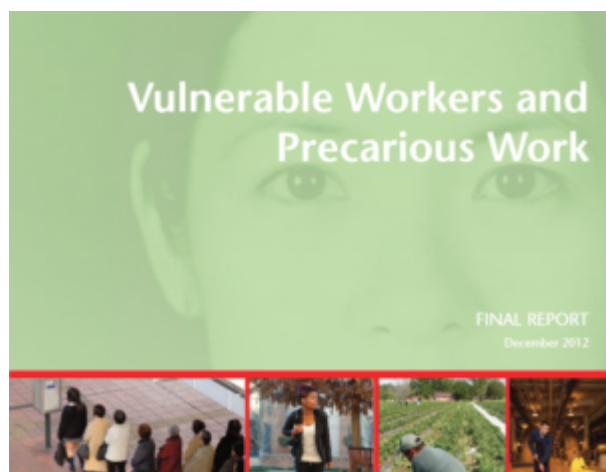


Ontario Report Has Recommendations for Protecting Vulnerable Workers



Although the OHS laws are designed to protect all workers, some workers are simply more vulnerable to injury, illness, reprisals, etc. than others. For example, the Dean Panel's report on the Ontario OHS system noted that new, young, temporary and seasonal workers were especially vulnerable. Adding to the research in this area, the Law Commission of Ontario (LCO) recently released a report containing 47 recommendations on how to better protect vulnerable workers. Here's a look at the LCO's report, *Vulnerable Workers and Precarious Work*, and its recommendations.

THE REPORT

Scope of Report: The LCO's Vulnerable Workers/Precarious Work Project assessed the protections available to workers it identified as vulnerable, including women and single parents, racial minorities, newcomers and established immigrants, temporary migrant workers, the disabled, youth, Aboriginal persons and non-status workers. The project found that vulnerable workers may be more likely to engage in 'precarious work,' which it defined as characterized by job instability, lack of benefits, low wages, low degree of control over the process and/or greater potential for injury. The project then looked at the coverage of this type of work under provincial laws designed to protect workers, such as the *Employment Standards Act* and the *OHS Act*.

Recommendations: The project found holes in the protections provided by both the *Employment Standards Act* and *OHS Act*. The report includes recommendations as to both types of protections and categorizes them as either short, medium and long term. The OHS specific recommendations include:

- Enforcement of the OHS laws should include proactive inspections to ensure that JHSCs or safety representatives are in place in workplaces where required and are effectively operational;
- Stakeholder discussions between industry and government regarding health and safety should include workers or their representatives;
- The MOL should conduct more proactive inspections in industries employing vulnerable workers at high risk for workplace injuries, including

agriculture, hospitality and cleaning, and workplaces that use temporary workers;

- Temporary foreign workers in all sectors should be a priority for MOL proactive enforcement activities; and
- There should be systems in place to ensure to the extent possible that reprisal complaints by temporary foreign workers are heard by the Labour Relations Board prior to repatriation.

The report also recommended that the provincial government specifically should:

- Ensure that the Vulnerable Workers Committee addresses the following:
 - prioritizing health and safety training, both basic and hazard specific, for migrant workers and their supervisors;
 - determining ways to provide access to basic rights training and hazard specific training to migrant workers either before they arrive in Canada or immediately upon arrival; and
 - identifying sectors where there are concentrations of vulnerable workers so that proactive enforcement activities are directed at these sectors;
- With the WSIB, review the impacts of WSIB policies and practices:
 - to determine the effects of the experience rating program and other policies on vulnerable workers, particularly temporary foreign workers and temporary agency workers; and
 - consider attributing health and safety incidents to the client-worksite;
- Explore health and safety supply-chain mechanisms to address the issue of subcontracting to small enterprises and particularly to temporary agency work; and implement the related Dean Report recommendations;
- Implement a pilot mobile medical clinic service for migrant workers in rural areas where they reside to provide access to medical care and corresponding support to facilitate WSIB claims;
- Implement direct service or translation in the language of the migrant worker; and
- Work together with municipal governments, employers, F.A.R.M.S., and community and worker advocacy organizations to continue to find ways to implement medical, legal, spiritual and social supports to migrant workers.

ANALYSIS

Vulnerable workers are employed and at risk across Canada. Thus, although *Vulnerable Workers and Precarious Work*, which incorporated input from workers, unions, employers, academics and advocacy groups, focuses on gaps in Ontario laws that leave vulnerable workers at risk, it's likely that similar gaps exist in other jurisdictions' laws as well. For example, protection of foreign workers has been a big issue in the forestry industry in BC and oil and gas industry in Alberta. So don't be surprised if other jurisdictions consider following some of this report's recommendations. In the meantime, employers should take these practical steps to protect those vulnerable workers in their workplaces.