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Delicate dances: Immigrant workers' experiences of injury reporting and claim filing



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Delicate dances:
Immigrant workers' experiences
of injury reporting and claim filing

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Abstract

Immigrants often come to Canada for the purpose of employment and make up a large proportion of our labour force. Yet their labour market experiences may not always be positive – new immigrant workers can have difficulties finding a job in their field and may end up working in “survival jobs” that expose them to workplace hazards. Workers who are new to Canada may not be familiar with legislation designed to protect them at work or with social programs that can help after a work-related injury.

Through a series of in-depth interviews, this study examined the experiences of new immigrants after they were injured on the job, including their knowledge of their rights, encounters with employers and health-care providers, and experiences with injury reporting and claim filing. The analysis revealed that, at the time of their injury, many workers were in manual “survival jobs” and had not received job or occupational health and safety training. Many did not speak the English language well and did not know very much about their rights. While workers often felt trepidation about reporting their injury, most told a health-care provider or employer that they were injured or in pain. This, however, rarely led to timely or appropriate claim filing. Workers were often discouraged from filing a claim, misinformed about their rights or offered “time off work” in lieu of reporting the injury to the Workplace Safety and Insurance Board (WSIB). In instances where a claim was filed, communication problems were common, which led to mistakes being made on forms and misunderstandings with the adjudicator and employer. Interpretation services were not always offered consistently or at the correct time in the compensation process.

Efforts must be made to systematically inform new immigrants of their health and safety rights, responsibilities and entitlements as they are entering the labour market. Systems must also be put in place to ensure that new immigrants can successfully access the compensation system in the event of a work-related injury and that employers and health-care providers fulfill their reporting responsibilities.

Introduction

Immigrant workers are very important to the Canadian labour force. Data from the 2006 Canadian Census reports that one in five Canadian workers is an immigrant (Chui, Tran & Maheux, 2007). Skilled workers (immigrants coming to Canada specifically for the purpose of employment) now comprise almost 60% of all new permanent residents in Canada, up from 41% in 1993 (2011). Immigrant workers are expected to account for almost all net labour force growth in Canada as of 2011 (Human Resources and Skill Development Canada, 2002). Despite the importance of immigrant workers to the Canadian labour market, very little research has been done to examine their experiences after a work-related injury. There is some indication that immigrant workers may experience particular challenges post-injury. New immigrants may not know their workplace rights or be familiar with social programs (such as workers' compensation). They may have trouble accessing and receiving culturally and linguistically appropriate services. Given that many immigrants come to Canada for reasons of employment, a work injury can have a significant effect on their future, finances and family. It is important that our compensation and allied systems meet the needs of these workers and make the path to recovery and return to work as smooth as possible.

This study examined new immigrants' experiences after a work-related injury, focusing specifically on injury reporting and claim filing. In this report, we discuss how workers' weak position in the labour market, limited English-language skills and settlement pressures made the reporting of injuries difficult. Despite considerable roadblocks, many of the workers in our study reported their injuries to their employers or health-care providers. Reporting, however, seldom led to a straightforward path of claim filing and compensation. In many cases, employers tried to "manage" the injury without filing a workers' compensation claim, misled workers about their rights or undermined the claim. Once in the workers' compensation system, workers had difficulties navigating the system and understanding what was required of them. We conclude with some policy and practice suggestions that can help newcomers who have had a work-related injury.

Background - Immigration to Canada

Immigrants coming to and living in Canada are a diverse group, in part because they come to Canada under different immigrant categories, which are associated with different educational, language and work experience expectations (2006):

Economic or skilled-worker category: Immigrants in this category are chosen for their skills and ability to contribute to the Canadian economy. This group includes skilled workers, business immigrants, as well as their dependents and spouses. Principal applicants in this group (but not their spouses or dependents) must have educational credentials, work experience and language skills that make them likely to succeed in the Canadian labour market.

Family category: This group consists of foreign nationals sponsored by family members in Canada. This includes spouses, children, parents and grandparents of landed immigrants or Canadian citizens. Family-class immigrants and their dependents can work, but are expected to receive financial support from their sponsor for up to 10 years. They are not required to have the same credentials or language skills as those in the economic class.

Refugee category: These immigrants include asylum seekers who have made their way to Canada, as well as government-sponsored refugees drawn from refugee camps and countries in political turmoil. Many of these immigrants, their spouses and their dependents have not had an opportunity to prepare for their transition to Canada and are not selected based on their language skills or credentials.

The proportion of immigrants coming to Canada under each category has changed over time. In particular, the proportion of economic and family-class immigrants has almost completely switched. In the 1980s, family-class immigrants made up a clear majority of those coming to Canada. In the 1990s and 2000s, economic immigrants have dominated. In 2005, 24% of immigrants were in the family class, 60% were in the economic class, and 14% were in the refugee class (2006).

The cultural and linguistic composition of immigrants has also changed over the last 50 years. Before 1986, most people immigrating to Canada were of European origin, with Italy and United Kingdom being the most common countries of origin. In the 1990s and 2000s, most immigrants to Canada are visible minorities and come from Asia, with Chinese, Indian and Pakistani immigrants predominating (2005).

Immigrants and work

Although many immigrants come to Canada for reasons of employment, their labour market experiences are not always positive. Teelucksingh and Galabuzi (2005) found that many immigrants were relegated to employment in poor quality and low-wage jobs. Examining earning differentials between new immigrants and Canadian-born workers, the authors found large wage disparities between immigrants and non-immigrants, particularly among young workers and older workers who, respectively, earned 42% and 28% less than their Canadian-born counterparts. Picot et al. (2009) reported a steady deterioration of economic outcomes for immigrants in Canada over the last 25 years. Wage disparities between immigrant and non-immigrant workers tend to persist even when levels of education are taken into consideration. Visible minority status may also have an impact when it comes to job quality. Research has shown that racialized immigrants have the most trouble finding work in Canada. One Canadian study (Teelucksingh & Galabuzi, 2005) found that immigrants from Oceania and North America had almost twice the employment rate of immigrants from Africa. Visible minority immigrants are at particular risk of ending up in jobs with the lowest pay and poorest working conditions (Smith & Jackson, 2002).

Immigrants and Canadian-born workers tend to work in different types of industries. Immigrants are much more likely to work in relatively low-skilled sales and service jobs, and in processing and manufacturing jobs (2007). Immigrant workers are much less likely to be in public-sector jobs and in managerial positions (2005). Although new immigrants are increasingly likely to have high levels of education and considerable work experience, these trends persist. A large proportion of new immigrants take on poor quality work in order to quickly enter the labour market. Many have difficulty finding high quality jobs that are commensurate with their education and experience because their foreign credentials are not recognized (Chen, Smith & Mustard, 2010), they have fewer Canadian social networks (Buzas & Nesterenko, 1992), they lack Canadian work experience (Smith & Jackson, 2002) and they do not have full fluency in English (2007).

Some recent studies indicate that immigrant workers are exposed to more occupational health and safety hazards than Canadian-born workers. Smith et al (2009) found that workers with poor English proficiency, family-class immigrants and refugees were most likely to be employed in occupations with higher physical

demands two and four years after arrival in Canada. They also found immigrant males to be at increased risk for work-related injuries compared to Canadian-born workers. This was due in part to the high proportion of immigrants employed in physically demanding occupations that are non-commensurate with their education and training. Another study (Smith & Mustard, 2010) found that immigrants were more likely to be 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 a small workplace, regular shift work, and non-permanent employment¹. Premji et al (2010) also found that immigrants and linguistic and visible minorities were over-represented in job categories with the greatest injury risk.

Immigrants and workers' compensation

Few studies have examined new immigrants' experiences of injury reporting or their navigation of the workers' compensation system. There is some indication that new immigrants may be less likely to report work-related injuries. Premji et al (2008) found that language barriers prevented new immigrants from understanding important health and safety information and voicing work-related concerns. New immigrants may also be reluctant to do anything that they perceive as jeopardizing their jobs and income. Because immigrant workers may feel pressure to sponsor other family members or send money home -- one study found that, after only 6 months in Canada, 17% of immigrants send money back to their home country (2005) -- they may have an added imperative to remain in jobs with poor working conditions or continue working when hurt. A number of studies have quantitatively studied under-reporting of work injury. Non-reporting has been associated with a lower perceived severity of injury (Shannon & Lowe, 2002), as well as workplace "safety incentives" that can discourage the filing of claims, workers' fear of reprisal and job loss (Pransky, Snyder, Dembe & Himmelstein, 1999). Based on research with immigrant workers in the U.S., Brown (2003) found that workers were reluctant

¹ Authors used length of time in Canada, visible minority status, mother tongue, and location where highest level of education was attained to describe aspects of immigration status.

to speak up about dangerous health and safety conditions or report injuries. The workers in her study felt their positions at work were precarious and did not feel they had the skills (language, education) to take action.

Because accessing information can be a particular problem for immigrants (Caidi & Allard, 2005), immigrant workers may also not understand certain compensation system requirements, such as prompt reporting and regular communication (Gravel, Boucheron & Kane, 2003). This may impact their ability to receive and maintain compensation benefits. Smith, Kosny and Mustard (2009) found that new immigrants were less likely than Canadian-born workers to receive benefits from workers' compensation or other wage replacement programs after a work-related injury or illness lasting seven or more days.

While research has examined some of the problems that new immigrants face related to finding work and how language ability can shape workers' labour market experiences, this study addresses an important gap in the work and health literature by examining new immigrants' experiences after a work-related injury, including reporting and interactions with the workers' compensation system.

Methods

The purpose of this study was to gain an understanding of new immigrants' experiences after a work-related injury. In particular, we wanted to know about:

- the extent and nature of injured immigrants' knowledge of their rights (refusing unsafe work, reporting an injury, right to compensation, etc.);
- what facilitates or impedes the reporting of injuries and the filing of claims;
- new immigrants' experiences with the workers' compensation system, including language services, adjudication, return-to-work and vocational rehabilitation;
- workers' experiences with employers and health-care providers at the time of and after injury; and
- the effect of injury on the worker, family, finances and view of the future in Canada.

A qualitative approach was well-suited to this study since our aim was to understand the particular challenges faced by immigrant workers who were injured at work. In order to grasp these challenges, it was necessary to attend to workers' *experiences*,

beliefs and *practices*. By using in-depth interview methods, we were able to get a nuanced understanding of workers' experiences of work injury, their needs, and what kinds of support they might require. We used a modified grounded theory approach for the collection and analysis of data. Grounded theory is a methodology for developing concepts and for theorizing social action on the basis of empirical data. It is largely an inductive methodology that generates hypotheses and conceptual frameworks from the "bottom up" rather than from existing theory (Corbin & Strauss, 1990). Sampling is selective and theoretical, as opposed to statistically driven. This means that sampling proceeds on analytical grounds, based on emerging conceptual directions (Glaser, 1994). During our interviews, we asked participants about looking for and finding work in Canada, their experiences of being injured at work and what happened after their injury. We asked about their decisions around reporting an injury and filing a claim, and about any experiences they had with the WSIB. Interview questions were open-ended and adaptive. Specialized interviewing techniques were used to clarify meaning and to ensure that certain general inquiry domains (related to experiences after injury) were covered without imposing conceptual structures on respondents (Strauss & Corbin, 1994). Since analysis was done simultaneously with data collection, the interview focus evolved as the analysis progressed and as specific topics or concepts emerged.

This study involved interviews with two groups of individuals – service providers and injured immigrant workers.

Service provider interviews

At the start of the study, we interviewed service providers who worked closely with immigrant workers in health-care settings, settlement programs, community centres, injured worker groups and employment retraining organizations. These key informants were chosen because they could speak to issues immigrant workers face in the workplace, and to their experiences with work injury and the compensation system. These interviews provided us with valuable data, since service providers came into contact with many immigrant workers in the course of their jobs and could speak to particular trends and barriers that were systemic and not immediately visible to individual workers. Service provider interviews also helped us hone the questions we later asked during interviews with injured immigrant workers. A total of

14 service providers were interviewed. Their organizations and roles are listed in Table 1.

Table 1. Service providers – organization type and role

	Organization type	Participant's role in organization
1	WSIB	Language services (WSIB)
2	Legal services	Helps with WSIB claims
3	Union	Local president in union with high proportion of immigrant workers
4	Health-care provider	Clinical work, working almost exclusively with Asian clients
5	Legal services	Helps with WSIB claims
6	WSIB	Adjudicator in sector with high proportion of new immigrant clients
7	Settlement organization	Executive director, settlement workshops, job training/language training facilitator
8	Union	Steward in union with high proportion of immigrant workers
9	Non-profit organization serving new immigrants, non-unionized workers, temporary workers	Education, advocacy, counselling, outreach
10	Legal services	Helps with WSIB claims
11	WSIB	Nurse case manager
12	Injured worker group	Case worker, runs group for injured immigrant workers, helps with WSIB claims
13	Health care provider	Health care provider working with new immigrants and injured workers
14	Health and safety clinic	Clinical work, occupational health and safety services, training

Injured immigrant worker interviews

Once service provider interviews were completed and partially analyzed, we recruited 28 workers who had been injured at work to participate in one-on-one interviews. We interviewed workers who had contact with the compensation system (n=20) and those who had been injured at work but where no claim was filed (n=8). Workers were recruited through a variety of sources, including health-care providers, injured worker groups, legal clinics, multicultural health and community organizations, ads in ethno-cultural newspapers, etc. Table 2 details these recruitment sources. As anticipated, workers who had been injured at work but where no claim was filed were more difficult to find and less willing to be interviewed. However, because claim filing was often delayed among workers in the first group who had contact with the compensation system, we were able to examine why claims were not filed (at least initially) in both sets of interviews. After receiving information about the study and signing a consent form, workers were interviewed where it was convenient and comfortable for them.

Table 2. Injured immigrant workers – recruitment sources

Immigrant worker recruitment source	# of Participants
Health-care providers	4
Vocational training school	2
Injured worker group/legal clinics	7
Language-specific newspaper ads/community papers	5
Posters at organizations serving immigrants	4
Injured worker referral	2
Service provider referral	4

Workers were offered a professional interpreter when the interviews were arranged. Thirteen injured workers and one service provider accepted an interpreter for the

interview. In a few cases, interpreters were used to help arrange the interviews and facilitate the consent process. Interpreters were briefed about the study, interview conventions and common compensation terms prior to the interview. They all signed confidentiality forms. The study protocol was reviewed and approved by the Ethics Review Board at McMaster University.

Injured immigrant workers - participation criteria

In this study, we were particularly interested in the experiences of workers who had recently immigrated to Canada (in the 1990s and 2000s). Research has shown that the labour market experiences of individuals who came to Canada in the 1960s and 1970s closely approximated those of Canadian-born workers within less than 15 years (Frenette & Morissette, 2005). Yet the gap between Canadian-born individuals and new immigrants has steadily increased with new waves of immigration. For example, in 1980, the earning gap between Canadian-born individuals and recent immigrants was 17% for men and 23% for women. Twenty years later, the gap has increased dramatically to 40% for men and 44% for women. Clearly, newer waves of immigrants are not faring as well as those who came to Canada in earlier years. Newer immigrants may also have lower English-language proficiency and be less familiar with key Canadian social programs. For these reasons, our study focused on newer immigrants (Frenette & Morissette, 2005).

Further, since we were interested in interviewing workers who had (or should have had) contact with the compensation system, each worker interviewed was an individual who acquired an injury in the course of his or her work that was serious enough to require medical attention and at least one day off from work.

We excluded workers who came to Canada before the age of 16. Those individuals who arrived in Canada when they were children and have gone through the Canadian school system likely have more established social networks and greater familiarity with the English language and various Canadian institutions – characteristics that make them similar to Canadian-born workers (Ferrer, Green & Riddell, 2006). As such, we only interviewed injured workers who arrived in Canada when they were 16 years of age or older.

Finally, we excluded any undocumented workers who were not working legally in the job held when injured. We felt that these workers' experiences and circumstances would best be examined in a separate study.

Data analysis

All interviews were recorded and transcribed except in three instances when participants (injured workers) refused to have the interview recorded. During those interviews, detailed notes were taken instead. Field notes were written after each interview. Transcripts were reviewed by at least one research team member against the recording. A preliminary code list was developed by reviewing emergent findings during the first interviews. It was discussed and refined as the study progressed. Each interview was coded by two researchers, and any discrepancies in coding were discussed and resolved. Each coder wrote notes that highlighted salient themes and findings. Once the interviews and coding were complete, individual codes were analyzed. With the help of Ethnograph (a qualitative analysis program), individual code segments relating to a particular theme (for example, "Language") were extracted across all interviews. These were analyzed and discussed in team meetings. The analysis considered common themes and concepts across codes, negative cases and contradictions.

Sample

As stated earlier, the study sample comprised service providers who worked with immigrant workers and immigrant workers themselves. The service providers we interviewed worked in a wide range of organizations, but all had regular contact with new immigrants (and, in many cases, injured immigrant workers). Our sample of injured workers was diverse in terms of regions of origin, immigrant classes and dates of arrival. The majority of immigrants in our study originated from Asia and were relatively evenly distributed between economic, family and refugee classes. Most of the workers we interviewed arrived after 1996. We interviewed 18 men and 10 women. Detailed injured immigrant worker sample characteristics are provided in Table 3.

Table 3. Injured immigrant workers – Sample characteristics

Source region	Immigrant class	Date of arrival	Age at interview
Asia -13	Refugee – 10	1988-89 – 3	20s - 1
Caribbean – 2	Family class – 9	1990-95 – 6	30s – 8
Middle East – 8	Economic class – 7	1996-00 – 5	40s – 8
Central/Eastern Europe – 2	Other/undisclosed – 2	2001-05 – 10	50s – 11
South America – 2		2006-09 – 4	
Africa – 1			

Findings

Our findings focus on workers' experiences of finding work in Canada, their conditions of work and the experiences they had after they were injured at work.

Constrained choices - Finding work in Canada

Both service providers and workers in the study described the challenges of coming to Canada and finding work. Workers often distributed countless résumés, yet could not find a job in their field. Many workers described how difficult it was to find work when they first arrived:

The problem is {Long pause} the employers they want Canadian experience and they want applicants to know exactly the workplace in Canada and the standards and the code. [...] There's nothing, so I scraped for several months, then my money ran out. After that when you run out of the money...what can I do? I had to accept anything. It's very hard for engineer to accept work, as a worker, labour, general labour. General labour they say "come here, go there" [...] I couldn't believe that I had to do that. Yes, we believe in humbleness, but this is not humbleness. (IIW, Gamal²)

After coming here in Canada whatever job was available for me [I] just took it up so, I, I realized it was my bad luck and whatever I was in back home it doesn't matter here. (translated, IIW, Murad)

² All names are pseudonyms. "IIW" stands for injured immigrant worker, "SP" stands for service provider. Quotes from translated interviews are noted.

Immigrants soon realized that training and experience in their home country seldom resulted in jobs in a related field. Shortcomings in language skills became apparent as workers realized that their accents, grammar or inability to comprehend things quickly were barriers to securing work. Yet many participants described leaving language training programs because they needed to get a job as their funds dwindled. Many workers felt an urgency about finding work. Resettlement was very costly. Workers had to pay immigration fees and for travel to Canada. A new household had to be established. In some cases, they were not eligible for social support benefits and had arrived with limited funds. Some workers had children and spouses to support in Canada or in their home countries. Many workers had plans to sponsor other family members, and this required considerable resources.

Workers in this study had few professional networks in Canada and, with few exceptions, eventually found their first job through their cultural connections (friends, family, acquaintances from their own ethno-cultural community) or temporary work agencies where language ability and prior experience was less of an issue. There was a striking downward mobility in the labour market trajectories of the immigrants in our study. The jobs found through temporary work agencies, friends or family were typically manual jobs in factories, manufacturing or warehousing. As one worker put it, they were “survival” jobs taken for the purpose of keeping financially afloat. Many workers described them as physically exhausting, dirty and requiring little skill. Workers were rarely provided with formal job instruction, health and safety training or protective equipment:

*Training from employer? **No way.** {Laughter} {Short pause} ...you don't need training for that kind of job, they just need a labourer. Like my friends say, that's not America, today in North America they need **slaves**.* (IIW, Ping)

A common theme in the description of workers' jobs and ultimately their injury experiences was that they were a disposable, easy-to-replace workforce. Workers had little control over the work they did, their working conditions, work hours or job security. Strikingly, a number of workers described themselves as doing “slave labour” because they had no choice in refusing unsafe work or working overtime.

*It's just like a jungle. If you're supervisor and you didn't like me, you go to the management and say, “Oh, [Tse-wang]'s doing this, this and this. He's no good, he's no working.” The next day I'm gone. [...] **You work like a dog and there's all this fear.** Other day ...they have got a very huge [order] right? We are in the lunchroom, the manager come down, “Everybody in the lunchroom, please.” “Okay, we have got a big order. We didn't finish today. If we work 24 hours, we can finish. So guys, make*

*sure you all should be here on Saturday at 7 a.m. [...] a colleague, his vacation start from Sunday...He didn't come. When he finish his vacation...“Oh, you're suspended for one week.” “Why? Why am I suspended?” “Oh, you didn't show up on Saturday last.” Saturday's your day off. **That means you have got no choice. Just like slaves.** You have to [work]. (IIW, Tse-Wang)*

A combination of language barriers, limited social and professional networks, a lack of Canadian experience and the urgency that many newcomers felt about finding work served to funnel new immigrant workers into poor quality jobs that did not capitalize on their skills and, ultimately, led to injury.

Work injury

Workers in this study experienced a range of injuries and illness (see Table 4). Some injuries resulted from acute, traumatic events (a cut or crush), while other injuries developed over time as a result of repetitive, heavy work.

Table 4³

Type of injury	Number of events
Nervous system/sense organ disease	2
Cuts/lacerations/punctures	3
MSK/connective tissue	5
Hernia or slipped disk	2
Intracranial injury or concussion	2
Traumatic injury	1
Back pain/hurt back	10
Soreness/pain (not the back)	5 (2 shoulder, 3 arm)
Fractures	2
Contusions	1
Unknown/unspecified	4

³ A number of workers had more than one type of work-related injury

When workers described their injuries, it often became clear that insufficient attention had been paid to providing the worker with training about how to do a job safely. Many workers received no training at all. Others said that “training” was informal and consisted of another worker or supervisor quickly showing them how to do a task.

They just put you on a machine and maybe stand there for a few minutes and say “Okay this is what you do” or you observe the other person beside you, that’s about it.” (IIW, Gloria)

The agency doesn’t train me. I wear safety boot, no training. Maybe when I got to the warehouse the supervisor just tell me something. If that training, then that is training. (IIW, Jin)

Not only was formal job or occupational health and safety training uncommon, workers also described working in jobs where they were pushed to work harder and faster, especially when there were production pressures or deadlines. Many workers described working overtime and working alone or short-staffed:

We used to work also a lot of hours...our job is heavy, that’s how it is. I work hard, I did work hard at that time and I hurt my muscle, my lower back, I have lower back pain [...] every day working so hard and a lot of hours. For them, you know we had to finish some jobs on time and stuff. So we would be working, sometimes we were short of people so it’s more pressure on us. There is just a few people that works...it became to a point where I wake up in the morning, I just bow a little bit to wash my face and I can’t go back any more. I can’t stand up straight, so it was tough, hard. (IIW, Brian)

Both service providers and workers noted that workers’ previous experience and education had not prepared them for the sort of work they were doing in Canada. Many workers had not been employed in manual jobs in their countries of origin and were not used to the work environment, working conditions, tools or pace of their new jobs. Gina went from doing an administrative job in her home country to working as a machine operator. This is how she described it:

It was different...I work as a machine operator in a factory...very much different. [...] I couldn’t compare them. {Laughing} This is way different, plus I’ve never done that

kind of manual work...just the work environment was totally different, everything about it was different. (IIW, Gina)

Sebastian discussed how a lack of familiarity with the tools and machines used in factories can lead to worker injury:

*I think one of the big problems is that maybe immigrants went to school and they have to learn to use some tools for doing some jobs that they don't have any experience and **it's very dangerous**. Because they don't have, we don't have the idea to use some tools or some--many of the immigrants used to be doctors, lawyers, engineer and they have to use the machine for cleaning, for work in factory, [and] they don't have skills. (IIW, Sebastian)*

The development of gradual pain or an acute injury was a source of anxiety and stress for workers. As discussed earlier, workers realized that their job prospects were limited and they faced a number of pressures related to settlement or sponsorship responsibilities. First jobs were often viewed as a way of gaining Canadian work experience and as a potential stepping stone to better quality work in the future. As such, workers tried not to jeopardize their employment in any way.

Reporting an injury

In this study, we found that the reporting of injuries and the filing of a claim were two separate events. Reporting could be informal (an undocumented discussion with a supervisor about the worker feeling pain) or formal (a witnessed and documented injury event). Reporting might or might not lead to the filing of a workers' compensation claim. In Ontario, Canada, while workers *can* file a claim on their own by submitting a form to the workers' compensation board, called the Workplace Safety and Insurance Board (WSIB), it is the *responsibility* of the employer to do so upon learning that a work-related injury has occurred. There are WSIB information sheets that describe the process of filing a claim, and the following is an excerpt from one aimed at employers:

It is the responsibility of the employer to notify the Workplace Safety and Insurance Board (WSIB) immediately. Tell your employees to tell you about any type of injury or illness that results from work immediately, so you can report it. As well, the employer should ensure the injured person gets proper treatment (first aid kit or medical

treatment if necessary). The employer must complete and submit the Form 7 (Employer's Report of Injury/Disease) immediately when the employee has:

- *received medical attention and/or*
- *lost time from work*
- *had to do different work for more than 7 days due to the injury, at regular or reduced wages (the employer must report immediately if the worker still needs different work after 7 days)*
- *continued to work, but on a reduced work schedule, at regular or reduced wages.*

[...]

It remains the employer's responsibility to report all workplace injuries and illnesses

The health-care provider can also submit a form to the WSIB if she or he treats a patient with a work-related injury. However, it is an employer form that formally registers the claim.

For an employer to file a WSIB claim, it is necessary for the employer to know about the injury – by witnessing it directly or hearing about it from the worker. Fear of job loss and the potential financial consequences made reporting of an injury difficult for workers in our study. Most had trouble finding work in the first place, and many felt that the employer could easily find someone else to do the job they were doing. Many workers were in survival mode, as Jin explains:

The most important thing is that I want to survive...if I tell them [about the injury] then I lose my job, then I cannot survive. (IIW, Jin)

I told you that if have to do survival job, that is, that is the ongoing process because they'll not care for you. No-no employer will take care of you. They'll say, "You have to work, otherwise you go. Goodbye." Every supervisor is like that. (IIW, David)

Workers felt that an injury would be, at the very least, bothersome to the employer – it would mean reduced production capacity, time off for medical appointments and inconvenience for the employer. Many workers said they worried that telling their employer about their injury would ultimately lead to job loss and negative financial consequences. This was compounded by the fact that few workers knew what their rights were in the workplace or had information about income-replacement options in the event of job loss. While the fear of financial insecurity is not unique to immigrant

workers, a number of workers in this study had promised family they would send money back home or that they would sponsor a family member's application to come to Canada. This obligation weighed heavily on Brian who did not tell his employer that he was hurt:

I had to sponsor for my parents to come to Canada. Basically it's a special sponsorship which depends on your income, so I used to work a lot of hours to try to reach that income which that, that year I did and got. If I had filed a claim probably then my income would have got affected and I won't be able to bring my parents (IIW, Brian)

Despite the fears described by workers, remarkably only three individuals in this study did not inform an employer or health-care provider that they had had a work-related injury. Sometimes the injury was directly witnessed by a supervisor. Other times workers told their employer that they were experiencing pain as a result of their work. A number of workers also told their health-care provider that their injury happened in the course of work. By telling a health-care provider or employer about their injury, most workers fulfilled their responsibility in the WSIB's claim-reporting process.

Claim filing

As previously mentioned, while workers *can* initiate the filing of a claim, it is the *responsibility* of employers to do so upon learning of a work-related injury. Most employers or health-care providers in our study were informed of problems that the worker was having, yet this rarely lead to the prompt filing of a workers' compensation claim. Many workers we interviewed knew little about workers' compensation. A few had heard that there was a "compensation board," but had no idea when one should file a claim, how this should be done or what the related rules and obligations were. Thus, workers were dependant on others to help with this process. Typically, employers did not inform workers about their rights after a work-related injury. Brian, for example, said his employer "didn't say anything about reporting anything, he didn't mention anything about that." With a few exceptions, workers reported that their employer's initial response to their injury was negative. Employers made light of the injury or questioned whether the worker was actually hurt:

At first I told the supervisor but he said “That’s okay, that will be okay, there’s nothing wrong, that’s okay. Um, okay you work a little slow now and after some time you can go faster again” (translated, IIW, Gina)

I: So after you were injured did you tell your employer that you were injured?

T tr: Yes, immediately....I said so to the bosses, to the person who was responsible, the person, the owner of the company...but it happens that sometimes they don't believe that you HAVE had something happen or, it's not convenient for them...After the first accident my coworkers told me that the boss was saying that it was PURE THEATRE and that I hadn't suffered anything (translated, IIW, Donald)

Some employers seemed to take advantage of the fact that the worker did not know about his or her right to compensation. They actively discouraged the filing of claims or told workers that they would not be believed by workers' compensation because they were “too young and strong” to have an injury. Other employers pointed out that they (the employer) had been injured in the past and had never gone to workers' compensation. Employers sometimes offered the worker time off work in lieu of filing a workers' compensation claim. For instance, Ravi reported that he was told “*Don't go to WSIB, don't tell hospital, we will give [you] two weeks pay.*” Similarly, Murad described what happened when he was injured: “*I couldn't have gone to work, for a few days and, I told about that to my boss and my boss told me 'No, okay, you stay home. I'm going to pay for those days to you, you don't need to claim'.*”

Because many workers were not aware of their rights, a number of times they interpreted an employer's attempts at claim/injury management as benevolence and kindness. For example, one worker who had a serious back injury described her interaction with her employer:

*Right away my boss called me, to the hospital and said “Well Mina, you know, you are short for three weeks because you had to go for your surgery, that is okay. I'll pay you for these three weeks but when you come back to work you have to pay me back this money. Again, I didn't know what she was talking about, and I said “Sure, thank you so much!” For me it was like, okay, like this paycheque come, I pay the mortgage until I sell the house. I thought, oh my God, she's an **angel** to [do] this favour to me. (IIW, Mina)*

Similarly, when Ping's employer sent him home after an injury and told him to come back the next day, he was relieved and grateful:

The only thing I know is okay, bad thing happened, the boss probably are going to let me go home because you know, I cannot do, do my job. So, once he said, "Okay, come back tomorrow" I was so happy, I thought, "Okay, I didn't lose my job. My boss is so nice. Like he didn't send me back home, he still asked me to stay. (IIW, Ping)

There were instances when the injury was so serious that the worker had to go to the hospital, or the pain was ongoing for a long period of time and a health-care provider or the employer did file a claim. Workers were not always aware that a claim had been filed, but then were faced with anger from an employer. This was the case when Peter got a call from his employer after his doctor sent in a WSIB form:

The employer, a friend of the family...well at the beginning...he was talking to me, like swearing at me in [native language] saying that I was...I won't even repeat the word and I didn't understand "Well what have I done to you?" and he goes "What do you think you're going to get from me, more money? Like you came to Canada to, to try to exploit something here and find more money?" and I go "What are you talking about, I got injured, I'm sick, I'm sorry I couldn't come to work" and [he] was like, kept going like you know, "You're making me pay more premium on my WSIB insurance" and I go "What is WSIB?" I didn't know what it was. "Oh the compensation board, you gonna make me pay, you control what you've written" and I say I would try, I don't even know what I've done, I just went to the doctor. (IIW, Peter)

As discussed above, most workers knew very little about the WSIB and, in many cases, were confused about what happened even when a claim was filed. Many workers did not know about the forms that had to be filled out or about the time limits for filing a claim. Workers described how their employer or health-care provider filled out forms, but they did not understand what the forms meant and who they were for. Language barriers prevented some workers from reading and understanding forms. Workers also said they did not realize that minor mistakes on forms (related to poor English literacy), inconsistencies or omissions could lead to problems with their claim. For example, Balik talked about his experience of a friend helping him fill out forms:

Now that I know...English now, I was like, my God, what did we tell? You know? We should've told like more information, like more accurate information. Like, you know, I forgot to mention repetitive heavy lifting of the motors and stuff like that. (IIW, Balik)

Sometimes friends or family who helped workers fill out forms were also not proficient in English and did not know much more than the worker about the compensation system.

Experiences after claim filing

Workers' discussions about what happened after a claim was filed centred on their experiences with the WSIB and their employer. A number of workers discussed the intense pressure from their employer to come back to work right away, presumably so that the injury did not become a lost-time claim, which was more costly to the employer. One worker described the employer leaving her repeated messages when she was at the hospital getting her broken arm set, urging her to come back to work right away. Another worker, Hatti, also described how her employer insisted that she come back to work immediately after her head injury:

He say "Okay, you know what? You have to come every day, every day you have to come, we're going to send taxi. Every day taxi is going to bring you here, take you home, you don't do nothing you go to medical room you lay down. When you come in you have to punch your card and go lay down." So, I say "What, how, how I get up...I am so [sick] this morning ... I don't brush my [hair], I don't take care of, how I come here like that?" He said "That is rule you have to follow. You come here, you lay down in the medical room. That's what you do." (IIW, Hatti)

The workers in this study were in a vulnerable position because they knew little, if anything, about the compensation system, and often had language difficulties. As such they could easily be misled by employers about their rights and responsibilities after a claim was filed. Further, in cases where an employer questioned the work-relatedness of the injury or provided the worker with accommodated work that was not suited to their limitations, it was difficult for workers to challenge what was happening. In part this was due to a feeling of already having strained their relationship with the employer. As stated earlier, workers felt that their employers were inconvenienced, upset or suspicious of their work-related injury. To further challenge the process or the employer was to cause additional problems and do

further damage to an already strained relationship. Most workers also did not have a good sense of where to go for help if they were laid off, not treated fairly or not accommodated in their jobs.

After a claim was filed, misunderstandings also occurred as a result of communication difficulties between a worker and supervisor. These could affect a worker's claim and return-to-work experience. One service provider (a legal representative) described a typical situation:

When they get back to work, when they see the job, they know that they cannot do it, then they just leave the work site. Without telling the employer, "Uh, I'm sorry this job doesn't accommodate me. I don't think I can work with it?" They, don't know how [to] elaborate themselves, right? So they just leave the workplace. And then [according to] WSIB, you refuse to return to work, the offer, because you left....so sometimes if you don't have the language skill, how can you communicate with the employer, how can you tell the employer about what you need, right? All you can say, "No. I can't do the job." Very simple, right? A few words. That's all they can say. (SP, Rebee)

In the end, the majority of workers we interviewed ended up being laid off or leaving their jobs. While we have no way of definitively knowing that this was as a result of their injuries, for many workers their injuries and subsequent WSIB claims certainly complicated their employment relationships and made continuing with their jobs a challenge.

Experiences with workers' compensation

Workers experiences with the WSIB started when a claim was filed and sometimes continued even after they were no longer employed with the pre-injury employer. Workers told us about a range of experiences – both positive and negative – with the WSIB. Workers who had strong language skills and an injury that was visible and acute (versus invisible and gradually acquired) tended to have better experiences within the system. It is important to note that the WSIB is a complicated bureaucracy with many rules, where workers are often required to interact with different system actors (health-care providers, adjudicators, return-to-work specialists, etc.). Other research has found that, even for Canadian-born workers, this system can be complex and difficult to navigate (MacEachen, Kosny, Ferrier & Chambers, 2010).

Workers who are unfamiliar with Canadian social programs or the English language may have additional difficulties.

Both service providers and workers in our study discussed why and how new immigrants found the WSIB confusing. First, many workers had not heard of the WSIB prior to their injury. They knew nothing about the system and certainly were unfamiliar with their rights and responsibilities related to workers' compensation. One service provider contrasted this to individuals who were born and raised in Canada:

My family has been here for six generations, we KNOW the system, you learn – understanding systems in a country of origin, it's just, it's – taught to you by your family members, it's taught to you by the institutions that you grow up in. You learn it as you walk around every day, as you come in contact with the various aspects of the system. (SP, Kelly)

Some workers also came from countries where compensation systems did not exist or were organized very differently. This, coupled with language barriers, made navigating the system difficult for new immigrants.

While workers going through WSIB can access interpretation services if needed, most workers in this study did not know about these services. We also found access to formal interpretation services to be largely adjudicator-driven, meaning it was ultimately up to the adjudicator to decide whether the worker would get an interpreter. We heard of instances where interpreters were taken away, even though the worker felt an interpreter was needed. Often workers did not realize how language difficulties and lack of formal interpretation could affect their claim. As this service provider noted, workers sometimes believed they were understanding what was happening when this was not always the case:

I see these people try to talk to the adjudicator themselves...because a lot of the time...the adjudicator thinks that they understand along the conversation. And all of sudden, you know, one month later they said, "No, I don't understand what you are telling me"Maybe they think they understand. For some reason, if they have a general ideal how to say English...but when things get more complicated...they fare better to have an interpreter there to explain. (SP, Beverly)

Workers sometimes used a family member as an interpreter, but this was a problem when the family member struggled with some of the technical language and

processes of the WSIB. Further, when a claim became adversarial, prolonged or complicated, interpretation became burdensome to family members who had their own school, work or family obligations. Service providers in particular described how workers sometimes agreed to arrangements (such as vocational rehabilitation) that they did not fully comprehend, or they missed deadlines because they did not understand certain requirements. One service provider described how communication difficulties could lead to frustration and conflict between the adjudicator and injured worker, resulting in problems during the adjudication process:

...the language barrier, it is frustrating on both sides. And, things will either go one way or the other, they either escalate to a confrontation state, between the workers and the adjudicator which will shut down the adjudicator and could sway them to making a negative decision, or the injured worker will shut down because they are intimidated and they won't probe and pursue things further. (SP, Kelly)

Workers also discussed problems they had with WSIB forms and paper work that were in English. Workers talked about getting form letters with little explanation of a decision to cut funds or make some other change. It was also sometimes difficult to understand the consequences of certain decisions, as this worker describes:

The adjudicator would write a letter and...I would spend the whole day reading, trying to figure it out, I go to the dictionary, I don't find the word...you were getting information that you don't really know the consequences of that letter... It's not only about understanding. It's about what you do about it...But how I'm going to know if I'm not from here? And people, they can say "Ah, but even if you're from here, you don't know." What do you mean you don't know? You have people around you, you have family here, you have a member that you know at school or your teacher...you have the community, the whole community here. But for me, who did I know? (IIW, Balik)

Finally, during the adjudication and recovery process, workers had to see a health-care provider (or several). Receiving timely, appropriate care was sometimes a challenge. Many workers complained that, when they went to a hospital or walk-in clinic, they rarely had access to formal interpretation services and typically received little support going through the compensation process. Similarly, workers who saw specialists often had difficulty communicating with them. This could not only affect the quality of their treatment, but also have a negative effect on their claim if workers could not fully explain the nature of their pain or injury:

Workers complain that they couldn't explain things to [specialists] because they didn't speak their language. And, of course, when you get a specialist's opinion back it holds the highest weight, there's a hierarchy there according to training speciality. If you have a specialist providing a very scant report and you are relying on it or they are not able to speak to the relationship of the diagnosis to the work injury, the work process, we've got a problem...(SP, Beverly)

However, workers also had positive experiences with health-care providers (HCPs), particularly those who spoke their own language. These HCPs explained the workers' compensation system to them, helped them with forms and contacted the employer on their behalf. A number of workers said their HCP also explained the possible long-term consequences of *not* filing a claim after a work-related injury, as was the case with Peter:

The doctor ask me "What happened?" And I told him [...] So, the doctor said "Oh, well it happened [at] work they have to fill an extra form for you and I go "What is it?" "Oh, it's a form that will guarantee you health care if you ever need in the future" and I go "Well, I don't want" I honestly said "Doctor, please you know, I don't want to make it difficult just, send me home [...] He said "No, you need to do this because if one day you, you can't work anymore because your back is, is severely injured then" the doctor told me "Then no one is going to pay for you if you don't have this form filled out, because you don't [know] what could happen to you, it's going to coming back, you don't know and I have to do it, my obligation." So, doctor was very smart and honest person. (IIW, Peter)

It was clear that in most cases workers preferred and had better experiences with HCPs who spoke their own language, yet this in itself sometimes led to problems with their claim. Claims could be delayed if workers searched for a HCP who spoke their own language. Further, the WSIB requires that the worker notify them if he or she switches HCPs. When workers switched to a HCP who spoke their own language, this was not always communicated to the WSIB because workers did not know this requirement and did not have the language skills to communicate this information. Some participants noted that employers balked at workers having a HCP who was from their own culture – claiming that the HCP was not objective and pandered to a worker's desire to stay off work. Adjudicators sometimes also held the same view:

A lot them will go to doctors that are the same cultural background as they are. Now I don't know if they (these doctors) may particularly nurture, say "Okay, you know, yeah, stay off work, stay off work". Now I don't know if that's necessarily due to the background or if it's due to the fact that they've got a relationship with this worker, in terms of rapport, like an advocate for the worker type of thing, between the doctor and the worker and they advocate that, oh the person can't go back to work. (SP, Grace)

This perspective proved to be a catch-22 for workers. On one hand, workers who had English-speaking doctors were not always able to communicate with them adequately. On the other hand, when workers had doctors who spoke their own language, their credibility could be undermined and the validity of their injury questioned.

Discussion

The problems facing new immigrants after a work-related injury are not always vastly different to those faced by Canadian-born workers (MacEachen et al, 2010). Yet some of the issues identified in this paper seemed to be magnified for the workers we interviewed because they were newcomers. Both Canadian-born and new immigrant workers can be exposed to the hazards of manual, heavy and repetitive work. However, as many workers in this study pointed out, they were often doing this sort of work for the first time and were unfamiliar with the pace, tools or machines they were using. Many workers were not trained, did not speak the language well and did not know anything about their rights. These factors contributed to their vulnerability.

While all workers may worry that a work injury will jeopardize their job and compromise their income, new immigrants had added settlement-related pressures. Coming to Canada was costly, and some immigrants sent money to family in their country of origin. Further, most participants in this study were acutely aware of their poor position in the labour market after months of searching for work in their field. With their depleted financial resources and poor employment prospects, keeping a job took on a more pressing quality.

Given these realities, it would be easy to jump to the conclusion that immigrant workers fare poorly after a work-related injury because they keep silent and never tell

anyone that they have been injured. Yet one of the striking findings of this study was that, despite the challenges facing the workers we interviewed, almost all told an employer or health-care provider about their work-related injury. As such, in this study, it was not workers' fear or lack of initiative that prevented a claim from being filed (or delayed the process). Instead, the shortcomings lay in the other compensation system players who failed to respond in a timely or appropriate fashion. We heard many instances of HCPs being told that an injury occurred at work and not filing a claim, of workers telling employers about an injury and being offered "time off work" in lieu of reporting the injury to WSIB, of supervisors ignoring the fact that a worker had been injured and of workers being misled about their rights. Such behaviour was possible in part because workers had little knowledge of their entitlements and were unlikely to complain further. The workers' compensation system is complex and can be difficult to navigate for all workers. However, we found that workers' imperfect knowledge of the English language made the process more difficult. Workers had trouble communicating with adjudicators and others involved with their claim. The offer and use of interpretation services seemed to be inconsistent, with some workers receiving no interpretation, some using family members or community resources, and some having access to professional interpretation (although not necessarily during the whole process). Language problems added to the complexity of the process. Workers could not understand forms, decisions or requirements. This led to misunderstandings with employers, health-care providers and adjudicators. Communicated information was partial and missing in detail, which sometimes proved detrimental to the worker's claim. Communication difficulties led to frustration among all parties and sometimes undermined the worker's credibility by making it seem that he or she was "not cooperating" with system rules and regulations.

What can help?

In this study, we identified a number of ways to change current programs and systems that could improve the situation for new immigrant workers.

Information and resources for the worker

Workers consistently told us that they never received any information about employment standards, their occupational health and safety rights or workers' compensation during the settlement process. Many workers took language-training classes or job-search workshops or received materials about coming to Canada, yet these did not include this information. While the WSIB and other organizations provide information to newcomers about worker rights and compensation, the provision of such information is ad hoc and often dependent on the ability and initiative of the individual worker. There are many barriers to workers accessing this information. Not everyone knows where to look or has access to a computer. Finding information takes time and energy, which workers do not always have after working and dealing with other settlement demands. Further, many workers in this study were surprised to be doing manual labour that involved working with unfamiliar tools or machines and, hence, had not prepared themselves in any way for these types of jobs. While providing workers with information about their rights or workers' compensation does not guarantee that workers will be protected or able to invoke those rights, we feel that this is an important first step. As one worker said, "*If employers knew that immigrants knew about their rights they would treat us differently*" (IIW, Mina).

We suggest that some information about employment standards, occupational health and safety rights and workers' compensation be included in job-search and language-training classes. This information should also be provided in materials that workers receive when they are preparing to come to Canada (or shortly after arrival). Other research has shown that immigrants are more likely than Canadian-born workers to be employed in jobs that have a higher risk of injury (Premji et al, 2010; Smith & Mustard, 2010) and as such it is important that workers have at least basic information about health and safety-related topics when they are entering the labour market.

In the workplace

Many workers in this study told us that they did not feel protected in their workplaces. Rarely were workers trained, they did not know their rights and they feared being fired after having a work-related injury. Currently in Ontario, workplaces are targeted for inspections based in part on their workers' compensation record (workplaces with a higher claim rate are more likely to be inspected by the Ministry of Labour and

targeted by WSIB for safety initiatives). However, a low claim rate is not a reliable indicator of safety in the workplace or a scrupulous employer. As we saw in this study, some employers may not file claims and instead may try to manage injuries internally. One worker we interviewed told us how he heard his employer flaunting his perfect WSIB health and safety record (no claims were ever filed by the firm), yet he witnessed work-related injuries occurring regularly. As a result, we recommend targeting workplaces for health and safety inspections and programs where there are high concentrations of immigrant workers or other vulnerable groups, regardless of that workplace's official health and safety record.

Further, workplaces where complicated employment and reporting relationships exist should also be targeted (for example, temporary work agencies where a worker is employed by an agency but working on the site of another employer). It is easy for workers to fall through the cracks in these types of workplaces.

Efforts should also be made to protect workers when a claim is filed. Information should be available about alternative income-support programs, and workers must have access to free, legal information in their native language (or at the very least access to high quality interpretation services).

Further, efforts must be made by the WSIB and Ministry of Labour to ensure that employers and health-care providers fulfill their responsibility of consistent and timely reporting of injuries. This can be done through a series of incentives for reporting and through fines when a report is not filed when it ought to be.

At the WSIB

The Ontario WSIB offers a range of services for immigrant workers, including a telephone helpline, interpretation services, resources (fact sheets about the compensation system) in a variety of languages and outreach programs. However, the workers in our study were unfamiliar with most of these programs. The service providers we interviewed, who saw many immigrant clients in the course of their work, also noted that few of their clients were aware of or accessing these programs. New and improved methods are needed to advertise and promote these services so that they are well-utilized by those workers who need them. A good example is professional interpretation services at the WSIB. In our study, participants described access to interpretation services as something that was under the discretion of

individual adjudicators. Many workers did not know they could access these services, and sometimes they were offered too late – once significant problems had already developed with a claim. We recommend that interpretation services be offered systematically at the start of a claim and that the offer be repeated several times throughout the adjudication process.

It would also be helpful if Forms 6 and 7 (used by workers and employers to file a claim) be offered in languages other than English and French so that workers had a clear idea of what was being asked of them (and of their employers) on these forms.

It would also be useful for the WSIB to collect data about the experiences of new immigrants accessing the workers' compensation system. Currently, no data is collected that identifies certain claimants as immigrants. We feel that this is a barrier to the WSIB understanding how these workers are faring while in the compensation system and to developing programs that are well-suited to their needs.

Conclusion

This study examined new immigrants' experiences after they had been injured on the job. For many workers, reporting an injury was made more difficult by their insecure labour market position and the financial demands of settlement. Workers worried that a work injury which affected their ability to work would spell financial calamity for themselves and their families. While workers usually reported their injuries, they were hindered by an unclear understanding of their rights and unfamiliarity with the workers' compensation system, which made them reliant on their employer or HCP for the provision of information and the filing of claims. Workers who ended up connecting with the workers' compensation system had many difficulties due to language – they did not always receive access to interpretation services and communication difficulties often made their claims more complicated. Systems must be put in place to ensure that new immigrants can successfully access the compensation system in the event of a work-related injury and that employers and HCPs fulfill their reporting responsibilities.

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