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## **Reporting Risks: Why Day Laborers in California's Central Valley Do Not Report Labor Law Non-Compliance**

### **SUMMARY**

Labor law non-compliance is common in day labor, with considerable underreporting among undocumented and low-wage workers (Plankey-Videla and Cisneros Franco 2022).

This policy brief identifies three reasons why day workers often do not report labor law non-compliance including: 1) previous work experiences that normalize nonreporting and a lack of trust with reporting channels; 2.) workers receive incentives from employers in lieu of making reports and 3) workers fear retaliation. This analysis draws from 38 interviews with day workers in the Central Valley, and six months of ethnographic fieldwork at one hiring site. I find that employers offer incentives to workers to not report labor non-compliance, and that workers often accept such offers to preserve their working relationships with them. This brief concludes by exploring policy recommendations that could enhance reporting of employer non-compliance.

### **DAY LABOR AND ITS PARTICIPANTS**

Day labor refers to daily or temporary employment obtained through verbal and informal agreements. Payments are typically

made in cash so when workers experience labor law non-compliance, they face challenges in providing formal documentation to pursue claims filing.

Participants in the day labor market in California's Central Valley are largely immigrant, undocumented Latino men, with low levels of education and English proficiency. Recent studies have highlighted the participation of Legal Permanent Residents (LPR), U.S.-born Latino, Black and white citizens in the day labor market. However, any worker operating in the day labor market is vulnerable to workplace abuses regardless of immigration status because it is a racialized industry that has been historically structured around the exploitation of Latino migrant men (Valdez et al. 2019).

This policy brief examines the nuances and implications in day laborers' decision to report (or not report) labor law non-compliance to government agencies. It answers the questions: what do workers do when they experience employer non-compliance? How do they make decisions about whether they will report workplace non-compliance or not?

## KEY FINDINGS

1. Poor health and safety standards in rural industries like agriculture, dairy, and poultry normalize day laborers' experience with employer non-compliance.
2. Employers who hire day laborers in the region offer incentives to workers who experience health and safety issues in lieu of making formal reports to government channels.
3. Due to uneven power dynamics between workers and employers, day laborers are often persuaded by employers to opt out from claims filing through cash incentives and gifts.
4. Future policy should invest in state-funded public education for workers in strategic ways that empowers them to pursue formal claims filing.

## WORK STANDARDS IN DAY LABOR

In their widely cited study of day laborers, Valenzuela and colleagues (2006), estimate that nearly 120,000 day laborers operate across the U.S on any given day. Wage theft and health and safety injuries are two of the most common issues in day labor. Studies suggest that the lack of evidence and knowledge about where to file formal claims is a main reason labor law non-compliance is underreported. Other research has emphasized the structural position of day workers by examining how their undocumented status generates fear of employer retaliation or reprisal if they report labor law non-compliance (Patler, Gleeson, and Schonlau 2022). This study reveals the importance of examining power dynamics

between day workers and employers that shape employer non-compliance.

## NON-REPORTING IS NORMALIZED

Day laborers in California's Central Valley often enter the day labor market after leaving other hazardous rural industries in the region. Workers in the study shared that past employers often refused to provide workers with medical care or other necessary assistance, such as workers' compensation, as required by labor law when employees suffered a workplace injury.

The story of Juan, a former dairy farm worker, provides a typical experience of an unresolved workplace injury. "A small cow kicked me... it knocked my front teeth out," Juan explained. "I thought the owner was going to take some responsibility when he saw me and tell me, 'Here go to the doctor to get your teeth back,' but he didn't do anything." Juan said.

Three months later, Juan suffered another injury that left him disabled after another cow kicked him in the spine. This time, his employer laid off Juan and asked him to leave the farmhouse where he was living. He filed a formal claim against his employer but never received any response about his claim. Now as a day laborer, Juan remains reluctant to report employer non-compliance because "you don't accomplish anything" ["no consigues nada"]. Many workers like Juan, who experienced a workplace violation in other rural industries opt-out from pursuing formal claims and instead conform to the work standards in day labor work.

## RECEIVING INCENTIVES FROM EMPLOYERS

Employers are legally obligated to report injuries in their workplace to California's Division of Occupational Safety and Health (Cal/OSHA) and to provide workers compensation to any worker who becomes injured while working. However, day laborers in this study explained how employers dissuaded workers from filing a claim through the Division of Workers' Compensation. Reportedly, employers offered injured workers incentives to prevent reporting. For instance, employers provided cash payments to help compensate for the time workers would be unable to work due to the work injury. In other cases, employers paid for part of a one-time doctor visitation fee or bought workers groceries for a short period of time while they recovered from their injury. Some workers shared that employers visited them in their home or while they were hospitalized to dissuade them from filing formal claims following a workplace injury.

Enrique, a day worker that has accepted incentives from employers when he experienced health and safety issues, explains: "When [an injury] happens, [employers] offer to help you because they know if you file a report it's going to be worse for them... They say, 'Don't worry, let's go to the doctor to do a checkup.' They do it so they don't have issues with their insurance later. If they don't help you, then you must do something, you need to file a report."

Workers like Enrique are often convinced to accept these alternative solutions to workplace injuries, in part, because they fail to receive a prompt response from government reporting channels, as also happened to Juan.

## PRESERVING WORKING RELATIONSHIPS

A small number of employers make up the day labor network in California's Central Valley. Most participants expressed being frequently hired by the same employer and receiving long-term work opportunities from them. Thus, securing frequent or long-term work opportunities is vital for their livelihood. Workers reported being less likely to or unwilling to report employers whom they innately built trusting relationships with because they hire them regularly. Day workers shared being afraid to be seen as "ungrateful" by such employers and jeopardizing future work opportunities with them if they were to engage in formal claims filing of employer non-compliance. Javier had just experienced a workplace injury at the time when I interviewed him and had been contemplating whether he should file a formal claim, he shared:

"When I was in the hospital, they advised me to [file a report] ... But what stops me from doing it? I see him as a good person and if I sue him, he is going to stop employing people here. It's like losing an opportunity. Not only for me but for others here as well."

Workers like Javier commonly made conscious decisions to not file reports against employers who provide workers consistent work opportunities. Many of them were not willing to risk losing trusting relationship they had built with the small network of employers in the area.

Some day workers in this study, however, did pursue claims filing when employers ruptured relationships with them. This occurred when employers were overtly racist toward workers and used racial and demeaning insults in arguments related to work.

## **POLICY INTERVENTION AND RECOMMENDATIONS**

The clearest policy implication emerging from the findings from this research is that the state should penalize employers' who provide incentives to injured workers to prevent them from reporting labor standards non-compliance. Such policy would best be developed together with organizations that work with day laborers.

The state could also utilize the findings from this brief to inform labor standards education and enforcement. Cal/OSHA Labor Commissioners Office, and community-based organizations (CBO's) could provide education to workers that addresses how employers provide incentives as a way for them to escape legal responsibilities. Know your rights workshops need to go beyond providing basic legal information to workers about their rights to file claims or where to file them. Most participants in the study either knew about formal claims making or had made reports in the past. Many of them, however, were persuaded to accept incentives from their employer instead of filing formal reports through government channels. Educating workers on the ways employers evade legal liabilities by offering them incentives during workplace injuries may encourage workers to pursue formal claims making. Especially if workers are assisted throughout the bureaucratic process of claims-making by a trusted and local CBO.

Labor law reporting channels like Cal/OSHA and Labor Commissioners Office might also invest in enhancing their relationship with day workers. Participants often shared being unwilling to report employers whom they had established trusting relationships with.

If trusting relationships between workers and employers are important, government reporting channels need to do the same. These agencies need to do more outreach to workers by visiting them at informal hiring sites to begin to build trusting relationship and encourage day workers to seek formal claims filing.

Last, this research suggests that employer non-compliance with labor standards in agriculture, dairy work, meat packing and poultry help normalize non-compliance of standards in day labor. Government regulatory agencies like Cal/OSHA and Labor Commissioner's Office should prioritize addressing work standards in the region's industries with the most persistent and egregious non-compliance—as day laborers are reluctant to return to those industries without any reforms. If standards in other industries are lifted, day workers will be less likely to endure work abuses relating to health and safety.

## **CONCLUSION**

Day laborers in California's Central Valley face systemic barriers to reporting labor law non-compliance, particularly immigrant workers. These barriers are shaped by exploitative employer practices (e.g. incentives to avoid reporting non-compliance or injuries), past experiences in other rural and low-wage industries, and limited access to trusted government reporting channels.

Addressing these issues requires policy-makers to advance enforcement and design education around employers who obstruct workers from reporting. In addition, the State of California should enhance enforcement capacity in agricultural and const-

duction industries in rural areas—particularly in California’s Central Valley. The State should also maintain or increase funding for existing educational initiatives among CBOs and labor unions who already educate workers on their rights.

Protecting California’s vulnerable yet essential workforce is one avenue for policy makers to take meaningful action to ensure all workers, regardless of legal status, are treated with dignity. Without such investments, day workers in California’s Central Valley will continue to face labor protections on paper but exploitation in the field.

## REFERENCES

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