

Article Citation:

Howse, Dana (2019). "You Can't Solve Precarity With Precarity." The New Alberta Workers Program: An Interview With Jared Matsunaga-Turnbull, Executive Director of the Alberta Workers' Health Centre. *NEW SOLUTIONS: A Journal of Environmental and Occupational Health Policy*. 29(3), 459-477. <https://doi.org/10.1177%2F1048291119869165>

This article is part of a Special Issue on Occupational Health and Safety and Employment-Related Geographical Mobility. Guest Editors: Katherine Lippel and Barbara Neis.

Table of Contents for Special Issue

Feature:

Introduction to Special Issue Occupational Health and Safety and the Mobile Workforce: Insights From a Canadian Research Program

Barbara Neis and Katherine Lippel 297

Features:

Regulating Health and Safety and Workers' Compensation in Canada for the Mobile Workforce: Now You See Them, Now You Don't

Katherine Lippel and David Walters 317

Travel Time as Work Time? Nature and Scope of Canadian Labor Law's Protections for Mobile Workers

Dalia Gesualdi-Fecteau, Delphine Nakache, and Laurence Matte Guilmain 349

Occupational Health and Safety Challenges From Employment-Related Geographical Mobility Among Canadian Seafarers on the Great Lakes and St. Lawrence Seaway

Desai Shan and Katherine Lippel 371

Occupational Health and Safety for Migrant Domestic Workers in Canada: Dimensions of (Im)mobility

Nicole S. Hill, Sara Dorow, Bob Barnetson, Javier F. Martinez, and Jared Matsunaga-Turnbull 397

Factors Influencing the Health and Safety of Temporary Foreign Workers in Skilled and Low-Skilled Occupations in Canada

Leonor Cedillo, Katherine Lippel, and Delphine Nakache 422

Voices:

"You Can't Solve Precarity With Precarity." The New Alberta Workers Program: An Interview With Jared Matsunaga-Turnbull, Executive Director of the Alberta Workers' Health Centre

Dana Howse 459

Voices

‘You can’t solve precarity with precarity.’ The New Alberta Workers program: An interview with Jared Matsunaga-Turnbull, Executive Director of the Alberta Workers’ Health Centre

Dana Howse

Abstract

In January 2013, SSEC Canada Ltd. pled guilty to three charges under Alberta’s Occupational Health and Safety (OHS) Act after two of its temporary foreign workers (TFWs) died and two more were seriously injured on the worksite. A fine of \$1, 225, 000 -- the largest ever ordered in Alberta -- was paid to the Alberta Law Foundation, which administered the funds to the Alberta Workers’ Health Centre to develop and provide the “New Alberta Workers (NAW) program”. In this interview, Jared Matsunaga-Turnbull reflects on the program’s peer-to-peer OHS workshops for new-to-Alberta workers to illustrate how “creative sentencing” related to serious OHS violation convictions can play out. He discusses what the team learned about the particular work and life context and related needs of new-to-Alberta workers that created challenges and prompted program changes throughout the three-year workshop period. Finally, Jared considers what is needed to meaningfully support new-to-Alberta workers going forward.

Keywords:

Temporary foreign workers; occupational health and safety; creative sentencing; peer-to-peer education; Alberta

Introduction

In April 2007, the collapse of an oil and gas storage unit on a worksite outside of Fort McMurray, Alberta, resulted in the deaths of Ge Genbao and Liu Hongliang and the serious injury of Li Ruiming and Wang Dequan, all of whom were workers from China who had been brought to Alberta through the Temporary Foreign Worker (TFW) Program. In January 2013, SSEC Canada Ltd. pled guilty to three charges under Alberta's Occupational Health and Safety (OHS) Act for failing to ensure the safety of their employees, and was ordered to pay the largest OHS fine ever handed down in Alberta.¹ OHS prosecutors saw this case as an opportunity to use the prosecution as a deterrent for other employers, and to use a "creative sentencing"² option as authorized in the OHS Act, to direct \$1,225,000 towards an educational outreach program that would seek to improve the workplace health and safety of TFWs and other new-to-Alberta workers.³ The fine was paid to the Alberta Law Foundation,^b which administered the funds to the Alberta Workers' Health Centre^c to develop and provide the "New Alberta Workers (NAW) program"^d in partnership with the Multicultural Health Brokers and the Calgary Workers' Resource Centre, the second of which was replaced by the Ethno-Cultural Council of Calgary in 2015. The court-approved program was developed by the three original program partners in consultation with the crown prosecutors and Alberta's Ministry of Labour. The program was conceived as a peer-to-peer model from the start because the Multicultural Health Brokers had previous experience with the approach and observed the trust it fostered between workshop instructors and participants, which was considered essential for the NAW program's success. The program's goals were to: develop and deliver a standardized workplace rights-based health and safety training course; develop and deliver an instructor training course; support new-to-

Alberta workers in accessing OHS rights and resources; and evaluate and research to better understand the specific needs of new Alberta workers under the Alberta OHS Act. These goals were accomplished through two main program activities: New Alberta Workers workshops and community-based research, the first of which is the focus of this interview.

The three-year long NAW program was primarily managed by the Alberta Workers' Health Centre, which is a not-for-profit organization in Edmonton, Alberta, that provides organizations, vulnerable workers and health and safety activists with worker-focused education and resources concerning: health hazards on the job; legislation and legal rights for healthy and safe workplaces; and research on health and safety issues and trends affecting workers. Jared Matsunaga-Turnbull started at the Alberta Workers' Health Centre with the Work Plays School Program and then managed the NAW program for its first year before becoming the centre's Executive Director in 2015, after which time Lori Shortreed managed the NAW program and drove its major activities. From 2013-2016, the NAW program offered 239 workshops reaching 2,927 new Alberta workers, and trained thirty-three resource persons in information about OHS rights in the workplace. Participants evaluated the workshops positively with 96 percent reporting that it helped them understand what OHS in the workplace is, 93 percent indicating they understood their OHS rights and responsibilities, and 92 percent saying they knew the correct process to refuse unsafe work.

In this interview, Matsunaga-Turnbull reflects on the NAW workshops to illustrate an effective example of how "creative sentencing" related to serious OHS violation convictions can play out. He discusses what the team and partners learned through the program about the particular work and life context and related needs of new-to-Alberta workers that created challenges and prompted program changes throughout the three-year period. The team's learnings echo what Hill et al. found in their study of OHS for domestic workers including, for example, the vulnerability of workers whose contract ties them to a specific employer, who are socially and geographically isolated, may speak little

to no English and who can be profoundly affected by changes to Canada's various foreign worker programs.³ Jared also considers the conditions and supports required to meaningfully help new-to-Alberta workers. He emphasizes that you cannot solve precarity with precarity, and laments the typically jurisdictional approach that addresses workers' various concerns in silos. Like Cedillo et al. found in their study of low- and high-skilled stream TFWs,⁴ the NAW program revealed the need for more on-the-ground comprehensive services that address in a holistic way the array of interconnected concerns and challenges confronted by new-to-Alberta workers related to workplace rights, health and safety, housing, immigration status, family, healthcare and so on.

Following the interview we have included two composite stories of TFWs, each piecing together common elements of the stories of multiple individuals. These stories were generated as part of a separate initiative called "Alberta Stories," which was a product of the On the Move Partnership's (OTM) Alberta Team⁵, to which Jared belonged. In developing these stories, team members identified the most common and important issues facing international migrant workers in Alberta, and combined into fictionalized stories the most compelling and insightful incidents that were heard throughout the NAW program and that were emerging in the OTM research. To ensure TFW experiences were accurately portrayed, the stories were reviewed by a migrant worker with extensive experience as a worker and an activist and, later, by dozens of international migrant workers who read them as materials in their English language course and who saw their own experiences reflected. We include these stories to offer a portrait of the kinds of challenges TFWs face that is grounded in lived experience, to depict the myriad concerns of the workers who participated in the NAW program, and to ensure such experiences and needs are always front of mind as we consider interventions to help TFW and other new-to-Alberta workers.

The interview

DANA: So, the NAW program was essentially a program offered to new Alberta workers, for peer-to-peer public legal education and training concerning health and safety rights and regulations under the Alberta Occupational Health and Safety Act. Is that an accurate nutshell description?

JARED: I think that's it. The original proposal looked at developing and delivering OHS rights-based education. So, a standardized course that could be delivered to different communities made up of new Alberta workers, which were broadly defined as temporary foreign workers, immigrants, refugees. It really was about newcomers to Canada, to Alberta. And, the second component was to build a "train-the-trainer" approach -- a network of trainers who could then teach the standardized course. You know, workers should hold the power to be able to do this, and there was real value in having newcomers at the front of the classroom teaching other newcomers. And that was sort of the goal. And, during the program itself we had to re-evaluate, which was interesting. It was a great opportunity to learn more.

DANA: So when you say you had to sort of re-evaluate through the course of the program ...

JARED: The first thing we realized was we're not hitting our targets. Why? Are the targets themselves unrealistic? We had to re-evaluate our key principles. For one, the train-the-trainer model was really hard. You're dealing with vulnerable workers who are hard to reach to begin with and who don't have time or ability to commit, are themselves precariously employed and therefore it's really hard to commit to training and retention and everything else. Whereas there were some unionized folks who had come through a temporary foreign worker program or who identified as new Alberta workers and they had the ability for the union to book them off from work and cover their wages while they did some training for us. But that's not the norm for many newcomers.

And a further barrier was how do you get people in a room when they don't trust the people who are doing the outreach? Well, early on in the proposal it was clear that the program was a collaboration between three different organizations. So, ourselves, who have the health and safety backgrounds. Second was the Multicultural Health Brokers Cooperative out of Edmonton. They have a long history

of doing work directly in communities where they have a broker model, which is, you know, a trusted member of the cultural community, often with a shared language, who becomes the navigator of various systems. When it comes to TFWs, it's about residency, uh permanent residency, immigration concerns, it's about housing, and everything else, right? So they had reach into the community, and trust. The other organization at the beginning was the Calgary Workers' Resource Centre, which has since changed its name to the Workers' Resource Centre, who do case work for workers' compensation board claims, employment standards concerns and so on. So, they offered largely a service model to complement our health and safety education model. And this was a province-wide thing so we wanted to make sure we had some partners all over. About a year and a half later, The Ethno-Cultural Council of Calgary, which is now called Action Dignity, took the place of the Workers' Resource Centre. They also had ethno-cultural brokers -- community members self-identifying as newcomers who became our trainers as well. And they were able to reach communities and other agencies that we hadn't been able to access before.

DANA: So those partnerships were really critical for that community reach and that relationship of trust. And both of them employed already this sort of broker model, which you were able to adapt to the NAW program?

JARED: Yeah. We were able to create it together. I think we learned a lot going "well, why do you do this and how do you do this?" So, those two organizations said these are the people that we think we can get in the room together, and the people who stayed were really interested. And from there we were able to train a key group of dedicated trainers who were able to teach the workshops.

DANA: Okay. So, you mention that along the way you discovered that you weren't meeting your targets?

JARED: There was a mad rush, and I remember thinking at the beginning ok we gotta build some relationships, we gotta figure out what we're going to do, and then we gotta build a course. But, the

course itself was flawed. It really needed to respond to what we were learning in the classroom or in the community hall or someone's home. We had to learn about that too. *How* was it going to be delivered? We were dealing with shift work, remote locations, distrust of formal organizations, people not wanting to come to things. So, we had to ask "what do they want?" Well, they want to know stuff about residency and immigration. So, some brokers said I'm going to call it an immigration workshop and the first bit they sit through is this health and safety course, and there's going to be food (laughs). It became a community gathering, right? So, people could share stories and hear things and learn stuff that was relevant. We also had to consider how much time is actually available. At first, I was like "I want to get this principle of health and safety in here, I wanna get this and that ..." But, what's the actual key stuff that *had* to go in? There were some non-negotiables but some of the courses had to be adjusted. And, how much time do you have if you're also translating into a single or multiple languages in the same workshop? What are the limits of reach into the community? In Edmonton, there were a lot of women in the earlier classes who weren't covered under health and safety legislation because, at the time, until 2018 in Alberta, domestic workers, so nannies, were not covered. So, you know, we're going okay "so all of this stuff applies to you, you have rights ... if you have rights." Another thing that happened during this time was that the TFW program shifted dramatically and the rules kept changing under this program while we were trying to reach new workers. Mainly the 'four-in-four-out' rule was introduced^e. So, in April 2015 new regulations came into effect to say that if you are a TFW you are no longer eligible to stay. April 30th was the deadline where a bunch of people were going to have to go home, and a lot of these people had come to Canada with the understanding that this was an immigration pathway, and it shifted while they were on the ground. So, what we learned is, people were using this program as a way to come here, they're not coming here *because* of the program. We weren't able to do workshops for TFWs after that four-in-four-out rule came into existence. People, we hear, have gone underground, because to go back literally could be dangerous

because they didn't have anything back home. And we heard stories of people who came over here on the TFW Program because they weren't eligible for refugee status regardless of the fact that they were in danger. And so their families were in danger in their home country.

And you know, if you want to make a better life for yourself you will pay a recruiter because you'll go to the 'Promised Land', make x amount, and you'll be able to pay this off in year one of a four-year gig and on top of that you'll be able to stay and bring your family over here, right? That's the hook so you look at it and you go that's worth it, it's totally worth it. You get here and you realize not only do you have to pay that back, not only have you left your family behind, but if you don't pay it back your family could be threatened, right? And you won't risk reporting that. It's those kinds of situations. And we hear stories from people who arrive and the contract that they agreed to has changed so they're not actually getting paid \$25 an hour, they're getting minimum wage and a place to stay is provided, but they have to pay for it. Or you know it's payday, you go to the bank machine with your employer, you deposit your check, they're standing right there and you hand over an additional \$300, right? And that doesn't show up anywhere, there's been very little enforcement, it might be the only time you're in even a slightly urban center. And in order to stay in the country you have to work for that employer. There's a mechanism where you can quit and seek out another employer within a specific time frame, but you've effectively been blacklisted in that community ... and where do you find someone else?

DANA: And so this is really sort of spelling out all the reasons why TFWs have this heightened need really for education around OHS and their rights and so on.

JARED: Yeah. Under the law, the employer is supposed to provide you with education and training on not just health and safety hazards that you could be facing, how they're taken care of, how you're protected, but you're supposed to be taught about your rights too, and we know that doesn't happen. And it's not necessarily an evil practice, but it's not the priority, especially in a smaller employer where they don't know what their responsibilities are. And increasingly, when you see the move from

being an employee to, “I’m going to set up my own business, cleaning business, and I’m going to hire other people.” Well, if you came to Canada and you didn’t learn about your rights and didn’t even know they existed, you’re not going to pass that on to the next ... so it perpetuates itself. There’s also language barriers and we heard that was significant. Lack of written and spoken English at a certain level was a barrier to understanding your rights and being able to act on them. And this combined with the power imbalance makes it really hard to stand up because you’ll be fired and sent home and your family might be in jeopardy, and you owe thousands of dollars to a broker. All of these things add up to non-action. So, knowing your rights is one thing but having the agency to actually move forward on something is another.

DANA: You said that while it might be the employer’s responsibility to offer the education and training around OHS it often times, or probably most times, is not happening. Were no other parties or community agencies, previous to this program in any case, taking that on?

JARED: I think some. I think that communities have always looked to support each other. But, if you’re a temporary citizen, a temporary resident, do you have time to build community? And the isolation comes into it too, the language stuff, the inter-cultural barriers. And, for me, health and safety cannot be separated from the power structure of a workplace. A lot of systems rely on workers having a voice in the first place to say ‘I’ve got an issue that’s particular to me.’ So you’re only hearing those issues if someone has the power to actually raise them in the first place. And then you try to address it. And then you’re busy servicing members and you know these organizations have limited resources as well, like worker advocacy organizations. One interesting discovery in our program relates to the community adult learning centers that operate throughout Alberta. Almost overnight some centers went from learning Spanish for fun, or square dancing for seniors, to becoming a newcomer serving agency, because they’d started to see people coming with different needs: immigration and housing concerns and questions, employment-related stuff, and language training. And that was something

outside of their wheelhouse. So, we tried to work to build some capacity there, to train some front line workers on some of their health and safety rights awareness. Because, people don't know what they don't know, and health and safety feels like it's just a workplace-related thing. But it has impacts on everything else.

The other thing that happened in Alberta during our program was that a majority New Democratic Party government came in in 2015, replacing the long-time conservative government. And that shift brought significant changes to a bunch of labor legislation and they really wanted to hear from workers as part of the consultation process. So we had an opportunity to consider what policy makers need to know, things like inclusion of domestic workers in the health and safety act, proactive enforcement. We were able to draw on the NAW experience and use it in a way that would maybe hit at a policy level not just at a classroom level for a bunch of workers who don't have power to access things in the first place.

DANA: So you were about two years into the NAW program and you were able to reflect on what you had been learning to inform these consultations with the new government.

JARED: Yeah. And, at a program level, we were able to see what needed changing. And to see that maybe our targets weren't realistic. We needed to adapt and figure out how to continue to reach out. And, so the other key player in this is our funding administrator – The Alberta Law Foundation – which provides funding for a lot of not-for-profits and charities to do public legal education and other work around the province. They provided financial oversight, which was really useful because that made us accountable to another party. And they were really supportive when we said we're not hitting our original milestones or targets because we didn't know enough about the context, we didn't know enough about the workers' experiences that were affecting their ability to participate. They were very supportive but still pushed us. So we had to be clear on what our new objectives were going to be. But we were able to kind of go, let's re-evaluate and let's go in this direction instead.

DANA: So what were some key changes as a result of this re-evaluation?

JARED: A big thing was we needed to pay the brokers for their time for training. They're precariously employed and couldn't just do this out of the goodness of their hearts. So there was some budget restructuring. There was a lot of money early on that was supposed to be attributed to course manuals and things, which are used in a lot of training. And that was not considered the most pressing thing, especially because the course itself shifted. It was the in-person stuff that was the most important thing, and the relationship stuff. So, we were able to reallocate some money to compensate people for their time. And we looked at stretching the program out. We weren't going to be spent out so we sought permission to extend, and keep staff on longer. And this was important because we really pushed to get into Fort McMurray where the incident that led to the fire happened, but it took us three years to get up there.

DANA: What was the obstacle?

JARED: One of them was that industry did not express an interest in workers learning about their rights, so we tried to find and build relationships with on-the-ground supports that new Alberta workers were accessing. And that took time. Additional challenges related to shift work, remote locations, and isolation. And then the massive fire happened in Fort McMurray and that basically shifted everything. So, worker organization was hard. People were not there. And you know, like anything, when you're doing work that is relational, you have to take care with communities that have a healthy distrust or don't have time.

DANA: And engaging brokers to run the workshops was one way to break through that distrust, right? How were the brokers who participated identified by the two partnering agencies?

JARED: The Multicultural Health Brokers decided to split their budgeted full-time equivalent position between three brokers who they identified according to language needs of the workers they served. So, it was Russian-speaking, we had another broker who was Spanish-speaking to reach a

multitude of different workers, and a broker from the Filipino community. And, then later when the Ethno-Cultural Council of Calgary came on, they tended to go cross cultural as opposed to in their own communities, so it was done in English in a variety of settings, not necessarily in first language.

When the brokers would do a workshop they got inundated with questions afterwards. If you present yourself as a helper and if you present yourself from the community and you have that shared lived experience, people trust it. That's when people will open up and feel safe. And that was the power of having peer-to-peer. And that takes time, that takes relationship, that takes money. It's not the same as just translating a document into some other language. It's the person who's handing over that document who becomes the crucial link. You could feel the difference in the room when the workshop was offered in first language. Working across cultures too, my sense is that still, it was considered peer-to-peer because a non-English accent sent the message that you were an ally at the front of the room because you have that same experience: When did you come over? How did you get here? What was your experience prior to coming to Canada? And then, the health and safety stuff became our role, to make sure the brokers were equipped with the information and skills.

DANA: Okay. So then the program essentially developed this sort of curriculum information to train the brokers and then a separate set of curriculum and information for the workers themselves who'd be attending the workshops?

JARED: Yeah. There was a lot of background information for the brokers to be able to answer certain questions, there are principles of health and safety at play. It's a little complicated, right? What was really useful, was recognizing that people's notions vary. Inter-culturally, we define safety differently, it's a culturally learned concept. So, if we're talking about hazards at work, well we need to know what your own notion of safety is. If your notion of safety is there's no gun pointed at my head, well then you enter into discussions of workplace health and safety from there. But, if you miss

out on that, then you're not speaking to their experience. You're not learning from it, you're not tailoring the course learnings to where they're at.

DANA: Right. Tailoring the content and the workshop information around this kind of learning.

JARED: Yeah, and I think that was an ongoing thing. That was significant for me as an educator. We gotta involve workers from wherever they're at so they see themselves in it, and so we can learn from it.

DANA: How were the workers identified? Any key strategies you used or that were most effective?

JARED: It was the low hanging fruit at the beginning, who we knew already that fit the criteria. There was email, there was phone, there was outreach through front-line serving organizations.

DANA: And then word of mouth I suppose as well, between workers.

JARED: That was a challenge because there's not a lot of organization among TFWs. Where's "the TFW place?" right? And so going into specific cultural communities was a strategy because regardless of what your immigration status is, you may belong to a community. And that was another significant learning. We went from "oh, we have to find this designation of workers", as opposed to you know, "people work, where are people?" That's different than a workplace-specific approach.

DANA: Yeah, just look for the people.

JARED: And from there you go, well, what do people need and what are their experiences? And what's their experience with systems that aren't set up to address people's needs?

DANA: And then the workshops. Just give me a picture of what a workshop would look like.

JARED: It depended. Brokers could host it at a community hall or their own space. I attended a workshop where one person showed up and that was seen as a success because you're trying to figure out when's the right time, who can come. If you say we're only going to run this thing if ten people or twenty people show up, then that is not realistic. It led us to ask what do people need to participate?

Well they're working three shifts, there are transportation issues on this day, they need childcare. So all those things had to be figured out and addressed.

I started out believing this course needs to be three hours (laughs). Right? Because of all the stuff we have to get through like: workers' right to know about workplace hazards and protection, the right to participate in health and safety discussions and activities, the right to refuse unsafe work, plus some principles of hazard control. And time to share stories, experiences too. But the brokers were like: three hours, no, not going to happen. Okay, two hours. It's not going to happen. Okay, one hour. And it'll take two hours because people are coming to hang out with each other as well, so you gotta have the food, and whatever the cultural needs are for people to feel safe. It's not what tends to be the usual government or professional approach: "You come here, you're going to learn something and I'm an expert and my time is valuable".

DANA: And you tried to weave the training throughout that sort of context or was there a sort of more formalized portion?

JARED: People did it differently. There was a formal aspect and depending on which broker it was and what their needs were and what was culturally appropriate. How do we learn? Is it a really hierarchical kind of a cultural need or experience? Do you learn by having "an expert" at the front of the room? Or for some it's like, hey we're all the same, it's informal.

DANA: It sounds like there was a fair bit of flexibility and variation and adaptation from workshop to workshop, broker to broker.

JARED: Yeah, and we had to develop standardized content and we had posters developed, but generally it was a PowerPoint, that everyone wanted because it's easy, you can adapt it. And for some brokers, it reinforces their status. In some cases I recognize that status is something you lose when you come over. You've lived your whole life building up whatever credentials and now for whatever reason you're now in a new country and you're stripped of that. And so to be a broker where you're

definitely able to access people differently and better than I can, and it's giving you something you may have lost.

DANA: Anything else come to mind around stuff that worked really well?

JARED: Having it be as long as it was – forty months. You can't do something like this in a year. The other thing that is significant is that the three brokers from the Multicultural-Health Brokers who started, remained the entire time. They saw something in it, they articulated that this actually changed the way they look at certain things. I think the ability to build relationships outside of where you normally are, that really worked and that's ongoing. We continue to collaborate on other projects.

What also worked was tailoring the course to people's experiences and letting them see where safety fits into their world as opposed to presenting this very siloed seemingly workplace-specific set of rights and obligations. And, significantly, recognizing power. And so you now know what your rights are, we're really thankful, that's great. But, what are the barriers to claiming them? And then what are the resources that could help you? And some of them are troubling, right? Some of them are "let me stay here." And then you get into jurisdictional things and you get into the real work that needs to be done. It is not just telling people what their rights are or their responsibilities, but it's addressing this notion of agency and that's at a policy level, that's allocating resources to enforcement, proactive enforcement, that's critically looking at what are these streams, immigration or work permit streams, what are they actually, who are they there to serve? And, what is there to support people? You know, that's the tension. Is public legal education useful? Yes. But, is it enough? Can it exist without meaningful people-focused support? And who's going to resource that? And Alberta is, because of its political history, doesn't have certain legislated worker support systems in place that other provinces do.

DANA: Any surprises arising from your experience with the program. Sort of moments where you kind of went "whoa"?

JARED: Hmm. I tend to look at it reflectively at a personal level and so I think there's a lot of unpacking personal biases, personal privilege stuff. Being a decent human being, a nice guy or whatever, doesn't mean you're the best person to be talking, to be able to meaningfully educate others. And it begs the question: who is? And how do we make sure that happens. There was a lot of talk beforehand about the barriers for people to access their health and safety rights and there's a lot of talk about fear of reprisal, or fear of being fired or sent home or whatever. And, as Lori [NAW program manager] said, it's not just a fear of that *possibly* happening. It's that they see it happening. People *are* fired, they *are* sent home, they *are* exploited, they are abused for filling a labor market need.

DANA: What would be required to sustain this sort of program indefinitely, and obviously funding is critical.

JARED: Yeah, funding and sustained funding. And recognizing that you can't solve precarity with precarity. Lots of people are increasingly precariously employed. It's become the new normal so it's even harder to fight against.

DANA: So having these really sustained established sorts of programs, not ones where the people providing the program are equally as precarious as those availing of it.

JARED: Yeah, there are some infrastructural needs, right? Like how do you build the capacity of places, of organizations, of communities to be able to deal with health and safety issues and other employment-related issues? So that it's not just relying on an "expert". How do you move that forward? And a part of that was looking at having a resource person trained in different communities. It's not the same as the hands-on thing but it is a step, right? I think sustained ongoing funding combined with meaningful support mechanisms across the province. And I don't think this is the not-for-profit sector that needs to be doing all of this stuff. I actually think that these are citizenship rights that we're talking about and if we want to build a just society then that's a provincial or federal responsibility, municipal. You know this is why we pay taxes, to make sure we have healthy

functioning communities for everyone, even those who aren't in the room -- maybe especially. And that the needs are different. I think that's important. A one-size-fits-all approach to education and to service means you're not catching the people who tend to be more vulnerable. You gotta start from there and recognize that one-size-fits-all doesn't necessarily work, and that some people may be better equipped because of their own lived experience, to do this work. Education, service, otherwise. Representation matters.

DANA: So, if someone came to you tomorrow and said here's \$300,000 to extend this program by a year, year and half, would there be an appetite for that if nothing else changed, if these other sources of meaningful supports were not put in place, if it was strictly to continue the public legal education component?

JARED: Yeah, that's a good question. I mean, you know, we're small so I don't want to turn away money obviously, but I think that would be part of it, to use that to figure out what the needs are, what are the actual needs for support? So you can deliver things as a way of meeting people, as a way of figuring out what the needs are. And that's actually some of the work we started to do, right? We were able to teach courses, find out there's gaps, create relationships, ask the question "what needs to happen?", find out that there's nothing in their neighborhood that would support them or that they're under-served or whatever it is, and that the idea of a year program would be to create a needs assessment, essentially.

And, in some ways we'd have to start again. We have this wealth of material but so much of the work that's done I think in lots of organizations in the community is people-driven, it's not just bodies, it's individuals \who hold the knowledge and understanding and have key relationships. So a year isn't a long time to establish relationships. What we didn't talk about is who's not captured in this program. Because it was New Alberta Workers, and it was migrant, immigrant and refugee workers new to the

country. We didn't get to do anything with Indigenous populations and so, I sort of go "oh" again, right? The way we silo things. But also different lived experiences certainly.

DANA: Yup, different vulnerabilities, different sorts of discrimination

JARED: And different colonial history. So that would also be a way to continue. Had we more time I think we could have made a case for it, and the Law Foundation was certainly on board with that, we just didn't have enough time.

DANA: Well that's the trick. You're easily a year, as you say, establishing necessary relationships, and figuring things out. And it's great as you say that you had as much time as you did. If you were to do it again, what would you do differently?

JARED: I think we would allocate more staff resources. It was a lot of work, a lot of travel involved. And knowing better what questions to ask off the top. That's hard, because the process was so much a part of it. And I have to say that it was a luxury to have process.

DANA: It sounds like you 'did things differently' as you went in some ways.

JARED: Yeah, it was that, "okay, I don't think this is working, can we change it?" And the answer was, yes we can. And that's also not necessarily what happens all the time.

DANA: What would be your key takeaways from this experience, for policy makers for example or others who might do this sort of thing?

JARED: Off the top of my head, peer-to-peer, start with people's experience, help them. And make sure there are structures in place to support them, so there's policy, there's individualized approach. And the other thing, I sort of skirted around it, but this was a success because we partnered with other organizations. You know, work with others, build trust, respect context of peoples' lives and use that as a starting point. And, of course, be flexible and able to adapt.

A TFW Story – Hazardous meat-packing work: From Guatemala to Alberta^f

Carlos Alarcon came to rural Alberta from Guatemala in 2010 as a TFW. He was hired by a meat-packing company with the promise that he could become a permanent resident through the Alberta Immigrant Nominee Program. Carlos arrived not speaking any English. After a very brief orientation in Spanish, he was given the job of ‘sticker’ (killing cows). *“The newcomers always get the worst jobs. If you have citizenship, you can quit or say you will quit and get moved to a better job. But we who are working for our permanent residency status—we have to do what they tell us.”*

Social isolation

For four years, Carlos lived near the plant in a small house with eight other TFWs from Guatemala: *“It was very crowded. Eight of us shared three bedrooms and one bathroom. Being away from my family for four years was very hard.”*

Hazardous work

After several months as a sticker, Carlos was moved to a new position where he cut meat, wielding a sharp knife in his right hand and a meat hook in his left. *“Cutting work is dangerous and hard. Yes, the knives are very sharp. But the real dangers? Well, the meat is heavy and the line moves very fast. Workers can be knocked down by carcasses. And the room is cold. Your muscles don’t work the same in the cold. I have sprained my arm and my back several times. The worst part for me was using the metal meat hook. You hold it like a knife, but the metal hook sticks out between your fingers. You are always holding the hook and pulling with it. Day after day. There is constant pain. You can’t open your hands very well. You lose feeling and strength.”*

Access to health care

Onsite medical treatment for workers was minimal and focused on getting them back on the line as quickly as possible. *“They give you ice, pain creams, Tylenol, and send you back to*

work. They tell you to soak your hands and do stretches. You want some time off to rest. But when you are not there, the employer does not replace you. The others must work harder. The line never slows down.”

Permanent residency

“Basically we are trapped. Your employer is named on your work permit, so you can’t just quit and go work somewhere else. If you want the company to help you get your permanent residency, you can’t let them see that you have trouble working. You cannot complain. You cannot be sick or injured.”

Carlos received his permanent residency status in 2015. Immediately, the employer started taking his complaints more seriously. *“I said my hands were sore and I could not work here anymore. So they moved me into packaging meat. It was still fast and cold. But the pieces are smaller.”*

Eventually, Carlos left the meat-packing plant. He found a job in Edmonton doing construction work and brought his family to Canada. *“I work for a friend of a friend. It is hard work as I am still injured from the meat plant. My arms and back get sore. My doctor says I need rest. She says to report my injury to the WCB (workers’ compensation board). But WCB says that I have not reported the injury when I worked at the plant so they cannot accept the injury so many years later. So I take pain pills and do the best I can. I am happy to be here. It is better for my children to be here. It is safer and there are more opportunities. But how foreign workers are treated? That is terrible. They use us and then they throw us away like garbage. The government? It doesn’t care—it makes the rules that let this happen.”*

A TFW Story – Labour trafficking: Labour broker services^g

Anong Na Ayuthaya came to Calgary from Thailand to work as an esthetician in a spa. Anong paid a Calgary-based labour broker 200,000 Baht (approx. \$7,500) for assistance with “resume writing” to secure the job and a work permit as a TFW: *“It was a lot of money for me and for my family. But the person promised me a good job earning \$20 hourly doing skin and nail care. I paid \$2,000 up front and my employer was supposed to deduct the remainder from my paycheque during my first year.”*

Not as promised

Often, workers who enter into such arrangements find the work they were promised is not available upon arrival: *“When I got to Canada, the labour broker met me at the airport and drove me to a house where all of the workers live. When we arrived, the labour broker said the spa was not ready yet, but the employer would find other work for me until it opens. I was tired and my English was not so good so I agreed. He took my passport and work permit and I went to bed. Next night, the boss showed up with a man. The boss said we would work for the man cleaning buildings until the spa opened. The other girls were uncertain but we had no other choice. We had no money and no documents and we were living in the boss’ house.”*

Wage theft and deportation

Anong and the other TFWs worked as cleaners for three months. The pay was poor. *“We work 8 to 10 hours each night – sometimes six or seven nights a week. After two weeks, we each get \$250 cash. He says he deducts rent and food and our labour broker fees and taxes, but there is no written record. My friend Angele complained and the next day she was sent back to the Philippines. We did not complain after that. We were scared. We owed a lot of money and we were scared for our families back home.”*

Over the next year, Anong and her roommates worked for several different companies. *“The spa never opened. We just keep working as cleaners.”*

Labour trafficking and social isolation

This is human trafficking: the recruiting, harboring, transporting, or controlling the movement of a person for the purpose of exploitation. As is typical in human-trafficking situations, the various men that Anong worked for were careful to keep Anong and her roommates isolated from other workers: *“We always clean alone. We never see anyone but each other and the boss. There is no phone. The boss will send letters to our families he says and sometimes he brings letters from them. The only place we see other people is sometimes at the food court in the mall when we go out during the day instead of sleeping. I met a Thai man working there and his wife and we start talking. She says this is wrong and wants to call the police. I don’t want to be deported. How will I pay the debt? So I tell her no police. She offers to send letters to family for us. This is much better because I can be honest in these letters. This goes on for months and my family says they are worried and I should come home. But the boss searches the house because we stop sending letters through him. He finds our letters and is very angry. The next week, I am working in a different city. I do not see my roommates again. Now I am cleaning a motel that my new boss owns. I live there and work there. It is just out of town—too far to walk easily in the winter. The new boss says he is holding my pay for me for when my debt plus interest is worked off. He does not say how much I owe.”*

No access to health care

After three months at the new location, the stress became unbearable and affected Anong’s health: *“I was very alone. I wanted to die. I had no one to talk to except the owner and his wife. They only tell me to work hard. Finally, I am too sick and I faint. A motel guest calls the ambulance for me and I go to the hospital.”* She contracted a case of pneumonia

Rescued, repatriated, ripped off

“I stayed at the hospital for two weeks. Social worker thinks I am illegal. I tell her that employer has my papers and I have a work permit. [Canadian Border Services Agency] got involved and found out I am legal worker but that new boss does not have [a labour market impact assessment].”

The Canadian Border Services Agency and the RCMP are presently investigating both the spa and motel owners. It is unlikely they will be convicted of human trafficking – most charges are stayed or withdrawn due to lack of evidence. It is also unlikely that Anong will ever receive the money she believes is owed to her. *“I decided to go home. I am done with Canada. The social worker helped me file the complaint about the unpaid money but I cannot attend the hearings because I am in Thailand. I am just happy to be home.”*

Acknowledgements

This program would not have been possible without the generous time and support from the following people and organizations.

Alberta Law Foundation

Alberta Workers’ Health Centre (*Danica Connoly, Kevin Flaherty, Jared Matsunaga-Turnbull, Violet Olinek, Gina Puntil, Lori Shortreed*)

Ethno-Cultural Council of Calgary (*Marichu Antonio, Daniel Atangana, Mario Ayudo, Tolu Babalola, Tiffany Barbosa, Fobete Dingha, Martha Fanjoy, Shafaq Noorani, Jay Zapata*)

Multicultural Health Brokers Cooperative (*Yvonne Chiu, Rafael Cortes, Irene Dormitorio, Avryll Fuller, Volha Karnevich, Lidia Macovei, Susana Runge, Patricia Wong*)

Workers’ Resource Centre (*Leigh Golden, Candace Martens*)

BIM Larsson & Associates, Bob Barnetson, Bev Burke, Yessy Byl, Sara Dorow, Ann Goldblatt, Carole Massing, Faeze Nouri, Jillian Paragg, Flavio Rojas, Elaine Stefanick.

The Alberta Workers' Health Centre was a community partner with the On the Move Partnership: Employment-Related Geographical Mobility in the Canadian Context, which is a project of the SafetyNet Centre for Occupational Health & Safety Research at Memorial University. On the Move funded the development of the Alberta Stories website for which the composite stories used here were developed.

Funding

Funding for the NAW program arose from the \$1.3 million fine that SSEC Canada Ltd. was ordered to pay to the Alberta Law Foundation after pleading guilty to three charges under Alberta's Occupational Health and Safety (OHS) Act. From this fine, the Alberta Law Foundation was remunerated \$75,000 to administer the remaining \$1,225,000 to the Alberta Workers' Health Centre to lead the NAW program.

Notes

- a. The SSEC Canada Ltd. fine of \$1.3 million was paid to the Alberta Law Foundation, which was remunerated \$75,000 to administer the remaining \$1,225,000 to the Alberta Workers' Health Centre to lead the New Alberta Workers program.
- b. The Alberta Law Foundation administers grants (typically funded through the interest which banks, credit unions, trust companies, and treasury branches must pay on clients' funds held in lawyers' general trust accounts) to organizations engaged in activities which are considered to be in keeping with the Foundation's objects. See <http://www.albertalawfoundation.org/>.
- c. Kevin Flaherty was the Executive Director of the Alberta Workers' Health Centre in 2013 when the "creative sentence" was issued, and led the Centre's involvement in developing the New Alberta Workers program proposal. See Alberta Workers' Health Centre, <https://workershealthcentre.ca/>

- d. For more information about the New Alberta Workers program, see Shortreed, L and Matsunaga-Turnbull, J. New Alberta Workers final report brief. Alberta Workers' Health Centre.
http://workershealthcentre.ca/wp-content/uploads/2018/12/NewAlbertaWorkers_report_brief.pdf
- e. Prior to the 2015 rule change, TFWs could reapply after four years for a work permit to continue working for their Canadian employer. With the introduction of the 'four-in-four-out' rule, after a TFW had reached his or her four-year cumulative duration limit, he or she could not attain another work permit in Canada for an additional four years. After that time passed, the worker could again apply to work in Canada. This rule was eliminated in late 2016. For a description of the current program see https://www.canada.ca/en/employment-social-development/news/2017/04/government_of_canadastrengthenstemporaryforeignworkerprogramthru.html
- f. This story of Carlos Alarcon is a fictionalized composite case that was generated by combining several real TFW stories, similar to those of the meat-packing workers in the Cedillo et al. study.⁴ This and other composite cases were produced as part of the Alberta Stories project of the Alberta Team with the On the Move Partnership (<http://www.onthemovepartnership.ca>). The composite case included here is a shortened version of the original. For the full story and to learn more see <http://albertastories.onthemovepartnership.ca/about-alberta-stories-on-the-move-partnership/>
- g. The story of Anong Na Ayuthaya is a fictionalized composite case that was generated by combining several real TFW stories. This and other composite cases were produced as part of the Alberta Stories project of the Alberta Team with the On the Move Partnership (<http://www.onthemovepartnership.ca>). The composite case included here is a shortened version of the original. For the full story and to learn more:
<http://albertastories.onthemovepartnership.ca/about-alberta-stories-on-the-move-partnership>

References

1. Alberta Government. Convictions under the OHS Legislation, <https://www.alberta.ca/convictions-under-ohs-legislation.aspx> (accessed 2 July 2019).
2. Lippel K and Bittle S. What can we learn from national and international comparisons of corporate criminal liability? *Policy Pract Heal Saf* 2013; 11: 91–98.
3. Hill N, Dorow S, Barnetson B, et al. Occupational health and safety for domestic workers in Canada: Dimensions of (im)mobility. *New Solut* 2019; 29(3): 397-421
4. Cedillo L, Lippel K and Nakache D. Factors influencing the health and safety of temporary foreign workers in skilled and low-skilled occupations in Canada. *New Solut* 2019; 29(3): 422-458.
5. Alberta Stories. On the Move Partnership, <https://albertastories.onthemovepartnership.ca/> (accessed 12 July 2019).