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# **Occupational Safety & Health Interventions in Domestic Worker Industry**

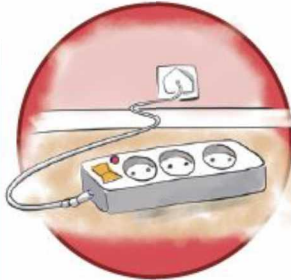
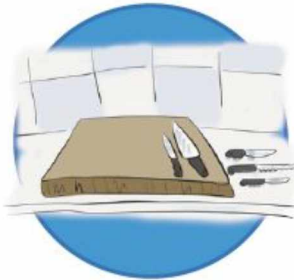
**National Domestic Workers Alliance**

**Presentation by Reena Arora,  
Senior Policy Attorney**





We need to fight against common sense. Common sense tells us that our home is safe, that cleaning and caring for others is part of daily life and that there is thus no risk or hazards involved in doing it



Private homes and domestic work expose workers to common work-related hazards such as physical and chemical hazards, ergonomics and psychosocial risks.



# Interventions in Health & Safety

- Desired policy outcome: reduce work related deaths, injuries and disease
- Method: Intervene in workplace to provide employers and workers **resources, incentives and penalties** with the aim of changing their behaviour.
- Example Strategies:
  - establishing regulations and/or guidelines,
  - providing guidance materials,
  - conducting inspections,
  - imposing penalties for non-compliance and
  - running industry campaigns





# Overarching Limitations in Current Frameworks

The Domestic Work industry shares similarities with other small businesses that are deemed “low-risk” rarely targeted for widespread inspection by OSH agencies including CalOSHA.

## Limited Resources

E.g. the ILO standard for industrialized democracies is 1 inspector for every 10,000 workers. Cal/OSHA only employs one inspector for every 102,000 workers.

## Minimal Guidance for “General Industry”

Specific guidance focused on only on construction, heavy machinery and highly hazardous materials.

## Limited Protections for Workers

Anti-retaliation, whistleblower protections are limited and no private right of action

## Weak Civil and Criminal Penalties

Do not serve sufficiently as a deterrent to non-compliance

# Effective Employer Interventions

**Understanding  
what is needed  
to Comply**

**Concern  
for  
Reputation**

**How the  
authority of the  
law is  
perceived**

# Regulations & Education

- Research demonstrates that in order for employers to comply with new regulations regarding health & safety there must be:
  - **Awareness:** employers need to be aware of a regulation for it to influence their behaviour
  - **Understanding:** to change their behaviour in response to the introduction of a regulation businesses need to understand what they need to do to comply
  - **Perceived relevance** of the regulation.
  - **Concern for reputation:** employers of domestic workers generally want to be law-abiding and are concerned not to be seen as “lawbreakers”



# Guidance Material & Education Campaigns

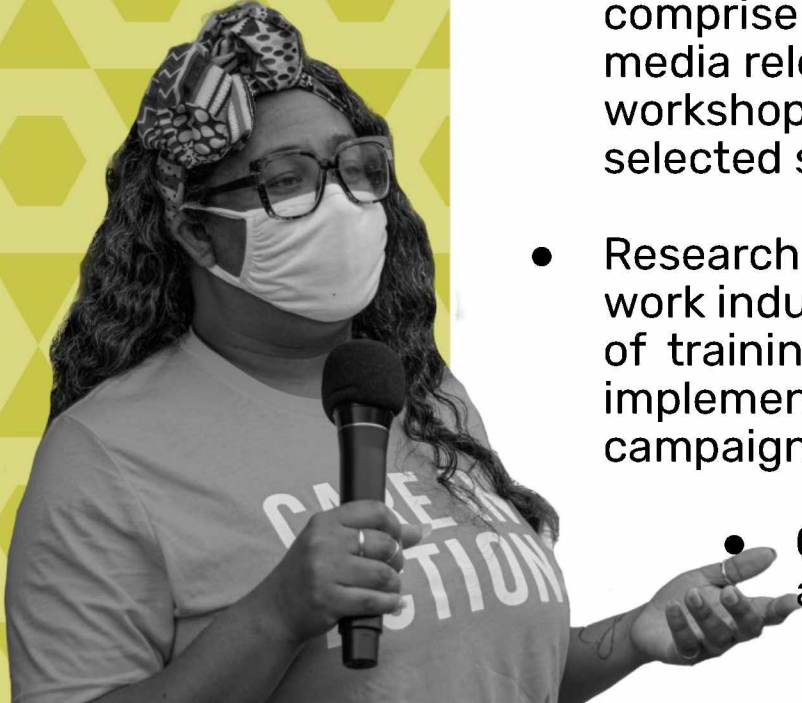


- Research shows that small and medium size employers have difficulty applying general information to their specific circumstances and strongly prefer specific information about what they should do.
- They are also less likely to be aware that guidance material exists possibly because they are less likely to actively seek information about work health and safety.
- Campaigns provide information to enable improved compliance and increasing the perceived likelihood of enforcement. Social marketing involves the application of marketing principles to the promotion of social objectives such as health and wellbeing. It involves the use of persuasion as an alternative to information provision or enforcement.



# Guidance & Campaigns in Domestic Work

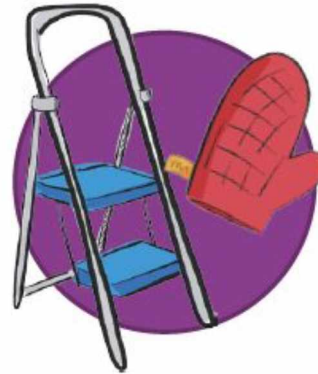
- Work health and safety industry campaigns typically comprise a planned set of activities including inspections, media releases, distribution of guidance materials and workshops or trainings that aim to influence outcomes for a selected safety issue.
- Research reinforces need for specific guidance for domestic work industry and how it needs to be paired with availability of training that gives employers and workers the skills to implement guidance as well outreach and education campaigns to disseminate guidance.
- Campaigns are more likely to be effective if they use a combination of enforcement and education.



# Guidance for Domestic Work Industry



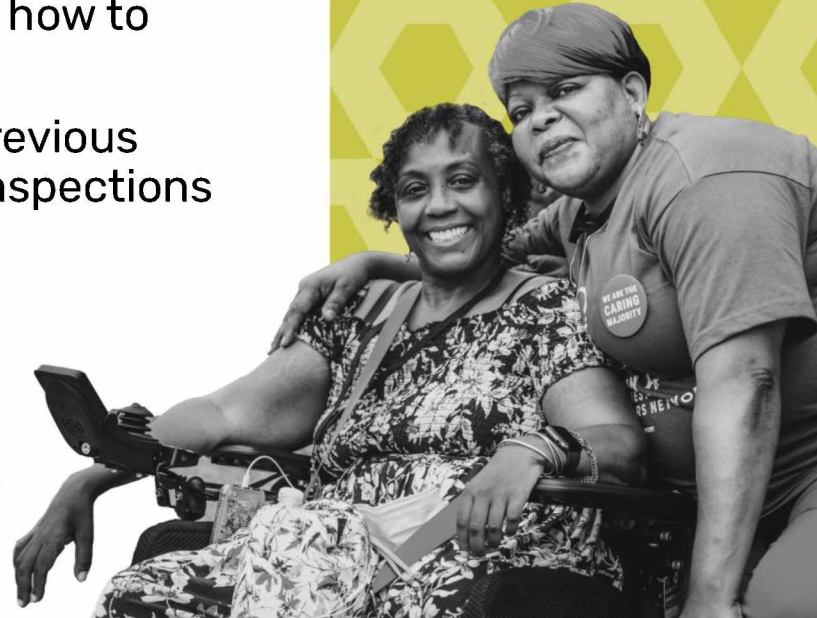
- (1) Risk Elimination**
- (2) Risk Reduction**
- (3) Personal Protection**



**Employer  
checklists,  
easy tools, and  
materials**

# Inspection

- Inspections aim to *persuade* or *compel* employers to comply with regulations.
  - They may include both educational and enforcement elements.
  - Incentive to change behaviour by imposing penalties but they may also provide resources that enable employers to improve their understanding of how to comply.
- For small businesses and those with little or no previous experience of inspections, research shows that inspections reduce incidence of serious injury by drawing the employers' attention to safety overall.
- The primary mechanism resulting in change is, knowing what to do to comply with regulations.
  - Contact with the inspector as the key person providing them with specifics about how to manage hazards and apply controls



# Examining In-Home Inspection

- In-home inspection is part of many other regulatory bodies whether its compliance with building codes, tax assessments, etc.
- The home is not wholly exempt from regulation but instead must include procedural due process elements to protect the right to privacy.
- Does not negate home as workplace.
- Challenges with inspections because in the industry there is not a clear singular registry
- Photos or discussions outside of the home can achieve the same goal depending on the hazard
- Employers of domestic workers can be given opportunities and the guidance to mitigate hazards and application of penalties would only be seen in escalation for willful non-compliance.





# “Enforceable Undertakings”

- Other countries utilize “enforceable undertakings” as an alternative to enforcement path, in health & safety and other regulatory fields
- Agency regulators negotiate an agreement between the government and employers, that require employers to engage in activities and make a range of changes. If failure to do so, legal action will be taken.

These agreements can be effective because they:

- make employers understand there will be consequences for bad practices
- provide understanding what the employer needs to do to comply, and
- authority of the law - the perceived authority attached to EUs as legally binding agreements.



# **Striking Exclusion: Authority of Law**

# Narrowness of Exclusion

29 CFR §1975.6 sets forth OSHA's policy not to apply the requirements of the Occupational Safety and Health Act with respect to *"individuals who, in their own residences, privately employ persons for the purpose of performing for such individuals what are commonly regarded as ordinary domestic household tasks, such as house cleaning, cooking, and caring for children."*

New York Heroes Act provided full inclusion to domestic workers and mandated issuance of specific guidance for air-borne infectious diseases.

COVID- Emergency Orders included domestic workers in places such as DC and New Jersey as well. These jurisdictions are considering bills now to strike exclusions in general law.s

## Precedent for Inclusion

Virginia has struck the exclusion from its health and safety laws and even beforehand inspected home care agencies who do not fall under exclusion. The agency will field and handle complaints regarding domestic work pursuant to field operations for complaint-driven investigations.

# Enforcement Models



## Co-Enforcement Model

Labor standards agency enters into formal relationships with community-based organizations (CBOs), such as worker centers, to aid in enforcement, and share information and resources based on their own expertise

## Agency-Driven Investigations

Workers Comp, insurance and tax registries, as well as w&h claims with labor commissioner possible ways to identify employers of domestic workers. Agencies have taken proactive approach for workers' compensation compliance in outreach.

## Complaint-Driven Model

Most common model of labor standards enforcement, common in wage and hour context

## Strategic Communications

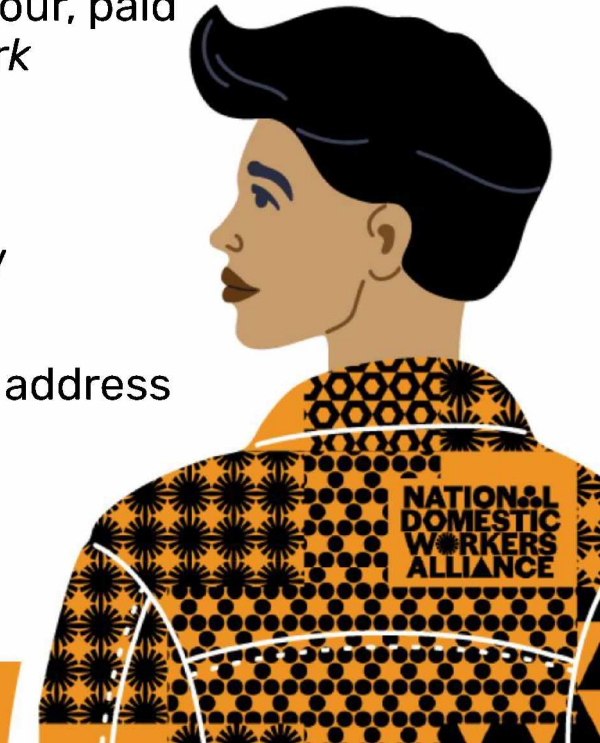
Use of press releases from enforcement actions

# **Co-Enforcement Principles**

**Domestic Work Industry**

# Community-Based Organizations

- Ties into community /relationships of trust with domestic workers
- Ongoing & existing Know Your Rights training (wage and hour, paid sick leave, workers compensation) *DWIOEP -Domestic Work Industry Outreach and Education Program*
  - Add training learning on how to ID and mitigate risks
- Provide information in accessible languages and culturally appropriate
- Part of overarching program of empowerment and help to address fears of asserting one's rights, emotional support
- Navigation of the legal system, accompanying workers
- Supportive communication with employers



# Co-Enforcement

Efficiently allocate government resources in industries that are comprised of diffuse and vulnerable worker populations, such as domestic work by:

- (1) educating domestic employers about their obligations and how to comply;
- (2) putting domestic employers on notice that DLSE and Cal/OSHA are watching and will initiate enforcement actions when necessary;
- (3) educate workers about their rights, including the right to be free from retaliation; and
- (4) create conditions in which workers know that they can complain, and actually do complain, when their rights are violated.







**NATIONAL  
DOMESTIC  
WORKERS  
ALLIANCE**



In 2019-20 survey of 700 domestic workers in California, over 75 percent of respondents have experienced at least one job-related injury, illness, or other harm in the past 12 months.

Interventions to protect health & safety and domestic workers are possible, necessary and can be designed to be effective through multi-pronged approach.



**Thank you!**