

## ACCOUNTABILITY TO BASIC RIGHTS IN THE WORKPLACE

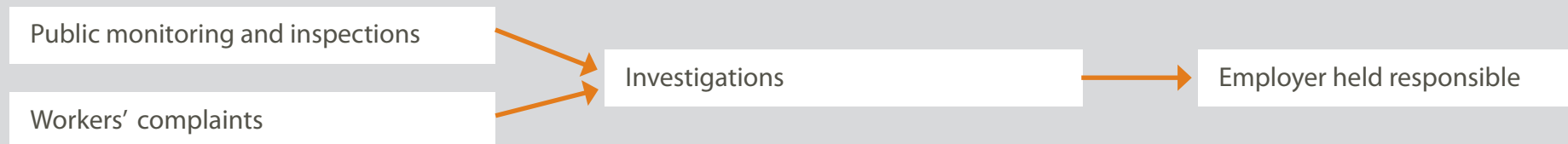
*Every person has the human right to be treated with dignity at work.*

All workers must be able to exercise their fundamental rights on the job without fear of social, economic or physical threats, and there must be systems in place that identify and correct violations. Yet, violations of existing basic workplace standards have become the “new normal” and are widespread in low-wage precarious work across diverse industries.

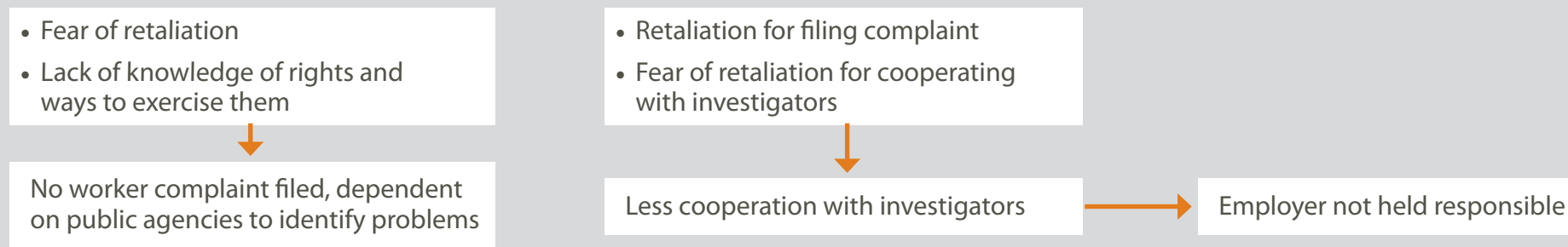
Protecting workers who bring claims or even just attention to rights abuses in the workplace is essential to restoring accountability. Effective enforcement of rights against abuses, such as wage theft, denials of workers’ compensation, racial discrimination and dangerous conditions, rely heavily on the complaints and participation of the workers experiencing them. Consequently, enforcement of workplace standards is largely thwarted when employers get away with firing, threatening or otherwise retaliating against and intimidating workers.

### RETALIATION AND THE BREAKDOWN OF WORKPLACE ACCOUNTABILITY

#### *Workplace law enforcement process... in theory*



#### *Breakdown in enforcement process*



## SIX ELEMENTS OF AN EFFECTIVE AND RELIABLE WORKPLACE ACCOUNTABILITY SYSTEM

Policy goals	Job security	A reliable path to justice	Prevention focused	Corporate responsibility	Worker participation	Transparency
<b>What this means</b>	Workers can be confident in the stability of their jobs, in particular when faced with retaliation.	Workers have a user-friendly way to trigger an investigation into possible rights violations.	Oversight of workplaces and worker and employer education is designed to prevent rights violations from reoccurring.	Any business with the power to control the conditions of work in their supply chain is responsible for ensuring workers' rights are respected.	Workers have a way to meaningfully participate in decisions about how their rights are protected in the workplace.	Workers know their rights, how to assert them and can easily see how they are being protected and how problems are corrected.
<b>Barriers</b>	A patchwork of laws make it illegal for employers to retaliate against workers who exercise recognized rights, but there are huge gaps in these protections, particularly for undocumented immigrants and for workers injured or made ill on the job.	The current paths to justice put an unrealistic burden on vulnerable workers who want their legal rights to be enforced. Too costly, confusing and too slow with unrealistic rules, workers are discouraged from using them. There are multiple agencies each with their own processes that workers have to maneuver.	Multiple public agencies enforce different rights in the workplace. These agencies do not share a comprehensive strategy for preventing rights violations. When an agency discovers a violation, causes are rarely part of the resolution process and the same penalties can be triggered regardless of whether an employer fixed the cause.	Corporations that outsource the labor-intensive parts of their businesses profit from lower labor costs produced by rights violations in the workplace, intentional or not, and can frustrate workers efforts to improve their jobs by simply switching contractors without liability. While large corporations oversee product quality within their supply chains, they rarely monitor them to enforce compliance with workers' rights.	Without unions, there are few ways for workers to affect how their rights are enforced. Employers control how rights are protected, while public agencies authorized to enforce rights are not made to see workers as strategic partners.	Workers have very little training on what their rights are and how to assert them. Workers are also left largely in the dark by public agencies when complaints are filed, investigated and resolved.
<b>What kind of reform is needed</b>	Expanded legal protection for all workers, broadly prohibiting employers from interfering with workers' exercise of rights.	A simplified way, preferably through one integrated agency, for workers to voice concerns about all possible rights violations without carrying an excessive burden throughout the investigation, including rapid response to retaliation.	A streamlined strategy for preventing workplace violations of all types, supporting employers to take corrective action and imposing significant consequences when no action is taken.	Liability for companies over working conditions they are in a position to monitor and take corrective action to improve within their supply chains.	Formal ways for workers to participate in workplace monitoring, investigations and the design of corrective action plans, including through partnerships with unions, worker centers and community groups.	Consistent and clear training on the job for workers on rights and how to voice concerns, which is reinforced by postings, videos and materials that provide quick and easy access to information about complaints that have been raised, the progress of investigations and corrective action.

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<b>Public and private models</b>	<ul style="list-style-type: none"> <li>• “Just cause” job protection.</li> <li>• Broad language prohibiting employers from interfering with the exercise of rights.</li> <li>• Specific language prohibiting known problems.</li> <li>• A legal assumption that immigration-related enforcement (or any form of retaliation) is retaliation shortly after workers exercise rights.</li> </ul>	<ul style="list-style-type: none"> <li>• A single access point to voice concerns about workplace violations.</li> <li>• Concerns can be voiced anonymously.</li> <li>• Quick temporary legal relief from negative changes in employment during investigations.</li> </ul>	<ul style="list-style-type: none"> <li>• A workplace abuse prevention program streamlined through one oversight body.</li> <li>• Interagency coordination or integrating agencies towards comprehensive prevention.</li> <li>• A prevention program that “helps” employers comply with workplace laws and craft corrective action plans, whether voluntarily or because a complaint or agency monitoring uncovered a violation.</li> <li>• Improved monitoring and investigation tools, such as anonymous interviews with workers off-site and employer finance and record reviews.</li> <li>• Certain and significant penalties when no corrective action is taken to fix a violation.</li> <li>• Strategic monitoring of workplaces that refuse to take corrective action.</li> </ul>	<ul style="list-style-type: none"> <li>• Changing definitions of “employer” and “employee” to create joint employment broadly or under specific scenarios.</li> <li>• A legal assumption of employment.</li> <li>• Forbid companies from accepting contract bids for work that does not provide enough money to comply with workplace laws.</li> </ul>	<ul style="list-style-type: none"> <li>• Worker-led social responsibility programs designed to prevent violations in supply chains.</li> <li>• Formal collaborations between agencies and unions or worker centers in monitoring, investigation and prevention strategies.</li> <li>• Neighborhood watch model expanding monitoring.</li> </ul>	<ul style="list-style-type: none"> <li>• Worker-to-worker training on rights and how to voice concerns, on site, on the clock, at the point of hire.</li> <li>• Postings on how to voice concerns on paychecks and where workers will see.</li> <li>• Legal rights for workers to access information, such as notice of complaints.</li> </ul>

## A COMPREHENSIVE POLICY APPROACH TO WORKPLACE ACCOUNTABILITY

- Design a budget to create good jobs, build public goods and resource a comprehensive workplace compliance system.
- Create broad and common legal protections across rights areas for workers who bring attention to workplace violations. Remove the burden from workers who bring complaints (such as explicit protections against unfair immigration enforcement, rebuttable presumptions of retaliation, severe consequences and rapid relief for workers who claim rights).
- Streamline enforcement with a single workplace compliance agency (integrating Departments of Labor, Human Rights, and Workers' Compensation) with improved investigative and prosecutorial tools, including serious consequences for refusing to take corrective action. This should be in addition to a robust private right of action for retaliation across rights areas.
- Hold those at the top of supply chains responsible for workers at the bottom.
- Develop formal and funded agency partnerships with workers and their representatives to keep workers informed of their rights and how to exercise them, to monitor workplaces for violations and to develop corrective action plans to address root causes of violations.