

# THE LCO'S FINAL REPORT ON VULNERABLE WORKERS & PRECARIOUS WORK



*Institute for Work & Health Plenary*

**November 26, 2013**

**LCO**  
**CDO**

LAW COMMISSION OF ONTARIO  
COMMISSION DU DROIT DE L'ONTARIO

# ROAD MAP

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- Law Commission of Ontario
  - History
  - Mandate
  
- Vulnerable Workers Report
  - History
  - Process
  - Recommendations
  - Post-Release Activity

# LAW COMMISSION OF ONTARIO

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- 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

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- 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

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*Independent of government  
funders  
&  
interest groups*

# TYPES OF PROJECTS

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- focusing on legislation
  - “social justice”

# VULNERABLE WORKERS PROJECT

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- 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

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- 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

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

# CHALLENGES

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- 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?

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- 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

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- Ontario: shift from manufacturing to service based economy
- Businesses competing in a global economy
- Hourglass economy
- Decline of unionization

# INCREASE IN PRECARIOUS WORK/2

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- 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

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- 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

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- Disproportionately impacts traditionally disadvantaged groups
  - Women
  - Racialized persons
  - Immigrants/newcomers
  - Persons with disabilities; Aboriginal persons; youth; older adults

# IMPACT OF PRECARIOUS WORK/2

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- Rising income inequality, “working poor”
- Negative impacts on “vulnerable workers”



# “VULNERABLE WORKERS”

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*“Vulnerability” derives from social conditions, not from personal attributes*

# LIVES OF “VULNERABLE” WORKERS

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- 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

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- Lack of access to safe transportation
- Lack of adequate food
- Lack of time for training

# LIVES OF “VULNERABLE WORKERS”/3

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

# DEVELOPING RECOMMENDATIONS

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- 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

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- Degree of acceptance among stakeholders
- Feasibility

# RECOMMENDATIONS

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- Short, medium & long term
  - Difficulty
  - Cost

# RECOMMENDATIONS

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- *Employment Standards Act*
  - Health & Safety
  - Training & Education
- Temporary Foreign Workers
  - Provincial Strategy



# *EMPLOYMENT STANDARDS ACT*

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- 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

# *EMPLOYMENT STANDARDS ACT/2*

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- 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

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

# TRAINING & EDUCATION

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- 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

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- 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...

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

# POST-RELEASE ACTIVITY

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- 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 REPORT ONLINE

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- Vulnerable Workers & Precarious Work Final Report:
  - <http://www.lco-cdo.org/en/vulnerable-workers>
  - <http://www.lco-cdo.org/fr/content/vulnerable-workers>
- Multilanguage Summaries:
  - <http://www.lco-cdo.org/en/vulnerable-workers-final-report#summaries>



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