

INTRODUCTION

On 21 October, 2009, Patrick Clayton, an injured carpenter, entered the Alberta Workers' Compensation Board in Edmonton with a rifle. To some, Clayton is an object of scorn — a violent man who held nine people hostage. To others, Clayton — an injured worker jerked around for years by an uncaring bureaucracy — is symptomatic of how injury prevention and compensation efforts in Canadian workplaces do little to protect or aid workers. This book examines prevention and compensation to see whether sceptics have reason to be concerned.

Consider the number of workers injured each year. In 2003, six hundred and thirty thousand Canadian adults were injured on the job severely enough to limit their activity. Approximately 300,000 of these injured workers required time off to recover.¹ Disturbingly, this is an underestimate of the actual number of work-related injuries. It ignores injuries that did not limit activity — such as minor cuts, burns, bruises, and strains. It also excludes injuries to minors, repetitive strain injuries, workers injured multiple times, and unreported injuries.

It is hard to grasp the magnitude of this number. Instead, consider the case of Philippa Thomas.² In January 2006, she cut her thumb working at a horse stable. The cut became infected and Thomas now has a rare nerve disease. Her right hand often swells to twice its normal size. She experiences pain that seven surgeries (including a spinal cord implant) and drugs cannot dull. She cannot work and rarely leaves her home.

In some ways, Thomas' story is unique. Yet it is also similar to the stories of the 630,000 workers who are significantly injured every year. Thomas went to work and was injured doing her job. She now has to bear the physical, emotional, and financial costs of that injury. Some workers have it better — they eventually make a full recovery or get workers' compensation. And some workers have it worse. More than 1000 Canadian workers die every year.

PERSPECTIVES ON WORKPLACE INJURY

How you react to the vast number of workers injured and killed each year reflects your values and beliefs. Are these injuries inevitable? Are they just the cost of doing business? One way to look at workplace injuries is from an economic perspective. This view sees the risk of injury as minimal, unavoidable and, ultimately, acceptable. Is it the price we (or at least workers) must pay for a "healthy" economy? If we are going to lower the risk of injury, we need to ensure the cost is less than the benefit we'll receive. And the people best positioned to decide that are employers.

This economic perspective dominates the debate about workplace health and safety. It is the *lingua franca* of employers, bureaucrats, politicians, and most academics. There are, of course, alternative perspectives. An alternative advanced by workers views workplace injuries as the result of choices employers make in order to maximize profitability. Contrary to the slogan "safety pays," it is usually cheaper for employers to organize work unsafely. This is especially true if employers can (with the tacit consent of government) pass along the cost of occupational injuries and disease to workers.

This political economy approach to workplace injury focuses attention on the ways groups with a common economic interest — such as employers — advance their interests by political means. This perspective reflects a (and my) Marxist view of

social, political, and economic relationships. In this tradition, capitalist states are subject to antagonisms between capital and labour. These can be seen in the workplace in terms of contests over wages and control of work.

These antagonisms operate more broadly in society as a tension between the imperatives of production and social reproduction. Production is the process by which we make stuff (including profit). Social reproduction is the process by which the social arrangements necessary for production are perpetuated. This includes ensuring there are workers and consumers. It also means ensuring workers accept being subordinate to employers in the production process.

Employers' desire for maximum profitability often conflicts with the need to perpetuate a compliant workforce. It is certainly possible to arrange things such that workers earn starvation wages or die on the job in droves. But such an arrangement comes with two risks: there will be no more workers, and workers may revolt and take what they believe is rightfully theirs. Some political economists believe that the state was developed, in part, to manage the tensions that emerge around production and social reproduction.

In this view, one of the roles of government is to ensure the accumulation of capital through production continues with minimal impediment.³ Governments cannot afford policies that deter private investment. At the same time, the state needs to maintain political legitimacy among its citizens. Governments must get re-elected and workers must accept their place within the system. The state, then, must also address specific conflicts (e.g., over workplace injury) within these constraints.⁴ The state's need for legitimacy precludes the routine use of coercion, (although the threat is always there). Instead, the state has created policies and programs that assist with social reproduction.⁵

PURPOSE OF THIS BOOK

This book is aimed at students and practitioners seeking to understand the political and economic aspects of workplace injury — aspects of injury often ignored in other texts. For this reason, this book focuses on how Canadian governments try to prevent and compensate workplace injury, who benefits from this approach, and how they benefit. It starts from the premise that injury prevention and compensation occurs within a larger political and economic context. This context puts pressure on governments to address workplace injury and shapes how governments do so.

This analytical approach to workplace injury shows (among other things) that government strategies for preventing injuries don't do a very good job of it. It also reveals how ineffective regulation can benefit governments and employers, and how the state has contained the ability of workers to resist this agenda, by shaping the discourse around injury and the operation of these systems. Analysis of injury compensation highlights how seemingly neutral aspects of claims adjudication and management advantage employers and limit the ability of workers to resist unsafe work. This approach to workplace injury is important because it reveals that the prevention and compensation of workplace injuries are not solely technical or legal undertakings, but intensely political ones that entail serious consequences — most often for workers.

Examining workplace injury through the lens of political economy is relatively uncommon in Canada. The majority of books, conferences, and courses focus on technical issues (e.g., hazard identification and mitigation, accident investigation, hazardous material handling, managing returns to work) or the workings of institutions, formal rules, and the legal relationships between players. That approach has value. It does a good job of describing what we do to prevent and compensate injuries. It also explains how the system works, and indeed how

it can be worked to one's advantage. But it fails to explain why things work as they do or examine how certain arrangements differentially benefit workers and employers. These are among the objectives of this book.

PREVENTING WORKPLACE INJURY

Canadian governments have enacted programs to both prevent and compensate workplace injuries. Occupational health and safety (OHS) laws seek to prevent workplace injuries, in part by raising the cost to employers of organizing work in a dangerous manner. These laws are enforced by the state — sometimes by inspectors who are part of government and sometimes through workers' compensation boards (WCBs). The effectiveness of this system is the topic of much debate. Can a system where more than half a million workers are seriously injured each year be described as effective?

We examine government injury-prevention efforts in the first four chapters. Chapter 1 sets out the political and economic dynamics of employment. These dynamics help explain why and how governments seek to prevent and compensate work-related injuries. This discussion casts employment as a relationship of power, wherein employers use their labour market and legal power to maximize the profit they can extract from workers' efforts. One outcome of this arrangement has been the (sometimes-intentional) injury or death of workers. Chapter 1 also considers the “logic” and some of the history of transferring production costs to workers via workplace injury.

Not surprisingly, workers don't like being injured and killed at work. At various times and in different ways, Canadians have pressured governments to reduce the incidence of workplace injury. Chapter 2 looks at how Canadian governments have sought to prevent workplace injuries over time. Various approaches to injury prevention — leaving it to the market, state regulation, and partial self-regulation — are examined

and evaluated. Among the constants is the reluctance of governments to interfere significantly with employers' rights to decide what is produced when, where, and how. It is these decisions that determine which and when workplace injuries occur.

In Chapter 3, we examine contemporary injury prevention efforts. We begin by discussing the absence of good data on the number of injuries and how injury recognition is an intensely political process. We then consider the effectiveness of present-day internal and external responsibility systems. Finally, we look at state-employer partnerships and the notion that "safety pays." This includes exploring how governments create the appearance that workplaces are safer than they really are.

Chapter 4 provides some preliminary discussions about the political economy of regulating workplace injuries. Among the conclusions drawn are that employers remain able to transfer production costs to workers through injury, despite state efforts to limit this behaviour. The use of ineffective regulatory strategies contributes to this failure. Finally, we see that governments legitimize prioritizing profitability over safety by blaming workers for injuries, arguing intervention is not economically feasible, and by creating the appearance that workplaces are safer than they are.

COMPENSATING WORKPLACE INJURY

As part of their response to workplace injuries, governments have developed systems to compensate injured workers. Workers receive more immediate, predictable, and stable compensation for injuries via workers' compensation than they did when they had to sue their employer. But it is also important to consider the benefits workers' compensation provides to employers. Collective liability protection makes injury costs predictable and insulates individual employers from the full cost of injuries in the workplace. And the state benefits because an important

source of social instability — financial ruin following an injury — is largely eliminated.

Chapter 5 considers the historical development of workers' compensation in Canada, including the way injuries are determined to be compensable or not. While seemingly neutral, adjudication is a political process wherein the interests of employers and workers conflict. This conflict is particularly evident in decisions around occupational diseases and psychological injuries. These injuries are often adjudicated in ways that limited employer liability. This is particularly the case for injuries that emerge over or after a long period of time, do not demonstrate a clear pathology, tap into an existing social prejudice, and/or entail significant costs for employers.

Limiting employer costs recurs as a theme in Chapter 6. Workers' compensation boards seek to minimize employer compensation costs by limiting benefit entitlements. Deeming of wages and the use of early-return-to-work programs are two ways to limit employer costs. These behaviours are justified by reference to the widely accepted view that workers will malingering, that being off work because one is sick is somehow unhealthy, and that work is indeed rehabilitative. A similar analysis is applied to experience-rating schemes for employer premiums. These systems appear to encourage employers to manage claims aggressively, more so than reduce injuries. One outcome is a transfer of the costs of work-related injuries onto workers, their families, and government-funded medical and social assistance programs.

Chapter 7 examines how workers' compensation is used to manage workers. While decision-making and appeal processes offer workers a way to address incorrect decisions about individual claims, at the same time they appear to reduce workers' collective ability to resist workplace injury. Claims adjudication and management isolate workers from one another, thereby reducing the potential for worker resistance. And the appeals

process allies employers and WCBs against workers. Worker groups seeking change to compensation must consider that change could also bring the privatization or abolition of workers' compensation. This pressures workers to limit their demands for reforms. At the same time, employers are altering employment relationships as a way of evading workers' compensation obligations to their workers for coverage.

MAJOR CONCLUSIONS

The last chapter of the book considers some important themes that emerge from this analysis of workplace injury. Regarding the prevention of workplace injuries, three conclusions can be drawn:

1. Injuries occur in high numbers despite prevention efforts. This is explained partially by the state's use of demonstrably ineffective prevention strategies.
2. Injury prevention schemes channel worker energy and workplace conflict into mechanisms that manage and diffuse such conflict. This reduces the threat posed by workplace injuries to the capital accumulation and social reproduction processes. It also allows unsafe working conditions to persist.
3. Governments legitimize prioritizing profitability over safety in three ways: they blame workers for injuries; they make cost-benefit arguments, which implicitly adopt an economic perspective on workplace injury; and they create the appearance that workplaces are safer than they are.

Similarly, it is possible to draw three conclusions regarding the compensation of workplace injuries:

4. Workers' compensation provides most workers with predictable, stable, and immediate compensation. This

reduces the threat that the financial and social consequences of workplace injury historically posed to the legitimacy of a capitalist social formation. It also limits the effect of workplace injury on the production process. In this way, workers' compensation is a substitute for injury prevention.

5. Where workers' compensation results in conflict, worker energy is directed into mechanisms that manage and diffuse the conflict. This further reduces the threat posed by workplace injury to the production process.

6. Governments legitimize limiting compensation in two ways. They rely upon a biomedical conception of injury. And they focus on the belief in moral hazard to legitimize limiting compensation. Where this is ineffective, the state may rely upon the implicit threat of reducing or eliminating compensation as a way of containing workers demands.

These conclusions do not (necessarily) suggest that governments are conspiring with employers to imperil workers' health and safety. Rather, the existing system is one solution to conflict over workplace injury that threatens the existing economic and social arrangement. Historical contingencies have influenced the options available to governments as they tried to maintain both production and social reproduction. It may be that some degree of injury is unavoidable. And perhaps compensation systems are never going to compensate all injuries perfectly. Yet these possibilities ought not to blind us to the pattern that emerges from our analysis. Occupational health and safety laws don't make workplaces safe. And workers' compensation does not fully compensate workers for their injuries.