integrate basic environmental and workers' rights provisions into the bidding process. And worker advocates have participated in Cal/OSHA Standards Board hearings to strengthen worker protection afforded by Cal/OSHA's heat illness prevention standard across a range of industries.

Two critical obstacles constrain worker participation in the enforcement process and dampen the effectiveness of the process to protect workers. The protracted appeals process, during which employers are not required to abate hazards, permits continued worker exposure and fosters demoralization among workers and advocates invested in the cases. Proposed legislation will expedite abatement of serious hazards and require assurances that hazards are abated prior to reduction in Cal/OSHA penalties. Widespread employer retaliation, particularly in temporary jobs and other precarious work settings, similarly dampens worker participation in the process. Recycling and warehouse workers have been fired for participation in the campaigns described above. In the former case, the National Labor Relations Board case was decided in the worker's favor—although well over one year later. In the latter, direct collective action led the warehouse operator to rehire one worker while the other joined the campaign as an organizer. Southern California partners initiated cross-agency dialogue about the issue between Cal/OSHA and DLSE in 2012 and are collaborating with Worksafe on policy initiatives to address retaliation.

Finally, and beyond the regulatory arena, carwash workers from more than 20 carwashes who are newly represented by the United Steelworkers Union are now covered by contracts that enforce worker protection and provide alternative strategies for worker engagement in the struggle for safe jobs.

Conclusion

We argue that activities of a labor-community-university partnership in Southern California build the foundation for a promising form of tripartism that supports the engagement of workers in the health and safety arena absent union representation. Regional collaboration between UCLA-LOSH, SoCalCOSH, Worksafe, the LA County Federation of Labor, local unions, and worker centers has supported the development of worker-leaders through popular education and participatory action research and has provided technical assistance with hazard identification and the Cal/OSHA complaint and appeals process to build the capacity of worker organizations to confront violations of health and safety standards in targeted industries. The SoCal partnership has also facilitated dialogue with government agency representatives, participation in the policy arena, and collective action. The efforts in local industries such as hotel, carwash, warehouse, waste recycling, and airport services have resulted in groundbreaking Cal/OSHA citations, nascent collaborations with agency officials to target enforcement of health and safety standards, and closer working relationships between advocates and government agencies.

Results of these on-the-ground efforts support the assertion by Fine and Gordon (2010) that a tripartite approach can extend workers a voice in the regulatory arena while helping to overcome limitations in the existing system of labor standards enforcement. This is particularly true in the realm of health and safety, where limited resources hinder agencies' ability to identify workplace violations, and many standards remain inadequate to protect workers from the true hazards they are likely to face in the modern workplace. Worker advocate involvement is likewise critical to minimize the costs to vulnerable workers of engaging in a regulatory enforcement process that is not responsive to anonymous complaints and affords limited protection from reprisal, especially problematic when workers lack union representation and legal documents.

We also concur with the assessment that, for such an approach to work, the role of worker representatives in any regulatory process must be formalized, sustained, vigorous, and resourced (Fine 2013). A step towards formalizing worker advocates' role is the protocol established between the California Rural Legal Assistance Foundation and Cal/OSHA in 2004 that allows Cal/OSHA to consider evidence gathered by the California Rural Legal Assistance Foundation in assessing whether agricultural contractors are in violation of health and safety standards (Cal/OSHA 2004). Given the transitory nature of farm worker employment, this agreement facilitates inspectors' ability to identify violations when they are unable to personally observe them. More recently, a 2013 Federal OSHA Standard Interpretation letter confirmed the right of workers without a collective bargaining agreement to "authorize a person who is affiliated with a union or a community organization to act as their representative under the OSH Act."²⁵ This memo affords avenues for nonunion workers to have a voice in the process, although the provision authorizing inspectors to allow those representatives on a walk-around inspection continues to be hotly contested.

While we propose that worker advocate participation in a tripartite approach to enforcement is a *necessary* condition, it is not *sufficient* to ensure adequate enforcement of health and safety and other labor standards for nonunion workers in low-wage

labor sectors. Worker engagement in the enforcement process alone is unlikely to address the larger problems of regulatory agencies suffering from inadequate staffing and other resources. Furthermore, the deterrence effect on noncompliant employers is limited when penalties are low and/or easily overturned through appeals and when employers create mechanisms to avoid responsibility for workers. And in the absence of federal immigration reform, undocumented workers continue to face vulnerabilities that serve as serious barriers to their willingness to speak out. Without changes in power relations in the workplace and beyond, workers remain at risk for retaliation when they file complaints, and systemic change needed to confront changing employment structures is unlikely.

Ultimately, the question remains—where do regulatory enforcement strategies fit within efforts to organize workers to improve conditions for low-wage workers and those in precarious employment situations? Worker organizations typically rely on a range of strategies, including direct action, unionization and collective bargaining, and coalition building with allies to achieve power for policy changes. As broad labor market restructuring continues to affect the health, safety, and well-being of workers (Frumkin 1998; Quinlan, Mayhew, and Boyle 2001; Schenker 2010), participation and engagement in the regulatory arena represents but one means to ensure workers have a strong voice to transform conditions both within the workplace and in the policy arena.

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Notes

1. U.S. Occupational Safety and Health Act, Title 29, U.S. Code Chapter 15.
2. The majority of Occupational Safety and Health Administration (OSHA) standards were adopted during a period of relative strength of the manufacturing sector and a unionized workforce with avenues for worker participation codified in statute and collective bargaining agreements (Weinstock and Failey 2014). The regulatory framework presumes a stable relationship between employers and employees in which each maintains legal rights and responsibilities.
3. Cal/OSHA also responds to reports of an industrial accident (<http://www.dir.ca.gov/dosh/Enforcementpage.htm>, accessed 4/29/14).
4. <http://www.gpo.gov/fdsys/pkg/CFR-2009-title29-vol5/pdf/CFR-2009-title29-vol5-part1903.pdf> (accessed 9/2/14).
5. Standard Interpretation Letter regarding nonunion worker authorization of worker representative under the Occupational Safety and Health Act, February 21, 2013, https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=INTERPRETATIONS&p_id=28604 (accessed 4/29/14).
6. Levine, Toffel, and Johnson (2012) demonstrated the effectiveness of Cal/OSHA inspections conducted randomly from 1996 to 2006 in firms with high injury rates. Annual injury rates decreased by 9.4% for five subsequent years; medical costs and lost earnings declined as well. While promising, this approach was not sustained and captured only single-establishment firms in high-hazard industries with at least ten employees.
7. <http://www.aflcio.org/content/download/124741/3437791/Profile+Worker+Safety+and+Health+in+US.pdf>. From OSHA records for fiscal year 2014. Includes only safety and industrial hygiene Compliance Safety and Health Officers who conduct workplace inspections and excludes supervisory Compliance Safety and Health Officers.
8. Unpublished survey results, UCLA Labor Occupational Safety and Health Program (UCLA-LOSH) files (2010).
9. Cal/OSHA Policies and Procedures: "Where there is no authorized employee bargaining unit representative at the inspected worksite, compliance personnel shall consult with a representative number of the employer's employees concerning matters of workplace safety and health." <https://www.dir.ca.gov/DOSH/Pol/P&PC-1A.HTM> (accessed 4/29/14).
10. Labor Employment Task Force: <http://www.dir.ca.gov/letf/letf.html>. Multiagency enforcement activity of the Economic & Employment Enforcement Coalition (predecessor of the Labor Employment Task Force) between 2005 and 2011 targeted agriculture, carwash, construction, and other industries employing workers in low-wage jobs and found violations of health and safety as well as wage and hour standards. Employers were cited for serious, willful, or repeat violations that threatened workers' safety. <http://www.dir.ca.gov/letf/Reports/EEECReportJanuary2012.pdf> (accessed 4/29/14).
11. The Los Angeles Committee on Occupational Safety and Health in the 1980s was part of a loose national network of Coalition for Occupational Safety and Health (COSH) groups

- that sprang up to mobilize for workers' "Right to Know" about workplace chemical hazards (Berman 1978). The national COSH network now has a more formalized structure (<http://www.coshnetwork.org/>) and supports the capacity of local COSH groups with funding from the OSHA Harwood Training Grant program.
12. UCLA-LOSH is affiliated with the UCLA Center for Occupational and Environmental Health and the Institute for Research and Labor Employment. Early financial support for UCLA-LOSH came from the New Directions program initiated by Eula Bingham, Assistant Secretary of Labor for OSHA under the Carter administration. UCLA-LOSH plays a lead role in convening health and safety conferences to bring together labor, worker centers, community and health organizations, and government agency representatives to create collective agendas to advance safe working conditions: 2011 Latino Worker Health & Safety Forum with the Mexican Consulate and 2011 Safer and Stronger Conference with the LA County Federation of Labor, 2012 Action Summit on Worker Health & Safety with Secretary of Labor Hilda Solis, Safe Jobs Save Lives Conferences in 2013 and 2014, and dialogues with new Cal/OSHA leaders in 2011 and 2013. UCLA-LOSH plays an important role in bridging university and labor-community education and research initiatives. Programs are supported by contracts and grants that fluctuate over time; sources are primarily a combination of federal (OSHA Harwood Training Program and National Institute of Environmental Health Sciences' Worker Training Program), state (Commission on Health and Safety and Workers' Compensation and California Department of Public Health Occupational Health Branch), and foundation (The California Wellness Foundation and The California Endowment) funds. Annual Workers' Memorial Commemoration activities are sponsored by core partners UCLA-LOSH and Southern California Coalition for Occupational Safety and Health with labor and community groups. See details in UCLA-LOSH newsletters: <http://losh.ucla.edu/losh/resources-publications/LOSHNewsletters.htm>.
 13. Note that the case studies included here represent only those workers and places of employment where Cal/OSHA has undisputed jurisdiction, that is, where a clear employer-employee relationship exists. Exclusion of other campaigns is not meant to minimize the importance of worker advocates in those organizations to improve health and safety conditions for workers such as day laborers, nail salon workers, and household and home care workers in less formal employment relations.
 14. CCR Title 8 §5110.
 15. Presentation, Flynn and Vossen, National Council for Occupational Safety and Health meeting, November 2007.
 16. A short-lived federal OSHA standard adopted in 2000 was replaced with voluntary guidelines in 2002 by the Bush administration, and implementation of a Washington State standard was stymied by political opposition. See Delp et al. (2014) and Silverstein (2007).
 17. OSHA Employer Safety Incentive and Disincentive Policies and Practices memo, March 12, 2012, <https://www.osha.gov/as/opa/whistleblowermemo.html>.
 18. http://www.dir.ca.gov/dosh/doshreg/Hotel_Housekeeping.html (accessed 9/4/14).
 19. <http://www.dir.ca.gov/DIRNews/2012/IR2012-03.html>.
 20. <http://www.dir.ca.gov/DOSHPol/P&PC-1D.HTM>.
 21. <http://www.dir.ca.gov/DIRNews/2014/2014-64.pdf> (accessed 9/5/14). (Note: The document includes a typo; the press release was issued in 2014.).
 22. On June 15, 2012, the U.S. Secretary of Homeland Security announced that certain people who came to the United States as children and meet several guidelines may request consideration of deferred action for a period of two years, subject to renewal. They are also

- eligible for work authorization. Deferred Action for Childhood Arrivals is a use of prosecutorial discretion to defer removal action against an individual for a certain period of time. Deferred action does not provide lawful status. <http://www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-daca> (accessed 9/3/14).
23. <https://www.dir.ca.gov/DIRNews/2014/2014-74.pdf> (accessed 9/5/14). See also <http://www.latimes.com/local/lanow/la-me-ln-baggage-handler-death-20140820-story.html> (accessed 9/5/14).
 24. *FY 2012 Abridged Federal Annual Monitoring and Evaluation (FAME) Report, Cal/OSHA. Evaluation Period: October 1, 2011–September 30, 2012.* Prepared by the U.S. Department of Labor, OSHA Region IX, https://www.osha.gov/dcsp/osp/efame/2012/ca_report.pdf (accessed 4/29/14).
 25. Standard Interpretation Letter regarding nonunion worker authorization of worker representative under the Occupational Safety and Health Act, February 21, 2013, https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=INTERPRETATIONS&p_id=28604 (accessed 4/29/14).

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