



NEW ALBERTA WORKERS

IMPROVING WORKPLACE HEALTH AND SAFETY FOR
TEMPORARY FOREIGN WORKERS AND OTHER
NEW TO ALBERTA WORKERS



Acknowledgements and Thank You!

The New Alberta Workers project took place as a result of a fine issued in 2013 by the Provincial Court of Alberta under the Occupational Health and Safety Act. The fine was levied against SSEC Canada Ltd. for failing to ensure the safety of their workers on the worksite in Ft. McMurray, Alberta, Canada, in 2007. Their failure resulted in the deaths of Ge Genbao and Liu Hongliang and the serious injury of Li Ruiming and Wang Dequan. We dedicate our work to them and to their families.

Many people put their effort into making the New Alberta Workers Workshops and community based research happen. This project belongs to all of us, and is for all of us working to create safe and healthy workplaces in Alberta for all workers. In particular, we would like to thank our partners, the Multicultural Health Brokers Cooperative and the Ethno-Cultural Council of Calgary for their leadership, knowledge, commitment and passion for the project.

It is our hope that the work we have done has helped new Alberta workers to better understand their occupational health and safety rights. We also hope we provided a space for them to feel safe to voice their concerns, their hopes, and their recommendations for how together we can make our diverse workplaces and communities inclusive, fair, safe and healthy.

Without the generous time and support from the following people and organizations, this project would not have been possible. There are many more who contributed to make this project successful, including all of our Workshop participants, host organizations, and community members.

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Recommendations

Programs and Services

Recommendation

The peer-to-peer model for worker rights public legal education should be funded and strengthened as an entrenched educational program to provide appropriate and accessible worker focused public legal education for new Alberta workers and other marginalized and precarious workers.

Recommendation

Dedicated resources should be provided to develop a continuum of worker focused, accessible and culturally appropriate legal information/education, advice and representation for new Alberta workers and other marginalized and precarious workers.

Recommendation

Community organizations and not-for-profits should be funded to develop and support collective and community based new Alberta workers' networks to facilitate information sharing and to address emerging work focused issues.

Recommendation

Unions should develop resources and processes that address and recognize the realities of their diverse membership.

Systems and Policy

Recommendation

Occupational Health and Safety Alberta should revise the Internal Responsibility System to address limitations based on the inequities of power between employees and employers.

Recommendation

Amend the Occupational Health and Safety Act to require that employees receive health and safety information from employers in appropriate languages and literacy levels.

Recommendation

The Government of Alberta should establish an Office of the Worker Advocate to advocate for and support workers to navigate Occupational Health and Safety, Employment Standards, the Workers' Compensation Board and other employment related government systems and resources. Such an office should be adequately resourced to provide multiple physical locations and advocate/outreach staff in diverse regions of the province.

Recommendation

Mechanisms for increased worker participation in workplace health and safety should be legislated. Alberta should look at other jurisdictions for models of mandatory Joint Health and Safety Committees and Worker Health and Safety Representatives.

Recommendation

Mechanisms for increased worker representation within workplaces should be legislated. Alberta's Labour Relations Code should be changed to make it easier for workers to form and join unions without fear of reprisal from employers. Alberta can look to other jurisdictions for models of union certification.

Recommendation

Access to worker related government services (Occupational Health and Safety, Employment Standards, the Workers' Compensation Board) should be improved by developing resources and processes that address and recognize the realities of Alberta's diverse workforce.

Recommendation

Mandatory intercultural, anti-oppression, and human rights education courses should be provided for all staff in Occupational Health and Safety, Employment Standards, and the Workers' Compensation Board to support their ability to work more appropriately and empathetically with new Alberta workers and other vulnerable workers.

Recommendation

Ensure employer conformance with the Employment Standards Code through mandatory education and proactive and timely enforcement.

Recommendation

Formalized collaboration between Employment Standards and Occupational Health and Safety should be created to ensure that overlapping issues are addressed. This will address and reduce siloing of worker related abuse and infractions under the two interlocking areas of workplace law.

Recommendation

Domestic Workers should be included under the protection of the Occupational Health and Safety Act.

Recommendation

Replace employer-specific work permits with open work permits and/or occupation specific or industry specific work permits in conjunction with pathways to permanent residency for lower-skill Temporary Foreign Worker Program workers, including Seasonal Agricultural Worker Program migrant workers, and those entering through the Caregivers Program.

Recommendation

Permanent residence outcomes for workers entering through the Temporary Foreign Worker Program should be improved.

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Background

On September 5, 2012, SSEC Canada Ltd. pled guilty to three charges under Section 2(1)(a)(i) of Alberta's *Occupational Health and Safety Act*, for failing to ensure, as far as reasonably practicable, the health and safety of workers on their worksite in Ft. McMurray, Alberta. On January 24, 2013, they were fined \$1,225,000, provided to the Alberta Law Foundation (ALF), for the deaths of Ge Genbao and Liu Hongliang and serious injury of Li Ruiming and Wang Dequan, all Temporary Foreign Workers from China.

The funds were disbursed to the Alberta Workers' Health Centre to provide an outreach and public legal education program pertaining to worker rights and responsibilities under the OHS Act to Temporary Foreign Workers (TFWs) and other new to Alberta workers.

The 2013 Court-approved project 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 Alberta workers in accessing OHS rights and resources
- Evaluate and research to better understand the specific needs of new Alberta workers under the Alberta Occupational Health and Safety Act.

Over the course of three years, the New Alberta Workers partnership of the Alberta Workers' Health Centre (AWHC), Multicultural Health Brokers Cooperative (MCHB), Ethno-Cultural Council of Calgary (ECCC 2015-16) and Workers' Resource Centre (WRC 2013-15) developed and delivered occupational health and safety related public legal education (PLE) about rights and responsibilities under the Occupational Health and Safety Act to Temporary Foreign Workers and other new Alberta workers, including immigrants, Permanent Residents and refugees. To learn directly from new Alberta workers about their experiences in the workplace, the AWHC, MCHB and ECCC also conducted a community-based research project between August and December 2016.

Occupational Health and Safety (OHS)

The Occupational Health and Safety Act, Regulations and Code are based largely on the Internal Responsibility System (IRS), which is essentially an employer self-regulation model. The IRS presumes employee/employer relationships in which workers not only have the capability but the responsibility to "speak up." It does not recognize that workers are often the least empowered in the system, and yet are tasked with holding their employer and the government accountable to ensure and enforce the conditions for health and safety in the workplace.

The IRS does not recognize social conditions of worker vulnerability, including ethnicity, "race", gender, ability, immigration status, or precarious work, as factors impacting or precluding their ability to participate freely and equitably in the system.

Precarious Work

Precarity interferes with trust and undermines citizenship and agency. In NAW Workshops, interviews and group discussions, the overarching theme was that of fear and insecurity. Participants had limited trust in their employers or in government, doubting they would act to protect them. Concerns extended from worry about job security and immigration status to the protection of their rights as parents. Stress related to financial and family issues are exacerbated for TFWs who are separated from their families, sending remittances home to support their families, isolated in community, and excluded from social programs that support quality of life.

The negative health effects to workers engaged in precarious work are significant. They include higher risk of injuries, stress arising from low income and job insecurity, barriers to access of health and medical services, and familial and personal stress.¹ Low pay and insufficient or inconsistent hours may require precarious workers to work more than one job, put in long hours or use unsafe transportation. Under these conditions, their

access to nutritious food and healthy lifestyle choices is limited. These things detrimentally impact physical and mental health.

Temporary Foreign Workers (TFWs)

TFWs are at particular risk for abuse and exploitation in the workplace. The Temporary Foreign Worker Program (TFWP) and the International Mobility Program (IMP) are federal programs that bring in foreign nationals under work permits, jointly managed by Employment and Social Development Canada (ESDC) and Immigration, Refugees and Citizenship Canada (IRCC). The IMP allows employers to hire foreign nationals without the need to obtain a Labour Market Impact Assessment (LMIA). The programs are employer-driven and essentially privatized programs with little government oversight once workers arrive.

Relationships are largely governed between employers and workers, creating opportunity for abuse by disreputable employers.² The lack of an assured pathway to permanent residency status for those who arrive through the TFWP also reinforces precarity.

Diversity in the Workplace, Newcomer, and Ethnic Minority Workers and OHS

Evidence of inequalities of newcomers, ethnic minorities, and TFWs in OHS have been explained due to their over-representation in low-paying, low-skill jobs “characterized by high risk and precarity”, racism and discrimination in supervision or work requirements, and inferior access to health and medical services and workers’ compensation.³

They are more often “in work situations that put them at greater health and safety risk including non-membership in a union, employment in physically demanding occupations, employment in small workplaces, regular shift work and non-permanent employment.”⁴

Alberta is diverse. Cultural and linguistic diversity are only two of the multiple dimensions of diversity that are represented in our workforce and communities. They are intertwined with other diversities including gender, sexual orientation and age. Refusing to recognize this

reality within our workplaces can and does have serious consequences for OHS.

Simply translating OHS information from one language to another is not sufficient. Technical concepts have different meanings within professions let alone across cultures. Safety and work are both culturally constructed and culturally bound concepts and practices. It is therefore important to understand the social and normative perceptions of key concepts when designing PLE programs. OHS definitions, concepts, and practices need to be unpacked to be made meaningful.

It cannot be stressed enough that language barriers can be the origin of massive difficulty for workers: from understanding instructions and to holding employers accountable, to building relations with employers, and to legitimate ability and knowledge of how to ask for help. Language barriers perpetuate employer ideas that “no news (asks) is good news”. Language is required to build alliances and to participate in committees. In a sense, language barriers create employment “isolation” and all that follows.

Summary

In Alberta, we have yet to take substantive steps to address issues of precarity and diversity as part of the legislative framework for occupational health and safety and equitable workplaces. In practice, most print information about OHS from government sources is provided in English, or in translation but without adequate adaptation of the information to meet the needs of workers with low literacy, low English proficiency, and lack of knowledge of the Canadian workplace. Many of the websites/webinars available from other resources require the worker to have a high level of literacy, English language proficiency, and understanding of government systems and processes, as well as prior knowledge of OHS and other areas of law to make the information meaningful.

Project History

The AWHC had primary management, administrative, and overall responsibility for the NAW program. The three initial partners (AWHC, MCHB and WRC) developed a model of collaboration that drew on each of the partners' strengths in the design, development and delivery of public legal information for the new Alberta workers (NAW) communities. With the departure of the WRC in the late summer of 2015, the Ethno-Cultural Council of Calgary (ECCC) was recruited and further strengthened the partnership.

The developed curriculum and Workshop format focused on strengthening the ability of NAW to understand their rights and responsibilities, create awareness of supports available to them as workers, and to have voice within their workplaces and external provincial worker and safety organizations. Plain language was used in the curriculum and accompanying resources to ensure the curriculum and delivery was understandable for individuals with English as an additional language (EAL).

Over the course of the program, 10 NAW Brokers and program coordinators participated in the development, promotions, marketing and delivery of the NAW Workshop. The NAW Broker role was based on the organizational practices of the MCHB cultural brokers: "cultural brokering is the act of bridging, linking, mediating between groups or persons of differing cultural backgrounds for the purpose of reducing conflict or producing change".⁵ NAW Brokers from the MCHB and ECCC provided the NAW Workshops in first language in Russian, Spanish and Tagalog.

Strategic promotions and marketing strategies were developed to deliver the Workshop across the province. Over the course of the project, changes to the curriculum and delivery strengthened the adult education, learner-centred approach to meet the specific needs of NAW. This learner-centered approach included: materials provided in first language; tailoring and adapting content and modes of delivery based on cultural and education backgrounds of participants;

and including participant experiences and knowledge in refining curriculum.

As part of the marketing and promotions strategy, a partnership with Community Adult Learning Program members was developed to reach rural audiences. In addition, the partners learned that the best uptake of the program happened when it was integrated into existing and related programs such as job preparation and Language Instruction for Newcomers (LINC).

By mid-2016, the delivery of the Workshops wound down and a significant focus began on developing and conducting community-based research to learn about the workplace experiences of NAW across the province.

New Alberta Workers Workshops (2014-2016)

By the end of the 35 months of project activity, the NAW partnership, through combined hard work and commitment, offered 239 Workshops, reaching 2927 new Alberta workers across the province. Of those, 20% identified as TFWs. We reached men (27%) and women (66%) of all ages, with the majority falling between the ages of 26 to 45 years of ages. They spoke over 30 languages.

Participants rated the NAW Workshops very highly: 96% said it helped them to understand what OHS is in the workplace, 93% understood their OHS rights and responsibilities, and 92% knew the correct process to follow for the right to refuse unsafe work.

The NAW partnership also trained 33 Resource Persons (front line workers and community members) in Calgary, Edmonton and Ft. McMurray in information about occupational health and safety rights in the workplace. This developed capacity within community and a potential network for continuing occupational health and safety and community based public legal education across the province.

The peer-to-peer education model demonstrated significant value, allowing us to reach new Alberta workers where they were at, in their communities and the organizations that serve them, and to provide tailored learner-centred, culturally appropriate and accessible occupational health and safety and public legal information. As peer educators, the NAW Brokers became important resources for information about occupational health and safety and workers' rights within their organizations and their communities.

"I am an immigrant. I moved to Canada as an immigrant and became a citizen, so I do know the struggles of the immigrants, finding a job and what are your rights. Some of these things are not really taught anywhere unless you yourself find them." (NAW Broker)

The precarity of participants' immigration status, employment, family and settlement circumstances, however, created a difficult context for the NAW Brokers to recruit participants. Workers with a variety of immigration statuses consistently told NAW Brokers that if they exercised their rights, in particular their right to refuse unsafe work, they would likely be fired. Temporary Foreign Workers were most concerned about participating in workshops. And, they expressed reluctance to exercise their rights as it could result not only in the loss of employment, but their work permit and residence in Canada.

"With vulnerable populations, where they have very little power, it's one idea to provide education, but would it really make a difference? And we also...try and capture what is happening to these workers, the context of their workplace, the context of their immigration status, the context of their lives. The context is actually the problem. Just delivering educational sessions might not make a difference. Just having sessions with information, might not reach the goal of protecting the occupational health and safety of the workers. It's very difficult to have the most marginalized exercising their rights when the structure and the environment is not really permitting them to do that." (NAW Coordinator)

There was a demonstrated need for worker focused information, education, and advocacy supports for workers, service providers and employers in large and small communities. Further, there was limited accessible OHS, public legal education, advice and services available in urban but particularly rural settings.

Therefore, we found that public legal education is not sufficient to address the concerns of new Alberta workers about abuse in the workplace. Expecting already marginalized people to exercise their rights in contexts and institutions that are structured through unequal power relations does not adequately promote access to justice or citizenship.

Community Based Research (2016)

Over the course of Workshop deliveries, participants would often approach NAW Brokers to tell their stories of workplace experiences and concerns. Most were looking for concrete help, including advocacy and outreach support.

The NAW Brokers did not have the mandate, time, or means to effectively gather information from workers about their workplace experiences. In recognizing this important gap in the work, the NAW Community Based Research sub-project was conducted between September and December 2016.

The ECCC and MCHB NAW Brokers conducted interviews and held group discussions with a diverse assortment of new Alberta workers who lived and worked within their regions. In total, the ECCC and MCHB conducted 107 interviews and organized seven small group discussions involving 44 participants; seven in-depth interviews with NAW and key informants were conducted in Ft. McMurray, Calgary, Edmonton and two rural communities.

The participants were of diverse ages, with the majority falling between the ages of 31 and 50 (54%), split almost evenly between female and male respondents. Seventy percent had resided in Alberta/Canada for more than two years. A little over half were immigrant/PR (55%) with TFW's making up 31% and refugees 14%. Women were disproportionately represented in the lower paying cleaning (78%), health care, human services, and food/customer services sectors (67%).⁶⁷ Only 12 were employed in unionized workplaces.

Occupational Health and Safety (OHS) Vulnerability

Many participants indicated that employers were not meeting their responsibility to ensure their workers were aware of their health and safety rights and responsibilities. A worrisome 26% of participants indicated their workplace was unsafe. The majority of participants were reluctant to report unsafe working conditions for fear of reprisal; and, 59% of participants expressed concern that if they became ill or were injured in the workplace, that it would jeopardize their employment.

“When I was injured at work my doctor sent a copy to my employer. He [employer] told me very clearly that the last time I complained one more time and I am fired.”

One of my coworkers asked for a rubber mat to put on the wet floor, the same day she was fired.” (CBR Participants)

- a. **Training**—A relatively equal number of men (67%) and women (71%) participants advised they had training on how to work safely in their workplace. Those in the construction/trades employment sector, the majority of whom were male, were most likely to say they'd been trained. However, a significant portion (40%) of participants did not find that the training they received was useful. The issue of language barriers was raised repeatedly.

“[They have] safety rules but nobody can understand.”

“It's like you were saying you have a safety meeting at end of day everyone is tired, half people tired of standing, half the people aren't understanding the instructions because they're speaking English, so people aren't understanding, they're just nodding their heads want to go home.” (CBR Participants)

Training focused on specific issues such as hazards, rather than on a comprehensive understanding of workplace health and safety as a regime. Only 68% of those using Personal Protective Equipment (PPEs) had been trained in their use.

“Training does not equal understanding. ... If you don’t understand, your employer should do what they can to help you understand.” (CBR Participant)

Those who were not trained on how to work safely formed a vulnerable profile: it included 42% of young workers aged 21 to 25 and 43% of older workers aged 51 to 55, 33% of refugees, and 42% of part-time workers. It also included people who self identified as having lower levels of English proficiency.

Ineffective training and relatively low organizational commitment to provide workers with the training they needed is particularly problematic given that most participants (78%) indicated that they were not doing the same work they had done in their home country. The actual work activities were new to most of the participants, which put them at increased risk of injury even with the benefit of proper health and safety training.

- b. OHS Workplace Policies and Procedures**—While 77% of participants aware of safety rules or policies in their workplace, few were aware if their employer had a comprehensive OHS policy. And, some noted that their managers and supervisors did not follow policy. They spoke to limited options to talk about or to report OHS issues. While many turned to supervisors (30%), another 18% had no one to talk to about OHS.

“He knows he has to wear a mask but he sees his boss without a mask and ... they gonna think, oh it’s fine to not do it, and that’s not right from people’s side. But... it’s going to cause chaos because some people they like to follow other people, they like to follow their management.” (CBR Participant)

- c. Participation in Occupational Health and Safety**—Many participants (77%) indicated that it was okay to talk about and report issues of safety. They had limited options to talk about or to report OHS issues. The majority turned to supervisors (30%). Few had OHS committees (35%). Further, those who had more to risk were more reluctant to

speak up or to report OHS issues. These included TFWs, individuals with barriers to communication, and those employed in workplaces with few structural supports to turn to in the protection of their rights.

- d. Workplace Injury and Illness**—In total, 23% of participants had been injured in their workplaces during the last twelve months. Of those, 64% sought medical assistance and 60% had to take time off work. The majority (68%) worried that their injury could result in the loss of their job. The number of severe and chronic injuries was more prevalent in the construction/trade sector, while the one incidence of severe and debilitating injury was a result of a robbery in retail services where the worker was working alone.

Those injured included both men and women; of all ages but most 36 to 40 years old; working full-time, and, importantly, a disproportionate number were TFWs from the Filipino, Russian or Spanish speaking communities. Many worked in retail, food services and construction. They reported that they worked long shifts without required rest breaks and were doing different work than they had in their country of origin. Only 24% of those injured received assistance from WCB; a troubling 12% were unaware if they were covered by WCB.

- e. Workers’ Compensation Board**—The Workers’ Compensation Board (WCB) was largely an unknown and poorly understood resource for many of the participants. While 73% of participants had “heard” of WCB, there was a general lack of knowledge about what WCB would or should do for them and how to access WCB supports and services. Those who had gone to WCB for support had mixed, generally negative experiences.

Employment Standards and Human Rights

The basic protections under the Employment Standards Code (ESC) include the legal right to minimum wage, wages, overtime pay, and the right to a rest period. The Community Based Research sub-project uncovered that many new Alberta workers experienced violations of the ESC. Many participants said they will not report abuses for fear of reprisal. Specifically, these violations are summarized below:

- a. Rest Break**—Many of the NAW (17%) reported that they did not get required rest breaks; of these, 61% were TFWs.

“Breaks? No I never get a break. . . . Even when the baby is down, and the other kids aren’t in the house for 3 hours. . . during the time they’re in school you do the house chores.” (CBR Participant)

- b. Overtime**—About half of participants said that they felt they could not refuse requested overtime work; they also identified that they were not always fairly compensated for overtime work. Many TFWs were very fearful of reprisals and possibilities of losing employment and not being able to continue to Permanent Residence (PR) status.

“The work conditions were very bad. If I said no they will fire me.”

“If I say no, tomorrow would be no job for me.” (CBR Participants)

- c. Contracts**—Several participants indicated they had not been compensated properly under the terms of their contract. Some TFWs told of employers who were inappropriately passing the cost of Labour Market Impact Assessment (LMIA) on to them, along with recruiting agency fees.

“Work contract \$25 per hour, in reality \$10 – 15. We are tied to work long hours, it is a hazardous job, often we are working on weekends and evenings.”

“The worst thing I have seen. . . . An employer has agreed to pay a certain wage under the LMIA agreement, they paid that wage to the people but tell them if you want to remain employed you will

return a certain proportion of the wages to me.” (CBR Participants)

- d. Transportation and Mileage**—Several women involved in human service roles noted that their work included travelling by bus or car to get to the homes of clients and in some cases were not paid for their time or for their mileage.

“With my [day care] monitoring I drive all over, my travel is not paid. Our office is on the south side, 45 minutes’ drive, she doesn’t pay my hours. . . . She doesn’t give me mileage.” (CBR Participant)

- e. Sexual Harassment**—In group discussions, women talked about inappropriate comments, sexual harassment, and general sexism in the workplace.

“My experience was terrible. I was abused from my employer and from my coworkers. I faced abuse at the workplace and I faced discrimination at the workplace.” (CBR Participant)

- f. Intimidation**—Incidents of intimidation were reported—and in some cases physical abuse or assault by managers, supervisors and fellow employees—when workers stood up for their rights.

“Everybody is scared. If you stand up for somebody today, you will be next in line.” (CBR Participant)

- g. Lack of Protections**—Many NAW, without protection of paid sick leave or disability programs, reported that they were worried if they became ill or were injured on the job because this might lead to losing their job. TFWs with poor health or injury may simply choose to continue working, no matter the impact on their health and wellbeing.

“I always worry about losing my job. Now I heard people who have contracts can easily lose their job in big companies.”

“There is no assurance of your job because you’re TFW, might be sent home cannot ask for government financial assistance because you are TFW or no status.” (CBR Participants)

Precarity and Vulnerability - Temporary Foreign Workers and Caregivers

Workers who enter through the employer-driven TFWP, IMP and Caregiver program are known to be particularly vulnerable to abuse and exploitation due to their precarious status. In general, the conditions of the TFWP and IMP serve to silence workers and undermine their ability to organize to address abuses in the workplace. The fear and precarity experienced by many TFWs who participated in the study was a source of stress and undermined their ability to advocate for themselves.

Many participants spoke of abuses and OHS concerns they confronted in their workplaces:

- 33% did not receive required rest breaks, 27% indicated they could not or did not know if they could refuse overtime. Their main concern was that refusal could lead to termination.
- They were more likely than other NAW to indicate that they had been injured in the workplace (42%). The majority did not take time off, stating they were afraid they would lose their job and work permit.
- Those in food production and long haul trucking were particularly vulnerable to abuses under the ESC and OHS Act: unpaid hours, long shifts, physical threats and intimidation from their employer threatening their work permit and status.

TFWs are not funded by government or employers to participate in Language Instruction for Newcomers (LINC) or other ESL programs. Lack of access to English language classes was noted as a significant barrier to the language proficiency needed to more fully participate in the health and safety of their workplaces. This lack of proficiency in English is also a significant barrier to the language proficiency requirement necessary to apply for the Alberta Immigrant Nominee Program (AINP).

Finally, TFWs were reluctant to disclose if they were working at more than one job, as this was illegal under the terms of their work permit. Participants of the study shared that they had taken on under-the-table work to supplement their income to pay recruiters and meet family commitments. They felt they had no recourse but to take on illegal cash-based work, as their wages were low and they did not have open work permits.

Despite changes to the Caregiver program over the years, there continues to be significant concerns about the vulnerable and precarious status of these workers. They are not covered under the Occupational Health and Safety Act and none had received any formal OHS training and referenced chronic health concerns due to work related injury and exposure to household chemicals. However, caregivers' main concerns had to do with unpaid overtime, loss of privacy, isolation, low pay, loneliness and separation from family. Caregivers spoke about consistently being required to do work that was not part of their contract and being afraid to refuse; they simply couldn't take the chance of losing their work permits for the chance of gaining PR status.

Facilitating Change - Diversity, Equity and Inclusive Workplaces

The economic and social contributions that NAW make are essential to the Alberta economy and a source of our local and national strength. Government, employers, unions and community members must embrace the challenge to create and implement policy and practices that will address the requirements for change in our systems, workplace cultures and interpersonal interactions to bring about equity and inclusion.

Participants provided a wide range of suggestions and recommendations as to how workers, government and employers can work together to improve workplace environments and support NAW to integrate more effectively so they will have more positive experiences within the workplace and community. These suggestions include provisions for integration and inclusion; language training; increased education and accountability for employers; more effective training for workers and service providers; more effective government enforcement of existing legislation; systems and legislative change that incorporates intercultural and anti-oppressive training; and worker support groups, networks and centres.

“There has to be a resource centre for people who really need information, for when situations do arise...an advocator, whenever there is a need, to talk to that person. It’s like a middleman, that person can build that bridge. I do believe that if something like that could be put in place that would be very good.” (CBR Participant)

Summary and Recommendations

Participants and NAW staff emphasized that proactive steps that bring together government, employers and community are necessary to address precarity and inequity in our workplaces. Fundamental changes in employment and immigration legislation and policy and improvements to services are required to bring them into alignment with the reality of our diverse workforces and communities. Support for worker and community voice within the process will help to address inequity and create more democratic structures.

Programs and Services Recommendations

The peer-to-peer model for worker rights public legal education should be funded and strengthened as an entrenched educational program to provide appropriate and accessible worker focused public legal education for new Alberta workers and other marginalized and precarious workers.

The New Alberta Workers program was designed and delivered in a partnership between the Alberta Workers' Health Centre (AWHC), Multicultural Health Brokers Cooperative (MCHB) and the Ethno-Cultural Council of Calgary (ECCC). NAW Brokers (skilled persons who had entered Canada as immigrants/Permanent Residents, refugees, and TFWs) were trained to provide occupational health and safety rights workshops across the province.

The peer-to-peer education model proved to have significant benefit for the design, delivery, promotions and marketing of public legal education with marginalized, precarious workers. The relational approach enabled us to reach into communities that are generally inaccessible to mainstream service providers. Further, we were able to tailor the information and delivery methods to support their relevancy and to enhance comprehension despite multiple linguistic, English as Additional Language, and other barriers. The brokers' connection to community, as well as shared experiences as new Alberta workers, helped to

build trust, improved access, and helped us to bridge information and gather feedback that would not necessarily be available to those outside of community, given the prevailing atmosphere of distrust and fear participants expressed around participating in rights based education that may impact their precarious employment and immigration status.

We therefore suggest the NAW Broker model be resourced and expanded to provide training and technical support for worker focused public legal education programming for marginalized and precarious workers across the province. This would require secure funding to support a staffed NAW Broker model that would build on the learning and expertise gained in the project and support accountable, competent, accessible and appropriate program delivery.

We also recommend that the areas of public legal education provided be expanded to include other areas of employment related law, in particular, employment standards. An integrated curriculum that covers the multiple silos of the law impacting new Alberta workers and other marginalized workers is necessary to address issues arising in the workplace. This would require standardized training and mentorship to ensure peer educators were competent in the technical information, public legal education content, and facilitation skills required to provide employment focused public legal education.

The Resource Person training approach also shows promise for building occupational health and safety and other rights based knowledge at the frontline of service providers working with new Alberta workers. However, it may be necessary to explore a more "formal" relationship with delivery partner agencies to ensure that the fidelity of the technical and legal information is maintained.

The NAW project findings present opportunities for additional or supplementary programming for newcomer youth, indigenous workers, and persons with disabilities. If this were to be explored, the development and delivery of programming should be based on solid understanding of and collaboration with the target audience and those who support them. This is necessary to ensure the content, design, and delivery of public legal education is grounded, relevant, culturally appropriate and accessible, and benefits from input from multiple viewpoints and perspectives.

Dedicated resources should be provided to develop a continuum of worker focused, accessible and culturally appropriate legal information/education, advice and representation for new Alberta workers and other marginalized and precarious workers.

The workers we reached with the program confronted significant linguistic, cultural and economic barriers to accessing appropriate information and the few legal and advocacy supports available to them. They struggled to navigate complex and intersecting government and legal systems.

While the NAW program filled an essential gap in the provision of accessible and meaningful public legal education for new Alberta workers, it is not sufficient to meet the real and critical needs for competent advocacy that are so necessary to support them to exercise their rights. The NAW project staff was unanimous in their belief that there need to be worker focused mechanisms in place for support and advocacy. However, those supports have to be responsive to their diversity and their conditions of marginalization.

There are limited accessible worker focused legal supports available in the province. The six community legal clinics across the province play an important role in promoting access to justice through accessible legal services. However, they are unable to meet the needs of all workers, and, as we discovered, have limited scope of reach into rural communities.

Therefore we recommend avenues be explored to resource and pilot a model for a worker focused continuum of accessible and culturally appropriate legal services to provide employment related prevention (information and education), advocacy and legal advice. The model would partner the new Alberta workers peer-educator model with community legal workers with the expertise to advocate for new Alberta workers and other marginalized individuals. Legal advice and representation could be provided through formalized relationships (dedicated resources) with community legal clinics and the Workers' Resource Centre (Calgary).

Ontario Legal Aid's interlocking community and specialty legal clinics provide a model to draw upon in the design of the program and partnerships. In particular, we could adapt the job description and training process foundational to the Community Legal Worker role in the Injured Workers Consultants and Toronto Workers' Health and Safety Legal Clinic.

Peer advocates in partnership with peer-educators, would also help to address the "lack of representation for workers or workers' "voice" among those in precarious work".⁸

Community organizations and not-for-profits should be funded to develop and support collective and community based new Alberta workers' networks to facilitate information sharing and to address emerging work focused issues.

The NAW program has built a loosely organized network of brokers, resource persons, service providers and workers across the province. Supported informal and formal collective action has the potential to be the basis of a more lasting form of worker collectivism within the new Alberta workers' communities. Collective action with facilitated support to build awareness of government and legal systems can be and has been a potent means to mobilize workers and other affected citizens to address policy and legislation that directly affect their rights as workers and as citizens. It serves to make "private troubles" into public concerns.⁹

Unions should develop resources and processes that address and recognize the realities of their diverse membership.

- Mandatory intercultural and anti-oppression education courses should be provided for all union staff to support their ability to work more appropriately and empathetically with new Alberta workers and other vulnerable workers.
- Provide accessible education to all union members about the labour movement, the role of unions in protecting their rights, and the processes in accessing union supports.
- Provide more multi-lingual and in-person training and systems navigation support (Occupational Health and Safety, Collective Bargaining Agreement) for members.
- Adapt current practices/services to adequately address the needs of precarious workers, in particular shift workers (e.g., extended evening, weekend services for shift workers).
- Include language and processes that would help achieve the above recommendations in any new collective bargaining agreements.

Systems and Policy Recommendations

Occupational Health and Safety Alberta should revise the Internal Responsibility System to address limitations based on the inequities of power between employees and employers.

The reluctance of many of the program participants to act on their rights under the Occupational Health and Safety Act was based on their fear of reprisal under the current complaint driven process. A central concern of all the project staff was the critical need for government to recognize the limitations of the internal responsibility system as the underlying philosophy of occupational health and safety legislation:

Its foundation is that everyone in the workplace - both employees and employers - is responsible for his or her own safety and for the safety of co-workers. Acts and regulations do not always impose or prescribe the specific steps to take for compliance. Instead, it holds employers responsible for determining such steps to ensure health and safety of all employees.¹⁰

The Internal Responsibility System does not sufficiently recognize the inequitable distribution of power in the workplace, and in particular the limited protections available to precarious and contingent workers such as Temporary Foreign Workers. The limitations of a complaint driven process for the enforcement of the Occupational Health and Safety Act places the burden on workers without recognizing the “constraints and limitations on their ability to control their conditions of work”.¹¹

Employers need to be held accountable and there should be greater emphasis on proactive rather than reactive enforcement. In short, the complaint driven process does not work for precarious workers, it should be complemented with active investigations and monitoring by Occupational Health and Safety.

Therefore we recommend that government commit to proactively enforce the existing laws under the OHS Act. It should provide the mandate and adequate resources for Occupational Health and Safety Officers to conduct regular and unannounced spot inspections prioritizing workplaces that employ Temporary Foreign Workers and other precarious and vulnerable workers. Further, government should do spot checks of all employers benefitting from the Temporary Foreign Worker Program, International Mobility Program, and Caregivers Program to ensure compliance under the Occupational Health and Safety Act for this vulnerable population.

The provisions of the Act should be strengthened that explicitly protect workers against reprisal for exercising their rights under the Act and provide remedies for those who are unfairly terminated or penalized by their employer for exercising their right to refuse.

Employers receiving Labour Market Impact Assessments for workers through the Temporary Foreign Worker Program as well as those employing workers through the International Mobility Program, should be contractually obligated to provide accessible, appropriate, and translated worker education that clarifies employer and employee rights and responsibilities under the Act.

Amend the Occupational Health and Safety Act to require that employees receive health and safety information from employers in appropriate languages and literacy levels.

Section 2 of the OHS Act sets out Employer obligations to ensure the health and safety of its workers, and to ensure that “the workers engaged in the work of that employer are aware of their responsibilities and duties under this Act, the regulations and the adopted code.”

A key element of worker protection within the Internal Responsibility System is that workers have the right to know about workplace hazards and how they are protected from them. It is therefore critical that workplaces establish effective intercultural communication strategies for overcoming cultural and linguistic barriers from a learner-centred approach.

Health and safety information delivery should be evaluated on whether workers have fully understood the information, with the onus on the employer to ensure workers have fully comprehended content and practice, and not simply on whether the information has been provided.¹²

The Government of Alberta should establish an Office of the Worker Advocate to advocate for and support workers to navigate Occupational Health and Safety, Employment Standards, the Workers’ Compensation Board and other employment related government systems and resources. Such an office should be adequately resourced to provide multiple physical locations and advocate/outreach staff in diverse regions of the province.

The Temporary Foreign Worker Advisory Office provides information and referrals for Temporary Foreign Workers, employers, and others. However, it does not provide Temporary Foreign Workers with advocacy or representation in their dealings with government or other agencies.

Other workers, especially new Alberta workers, across the province are similarly challenged: there is no government body that provides worker focused information, advice, advocacy, representation and support to navigate Occupational Health and Safety, Employment Standards or the Workers’ Compensation Board. In Alberta, with the recent inclusion of paid non-family Farm and Ranch Workers under employment legislation, there is a whole new sector of workers who now have need for occupational health and safety and related education, advocacy and supports. Many of those living in remote and isolated regions have limited access to resources or services.

Our research has demonstrated that there is a clearly represented need for mandated worker focused and accessible supports and services. Therefore, recognizing that Alberta's worker protection systems are largely complaint-driven and workers are reluctant to raise OHS concerns for fear of reprisal, we recommend that worker focused supports should be put in place to help them come forward to raise their concerns. For example, in Ontario, the Office of the Worker Adviser exists to assist, educate, and represent non-unionized workers on issues related to workers' compensation, Occupational Health and Safety and reprisal complaints.¹³

The Office of the Worker Advocate should be adequately resourced to best serve a diversity of workers, and seek partnerships with local communities, all while being strictly worker-focused. Serving workers through this Office would also provide a useful source of information for the Ministry of Labour providing feedback on systemic issues that especially vulnerable workers are facing in Alberta, thereby allowing for tailored action to address these issues, such as targeted enforcement and education initiatives.

Mechanisms for increased worker participation in workplace health and safety should be legislated. Alberta should look at other jurisdictions for models of mandatory Joint Health and Safety Committees and Worker Health and Safety Representatives.

A cornerstone of the Internal Responsibility System is meaningful worker participation in workplace health and safety. However, without mandated mechanisms for worker participation, this system is relying on workers who have some degree of occupational health safety education (including their rights and responsibilities), confidence, and security to raise occupational health and safety concerns. New Alberta workers face multiple barriers to participation: language, precarious work, racism, discrimination, etc. In other jurisdictions, joint worker and employer Health and Safety Committees are mandatory in workplaces of a certain size (usually 20 or more). In smaller or medium sized workplaces, Worker Representatives can be an effective voice for other workers.

These Worker Occupational Health and Safety Representatives would need to have legislated protection from reprisal from employers. In both cases, training for Joint Health and Safety Committee members and Worker Representatives should be mandatory so they can be effective participants in addressing worker OHS concerns and improving overall workplace health and safety.

Mechanisms for increased worker representation within workplaces should be legislated. Alberta's Labour Relations Code should be changed to make it easier for workers to form and join unions without fear of reprisal from employers. Alberta can look to other jurisdictions for models of union certification.

Many of our participants expressed a reluctance to act on their rights under Occupational Health and Safety law. This was based on their fear of reprisal from their employer. Unionized workers have the ability to bargain for better health and safety conditions and, significantly, have access to a union representative and grievance procedure to protect them if they have a health and safety or other concern. Unionized workplaces tend to have better worker occupational health and safety participation rates, and stronger health and safety systems and policies in place.

Workers in Alberta face barriers to forming and joining unions that workers in other jurisdictions do not face. For a workplace to be unionized, Alberta currently requires a formal certification vote with significant employee support. This vote is conducted even after a majority of workers may have indicated their support for the union, and is often held at the Employer's worksite with management presence. Employers are notified of the application of certification and therefore have time before the actual vote is held to pressure, coerce or intimidate workers. New Alberta workers would benefit from a "card check" process, used in other jurisdictions, that better allows workers to freely participate in the certification process.

The right to form and join unions – the freedom of association – is included in the Canadian Charter of Rights and Freedoms, and should be made more accessible to new Alberta workers through appropriate changes to the Alberta Labour Relations Code.

Access to worker related government services (Occupational Health and Safety, Employment Standards, the Workers' Compensation Board) should be improved by developing resources and processes that address and recognize the realities of Alberta's diverse workforce.

- Provide dedicated one-to-one translation services for workers seeking services in first language.
- Provide detailed worker focused explanation of the processes involved in accessing services and in making claims for support.
- Provide more multi-lingual and in-person training and systems navigation support (Occupational Health and Safety, Employment Standards) for workers and employers.
- Provide education for new Alberta workers about their rights and responsibilities through accessible language and culturally appropriate materials and in-person education.
- Adapt current practices/services to adequately address the needs of precarious workers (e.g., extended evening, weekend services for shift workers).

Mandatory intercultural, anti-oppression, and human rights education courses should be provided for all staff in Occupational Health and Safety, Employment Standards, and the Workers' Compensation Board to support their ability to work more appropriately and empathetically with new Alberta workers and other vulnerable workers.

Mandatory training for management and frontline staff in government agencies in intercultural learning, anti-racism and anti-oppressive and human rights education will build organizational capacity to better serve new Alberta workers and other vulnerable workers. It will also serve to enrich and inform policy, services and resources to ensure that they are more accessible and appropriate to meet the needs of Alberta's diverse population.

Ensure employer conformance with the Employment Standards Code through mandatory education and proactive and timely enforcement.

- Require business owners take mandatory courses on their responsibilities under the Employment Standards Code and Occupational Health and Safety Act when providing business licenses.
- Institute mandatory spot checks in workplaces that employ a high number of Temporary Foreign Workers.
- Coordinate with federal agencies overseeing the health, safety, and equitable treatment of temporary foreign workers in the province.

Formalized collaboration between Employment Standards and Occupational Health and Safety should be created to ensure that overlapping issues are addressed. This will address and reduce siloing of worker related abuse and infractions under the two interlocking areas of workplace law.

The Government of Alberta should explore the feasibility and benefits of formalized collaboration between Occupational Health and Safety and Employment Standards to ensure regulatory and decision making processes are more closely integrated and informed, and, to address systemic overlapping areas of concern and education.

Domestic Workers should be included under the protection of the Occupational Health and Act.

Domestic Workers, including live-in caregivers and nannies for children, the elderly, and persons with disabilities are some of the most vulnerable and precarious workers in our society. Live-in caregivers are particularly vulnerable to abuse by their employers as they may be isolated and lack the support of co-workers and others in the protection of their rights. Yet, domestic workers, such as nannies and housekeepers can't refuse unsafe work, because the Occupational Health and Safety Act does not cover these workers. Therefore we recommend that the Occupational Health and Safety Act be amended to include Domestic Workers under its protections.

Replace employer-specific work permits with open work permits and/or occupation specific or industry specific work permits in conjunction with pathways to permanent residency for lower-skill Temporary Foreign Worker Program workers, including Seasonal Agricultural Worker Program migrant workers, and those entering through the Caregivers Program.

Precarious immigration status and employer-specific work permits create the context of vulnerability for Temporary Foreign Workers in the workplace and severely hamper their ability to exercise their rights. Therefore, we affirm the above recommendation made by the Canadian Labour Congress as part of its May 31, 2016 "Submission by the Canadian Labour Congress to the Standing Committee on Human Resources Development and the Status of Persons with Disabilities (HUMA)".

Permanent residence outcomes for workers entering through the Temporary Foreign Worker Program should be improved.

The Temporary Foreign Worker Program should be revised to provide a pathway to Permanent Resident status similar to that provided to workers entering through the International Mobility Program. Temporary Foreign Workers contribute to the Canadian economy and our communities. They should be provided with permanent residency pathways regardless of their skill category.

Further, there should be a different stream for granting Labour Market Impact Assessment for Temporary Foreign Workers already resident in the province. Their application for Permanent Residence should be processed under criteria valid at the time of their initial work permit (grandfathering).

- Temporary Foreign Workers should be able to apply directly to the Alberta Immigrant Nominee Program (AINP) without needing an employer to support their application.
- The AINP should be limited to semi-skilled Temporary Foreign Workers. There should be a small percentage of AINP spots (20%) available to skilled Temporary Foreign Workers.
- Improve access to English language instruction to reduce isolation and facilitate access to Permanent Resident status.
- Advocate with the federal government to increase pathways to Permanent Resident status for all TFWs.

Abbreviations

ALF	Alberta Law Foundation
AHS	Alberta Health Services
AINP	Alberta Immigrant Nominee Program
AWHC	Alberta Workers' Health Centre
CALP	Community Adult Learning Program
EAL	English as an Additional Language
ECCC	Ethno-Cultural Council of Calgary
ESC	Employment Standards Code
ESDC	Employment and Social Development Canada
ESL	English as a Second Language
IMP	International Mobility Program
IRCC	Immigration, Refugees, and Citizenship Canada
IRS	Internal Responsibility System
LMIA	Labour Market Impact Assessment
MCHB	Multicultural Health Brokers Cooperative
NAW	New Alberta Workers (immigrants/Permanent Residents, refugees, Temporary Foreign Workers)
OHS	Occupational Health and Safety
PLE	Public Legal Education
PPE	Personal Protective Equipment
PR	Permanent Resident
TFW	Temporary Foreign Worker
TFWP	Temporary Foreign Worker Program
WCB	Workers' Compensation Board - Alberta
WRC	Workers' Resource Centre

Appendix 1 – Employment Sector Categories

Group 1 – Health Care

Caregiver
Health care - assisted nursing
Health care aide
Dental assistant
Support worker
Support worker with vulnerable sector

Group 2 – Human Services

Nanny
Child care teacher
Daycare worker
Kids club coordinator
Broker
Wellness and brokering
Caseworker
Security

Group 3 – Administrative/Managerial/Professional

Donation ambassador
Logistics in warehouse
Financial services
Hospitality management
Management
Engineer
Office worker
Medical office assistant
Language instructor

Group 4 – Cleaning

General labourer
Cleaning

Group 5 – Food / customer services

Barista
Cook
Food service attendant
Food service supervisor
General help
Food server in a hospital
Food counter attendant
Customer service/food service attendant
Dishwasher and kitchen helper
Restaurant dishwasher
Restaurant manager

Group 6 – retail / customer services

Cashier
Cashier supervisor
Retail - clothing
Sales associate
Salesperson, salesclerk, owner/employer
Store assistant
Store associate
Customer service

Group 7 – Delivery / Driving

Delivery of flowers
Logistics, delivery and pickup
Logistics, pickups, deliveries, warehouse chores
Taxi driver

Group 8 – Construction / Trades

Insulation in oil plants
Carpenter
Construction
Construction - finishing
Construction labour
Construction, manual labour
Labour, construction
Labour/security
General labour, dispatcher
Siding installer
Drywall installer
Waterproof labourer
Painter
Boiler maker
Estimate construction
Lay out surveyor
Auto mechanic
Maintenance technician
Technician

Group 9 – Farm work

Garden centre worker
Farmer

Group 10 – Food Production

Chicken factory
Meat factory

Group 11 – Warehouse / Shipping & Receiving

Warehouse
Shipping receiving
Mail sorter
Ramp handler
Recycling company

Endnotes

- 1 Law Commission of Ontario (2009). *II. Identifying Vulnerable Workers and Precarious Work*. <http://www.lco-cdo.org/en/vulnerable-workers-interim-report-sectionii>
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- 3 Premji, S., et al (2014). *Precarious work experiences of racialized immigrant women in Toronto: a community-based study*. Just Labour: A Canadian Journal of Work and Society—Volume 22 —Autumn 2014.
- 4 Kosny, A., et al (2012). *Delicate dances: immigrant workers' experiences of injury reporting and claim filing*. *Ethnicity & Health*, 17:3, 267-290. <http://dx.doi.org/10.1080/13557858.2011.614327>.
- 5 Jezewski, M. (1990). *Culture Brokering in Migrant Farmworker Health Care*. *Western Journal of Nursing Research* 1990, 12(4), 497-513.
- 6 See Appendix I - Employment Sector Categories for the scheme by which AWHC grouped participants into work related categories.
- 7 No one entering the workforce through the Live-in/ Caregiver program participated in the in-person interviews. However, information from caregivers was captured in the group discussions and in-depth interviews.
- 8 Law Commission of Ontario (2009). *II. Identifying Vulnerable Workers and Precarious Work*. <http://www.lco-cdo.org/en/vulnerable-workers-interim-report-sectionii>
- 9 Storey, Robert (2005). *Activism and the Making of Occupational Health and Safety Law in Ontario, 1960s-1980*. *Policy and Practice in Health and Safety* 03.1:41-68.
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