

Salvaging Injured Bodies: Injured Worker Reintegration in Ontario

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Abstract

During the past four decades, political debates about and reforms to the Ontario Workers' Compensation Board (OWCB), and thereafter to the Workers' Safety and Insurance Board (WSIB), have altered the dynamics of Ontario's injured worker reintegration programs. Despite an abundance of legislative and policy reforms to the OWCB and WSIB, Ontario's return-to-work scheme systematically fails to manage reintegration equitably. Instead, the legislative intent to support efforts to rehabilitate and return to work promotes a reintegration model that targets the bodies of injured workers as spaces for capital accumulation. This entails a narrative regarding the recovery of the body in a way that can hinder workers' ability to return to sustainable work.

Keywords

Work injury; workers' compensation; return to work; working bodies

Récupérer les corps blessés: Réintégration des travailleurs blessés en Ontario

Résumé

Au cours des quatre dernières décennies, les débats politiques et les réformes de la Commission des accidents du travail de l'Ontario (OWCB), puis de la Commission de la sécurité professionnelle et de l'assurance contre les accidents du travail (WSIB) ont modifié la dynamique des programmes de réintégration des travailleurs blessés. En dépit d'une abondance de réformes législatives et politiques à l'OWCB et à la WSIB, le régime de retour au travail de l'Ontario ne réussit pas systématiquement à gérer équitablement la réinsertion sociale.

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Au lieu de cela, l'intention du législateur d'appuyer les efforts de réadaptation et de retour au travail favorise un modèle de réinsertion sociale qui cible les corps des travailleurs blessés en tant qu'espaces d'accumulation capitaliste. Cela implique un récit concernant la récupération du corps d'une manière qui peut entraver la capacité des travailleurs à retourner à un travail durable.

Mots clefs

Travailleurs blessés; indemnisation des accidentés du travail; retour au travail, organismes de travail

Injured Worker Reintegration in Ontario

Despite the state's legal authority to impose and enforce safety standards in the workplace, high levels of workplace injuries have persisted over the last 100 years (Tucker, 1988). Many workers and employers often accept injuries as part of the job. Workers' Compensation Boards administer, not just the compensation to the injured worker, but also the rehabilitation and reintegration of the worker. Often, the broader political winds that surround the administration of a workers' compensation board get hidden in passive and depoliticized methods of reintegrating injured workers. This requires us to reconceptualize injured worker reintegration as an outcome of the political economy. Therefore, this paper critically examines the role of political debates surrounding the institutionalization of worker reintegration in a capitalist social formation. Within this context, this paper focuses on return-to work programs, as promoted by the Ontario Workers' Compensation Board (OWCB) and the Workplace Safety and Insurance Board (WSIB). Throughout this paper, I will use the terms OWCB and WSIB in relation to their historical timeline. Therefore, I will use OWCB to refer to the Ontario Workers' Compensation system that was in place from 1914 until 1997. In 1997, the Bill 99 dissolved the OWCB and replaced it with WSIB and the Workplace Safety and

Insurance Act.

In Ontario, injured worker reintegration was institutionalized under the workers' compensation legislation drafted to administer monetary compensation, medical care, and rehabilitation. Prior to the workers' compensation legislation, injuries in the workplace were adjudicated under tort law (Ison, 2015). This meant that for an injured worker to obtain compensation or medical care, they would have to sue their employer to prove that the accident occurred due to the negligence of the employer (Ison, 2015). The premise of the Ontario Workmen's Compensation Act of 1914 was that injuries were inevitable, and that compensation was to last for as long as the disability did. The OWCB began to administer vocational rehabilitation programs gradually, with alterations as political and societal winds changed. Thus, political debates surrounding the OWCB's actions and subsequent reforms altered the dynamics of injured worker reintegration and access to vocational rehabilitation. The reforms on rehabilitation and return-to-work programs gradually became synthesized with concerns to minimize OWCB's costs of paying compensation by returning the injured worker back to labour. Currently, the WSIB has promoted reintegration programs that pressure workers to return to work even before full recovery, not questioning if it were a reasonable and unproblematic approach to workplace injuries (MacEachen, Ferrier, Kosny, & Chambers, 2007).

This paper discusses the recovery of working bodies and employability of injured workers by examining the early development and the current practices of worker reintegration regulation and legislation in Ontario. I argue that, despite an abundance of legislative reforms and the OWCB's and WSIB's recommendations that prioritize timely

return to work of injured workers, Ontario's return-to-work scheme systematically fails to manage reintegration equitably. Instead, the legislative intent to support efforts to rehabilitate and return to work promotes a model that targets the management of workers' bodies and resembles the "accumulation strategy of capital" (Harvey, 2000).

Bodies as Signifiers of Exploitation

To examine the political debates that surround injured worker reintegration, I engage with the narratives of working bodies as signifiers of the continuing materiality of exploitive production systems. Herein, historical materialism provides a theoretical base to narrate the conditions and outcomes of working bodies. It is a general hypothesis about the dynamics of social change and organization in all societies (Levine & Sober, 1985). In this instance, a historical materialistic standpoint allows us to see how social relations of productions code the actual lived body (Lowe, 1995). Within this context, Marx proposed a theory of the production of working bodies under capitalism, wherein, the creative powers of labour are defined by capital (Harvey, 2000).

With the advent of capitalism and its systematic methods of enclosing and removing ties to land, people are forced to sustain their bodies through waged labour. In other words, the lack of alternative means for subsistence forces the dispossessed to treat their bodies as commodities, offering their bodily capacity to labour for sale. Kopytoff (1986) states that a commodity is a 'thing that has a use value and can be exchanged in a discrete transaction for a counterpart, the very fact of exchange indicating that the counterpart has, in the immediate context, an

equivalent value' (p. 68). Thus, a person is reduced to their labour power. Labour power is the body's capacity to engage in concrete labour (Harvey, 2000). Therefore, the distinction between labour and labour power extends the view of wage labour as the reduction of the human to a body that is merely an appendage for capitalist production. Herein, workers sell their bodies and labour power by fractions by auctioning off hours of their lives. Subsequently, workers' bodies were valued for their ability to produce at increasing rates of speed and required precise and repetitive movements of the body (Russell & Malhotra, 2002).

Throughout the progress of capitalist production models, the working body is an "accumulation strategy in the deepest sense" (Harvey & Haraway, 1995, p. 511), constructed in relation to the labour it performs. Marx (1990/1897) regarded the function of capitalist modes of production as the appropriation of surplus value created by labour power and the private accumulation of capital (p. 742) and demonstrates how accumulation is predicated upon capital's ability to intensify its command over the laborer's body (p. 776). Likewise, Haraway (1995) argues that the working body is "endemic to capital flows in ways far beyond their function as labour power" (p. 237).

Guthman (2011) integrates the body and capital accumulation and states:

Whether as site of primitive accumulation or spatial fix, bodies nevertheless seem subject to their own "see-saw effects". In other words, not only regions and spaces, but also bodies are made different in their health and capabilities, made dispensable or valuable, degraded or enhanced in the production process, and otherwise are subject to contradictory laws of equalisation and fixity that lies at the heart of uneven development. (p. 238)

Therefore, a historical materialist account of the working body emphasizes the expansionary tendencies at the heart of capital accumulation. With a historical materialist standpoint, we can see how the creative history of capitalism can be linked to discovering new ways to translate the human body into merely a working body; a bearer

of the capacity to labour (Harvey, 2000). However, the primary critique of capitalism is that it frequently maims, injures, and destroys the integrity of the working body (Harvey, 2000, p. 108). This is because, capital, while, continuously striving to shape bodies to its own productivity requirements (Harvey, 2000), wounds the malleable body. Moreover, the malleability of the work body only appears due to the awareness of the body's incapacity to work. Therefore, a contradiction of capital is that, on one hand it requires able working bodies, but on the other hand, it injures them. Thus, working bodies are injured during the production process and are designated as unfit for labour. Herein, the expansionary tendency of capitalism creates a class of bodies damaged by its exploitive accumulation strategy. These injured bodies are excluded temporarily, sometimes permanently, from labour (Russell & Malhotra, 2002).

Shildrick (2002) observed that injured bodies are a mirrored reflection of the current condition of humanity. Moreover, injured bodies are a direct result of the exploitative economic structure that reduces bodies to appendages of capital. Thus, injured bodies are a socially created category derived from harmful labour processes. Social formations value individuals according to their fitness and motivation to contribute to the economy, and rehabilitation and reintegration programs provide the means to re-employ injured workers. Thereby, the rehabilitative movement and the rise of injured worker reintegration can be closely linked to the process of reimagining the bodies of injured individuals and reproducing them as potential working bodies and spaces for capital accumulation.

The Rise of the Rehabilitative Movement

The rehabilitative movement rose along with growing awareness of post-Second World War labour needs, and the re-training of injured soldiers to promote employability of bodies previously used at war. After the war, industries employed “*marginal* workers and planned (the) *conservation* of manpower” (Amos, 1943, p. 164, emphasis added). Marginal workers were soldiers who had recovered from war injuries through “industrial” rehabilitation. Industrial Rehabilitation, in this case, operated with the linear goal of finding employment in the post-war labour market. The injured bodies of soldiers were rhetorically powerful for the rehabilitative movement (Gerber, 2003).¹ The publicity of injured soldiers and perceived unproductive bodies constituted a challenge to cultural norms about the physical self and the human costs of war, inviting state policymakers to intervene (Gerber, 2003). In many instances, access to state-distributed rehabilitation benefits required proof of a war-injury (Amos, 1943, p. 167). Moreover, the state-distributed rehabilitation benefits were presented and communicated to the public as necessary for productivity and labour participation, and not just as a welfare measure to “salvage the morale of the disabled” (Amos, 1943, p. 164). Furthermore, the rehabilitation of injured workers and soldiers enabled their adaptation to industrial work during the peak of the Taylorist model of production. This model of production broke every action and movement of a worker into a set of simple, short, repetitive tasks to increase the productivity of the workforce.

The medical knowledge of rehabilitating and fixing parts of the injured body became influenced by these same ideas of productivity and efficiency brought by Taylorism and focused on defining functionality by training injured bodies to complete

¹ Prior to World War one, State duty consisted of the provision of a small pension for injury (Amos, 1943; Gerber, 2003).

simple and repetitive movements (Carden-Coyle, 2007). Rehabilitation specialists, adapting medical knowledge on functionality, developed tools to reimagine the working capacity of injured bodies. Rehabilitative surgeons claimed their expertise could determine the disabled individual's physical capabilities and could likewise recommend the best fit between their capabilities and the labour market's requirements (Gritzer & Arluke, 1985). Rehabilitation programs fuelled the development of new techniques in functional surgery and vocational re-education (Gritzer & Arluke, 1985). These programs focused on the "degree of incapacity [that] precluded full participation in the economy and society" (Carden-Coyle, 2007, p. 545). Consequently, the rhetoric of usefulness, activation, and obligation to participate in labour upheld the imperative of restoring working bodies.

Moreover, vocational rehabilitation's emphasis on recuperating otherwise lost labour value from working bodies came amid a change in the political meanings of reintegration after an injury or illness. The welfare state took its position as the provider of medical service and material benefits (Gerber, 2003).² State resources moved through rehabilitation programs to 'rebuild and refit the wounded for the future of useful citizenship set within economic values of capitalist independence (Carden-Coyle, 2007, p. 546). Meanwhile, the federal state called for the negotiation of cooperative agreements between rehabilitation services and appropriate public programs (Amos, 1943).³ This points to the close ties between vocational rehabilitation, social security, and the growing consensus that understood reintegration programs as an integral part

² The specialists who were more experienced with treating injuries and disability were industrial physicians and orthopaedic surgeons. Their services were recognized before the wars due to the push received from workers' compensation laws (Gritzer and Arluke, 1985).

³ The administration of a federal program was vested upon the Office of Education, Department of Interior and later transferred to the Federal Security Agency (Amos, 1943).

of the social security administration and the public welfare system (Amos, 1943).

Experts in this system proclaimed that labour market reintegration had to begin with the activation of the injured via the “mustering of an iron will” to overcome injury and move past “the era of cripples” (Amos, 1943, p. 906).

The rise of relief projects brought the need for central and local governments to systematically distinguish between the able “employable” and injured “unemployable” bodies, assuming a clear line could be drawn (Amos, 1943). The term “unemployable” was introduced first in 1935 by the Canadian government as the criteria for assistance eligibility (Amos, 1943).⁴ An investigation conducted by the Ontario Department of Welfare in 1941 found that the National Selective Service could not reliably and consistently distinguish between working bodies and peoples whose bodies were “unemployable” (Amos, 1943). In this instance, those individuals holding the dominant liberal economic rationale argued that “if the full capacity of Canada's labour resources was to be utilised, the category of the ‘unemployable’ must be scrapped and replaced with the positive approach to rehabilitation” to make optimal use of potential labour power (Amos, 1943, p. 165). Salvaging “crippled” bodies meant reshaping them with the capacity to be productive. Thus, the focus shifted onto the injured workers’ “abilities” and their potential capacities. Thereby, bodies which were once unfit for labour, were reimagined to meet the market demand for labour.

Reimagining Injured Bodies in Ontario Workmen’s Compensation

The re-imagination of injured bodies was reflected in the premise of Ontario Workmen’s Compensation⁵ when worker reintegration was institutionalized, and the

⁴ This practice was even carried out by the Ontario’s Workmen’s Compensation Board (Amos, 1943).

⁵ In 1982, we see a change in the name from “Workmen's” to “Workers’ Compensation Act”.

OWCB began to implement rehabilitation programs alongside monetary compensation. The OWCB initially assumed that the provision of monetary aid was sufficient to “ameliorate the condition of the physically disabled” (Amos, 1943, p. 165). However, the growing labour demands of capital fostered the notion that monetary payments were not sufficient to enable the injured worker to reintegrate and “fit themselves” for re-employment (Amos, 1943). When medical aid was integrated in 1917, the OWCB echoed the importance of vocational rehabilitation and medical aid for the “industrial disabled”. Limited rehabilitation programs thus began in the early 1920s. In 1938, the vocational rehabilitation section of the OWCB was administrated by a separate department (Amos, 1943). This department was in charge of getting in touch with injured workers, arranging for regular visits, and ensuring that rehabilitation services such as vocational guidance and retraining were received.⁶

The re-imagination of injured bodies was integrated into the Downsview Rehabilitation Centre. It opened in 1958 to great acclaim by OWCB officials. Rehabilitation in this Centre reflected what Harvey (2000) calls, as a way of reskilling, “the powers of labour in accord to technological requirements, as an acculturation to routinization of tasks, and subordinations of other bodily desires to return to labour” (Harvey, 2000, p. 103). In other words, rehabilitation was used as a mechanism in this Centre to reskill, acculturate, and subordinate the injured body to transition from being a

⁶ Until 1913 in Canada, an injured worker could only recover compensation by suing the employer for the damages caused to their bodies (Ison, 2015). This system weighted heavily against the workers, against the public interest and even against the interests of taxpayers. This adversary system was also damaging to the process of reintegrating and re-employment. When Chief Justice Meredith created Workers Compensation in Ontario, he used his years of experience of the adversary system, held hearings, visited places of employment and most importantly spoke to workers and injured workers (Ison, 2015). Meredith developed principles that would protect the public interest by internalising the cost of disability and injuries resulting from employment, thereby protecting tax payers from having to support disabled workers.

wounded body to a body that could bear the requirements of the labour market again.

However, the techniques used by rehabilitation specialists in this Centre did not connect the physical disability to the work environment that the injured worker was retrained for. Thus, a worker's physical limitations were not translated into "practical" terms nor connected to the labour process (Cushon-Boulet, 1988). Instead, the medical official was able to hold great authority when defining what marked a body as capable of working and what marked it as deserving of ongoing compensation from the OWCB. Yet the body itself is not a stable, objective mechanism. The classification of pain, for example, can be viewed in various ways. Medical practitioners in the Centre were not sensitive to the pain felt by a given worker, as it is often not observable through sight or medical tests (Cushon-Boulet, 1988). Thus, the Centre held that undiagnosed pain was not a functional disability, as equivalent to a visible disorder (Cushon-Boulet, 1988). As a result, workers who incurred bodily impairments were under-compensated as OWCB doctors and adjudicators underestimated their injuries and prematurely claimed that the injured worker could return to work (Storey, 2009).

The Centre, which began with the intent to assist injured persons to achieve maximum wellbeing, was widely critiqued for functioning primarily as an "assessment" centre rather than a rehabilitative or treatment centre (Cushon-Boulet, 1988). The OWCB determined deserving bodies through functionality assessments conducted by medical professionals in the Centre. It also perceived that medical offices had the techniques to classify, measure, and evaluate the body's productivity levels (Duncan, 2003). Medical knowledge opened up the worker's body to the inspection and interpretation by the physician deeming the worker capable of returning to work. The

Centre became a space to “correct abuses” of the compensation system. Many practitioners worked under the presumption that workers were malingering, often fabricating or exaggerating their disabilities and did not want to return to work (Cushon-Boulet, 1988). Indeed, the Downsview Hospital was referred to as a “concentration camp” by injured workers (Storey, 2008). Cushon-Boulet (1988) characterized this institution as one that collected workers together and “encouraged the wholesale abuse of injured workers under the guise of specialized medical programs and ‘rehabilitation’” (p. 132).

In the sections below, I discuss how political debates regarding the administration of the OWCB led to the development of new approaches to managing re-employment and rehabilitation. Many of the reforms were informed by state or OWCB commissioned formal inquiries, and by political and institutional debates regarding the management of claims and the viability of the system. I demonstrate how they were introduced to control and reduce the burden of cost associated with rehabilitation and reintegration of the injured worker.

I specifically look at the OWCB’s method of reducing monetary compensation as means to encourage workers to return to work, and the OWCB’s incorporation of employers into the reintegration plan. Lastly, I look at WSIB’s ultimate concern regarding its unfunded liability; the funds to pay out current and future claims and its impact on the recommodification of injured bodies. Though I treat each period separately in the examples that follow, many discourses of the working body emerge connecting with, overlapping with, and informing the comprehensive rhetorical architecture of the reproduction of working bodies.

Reintegration through Reduction of Monetary Compensation:

Changes from 1970 to 1990

It is given that there is a financial cost associated with returning injured workers to employment and with the provision of rehabilitation and reintegration programs. During the late 1970s and 1980s, the persuasive nature of the political left enabled the financial cost of reproducing working bodies to be understood as a cost to be borne by industry and employers and reflected in the OWCB's compensation for injured workers (Storey, 2009). Thus, if industry needed capable and able bodies, industry had to be responsible for maintaining working bodies and meeting recovery needs of injured workers. In the 1970s, the Ontario New Democratic Party (NDP), then the official opposition, critiqued the OWCB and the previous Conservative government's disregard of injured workers' entitled compensation (Storey, 2009). Meanwhile, a 1973 Task Force Report proposed a major reorganization of the OWCB justified by the OWCB's lack of sensitivity and effectiveness. A more organized injured worker movement coupled with the rising activism surrounding Ontario's Health and Safety, called upon the province to provide more worker-oriented legal redress for financial compensation (Storey & Tucker, 2005). Many critics of the OWCB's insensitivity towards injured workers' struggles understood bodily recovery and the restoration of earning power as a worker's right. Yet, amidst all the critics of the OWCB's lack of sensitivity towards injured workers, the OWCB's major response was to find affordable alternatives to what it termed as "overcompensation".

The OWCB, with its desire to find ways to reduce overcompensation, calculated

monetary payments by strategically moving the focus away from the severity and the time needed to recover, instead emphasizing injured workers' efforts to seek re-employment. This is reflected in the 1978 Wyatt Report commissioned by the Davis Conservative government that proposed the discontinuation of full monetary compensation for temporarily, partially disabled workers. The Report viewed these workers as capable of looking for work, as emotionally ready to return to the accident workplace to accept suitably modified work. Yet, in many of these cases, impaired workers were not sufficiently recovered to even actively seek work, even in the rare case of an employer providing modified work (Storey, 2009). Further as Storey (2009) finds, while overcompensation could occur, the great majority of injured workers were actually under-compensated. Many advocates argued that no monetary compensation could replace the loss of a bodily function (Storey, 2009). Furthermore, lowering compensation levels, and returning bodies to work did not mean that these injuries were taken care of. Instead, it produced bodies that could no longer be sustained by compensation and had to return to wage earning to sustain their material bodies.

The OWCB's method of addressing "overcompensation" was by working on the assumption that reducing monetary compensation would lead to quicker return to work, while ignoring the actual materiality and physical harm of the body. Thus, by conceptually separating the malleability of the body from the body's capacity to work, the OWCB separates the value of the worker's suffering from their re-employment (Duncan, 2003). Duncan (2003) understands this as the governance of pain by operating through an impersonal system of signs, which links bodily losses (signified) to financial sums (signifier). The financial sum, the compensation, signified the damages to

the body and the structuring of wages as a “compensation” for the time spent in recovery (Duncan, 2003). However, as Duncan (2003) points: this is an impersonal system of signs. Thereby, the true severity of the injury was not often understood by those who compiled reports on the OWCB.

Reports proposed injured workers as incentivized to stay away from work longer, not because of the severity of their injury, but because their compensation lasted longer than necessary to resume working. This shifted attention from what workers had lost to inappropriate gains received by injured workers. Thus, Paul Weiler (1980) encouraged the OWCB to administer a more “efficient” method of terminating the benefits for those “sufficiently recovered”. He separated impairment from a worker’s ability to work, stating that there was no direct connection between the worker’s injury and their ability to return to work. This allowed Weiler (1980) to propose that the wage-loss benefit be dependent on a worker’s perceived effort to return to work and measure the capacity to work in alienable forms that disregarded the impairment. Here, alienability refers to the capacity of the working body, as a commodity, to be physically separate from its sellers, the injured worker.

This practice of measuring labour with abstract forms is further exemplified in the procedure of “deeming” introduced in 1990. Deeming occurs when a worker is permanently disabled, but is deemed by the compensation board to be capable of employment, even though there is no specific job available (Storey, 2009). Instead of looking at whether the injured worker has returned to work and is actually able to earn in a job that is safe and suitable, the compensation board deems the injured body to not just have the physical capacity, but also to have access to employment and wages,

ignoring the worker' actual reality. Injured worker activists challenged the direct wage-loss system and its impact on the poverty levels of injured workers (Storey, 2009). However, this was and is still countered by the administration of return to work by reducing the monetary incentives to remain off work, promoting a system that measures bodies and bodily functions by separating the type and severity of injury from the financial rewards of returning to work.

The Re-commodification of Working Body Parts:

Early and Safe Return to Work and the Labour Market Re-entry Plan

The WSIB's Labour Market Re-entry (LMR) and Early and Safe Return to Work (ESRTW) plans, injected into Ontario's workers' compensation system by the Conservative Government of Mike Harris in 1997,⁷ reproduced working bodies by strategically identifying parts of the injured body that could still function and the specific location of the labour market these functions could serve. Both plans enabled the WSIB to write the employers in, place some responsibility onto employers and manage reintegration by recommodifying and commercializing body parts that could be of use to the labour process. Furthermore, writing the employer in enabled the plans to recover the body for capital accumulation with disciplinary forms of surveillance and control over the body. Thereby, the resulting working body became a host to explore the possibilities of developing new methods to commodify the body, remove its agency, and reduce it to just a body that can labour (Harvey, 2000).

⁷ The Workplace Safety and Insurance Act, passed by the Legislative Assembly in 1998, dissolved the Worker's Compensation Act and the OWCB which was replaced by the WSIB. As the Labour Minister for the Harris government, in 1997 Elizabeth Witmer brought major changes to the workers' compensation system with the Bill 99. The bill removed crucial terms such as "workers" and "compensation" and brought private insurance industry practices into the system.

The ESRTW and LMR plans were introduced during the systematic revamping of worker compensation to fit into a neoliberal system and the rising resistance to any changes brought on by a social democratic rationale. In 1990, the political culture promoted by the freshly elected NDP majority to Ontario government brought hope to trade unions and other social movement groups. However, the party encountered the business community's determination to oppose any social democratic reforms that could benefit the workers (Storey & Tucker, 2005). Furthermore, the NDP fell into the trap of becoming obsessed with the politics of deficit reduction and accepted the need to reduce costs in the compensation system (Storey & Tucker, 2005). Through this managerialist mindset, the OWCB, and thereafter WSIB, focused on the escalating costs of claims and redemptions, and the increases in the accompanying medical and legal costs.⁸

The politics of deficit reduction took greater prominence when Michael Harris' Progressive Conservative Party of Ontario formed the provincial government. They embarked on a set of policies to dismantle and refashion the province's economic, social, and political infrastructure (Storey, 2009). Thereby, they weakened the province's welfare state and reshaped labour structures in favour of business interests. The Conservative government abolished a Royal Commission on workers' compensation that the NDP had appointed and ended bipartisan governance at the WSIB. An ideological shift is evident here: from an implicit discourse of class conflict within parliamentary debates to one of a shared interest in the market economy and its capacity to provide investment and employment opportunities within a deregulated and neoliberal economic context. When the public and the employers were pressed to take control of the process, return-to-work

⁸ This led to the partial de-indexing of pension benefits awards to permanent disabled workers. In exchange for this sacrifice, workers were given an equal number of seats in the governing board (Storey & Tucker, 2005)

debates signalled an increasingly rationalist and managerialist discourse within a politics of “oneness”.

The “public” was called upon to oversee bodies that “took advantage” of the system, or injured workers whose bodies were read as capable of work. Fraud-reporting telephone lines were established by the WSIB to inform on injured workers who, it was claimed, were abusing the system by not returning to work after their recovery. The fraud telephone line was staffed 24 hours per day and enabled the “public” to watch over and report any instances of injured workers portraying forms of functionality beyond their suggested restrictions. However, as Storey (2009) points out, the real purpose of this was to draw compensation recipients into the anti-welfare discourse that the Harris government promoted.

Injured workers who presented their bodies as hardworking and industrious in their recovery and reintegration process were praised for their honesty and truthfulness, and their role in undertaking the duties of a worthy citizen (Storey, 2009). Yet, the real outcome of these neoliberal reforms to worker reintegration was shifting the responsibility to regain employment back to the injured worker (Duncan, 2003). The injured worker was viewed as a subject of free choice whose decision to return to labour was due to their desire to maximize their economic gains.

As Knights and Wilmott (1989) point out, workers actively participate in the reproduction of neoliberal capitalist worker subjectivities due to various forms of normalizing narratives and techniques offered by employers. The employer takes on the role of an expert when reinforcing and guiding the worker’s body to become attached to the workplace again and to prevent it from becoming dependent on compensation

entitlements. Ultimately, this system served as a method for the employers to hire workers back speedily and shift the costs of the WSIB supporting them through compensation.⁹ In this context, the WSIB's expansion of market logic justified the reproduction of working bodies with a managerialist gaze and protected the employer's interest in functional working bodies.

With its corporatist perspective, the WSIB searched for other ways to minimize costs. The Jackson Report suggested that the workers' compensation system was lacking in the department of vocational rehabilitation (Jackson, 1996). Moreover, the Jackson Report argued that there was insufficient connection between the injured worker, the employer, and the health care provider. The report claimed that the availability of vocational rehabilitation services merely encouraged injured workers to remain on benefits and hindered the incentive to return to work. Therefore, the WSIB eliminated its rehabilitation branch, while the staff became contract supervisors who were only included for decision making. The right to vocational rehabilitation was replaced with the LMR plan. By eliminating vocational rehabilitation, the WSIB shifted responsibility onto the employer through the ESRTW plan.

The LMR plan assessed workers' capacities and placed them into employment specific to their bodily functions. A worker was only eligible for the LMR plan if he/she could not return to the employer within 20 days. Lacking a focus on rehabilitating the whole body, it developed methods to measure the capacity to work by assessing the

⁹ In Ontario, workers' compensation is funded collectively by employers. This is in contradictory to popular belief that workers' compensation is funded by tax payers' money. This paper has not gone into the Experience Rating system that is set to adjust employer premiums according to the amount of claims and length of claims under an employer. Although, this may seem as a way to incentivize a safety culture in the workplace, it leads to a concentration on reducing claims and claims' lengths by many employers.

economic usefulness of parts of the body. The LMR identified body parts that were more capable than others, thus, dividing up and commodifying not just the working body as a whole, but as working parts. The division of the body into working parts can be extended to the prevalence of subtle forms of scientific management, which segments bodies into abstract capacities that perform tasks specific to their position in an assembly-line style production process. Russell and Malholtra (2000) point to the function of such programs as those that rate the body by the degree of its impairment and disregard the suffering faced by non-functioning parts. As such, the WSIB used Taylorist scientific management techniques to evaluate the performance of the recommodified working body.

In broader terms, in a capitalist social formation, commodities are assigned values through their societal worth and are measured in terms of the labour value embodied within it. From the operation of the LMR and ESRTW, bodily integrity itself is fragmented and is the site of commercial investment. Thus, these reintegration plans reduced the workers to a functional back, nimble fingers, a sharp eye, or a welcoming smile. Their bodies become segments and assemblages of use to capital at the expense of the rest of their human capacities and potentials. Bodily components are valued and marketed as if they had no organic relationship with their biological owners. Thus, the reimagining and reassigning of valuable body functions enables the WSIB to support a new form of accumulation upon the body.

Bearing the Unfunded Liability of Workplace Safety and Insurance Board

Worker Reintegration Plan

With its managerialist focus on its unfunded liability, funds for present claims

due, along with a reserve fund, the WSIB has incorporated the previous WCB's dilemmas of reducing "overcompensation" and finding venues to open up the return-to-work process to employers' control. As discussed in the previous section, the leadership of Mike Harris brought forward a neoliberal restructuring of injury management. Additionally, the Jackson reform during that period argued that injured workers were not returning to work due to the availability of vocational rehabilitation service and called for the termination of the vocational rehabilitation section of workers' compensation. It also introduced the LMR and ESRTW plan. The WSIB's recent reform on return to work came about due to the many failures of the ESRTW and LMR model; particularly, they did not reduce the cost of reintegration, nor improve the growing unfunded liability.¹⁰ With a focus on reducing the unfunded liability, the current reintegration policy allows the WSIB to gain greater control over the reintegration process by systematically intervening at all stages of the reintegration process. To gain greater control over the costs of reintegration, the WSIB has brought back many of the medical and vocational rehabilitation services which were previously contracted out. Yet, with all of these changes in its reintegration plan, WSIB's obsession over its financial position continues to focus on injured workers' bodies.

The Auditor General's report in 2011 renewed the political focus on WSIB's unfunded liability. The report stated that if the unfunded liability kept growing, the

¹⁰ Ironically, the unfunded liability kept growing even after these reforms, which were meant to reduce cost. This was mainly because the employers were not paying their share of injury cost. The WSIB's understanding of employers as economic "maximizers", who responded best to incentives that furthered their interests and would engage in pressing the injured worker to return to work did not reduce the cost of reintegrating injured workers. Furthermore, the outsourced private sector retraining services for those unable to return to previous employers did not provide the quick re-employment and lower compensation pay outs the WSIB was hoping for. It must be noted here that if the Harris government had not reduced employer assessment rates, the unfunded liability would have been gone by 2006. Instead, the 2008 global economic crisis made it worse.

government would have to take on this debt (Office of the Auditor General of Ontario, 2011). Panicked by this suggestion, the McGuinty government passed Bill 135, a law to eliminate the unfunded liability within a time limit. They appointed David Marshall as the president of the Board, with the promise of a bonus if he lowered the WSIB's costs. In January 21, 2016, Elizabeth Witmer and David Marshall wrote a letter claiming that during their respective tenures as Chair and President of the Board, the WSIB substantially reduced its unfunded liability "*all the while maintaining benefits for injured workers*" (emphasis added)¹¹. However, many critics have pointed out that although the unfunded liability was reduced, it would be a "delusion" to state that it was done by maintaining the benefits for injured workers. The last five years have seen a variety of changes that have had devastating effects on injured workers' bodies. This can be seen in the numbers: 25% reduction in compensation for lost time, 10% reduction in health care payments, 66% reduction in payment for permanent impairments (Injured Workers' Online, Workers' Compensation Cutbacks, 2017). Indeed, the unfunded liability was substantially paid and borne by the bodies of injured workers (Page, Ontario Network of Injured Worker Groups Letter, 2012).¹²

The recovery action plans set forward by the WSIB indicate that worker reintegration is based on the assumption that participating in the labour force could somehow improve bodily recovery and provide dignity to returning injured bodies. Here, the workplace in which the worker was injured becomes natural and neutral—even

¹¹ Also see WSIB's [2015 Economic Statement](#) and KRMG's 2010 pro-business [report](#).

¹² These were issues brought forward in the Open Letter to Premier McGuinty from Ontario Network of Injured Workers Groups.

therapeutic. Therefore, the recovery timeline emphasizes “active recovery in the workplace” as the goal of worker reintegration. The goal to recover workers in the workplace has enabled WSIB to reinstate the importance of vocational rehabilitation and worker retention strategies through therapeutic and workplace interventions (Joosen, Frings-Dresen, & Sluiter, 2011). In the drive to promote labour participation before full recovery, the focus falls on the “abilities” rather than the “disabilities” of the workers (MacEachen et al., 2012). Young (2010) demonstrates that within this mode of thinking, recovering in the workplace can be possible when duties and modified workloads assigned by the employers are within the worker’s capacity as determined by the biomedical practitioner. In this case, the stakeholders’ obligations are to collaborate in order to provide an environment for the working body to emerge within the confines of the workplace. Yet, this focus submerges the injured body within scientific and managerial technicalities and operates with discourses derived from capitalist ideals of productive workers and working bodies.

When promoting both the clinical identification of a working body and active workplace recovery timelines, the WSIB acts according to the principle of “hurt versus harm” (MacEachen et al., 2007). Here, the working body might regularly experience some discomfort on the job when integrating into the labour market; however, this discomfort is not seen as a hindrance to work as vocational support is provided continuously (MacEachen et al., 2007). In other words, the working body is perceived in reference to its capacity to withstand wear, with the inference that the body’s durability can be monitored and improved. Young (2009) illustrates the durability of the working body by pointing out the body’s capability to endure the effects of the injury. With a

similar focus on a durable working body, the WSIB, with its hurt versus harm method, diminishes the physical constraints when re-entering the labour force by exalting the body's capacity to endure and recover from an injury (MacEachen et al., 2007). In this context, the focus on worker ability becomes an attempt to diagnose and restore the injured worker to an "occupationally-abled body" (Loisel, 2005). The reproduction of working bodies in this case does not mean the restoration of the body to its pre-injury status. Instead, the "hurt versus harm" technique illustrates that the working body is a body that functions with pain and has the capacity to overcome the pain by continuously labouring.

Yet, the reintegration of injured workers begins with the construction of a working body with its ability to perform optimally. The WSIB views worker reintegration as a "goal-oriented work transition" consisting of a "series of activities along a timeline" (WSIB Policy 19-02-01, 2012). In this framework, the WSIB frames "goal-oriented work transition" as achieving the optimal amount of productivity. The policy constitutes productivity in terms of whether the body that returns provides an "objective benefit to the employer's business" (WSIB Policy 19-02-01, 2012). This optimal productivity can be linked to Frank's (1995) use of the word 'restitution', rather than restoration, of the worker's physical capabilities. Here the injury to the working body is mere interruption and optimal productivity is achieved as soon as the body can take on some form of activity. In this paradigm, an injured body is "interpreted by norms of employability, and little attention is paid to the consequences of their disabilities" (van Hal, Meershoek, Nijhuis, & Horstman, 2013, p. 10). Thus, worker reintegration policies, while making it medically legitimate for a worker to be unable to work with the pre-injury bodily capacity,

requires the temporarily occupationally-disabled to prove that they are putting in maximum efforts to recover and nurse their body back to working abilities (van Hal, Meershoek, Nijhuis, & Horstman, 2013).

Many injured workers who cannot return to work in this system and have lost their entitled compensation through this system have no other choice but to turn to the welfare state. Yet, injured workers who cannot return to work face an active welfare state that again reinforces labour participation. Ontario mirrors many welfare states moving towards neoliberal and workfare rationalities, with social policy aiming to promote the (re)activation of individuals. An active welfare state regards labour participation as an essential part of being a citizen (Bonvin, 2008). In this view, the fundamental problem encountered by an injured worker is the lack of an opportunity to be re-employed (Bonvin, 2008). Thus, the welfare state continues the same agenda of activating injured workers and promoting return to work.

Reconceptualizing the reintegration of injured workers by discussing the debates and reforms of the OWCB and the WSIB necessitates a rethinking of prevalent discourses of what constitutes a productive working body. It also defines impairment and the condition of impaired mobility and ability as restricted functions to carry out labour, thus limiting and preventing the fulfilment of the role of a body to be more than just a working body. In this case, the institutionalization of reintegration has led to the WSIB recovering the body solely for productivity. This process reduces the worker to a value determined in terms of their ability to work. Over time, reintegration has led to greater regulation over the post-injury management of workers' bodies. But what if the worker wished to recover at a period that was suitable and fair to their body? While

workers may view their bodies in varieties of ways, depending on their perception of work and usefulness of their bodies, the social valuation attributed to them cannot be just in relation to their capacity to produce a surplus value. Yet, the value of a single body to the WSIB is in relation to its potential location in the market.

Conclusion

The Ontario workers' compensation systems' return-to-work programs saw worker reintegration institutionalized. Yet, political debates and reforms to worker reintegration and vocational rehabilitation demonstrate a neoliberal consensus and transformation for market-oriented return-to-work policy. Debates and reforms in worker reintegration promoted programs and policy initiatives as possibilities for injured workers to return to work with sufficient levels of functional capacity. However, the focus on sufficient recovery and participation in the labour market during the recovery of injured workers relies on two central themes. First, the OWCB and the WSIB reforms have minimized costs by maximizing incentives to push workers to return to labour. Policies and programs that fail to satisfy this requirement have been reformed to include market-based measures to calculate monetary benefits for injured workers, include employers into the process, and provide a medical reassessment of functionalities. Second, pushing workers to return as early as possible, with a focus on the cost of post-injury management, is truly a sustained means of exploiting bodies in a capitalist social formation. Herein, worker reintegration becomes a method of restoring bodies and reproducing working bodies.

This paper has argued that a critical review of the institutionalization of worker

reintegration, with a focus on the subsequent political debates, state-commissioned studies, and periodic reforms, is crucial to understanding the conceptualization of the working body and the reproduction of working bodies through worker reintegration. Bodies injured during the capital accumulation process represent a group of bodies designated as unfit for labour, but with the potential to recover and return to work. Thus, the institutionalization of worker reintegration enables bodies once thrown out of the labour market, because of their perceived lack of productivity in a competitive market, to be recruited for labour again. Within this context, I have demonstrated that debates and reforms in worker reintegration in Ontario from the 1970s onward collected injured bodies and restored them with the sole purpose to serve capital again. This paper discusses this in relation to three broad themes: regulations and policies that lowered monetary compensation, strategic participation of employers in the work reintegration process, and the politics of deficit reduction.

The WSIB's reintegration programs follow an orthodox market approach that dictates workers' value resides in what the market deems their bodies' worth. Thus, not only does the WSIB's compensation system aim to tackle the recovery of injured workers through the wage system, but also to promote a body that could be deemed sufficiently valuable by employers. To this end, legislation compelled employers to commit to the work reintegration process. Thereby, bodies become subject to disciplinary regimes of employers committed to providing a reintegration plan in pursuit of financial rebates. Meanwhile, employers were shown that injured bodies had some market-relevant productive capacities. The WSIB re-evaluated workers' bodies to incentivize employers to rehire "marginal" workers. Using methods such as the LMR

and ESRTW, the WSIB divided injured bodies, identified working parts, assigned use-value and recommodified bodies. Here, bodies are not unsalvageable; rather, they become constructed with alternative opportunities to recommodify working bodies. Just as bodies on assembly lines are fragmented to use only parts of the body with repetitive motion, injured bodies fall prey to exploitative practices that identify working parts particularly useful to an assemblage. Likewise, the working body during reintegration consisted of a functioning arm, movable feet, and a welcoming smile, creating an alienated view of functioning parts, while reducing the body to parts that work.

More subtle forms of reproducing working bodies emerge when the focus shifts to a view that considers work to be therapeutic. Currently, worker reintegration policy focuses on a working body, whose bodily imperfections are treated by the labour market through systematic interventions by the WSIB. Here, the working body is perceived in terms of its capacity to withstand wear, inferring that the body's durability can be monitored and improved. The body emerges as a site of production, and successful reintegration occurs when the living person can be valued again for their labour capacity. The fundamental assumption in this reintegration model is that those injured at work want to return to their obligations as part of their social contract as workers. Therefore, returning workers have to prove their commitment to reintegration. Additionally, with the focus on an "active recovery in the workplace", worker reintegration policy makes the workplace in which the worker was injured natural and neutral. This focus submerges the danger of certain labour processes and the toll it takes on the working body.

The underlying theme for reducing compensation and calling for employer

involvement is the WSIB's commitment to a managerial and corporate agenda. Here, workers' bodies bear the ill effects of the unfunded liability of the WSIB and the politics of deficit reduction. The WSIB has consistently worked to reduce the costs of reintegration by deeming bodies capable of work.

There are few signs on the horizon for an economy that caters to bodies beyond working bodies. Some of these signs include the change in the labour market, the rising awareness regarding disabilities, and the advancement of rehabilitation science. However, the greatest shifts require the introduction of more equitable approaches to the determination of worker reintegration. A more radical approach to the problem of reintegrating injured workers would require that those who are involved in the production process decide democratically when they would return to work. The decision will be made by the individuals who stand to suffer exposure to the risks of production. However, such reforms will only take place where the political capacity to impose them is present. Herein, we also see the necessity of transforming the view of bodies examined in this paper. This leads to us to face the critique of the broader society we live in, in which the ability to labour is recognized as the requirement for full membership in the society (Snyder & Mitchell, 2010). In this social formation, work is the defining measure and value of a body. If the goal of rehabilitation is to ensure the dignity of each body, then following a capitalist-induced belief that positions work with self-esteem, together with the view that bodies are merely bodies that labour, serves to reproduce working bodies.

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