THE LCO’S FINAL REPORT ON VULNERABLE WORKERS & PRECARIOUS WORK

Institute for Work & Health Plenary

November 26, 2013
ROAD MAP

- Law Commission of Ontario
  - History
  - Mandate

- Vulnerable Workers Report
  - History
  - Process
  - Recommendations
  - Post-Release Activity
Launched September 2007

Five year agreement (January 1, 2007~December 31, 2011), renewed for five years

Funders & Supporters

Board of Governors & Advisory Groups
LCO: MANDATE

- Make the law more effective, accessible and relevant
- Clarify & simplify the law
- Consider how technology can increase access to justice
- Stimulate critical debate about the law
- Support scholarly research
- Foster links with community groups & agencies
INDEPENDENCE & IMPARTIALITY

Independent of government funders & interest groups
TYPES OF PROJECTS

- focusing on legislation
- “social justice”
VULNERABLE WORKERS PROJECT

• Source

• Why a social justice project?
  ○ Looks at vulnerable work through lens of women and racialized persons
  ○ Considers not only law, but other areas of life
  ○ Makes recommendations to actors other than government
  ○ Process
VW PROCESS

- Research
- Two commissioned papers
- Advisory Group

- Consultations
  - Organizations and experts consulted (about 75 submissions)
  - Included more than 100 workers
  - Government

- Feedback
  - Discussion & consultation papers
  - Interim report
ENGAGING WITH GOVERNMENT

- Consultation with
  - MOL
  - Agriculture, Food and Rural Affairs
  - Training, Colleges and Universities
  - Citizenship and Immigration
  - Ontario Women’s Directorate

- Form of Consultation
CHALLENGES

- Subject area with strong opinions, perspectives & interest in outcome: need to listen, take into account

- Obtaining employer perspective: significant outreach to employer organizations, consultations, employers perspective considered in research

- “Fiscal reality”
WHAT IS PRECARIOUS WORK?

- Low wages, low job security, few/no benefits and minimal control over working conditions

- Contract, part-time, casual, self-employment, temporary work and temporary migrant labour

- Changing nature of employment relationships & conditions

- About 22% of workers are in precarious work
INCREASE IN PRECARIOUS WORK

• Ontario: shift from manufacturing to service based economy

• Businesses competing in a global economy

• Hourglass economy

• Decline of unionization
• Canada: more than 70% of new jobs require post-secondary education (6% of new jobs do not require a high school certificate)

• Outsourcing
FEDERAL IMMIGRATION POLICY

- LCO & federal issues
- Relevance to vulnerable workers project & reality of precarious work
- 33,000 applications in 2012 (G&M)
- 338,189 temporary foreign workers in 2012 (G&M)
IMPACT OF PRECARIOUS WORK

- Disproportionately impacts traditionally disadvantaged groups
  - Women
  - Racialized persons
  - Immigrants/newcomers
  - Persons with disabilities; Aboriginal persons; youth; older adults
• Rising income inequality, “working poor”

• Negative impacts on “vulnerable workers”
“Vulnerability” derives from social conditions, not from personal attributes
LIVES OF “VULNERABLE” WORKERS

- Risk of injury and illness
- Health consequences associated with low income
- Mental/emotional health impacts related to job insecurity, stress, exhaustion, depression
- Lack of access to medical care
Lives of “Vulnerable” Workers/2

- Lack of access to safe transportation
- Lack of adequate food
- Lack of time for training
LIVES OF “VULNERABLE WORKERS”/3

- Negative impacts on family and community relationships
- Aging
- Intergenerational costs
DEVELOPING RECOMMENDATIONS

• Taking into account different perspectives & needs
• Building on successful initiatives in Ontario
• Relevance of initiatives from other places
• Builds upon or fills gap in other major Ontario work in this area
DEVELOPING RECOMMENDATIONS/2

- Degree of acceptance among stakeholders
- Feasibility
RECOMMENDATIONS

- Short, medium & long term
  - Difficulty
  - Cost
RECOMMENDATIONS

• Employment Standards Act
• Health & Safety
• Training & Education
• Temporary Foreign Workers
• Provincial Strategy
• Basic floor of minimum rights- review ESA exemptions, in consultation with stakeholders

• Enhancing worker, employer and public knowledge of ESA

• Greater emphasis on proactive enforcement

• Facilitate claims making procedure
- Reduce misclassification of self-employment, written notice of employment status
- “Minimum Wage Committee”
- Review of leave provisions re workplaces with fewer than 50 employees
- Options for provision of benefits for non-standard workers
HEALTH & SAFETY

- Proactive enforcement & expedited processes
- Mobile medical clinic for rural migrant workers
- Enhance Dean Report concepts on Vulnerable Workers
TRAINING & EDUCATION

- Coordinate government training programs targeted to reduce precarious work
- Invest in training for certification, accreditation for broader range of skills & on-the-job training programs
- Target programs to women, racialized persons and recent immigrants
TEMPORARY FOREIGN WORKERS

- Enhance enforcement; facilitate and expedite claims
- Review of repatriation decisions
- Expand *Employment Protection for Foreign Nationals Act*
- Continue community activities
- Access to language training
AND FINALLY...

- Codify bargaining in good faith elements of Fraser in Agricultural Employees Protection Act, 2002

- Provincial Strategy
POST-RELEASE ACTIVITY

• Media Coverage
  ○ CBC
    ▪ Toronto English-language
    ▪ Sudbury French-language
    ▪ Armine Yalnizyan, business news commentator
  ○ OMNI

• Presentations
  ○ Symposium at University of Windsor (The Centre for Social Justice & Labour Law Studies)
  ○ MoL’s Vulnerable Workers Task Group
  ○ Chinese delegation
  ○ CALC Forum

• Government Response
• Vulnerable Workers & Precarious Work Final Report:
  - http://www.lco-cdo.org/fr/content/vulnerable-workers

• Multilanguage Summaries:
CONTACT INFORMATION

- Law Commission of Ontario website:
  - http://www.lco-cdo.org

- LCO email:
  - Lawcommission@lco-cdo.org

- LCO telephone:
  - 416.650.8406
  - Toll Free: 1.866.950.8406
  - TTY: 1.877.650.8082