



# **A delicate dance with many partners: Immigrant workers' experiences of injury reporting and claim filing**

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## In this presentation ...

- Highlight some findings from a recently completed study with injured immigrant workers
- Study purpose, methods and information about our sample
- New immigrants' experiences finding work & the nature of jobs
- The reporting of injuries
- The filing on claims
- Workers' experiences with the compensation system
- Recommendations



## Study purpose

To gain an understanding of new immigrants' experiences after a work-related injury, including:

- IIWs knowledge of rights (reporting, refusing unsafe work)
- What facilitates or impedes reporting of injuries and the filing of claims
- Experiences with WC system (language services, adjudication, voc rehab etc.)
- Experiences with employers and health care providers at the time and after injury
- Effect of injury on worker, family, finances, future in Canada



## Methods

### Interviews

- 14 in-depth interviews with service providers who work with immigrant workers (HCPs, legal advisors, settlement staff, comp staff)
- 28 in-depth interviews with immigrant workers who had been injured

<b>Recruitment Source</b>	<b>Participants</b>
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



## Methods

### Source region

Caribbean – 2

Central/eastern Europe – 2

South America – 2

Asia (India, China, Sri Lanka etc.) -13

Middle East - 8

Africa -1

### Immigrant class

10 refugees, 9 family class, 7 economic class (2 other/undisclosed)

### Age at interview

20s: 1    30s: 8    40s: 8    50s: 11

### Gender

Men: 18    Women: 10

### Date and age of arrival

Pre-1990: 3 (1988, 1989, 1989)

2001-05: 10

1990-95: 6

2006-09: 4

1996-2000: 5



## Methods

### Claim filed after injury

Yes: 20 No: 8

(In many instances claim filing delayed; some more than one injury, including ones that did not lead to a claim being filed.)

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



## Methods

- 13 IIW's and 1 SP required interpreters
- Tape recorded and transcribed (except for 3), detailed field notes written
- Codes developed with the research team
- Two independent coders for each interview
- In-depth code analysis of each code
- Emergent research findings discussed at research meetings
  
- Study had an advisory committee with representatives from WSIB, injured workers groups, health care providers and injured immigrant workers



## Finding work

- Workers reported difficulty finding work
  - Language difficulties (accents)
  - Lack of Canadian job experience
  - Credentials not recognized
- “Survival jobs” were common after arrival in Canada – even for economic class immigrants

*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. (Gamal, IW)*

- “Downward mobility” between work in home country and 1<sup>st</sup> Canadian job



Pre-Immigration work/education		First job in Canada
1	Mech. Engineer (BA)	Manufacturing
2	Sm. Business owner (10 employees) (BA)	Manufacturing
3	Retail Cashier	Construction
4	HVAC tech. (2yrs post-sec)	Manufacturing
5	Sales Manager/supervisor (BA)	Manufacturing
6	Environmental Protection Officer/Human Rights	Food Processing
7	Construction	Maintenance work at Factory
8	Civil Engineer (BA)	Manufacturing
9	Homemaker	Manufacturing
10	Admin/secretarial	Manufacturing (machine operator)
11	Domestic Worker	Manufacturing
12	Exporter (BA)	Warehouse labour
13	Homemaker	Food Processing
14	Student	Childcare
15	Electrician/Construction <a href="http://www.iwh.on.ca">www.iwh.on.ca</a>	Furniture Manufacturing

Pre-immigration work/education		First job in Canada
16	University Prof/Artist (PhD)	Manufacturing (machine operator)
17	Speech Therapist (2yrs post-sec)	Childcare
18	Telecom Manager (2yrs post-sec)	Retail Sales
19	Farmer	Jewelry Polisher
20	Retail Sales	Manufacturing (Bakery)
21	Chief of lab services/research for hospital (MBA, MPH, MD, PhD)	Convenience store clerk/ short term research contract
22	Farmer (2yrs post-sec)	Farm Worker
23	Sm. Business owner (4-5 employees)	Carpet company (manufacturing?)
24	Bookkeeper	Childcare
25	Textile sewing	Textile sewing (manufacturing)
26	Computer programmer/Analyst (college diploma)	Grocery Store packer
27	International trade/financial services (BA)	Restaurant cook/food prep
28	Farmer	Manufacturing



## Finding work

- Workers said they needed work quickly - settlement is costly (pay for flights, immigration fees, setting up of a new residence)
- Took these jobs as financial resources dwindled, often at the sacrifice of language training
- Few professional networks, most jobs found through **temporary work agencies** or through **family/friends/acquaintances** from same cultural community



## Working conditions

- Many workers said they were ill-prepared for the job
  - Job in Canada was *vastly* different from job in home country
  - Working with unfamiliar tools and equipment
  - Work pace and physical conditions of work were different
- Pushing oneself
  - To get a favorable reference
  - To prove a point – that they could succeed in new country
  - Working overtime to help sponsor family
- At the job where injured, few received training (both job and OHS)
- A number of workers felt this was because they were “disposable labour”



## Working conditions

*Training from employer? **No way.** {Laughter}...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.** (Ping, IW)*

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*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." The next day I'm gone. [...] **You work like a dog and there's all this fear.** We are in the lunchroom, the manager come down..."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 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]. (Tse-Wang, IW)*

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



## Reporting an injury

- We looked at reporting an injury and filing a claim as separate events
- Reporting – the supervisor or HCP is informed of the injury
- Filing a claim – an official form is filed with the WSIB (by worker, HCP or employer)
- Reporting depends on the worker
- Claim filing is the responsibility of the employer upon learning of the injury



## Reporting an injury

- Reporting of injury made difficult due to fear of job loss and financial consequences

*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. (Jin, IW)*

*I told you that if have to do survival job, 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. I have so much problems...so much harassment. (David, IW)*

- Job loss fear - not unique to immigrant workers but many had additional financial pressures (remitting money, family sponsorship, settlement in Canada) AND knew job prospects were limited
- **In most cases workers reported injury - fulfilled their responsibility**



*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**



## Claim filing

- While most employers and HCPs were informed of the injury this rarely led to prompt claim filing
- Workers typically did not know about workers' compensation, entitlements, process of filing a claim etc. – dependent on others
- Workers reported that often their employer's response to their injury was negative (injury discounted, not believed, etc.)

*I: So 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 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, Donald, IW)*



## Claim filing

Workers described a number of ways employers undermined the claims process:

- Misinformed worker about his or her rights (wait before filing claim, not eligible for WC)
- Directed workers to go elsewhere (EI, social assistance)
- Told workers that they would not be believed
- Did not send in forms, delayed sending in forms or sent in incomplete forms
- Misrepresented injury or job
- Offered time off work (paid or unpaid) instead of filing a claim

Because workers were not aware of their rights - interpreted an employer's attempts at claim management as kindness



*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.** (Mina, IW)*

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*The only thing I know is okay, bad thing happened, the boss probably [he’s] going to let me go...because you know, I cannot 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”, I’m so happy. (Ping, IW)*



## Claim filing

- When injury was serious, worker had to go to hospital or pain/injury persisted for long time – claim filed
- Workers sometimes unaware that claim was filed
- Language barriers prevented workers from reading/understanding forms
- Did not know what was being sent in or the consequences

*The employer... was 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..."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 don't even know what I've done, I just went to the doctor. (Peter, IW)*



## Claim filing

- When claim filed, workers sometimes experienced intense pressure to RTW immediately (NLT claim?)

*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)*

- Workers who did not have strong English language skills and did not understand compensation rules were in no position to challenge these practices



## Claim filing

HCP also played a role in the filing of claims

- Emergency/walk in clinic HCPs often did not file claims – workers rarely had an interpreter at the hospital (relied on co-workers)
- When saw specialist - felt rushed, not understood
- However, family doctors quite helpful (with forms, explaining WC)
- Some participants had HCP that spoke same language

**Lack of knowledge about rights, challenges speaking/understanding English, weak labour market position -> vulnerable during claim filing process and open to exploitation from their employer**



## Experiences with workers' compensation

- Experiences varied – better when workers had a visible injury, spoke English and had support
- Inconsistencies or omissions could lead to problems with claim – language problems led to mistakes on forms and undermined credibility
- Difficulty understanding rules and processes of the compensation system – communication by phone or letter was challenging

*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? (IW, Balik)*



## Experiences with workers' compensation

- Access to interpretation services was patchy and typically adjudicator-driven. Sometimes workers were offered an interpreter. Sometimes the adjudicator did not offer interpreter, worker did not feel like s/he needed one
  - Did not know about the complexities of the system
  - Did not understand how language limitations would affect claim
- Workers who did not speak English often left claims in the hands of others
  - Disengaged from whole process - "swept along" in the current
  - Did not know what was happening with their claim
  - Help received varied in quality (e.g. family interpreters)



## Experiences with workers' compensation

Many discussed problems with the RTW process

- Unmodified "modified jobs" – but unsure where to turn
- Workers did not understand rules and responsibilities related to RTW
- Misunderstandings and language short comings led to frustration with the WSIB and at work

*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 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. (Rebee, SP)*

Many workers eventually were laid off or left the job after their injury



## What can help?

### Information and resources for the worker

- Easy access to free, language appropriate resources (legal services, settlement services)
- Information about employment standards, worker rights and responsibilities and WC  
*“If employers knew that immigrants knew about their rights they would treat us differently” (Mina)*
- Informal information – sick vs sick from work; importance of documentation
- Information about wage replacement (EI, social assistance) and access



## Information is needed...but it's not enough

- Currently there is a lot of information available BUT...reliant of the initiative and resourcefulness of worker
- Worker may not have time to find information (multiple jobs, preoccupation with settlement)
- Not everyone has easy access to computers
- Language difficulties
- Worker may have no expectation that s/he will be doing manual labour or will run into problems – will not look for the info

Integrate OHS, employment standards and WC info into settlement services and language programming –as immigrants are entering the labour market

Workers should also be given info as they enter Canada (“Welcome to Canada: What you should know” guide)



## What can help?

### In the workplace

- Job protection if they refuse unsafe work or when a worker is injured – currently many workers do not feel protected
- Targeting of workplaces where there may be a higher concentration of new immigrants and where OHS rights/responsibilities and reporting pathways are complicated (temp work agencies etc.)
- Focus on increasing compliance of HCPs and employers vis-à-vis filing claims and providing suitable modified work (How?)



## What can help?

### At the WSIB

- Formal interpretation services should be offered systematically. The offer, if declined, should be repeated throughout the process
- WSIB should offer Form 6 in other languages
- Provide alternatives to phone and form communication
- Currently WSIB does not collect (keep?) info that identifies workers as new Canadians. Difficult to identify those who require more assistance or determine if newcomers are faring worse than Canadian born workers in the WC system
- WSIB has many services for non-English speakers – need new ways of getting info out to workers



## What can help?

### Immigration system

- Immigrants coming through the points system may have English language difficulties (esp those who are not the principal applicant), provide opportunities for free language training
- Workers should be provided with realistic impressions of the sorts of jobs they are likely to get
- Governments need to work toward getting foreign credentials and work experience recognized and build professional networks for immigrants



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