

# Safe Slaughter

A Multi-Phase Strategy to Improve Worker Safety in  
Meatpacking Plants Through Information,  
Certification & Regulation



PHOTO BY ANTON MISLAWSKY

## AUTHORS:

Caroline Grueskin, Yale Law School '22

Rory Jacobson, Yale School of the Environment '21

Tony Mazza, Yale School of the Environment '20

Rebecca McLean, Yale School of the Environment '20

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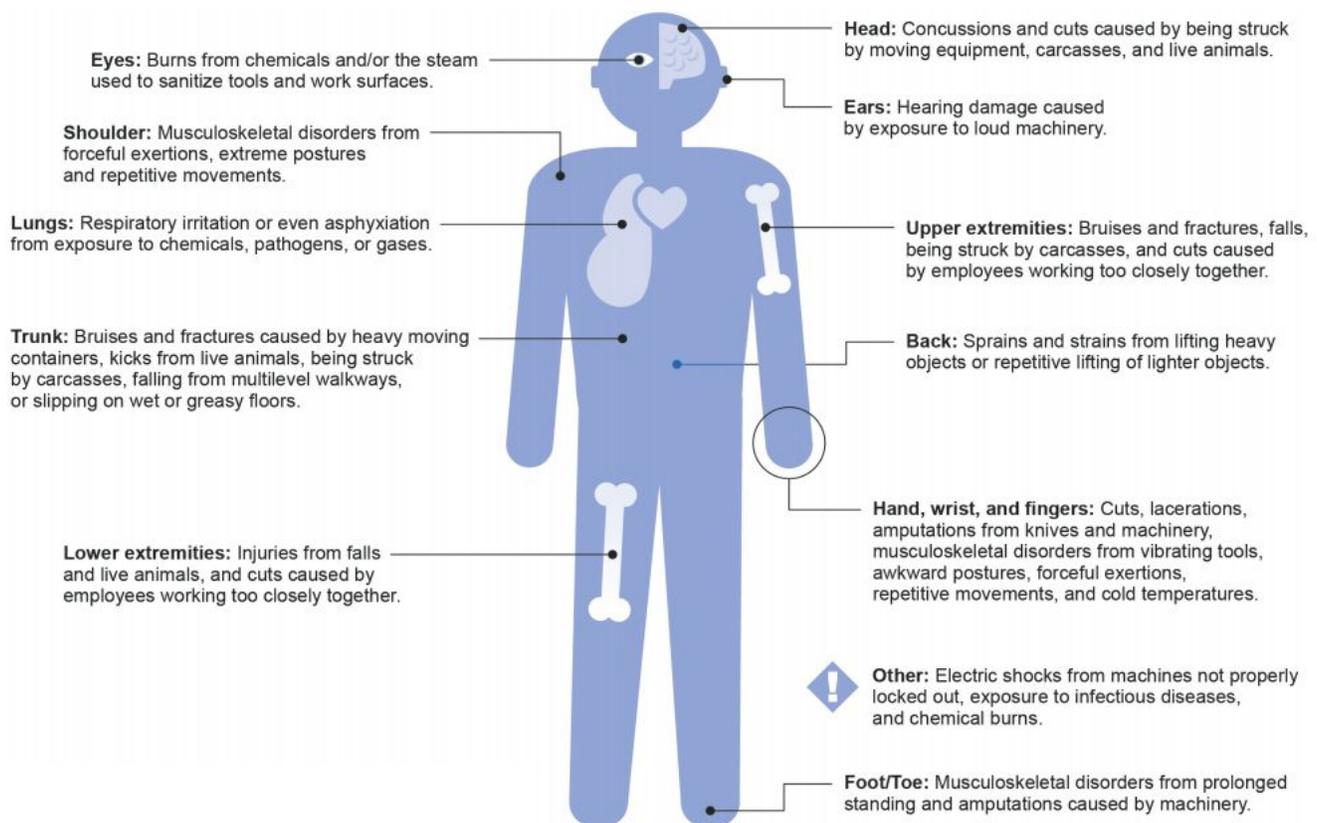
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## Executive Summary

Campaigns to reduce the confinement of animals have achieved considerable success over recent decades, with consumer interest and ballot initiatives providing the regulatory and public pressure to force dramatic changes in the ways farm animals are raised.<sup>1</sup> Yet little progress has been made for the workers who toil in meatpacking plants, slaughtering, deboning and slicing those animals for human consumption. A process of industry consolidation, deunionization and exploitation of immigrant workers has created unsafe conditions and a culture of work where employees are limited in their ability to fight for better standards. We believe this issue is intimately linked to issues of climate mitigation and animal welfare.<sup>2</sup> The same ideologies and power dynamics that minimize the welfare of animals and exploit our natural resources are at play in subjecting workers to daily hazards. This philosophical foundation is central to our theory of change.

Within the United States there are approximately 5,000 meat and poultry processing plants that employ more than half a million people.<sup>3</sup> Two-thirds of poultry processing workers interviewed in a Southern Poverty Law Center study described symptoms of long-term musculoskeletal disorders, and these rates are even higher for workers assigned to more strenuous tasks, including deboning, cutting and trimming.<sup>4</sup>



Source: GAO analysis of documents from the Bureau of Labor Statistics (BLS), Centers for Disease Control and Prevention (CDC), and Occupational Safety and Health Administration (OSHA). | GAO-16-337

In 2019, the USDA opened applications for waivers to poultry processing facilities interested in increasing processing speeds from 140 birds per minute (BPM) to 175 BPM.<sup>5</sup> This came after the USDA lifted all caps on line speed in the pork industry.<sup>6</sup> According to a report from the Southern Poverty Law Center, approximately 75% of workers in poultry plants already feel that current line speeds make working conditions less safe and exacerbate existing injuries. Additionally, the COVID-19 pandemic has intensified these worker safety threats as the virus has spread rapidly through meat processing plants.<sup>7</sup> As of April 22, 2020, 150 of the country's largest meat processing facilities are sited in counties with infection rates among the highest in the country.<sup>8</sup> As of April 29, 2020, there were 4,400 reported cases of COVID-19 linked to 80 meat processing facilities in 26 states. At that point, 18 worker deaths had been reported from nine facilities in nine states.<sup>9</sup> The combined impact of COVID-19 and increased deregulation through line speed waivers yields a crucial moment for intervention.

**COVID-19 among workers in meat and poultry processing plants – 19 states, April 2020**

<b>State</b>	<b>Types of meat or poultry in affected plants</b>	<b>No. of plants affected</b>	<b>No. of workers in affected plants</b>	<b>No. (%) of confirmed COVID-19 cases among workers</b>	<b>No. (%)<sup>†</sup> COVID-19-related deaths</b>
Colorado	Beef, bison, lamb, poultry	5	7,248	139 (1.9)	5 (3.6)
Delaware	Poultry	6	9,411	336 (3.6)	4 (1.2)
Georgia	Poultry	14	16,500	388 (2.4)	1 (0.3)
Illinois	Beef, pork, poultry	5	6,680	112 (1.7)	1 (0.9)
Iowa	Beef, pork	2	2,075	377 (18.2)	N/A
Kansas	Beef, poultry, other	6	16,600	106 (0.6)	0 (0)
Kentucky	Pork, poultry	2	1,333	18 (1.4)	1 (5.6)
Mississippi	Poultry	9	9,548	123 (1.3)	0 (0)
Missouri	Beef, pork, poultry	3	3,690	36 (1.0)	0 (0)
Nebraska	Beef, pork, poultry	12	19,911	588 (3.0)	1 (0.2)
North Carolina	Pork, poultry	5	14,600	166 (1.1)	0 (0)
Ohio	Pork	1	710	10 (1.4)	0 (0)
Pennsylvania	N/A	22	N/A	858 (-)	1 (0.1)
South Dakota	Beef, pork	2	4,600	794 (17.3)	2 (0.3)
Tennessee	N/A	3	N/A	132 (-)	0 (0)
Texas	Beef, poultry	2	4,800	113 (2.4)	1 (0.9)
Virginia	Poultry	10	7,072	128 (1.8)	2 (1.6)
Washington	Beef	1	1,400	100 (7.1)	1 (1.0)
Wisconsin	Beef, pork	5	4,400	389 (8.8)	0 (0)
<b>Total</b>	<b>Beef, bison, lamb, pork, poultry, other</b>	<b>115</b>	<b>130,578</b>	<b>4,913 (3.0)<sup>§</sup></b>	<b>20 (0.4)<sup>¶</sup></b>

**Abbreviations:** COVID-19= coronavirus disease 2019; N/A= not available.

<sup>\*</sup> Data submitted during April 20-27, 2020.

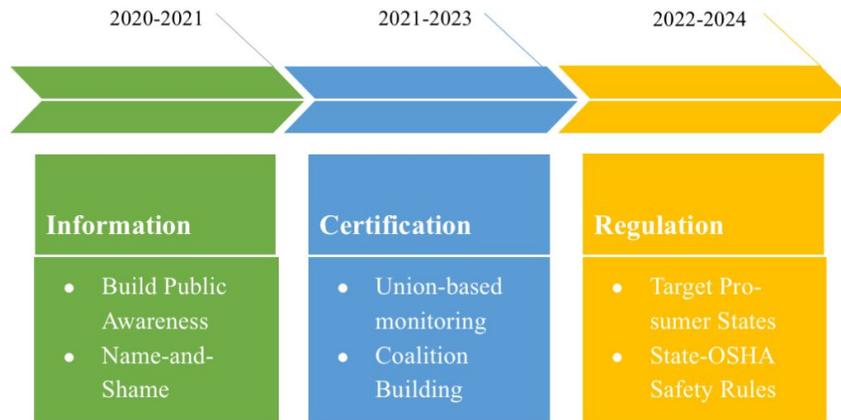
<sup>†</sup> Percentage of deaths among cases.

<sup>§</sup> Excludes cases from Pennsylvania and Tennessee because the number of workers (denominator) is not available from these states.

<sup>¶</sup> Excludes cases from Iowa in the denominator because information on number of deaths is not available from this state.

Source: Dyal JW, Grant MP, Broadwater K, et al. COVID-19 Among Workers in Meat and Poultry Processing Facilities — 19 States, April 2020. MMWR Morb Mortal Wkly Rep 2020;69:557–561. DOI: <http://dx.doi.org/10.15585/mmwr.mm6918e3>

The Safe Slaughter Movement is proposed as an effort to leverage the opportunity provided by the heightened awareness of these food and worker safety issues. The Safe Slaughter movement would build on this momentum in order to increase individual and institutional consumer awareness, improve worker and consumer safety through voluntary certification, and generate momentum towards the creation of regulation on the state level. We suggest a multi-year, three phase approach to this reform.



First, there is a gap in public awareness that we would plan to fill through a media campaign and corporate shaming strategy. Our website would be the foundation of this campaign, which would build out resources to inform consumers and organizations who are interested in building coalitions around the issue. This would serve the function of a database and news hub.

Second, we would build out a voluntary retail certification for meat products that would leverage itself on a surge in public awareness from our media campaign. The certification would empower the newly informed consumer and offer a concrete legal intervention that would bypass the administrative hurdles of regulatory reform.

Finally, we would seek regulatory reform at the state-level. This would require momentum from the first two stages and would be pursued when a window appears. We would propose targeting states with state-level Occupational Safety and Health Administration (OSHA) plans, who can pass laws that provide for worker safety regulations that are stricter than federal minimums. Utilizing this strategy, we could target ergonomics reforms or line speed to improve working conditions within states such as Minnesota and Virginia. Our case law research suggests such legislation would not be preempted by federal law. If successful, this approach could have an impact in

meatpacking states through direct regulation and sales bans affecting processors nationwide.

## **Background**

### *Worker safety*

Meatpacking was once a unionized, skilled, and middle-class job. In the 1960s and 1970s, the average worker earned wages 14% to 18% higher than others earned in the manufacturing sector. The peak hourly wage of a meatpacking worker during this period was nearly \$20 per hour when adjusted for inflation.<sup>10</sup> Towards the end of the twentieth century there were dramatic shifts in the industry due to technological innovation, geographical reorganization, and a sourcing of cheap labor. By the 1990s, 60% of the industry was consolidated into four companies located in right-to-work states.<sup>11</sup> Today, the average hourly wage is just \$13.43.<sup>12</sup> In order to find people to fill these dangerous, low-paying jobs, the meat processing industry exploits vulnerable people who have few other options: minorities, immigrants, and refugees—even prisoners—who may feel inhibited from organizing and speaking out about their dangerous workplaces.<sup>13</sup>

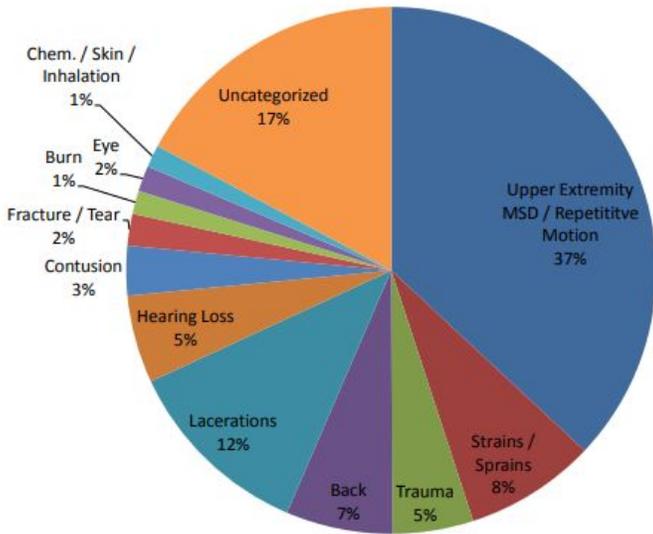
Meanwhile, industrial processors have cranked up the pace of work, putting employees at risk. The maximum speed at which poultry companies can run their processing lines has doubled in the last 35 years.<sup>14</sup> Whereas chickens were predominantly sold ‘whole’ decades ago, 90% are now sold pre-cut. Many workers say they have to process around 35 to 45 birds per minute, which amounts to approximately 20,000 repetitions of the same movement per day for each worker (be it cutting, pulling, or slicing).<sup>15</sup> The rooms are set at around 40 degrees Fahrenheit to reduce microbial growth, which chills workers to the bone and exacerbates the harmful effects of repetitive motions, according to OSHA.<sup>16</sup>

While the Bureau of Labor Statistics (BLS) and National Chicken Council (NCC) claim that the incidence of occupational injuries and illnesses within the poultry sector’s slaughter and processing workforce is decreasing,<sup>17</sup> these figures underestimate the scope of injuries. Not only are workers afraid to report injuries, but OSHA reporting requirements leave many known injuries undocumented. The Government Accountability Office has reported that workers do not speak out about injuries for fear of losing their jobs, and companies minimize injuries in an effort to reduce workers’ compensation insurance payments.<sup>18</sup>

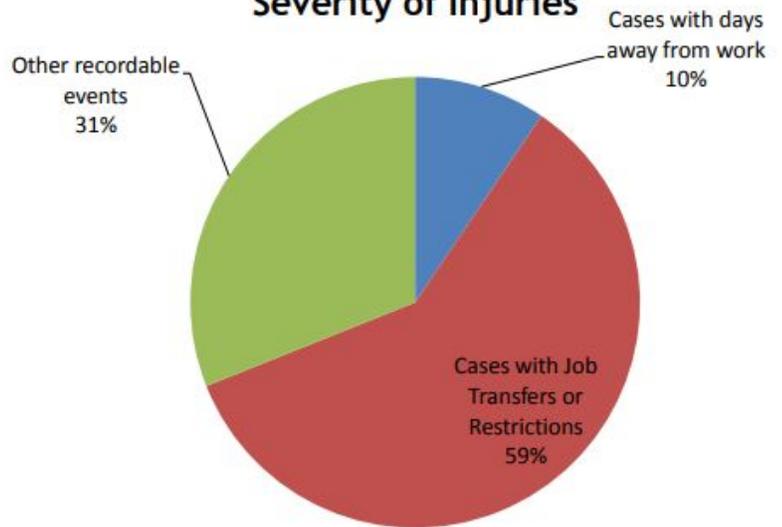
Workers face the risk of traumatic injuries costing limbs and lives. They have also reported using diapers to compensate for lack of bathroom access.<sup>19</sup> But the majority of

worker injuries are invisible; they are musculoskeletal disorders (MSDs) like carpal tunnel that are painful, inhibit function, and can even permanently disable workers. MSDs occur because of rapid, repeating movements on the processing line in these plants. Because these injuries often do not restrict employees from missing work, they can go unreported

**40,542 Meatpacking Injuries Categorized By Type**



**Severity of Injuries**



in OSHA logs, meaning that even the reported numbers are minimum estimates of injury.<sup>20</sup>

Source: Daniel Lichtenstein-Boris, *Health Disparities in the Meatpacking Industry*, National Conference on Eliminating Health and Safety Disparities.

The risks to line workers in meatpacking plants was laid bare by the COVID-19 crisis in 2020. Due to crowded conditions, a shortage of paid leave policies and employer cultures that demand workers show up, even if they feel sick — meatpacking plants have become hot spots for spread in states like Colorado, South Dakota and Georgia. As of April 27, 2020, the Smithfield Foods pork processing facility in Sioux Falls, SD, represented the third-largest cluster of cases in the United States. Meatpackers accounted for five of the top twenty-five largest coronavirus clusters in the country, alongside prisons, jails and nursing homes.<sup>21</sup>

<b>Coronavirus hot spot in Minnesota connected to surge of cases at meatpacking plant</b>	US coronavirus hotspots linked to meat processing plants
<b>America's Slaughterhouses Aren't Just Killing Animals</b>	
<b>As more meatpacking workers fall ill from Covid-19, meat companies decline to disclose data</b>	ACLU urges Nebraska leaders to mandate safety precautions in meat packing plants
<b>Meat packing plants are forced to stay open. But do workers have to show up?</b>	

Media headlines from May 2020. Source: NBC News, The Atlantic, Food & Water Watch, The Guardian, KETV Omaha, and Purdue University.

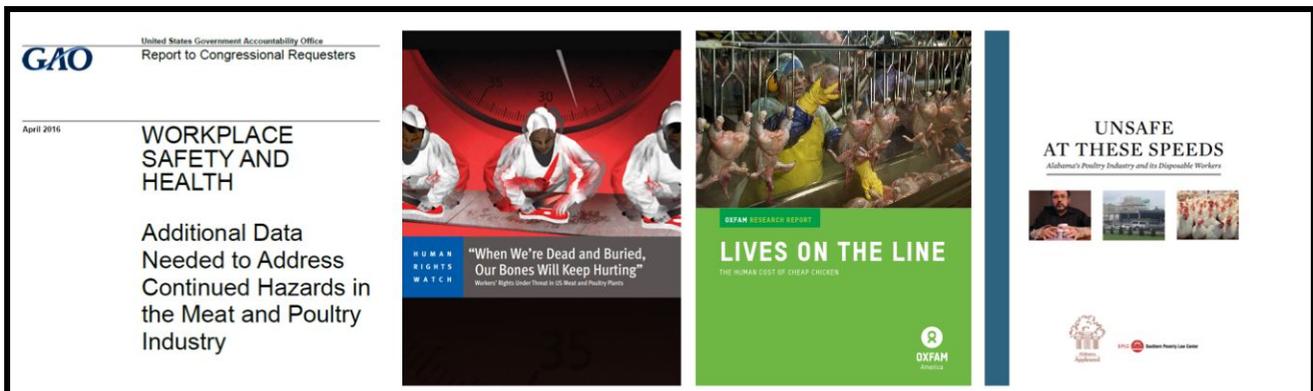
## *Deregulation*

Recent developments have been exacerbating the conditions faced by workers. The USDA has deregulated line speed, a move that worker advocates have long claimed is untenable. Currently the line speed limit for poultry processing under USDA regulation is 140 birds per minute (BPM), though severe rates of injury have been recorded in plants operating between only 90 and 100 BPM.<sup>22</sup> Recently, the USDA initiated a program that allows for line speed increases of up to 175 BPM through a USDA line speed waiver. In creating this waiver program, the USDA downplayed concerns raised by worker safety activists, claiming that it had “neither the authority nor the expertise to regulate [such] issues.”<sup>23</sup> In 2019, the USDA also promulgated a rule lifting all line speed maximums in pork processing plants.<sup>24</sup>

Now more than ever under the Trump administration, the federal government is failing to properly enforce and report on workplace injuries in poultry processing plants, thereby silencing the issue.<sup>25</sup> From the standpoint of worker safety, this dramatic shift in line speed in an already poorly regulated industry sparked a need for immediate action and offered a window of opportunity to do so.

## Our Approach

We are not the first to address this issue. Advocates have been working in this space for decades. Reports have been written by high-profile advocacy groups, such as Oxfam and the Southern Poverty Law Center.<sup>26</sup> Investigative news outlets have shed light on dangerous conditions and deregulation.<sup>27</sup> A petition was filed for a rulemaking to slow down the lines.<sup>28</sup> The USDA is currently being sued for deregulating line speeds in the poultry and pork industries.<sup>29</sup>



Recent reports on slaughterhouse safety. Sources: Additional Data Needed to Address Continued Hazards in the Meat and Poultry Industry (GAO), Workers' Rights Under Threat in US Meat and Poultry Plants (Human Rights Watch), Lives on the Line (Oxfam US), and Unsafe at These Speeds (Southern Poverty Law Center).

And yet the deregulation continues, and workers continue to face unacceptable risks. In conversations with experts and advocates, we learned that this issue is in the later stages of its legal remediation, but that it is in the early stages of gaining public awareness. Lawyers and advocates have worked hard for decades to improve worker conditions in meat processing plants and they have succeeded in supporting their immediate needs. However, we have failed to meaningfully capture the public's attention in a way that has led to significant changes to the regulatory landscape, corporate behavior or consumer choices.

In the early stages of our strategy we considered a lawsuit against OSHA. The agency has issued relevant guidance but has steered clear of thoroughly regulating worker safety in the meat processing industry despite its authority to do so. But our legal research led us to conclude that it would be difficult to wage a successful suit over the agency's inaction. We also feared that any rule OSHA might promulgate during the Trump administration would be weak and serve to displace any possible state-level legislation in this space. In learning about recent failures on the federal level to promulgate rules that would protect contract animal producers<sup>30</sup> as well as the inability to pass legislation that would expand

the available space for chickens in battery cages,<sup>31</sup> we became hesitant to seek reform at the federal level that could be quashed by competing interests.

The recent successes in state-level campaigns to reduce the confinement of animals inspired our final approach. We came to believe that the combination of a public awareness campaign, a certification and state-level legislation could make a difference for workers. The first step, it became clear, had to involve creating a window. We resolved that there needed to be a sustained campaign to turn that interest into action on the myriad issues facing workers in meatpacking plants.<sup>32</sup> Next, we would turn our attention to building out a “safe worker” certification that could be used to pressure corporations to improve their working conditions, while at the same time building public interest and commitment to the issue. Later, we would channel that energy into state-level reforms that could drive national change. If anything, the animal welfare movement has exemplified that innovation, drive, and daring can produce unanticipated and sweeping changes. We believe the same is true for workers in slaughterhouses.

#### **a. A Media Campaign to Create a Window**

As stated, this approach is multi-pronged and would be phased over the course of several years. The meat processing industry has had exceptional success with garnering vigorous protection from powerful elites<sup>33</sup> while simultaneously keeping the issue of slaughterhouse safety out of the public discourse. Because of this, there is little incentive for production-state politicians to grapple with this issue. Although we view regulations to be the ‘gold standard’ for protecting worker safety there has yet to be a viable opportunity to enact such measures. Therefore, the first step on the path to robust regulation is to create a mass-media campaign to:

(1) educate the general public on issues related to slaughterhouse safety and prime them to take further action, and

(2) apply pressure on food procurers to ‘clean up’ their supply chain. We find this first step of our overall approach to be critical for opening the window of opportunity for future regulatory reform.

Realistically, this campaign must be designed to achieve impact on a limited budget. Therefore, it will seek to maximize its 'earned media' potential instead of relying on 'paid media'. This campaign should use an array of media outlets to cover a range of demographics. There are several tactics and strategies that can be deployed to achieve this such as:



*Social Media:* With people of all demographics now engaging across various social media platforms, our campaign would leverage free and paid content across these platforms to educate consumers and build an engaged following behind our advocacy. By working with influencers, media personalities, content creators, and established food and safety organizations interested in supporting our cause across these platforms, our campaign would build an organic network of supporters.



*Documentaries:* A number of great documentaries have helped to inform the public on social issues such as Food Inc. and Living Undocumented.<sup>34</sup> Expanding upon the social media posts by affected meat processing employees, a longer-form documentary could be produced to help audiences empathize with workers.



*Local Television Broadcasting:* Although trust in national news is politically fraught, 76% of Americans trust their local news source.<sup>35</sup> Targeting news campaigns around communities that fundamentally rely on the meatpacking industry can offer critical empowerment and garner support for change. Our use of local news to amplify our messages will help reach demographics who do not subscribe to social media. This approach could also help us build support in regions we later want to target for regulatory

reforms.



*Op-Eds and Articles:* The Safe Slaughter Movement should partner with high-profile commentators and celebrities to contribute provocative editorials. The objective would be to provide leading legal and labor experts a free platform to highlight their work, as well as how certification and regulatory initiatives like the Safe Slaughter Movement could mitigate these threats. As the Safe Slaughter Movement works with food procurers, positive press releases and Op-Eds can highlight industry leaders who are helping to shape a better supply chain for processed meat.

This is not an exhaustive list, and as the situation evolves new and innovative tactics should be tried to keep the issue of slaughterhouse safety pulsing through the media. Overall, the approach is to build an audience over time so that there are true economic and reputational consequences for meat processors with unsafe working conditions.

## *Messaging*

A simple but effective message must be crafted and tested on different demographics in order to bring attention and action towards the issue of slaughterhouse safety. This message should be tailored to different audiences and increase efficacy. Nonetheless, in order to appeal to the widest audience and spectrum of potential partners, our campaign would message across the nexus of food safety, worker safety and animal welfare, with an emphasis on the interconnectedness of these objectives. Specifically, the campaign would emphasize a data-driven and analytical approach to regulation in food processing, while also elevating the humanity of workers, animals, and consumers. This messaging would be driven towards educating large institutional and corporate procurers on strategies and opportunities to improve their supply chains, while also educating individual consumers of the ongoing threats to food and worker safety. Lastly, with emergence of the COVID-crisis, between its impact on slaughterhouse workers and the public health questions it raises, our messages would be crafted to create linkages between COVID-19, certification and regulatory solutions advocated by the Safe Slaughter Movement.

In order to productively leverage the focus on the linkages between COVID-19 and meat processing, the campaigns would emphasize the role of meat processing employees as essential workers. As meat processing facilities face pressure to close due to a failure to adopt sufficient distancing measures, many meat supply chains will be disrupted, ultimately impacting consumers' diets and endangering workers.<sup>36</sup> Our campaign would highlight the crucial role of meat processors in providing Americans with safe, contaminant free meat through appropriate regulation and safety precautions for these essential workers. Additionally, given consumers' heightened concerns regarding the contamination of processed meats, the campaign would highlight the shortcomings of existing regulation and employment practices in ensuring sick or injured employees are able to stay home.

Furthermore, our campaign would push forward the message of the "human cost" of products we take for granted. These costs include workers who must wear diapers on the line and who cannot report unsafe conditions for fear of retaliation. Without being too graphic, we would aim to help consumers conceptualize just how fast processing 175 birds per minute really is, the hazardous equipment that workers operate, and just how

easy it is to make a fatal mistake on the processing line. These messages should be communicated by actual factory workers and families of those who have lost their lives while processing meat. Although this risks the perception of exploitation, our campaign would never operate without consent. We believe that the Safe Slaughter Movement would provide a meaningful platform for those who wish to speak out and help reform a deeply troubling industry.

### *Audience*

Although our campaign would hope to educate individual consumers on current threats to food and worker safety, the majority of resources and communications materials would be directed toward persuading and assisting large institutional and corporate decision makers to create a demand-pull for safely processed meat. This proposed route is much more targeted and would bypass the additional step of convincing individual consumers to change purchasing behavior to hold processors accountable. While it is true that reaching decision makers is important, to remain in alignment with our long term certification and regulatory strategies we would need to build awareness and interest among consumers. Consumers are constituents, and priming them to support slaughterhouse safety reforms is one way we would hope to counterbalance the effects of lobbying efforts made by the meat industry. To narrow the scope of the campaign, we would aim to target consumers in the states where we plan to eventually enact a state-level regulatory reform, such as Minnesota and Virginia.

### *Website*

To help build awareness among individual consumers and generate supply chain improvements within large corporate and institutional procurers, we have designed a website to promote the Safe Slaughter Movement. If launched, this website would act as a clearinghouse for information related to safe slaughter with additional resources on how to support slaughterhouse workers. The website would offer a news dashboard, a virtual repository of NGO reports, and a newsletter to educate and inform individual consumers. In order to humanize the abundance of statistics on this topic, the campaign website would also feature a “Last to Pass” page, documenting the most recent deaths of meat processing workers. This page would emphasize the humanity of the individuals lost, as well as shortcomings of existing regulations and safety procedures. For decision makers within large corporations and institutions, the website would offer tools intended to help these actors improve the sustainability and safety of their supply chains. These

resources would include a list of processors that have been Safe Slaughter Certified through meeting the criteria described in the next section, as well as a list of processors that have sought to reduce regulation through seeking waivers to increase line speeds. While the former is intended to drive demand for processors working to increase food and workers safety, the latter is intended to reduce demand for meat processed by facilities and companies endangering workers and consumers.



A sample mock-up of the Accountability Tracker page on the proposed Safe Slaughter Movements Website.

**b. Certification as a Tool to Inform and Build Constituencies**

A certification is a way to bypass administrative hurdles in the short-term and supplement the media campaign by empowering the newly informed consumer. The Safe Worker Certified certification would give consumers the ability to connect their purchasing power with issues of worker safety, a strategy modeled on successful campaigns in the livestock industry like cage free, antibiotic free, and free range. The critical question we've identified is how to monitor, verify, and ensure these standards are upheld. The structure of OSHA's recording standards fosters underreporting of the most prominent injuries like musculoskeletal disorders, and there's evidence that even moderately severe injuries often go unreported if they don't restrict a worker's ability to keep performing.<sup>37</sup> Other issues facing workers, like inadequate access to bathrooms or inhumane sick-leave policies, cannot be upheld if workers don't feel empowered to speak up. And while they are not ideal workplaces, unionized meatpacking plants often offer

better reporting data<sup>38</sup> and show evidence of better welfare and working conditions because employees feel empowered to speak up.<sup>39</sup>

Due to the subtle and concealed dynamics of injuries and reporting in these plants, empowering workers to organize is critical. Our certification therefore directly links verification to union lawyers by involving them as auditors for our certification. They will audit processing plants in their routine work with the facilities. Worker safety is a nuanced issue, and it can be difficult to create uniform standards. The infrastructure, machinery and workplace conditions are unique in each plant so that the quantification of standards (beyond line speeds) may not be feasible. Moreover, the injuries and substandard conditions they face are often invisible, like musculoskeletal disorders and inadequate bathroom breaks. Union lawyers have the legal privileges and proven track record to care about worker safety and monitor conditions through direct empowerment of the worker.

The certification will be a coalition building trademark that connects advocates, activists, and unions around the basic guidelines for worker safety: Safe Worker Certified mandates humane policies on bathroom breaks, shift breaks, and sick-leave, as well as periodic monitoring of MSD symptoms through a hired ergonomist.

<b>SAFE WORKED CERTIFICATION REQUIREMENTS</b>	
<b>Certification Requirements</b>	<b>Problem(s) Addressed</b>
Anonymous Reporting	Fear of employer retaliation: being laid-off, transferred, or being exposed for citizenship status.
Periodic MSD Monitoring	Prevent the most pervasive injuries in meatpacking and secure accurate data for future research and advocacy.
Hired Ergonomist On-Call	Provide professional medical monitoring of recorded injuries, enforceable medical advice for the injured, and consulting for upgraded technology (e.g. ergonomic tools and adjusted line activity).
Mandatory Work Breaks	Inadequate access to bathrooms and mealtime.
Legal-Age Verification	Pervasive issue of underage workers.

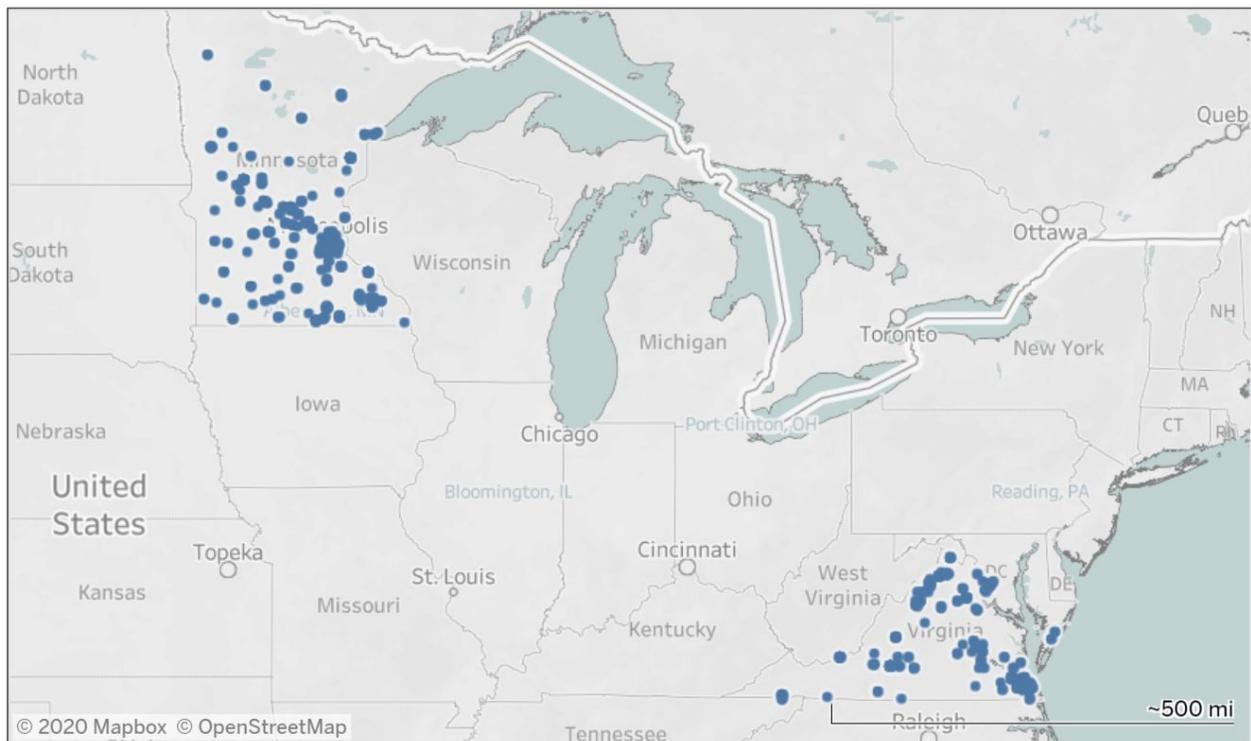
This is a nascent certification that will grow directly with the public awareness from our media campaign. Ultimately, this is not a standalone legal remedy. Rather, it is a means of bolstering consumer support and making these ethical standards visible in everyday, public venues like the grocery store. Building a consumer consciousness through these

first two stages will provide a window for our third and most direct phase of change: regulatory reform at the state level.

**c. State-Level Regulation as a Means to Improve Worker Safety**

The USDA has conceded to industry demands for deregulation of food and worker safety for too long. But OSHA also has not stepped up to claim its proper role in keeping employees safe from the myriad hazards, most notably traumatic injuries and repetitive motion injuries. We believe there is a path forward to implementing real regulation in states that operate their own OSHA programs on behalf of the federal government. These states can enhance regulatory standards by obtaining authority from federal OSHA to implement standards that go above and beyond federal minimums.<sup>40</sup>

We would focus on states which have relatively high concentrations of meatpacking plants, as well as legislatures and government executives who might be inclined to back the issue. By concentrating on states with considerable meat operations, we would have the opportunity to affect the lives and workplaces of thousands of employees. Among states that operated state-OSHA plans and met the above criteria, we identified Minnesota and Virginia as possible partners to pilot this type of regulatory reform.



Meat processing facilities located within Virginia and Minnesota, reflecting approximately 113 meat & poultry plants in MN and 150 plants in VA. Source: USDA Meat, Poultry and Egg Product Inspection Directory

These regulations could take one of two forms, and we have left this decision open for consultation with the regulating state to cooperate with their preferences. One option is to use performance standards to incentivize innovations that reduce ergonomic injuries. Under this plan, the state would pass a law that recognizes the hazards of the meatpacking industry. The law would require meatpackers to submit plans to the state on a regular basis outlining the ways they sought to reduce the risk of musculoskeletal disorders. Once approved by the state, meatpackers would be subject to inspections to guarantee compliance. If more than a given number of MSDs were reported in a given time-frame, the company would be required to improve its standards and update its ergonomics plan in consultation with the state-OSHA program.<sup>41</sup> A second regulatory option would be to regulate line speed more directly, either by setting speed limits in different kinds of meatpacking plants or by regulating the pace of work.

Such regulations would supplement the work already performed by the state-OSHA in accordance with federal guidelines. OSHA has authority to regulate worker safety<sup>42</sup> in meatpacking plants and does so through generally applicable standards.<sup>43</sup> The agency collects data, regulates manufacturing processes, investigates major injuries and deaths and occasionally cites meatpackers under the “general duty clause” for lacking ergonomic protections that result in MSDs for workers.<sup>44</sup> The agency has not, however, issued regulations particular to the meatpacking industry, and it has left line speed regulation to the USDA, who has claimed that worker safety is outside its purview.

We believe this route has not been attempted previously due to weak enforcement and coordination by some state-OSHAs, as well as concerns about federal preemption. The USDA exercises broad authority over federal slaughterhouses and their operations under the Federal Meat Inspection Act and the Poultry Production Inspection Act.<sup>45</sup> The clause “sweeps widely” and the Supreme Court recently held that it preempted a California law seeking to prevent the sale of meat from pigs who were too weak to walk to the slaughter.<sup>46</sup> Our review of the case law, however, indicated an opportunity to avoid FMIA preemption through state-OSHA regulations, which, if approved by federal OSHA, preempt federal law.<sup>47</sup>

OSHA operates through a dual federal-state system. The default system is for states to allow federal OSHA to police workplace health and safety. But twenty-two states have opted instead to operate “state-plans,” whereby they, under approval from federal OSHA, enact workplace safety regulations that meet or exceed federal minimums.<sup>48</sup> States can implement further standards that enhance worker safety in their state, although these

rules must be approved (after-the-fact) by federal OSHA, who can review them for the impact that the regulations will have on interstate commerce.<sup>49</sup> A denial by federal OSHA can be appealed in court.<sup>50</sup>

Moreover, the USDA's recent statements in federal register notices and federal court documents that it is not responsible for worker safety create an opening for states to defend meatpacking-specific regulations.<sup>51</sup> If the USDA is not regulating worker safety, it should not be able to block states from doing so.

State regulation of slaughterhouse safety also creates an opening to use the sales ban techniques that California has used to influence behavior elsewhere in the country. California has passed legislation requiring that all eggs sold within its state meet the animal care standards required of eggs produced in-state. The U.S. Ninth Circuit Court of Appeals recently held that the law was valid and nondiscriminatory, because the state imposed the same standards on eggs produced in-state.<sup>52</sup> Utilizing this same principle, a state that successfully passes meatpacking safety legislation might be able to later impose a sales ban on meat produced in substandard working conditions. This way, a state could amplify the effect of its legislation for workers nationwide. While this type of legislation creates enforcement difficulties, especially if states choose performance standards instead of line speed caps, it creates an opening for nationwide reform.

## **Conclusion**

When talking about transforming our farming systems, it is easy to become siloed in the singular fields of animal ethics, climate change mitigation, or environmental restoration. However, prudent advocates can see a synergy in these fields that enables the progress of one to open up possibilities for the others. A well-informed view of justice necessitates this holistic perspective. Each of these fields is inextricably linked to the workers who keep agricultural supply chains running, and yet little progress has been made for them. In meatpacking facilities, we are seeing vulnerable populations subject to egregious conditions by the same corporate megaliths who cruelly confine animals and pollute our waterways. Our project is based on a theory of change which holistically brings human rights and welfare into the conversation around climate, animals, food, and the environment by acknowledging that these conditions can all be traced to a common power structure.

The conditions of workers in meatpacking and processing plants has been well documented but lacks the public awareness it deserves. Historically, the issue has struggled to gain traction through public awareness campaigns, perhaps because the issue necessarily invokes complex questions about race and class, the rights of immigrants, and the value of unions and right-to-work laws. However, today we are at a pivotal moment to publicize and reform worker safety. We are seeing a window open through a variety of topical news stories; most prominently, COVID-19's impact on meatpacking plants has exposed the vulnerabilities and inequitable conditions of the industry, providing a platform for reformation. This moment provides an opening for the Safe Slaughter Movement to avail itself, ultimately providing a voice to those who need it most. Through a multi-phase strategy that combines a public awareness campaign, a certification for meat products, and a state-level regulatory reform, the Safe Slaughter Movement is poised to turn the tides.

## Endnotes

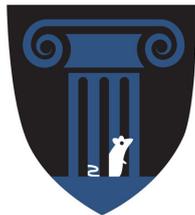
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This report was researched and written in spring 2020 by a team of Yale graduate and professional school students in the **Climate, Animal, Food & Environmental Law & Policy Lab (“CAFE Lab”)**, an initiative of the **Law, Ethics & Animals Program at Yale Law School.**

The CAFE Lab’s mission is to develop novel strategies to compel industrial food producers to pay the currently uncounted, externalized costs of industrial agriculture for people, animals, and the environment. For more information about the Program and the CAFE Lab and to access its publications, please visit: [law.yale.edu/animals](http://law.yale.edu/animals).



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