

DENIED
WORK INJURY CLAIM



A dirty business:
The exclusion of Alberta farm workers
from injury compensation

Contents

A dirty business:

The exclusion of Alberta farm workers from injury compensation

Bob Barnetson

This report was published by the Parkland Institute
January 2015 © All rights reserved.

Acknowledgements	ii
About the author	ii
About Parkland Institute	iii
Executive Summary	1
Introduction	3
Compensating workplace injury in Canada	3
Farms and farm workers in Alberta	5
Farm workers' exclusion from workers' compensation	9
The purported solution of education	10
The supposedly problematic character of farms	11
The claimed opposition of farmers	11
Firefighters' exceptional access to workers' compensation	12
The politics of farm workers, firefighters and workers' compensation	16
Conclusions	18
Prospects for change	18
Suing farmers for injury	19
Leveraging differential treatment	19
Constitutional challenge	19
Publicizing working conditions	20
Tables	
Table 1: Number of Alberta farms by size (acres), 1981-2011	5
Table 2: Alberta Electoral Ridings by Election, 1982-2012	17
Figures	
Figure 1: Paid employment on Alberta farms by size, 2011	6
Figure 2: Paid workers and paid weeks of work on Alberta farms by size, 2011	6
Figure 3: Paid employment on Alberta farms by gross receipts, 2011	7
Figure 4: Paid workers and paid weeks of work on Alberta farms by gross receipts, 2011	7
Endnotes	22

To obtain additional copies of this report or rights to copy it, please contact:

Parkland Institute
University of Alberta
1-12 Humanities Centre
Edmonton, Alberta T6G 2E5
Phone: (780)492-8558
Fax: (780) 492-8738
<http://parklandinstitute.ca>
Email: parkland@ualberta.ca

ISBN 978-1-894949-46-0

Acknowledgements

The author would like to thank two anonymous reviewers for their helpful comments. The author would also like to thank Ricardo Acuna, Tony Clark, Darlene Dunlop, Jason Foster, Alvin Finkel, Ian Hussey, Jennifer Koshan, Shirley McDonald, Eric Musekamp, Kerry Preibisch, Joel Rudin, Robert Storey, and Shannon Stunden Bower.

About the author

Bob Barnettson is an associate professor of labour relations at Athabasca University. He is the author of *The Political Economy of Workplace Injury in Canada* (2010). His research focuses on workplace injury and migrant, farm, and child workers in Alberta.



About the Parkland Institute

Parkland Institute is an Alberta research network that examines public policy issues. Based in the Faculty of Arts at the University of Alberta, it includes members from most of Alberta's academic institutions as well as other organizations involved in public policy research. Parkland Institute was founded in 1996 and its mandate is to:

- conduct research on economic, social, cultural, and political issues facing Albertans and Canadians.
- publish research and provide informed comment on current policy issues to the media and the public.
- sponsor conferences and public forums on issues facing Albertans.
- bring together academic and non-academic communities.

All Parkland Institute reports are academically peer reviewed to ensure the integrity and accuracy of the research.

For more information, visit www.parklandinstitute.ca

Executive summary

Alberta excludes most farm workers from its workers' compensation system. In effect, if you're a farm worker and you get injured on the job, you are on your own in terms of wage-loss replacement, medical aid, and vocational rehabilitation. This long-standing exclusion from benefits available to most other Alberta workers is difficult to reconcile with the hazardous—and sometimes cancer-causing—nature of farm work. It is particularly difficult to reconcile given the preferential access that Alberta firefighters have to workers' compensation when they are diagnosed with an occupational cancer.

This study examines the similar working conditions and diverging workers' compensation experiences of Alberta's farm workers and firefighters. Of particular interest is how government members of the Legislative Assembly (MLAs) have strongly supported firefighter demands for automatic acceptance of occupational cancer claims while, at the same time, steadfastly refusing to provide even basic workers' compensation coverage to farm workers.

This inconsistency may be partially explained by electoral politics. The Progressive Conservative party has long required support from over-represented rural voters to form government. Over time, what appears to be a symbiotic relationship between rural voters and Progressive Conservative (i.e. Tory) MLAs has developed. MLAs limiting regulation (including denying workers' compensation coverage to farm workers) is one aspect of a broader quid pro quo for electoral support.

The report concludes by identifying four strategies available to advocates seeking basic workers' compensation benefits for farm workers. Farm workers may be able to generate increased employer interest in the liability protection provided by workers' compensation by suing employers for work-related injuries. Farm worker advocates may also exert political pressure on the government by highlighting how Canadian farm workers have worse access to workers' compensation coverage than do international migrant workers. It is also possible to challenge the constitutionality of the farm worker exclusion. Finally, farm worker advocates may be able to exert labour market pressure on employers by publicizing working conditions on individual farms via social media.

Introduction

Alberta farm workers face a high risk of workplace injury, including developing occupational cancer. Yet the government has precluded most farm workers from receiving workers' compensation benefits if they are injured on the job—benefits most other Alberta workers can access. By contrast, Alberta firefighters—another occupational group that faces a high risk of injury, including developing occupational cancer—have been granted exceptional access to workers' compensation benefits by the government.

This report examines the factors that have given rise to this incongruity. Of particular interest is the political decision by the Alberta government to privilege the interests of farmers over the needs of farm workers, seemingly in order to maintain electoral support in rural Alberta. This report concludes with an analysis of the options available to farm worker advocates seeking access for farm workers to basic workers' compensation coverage.

Compensating workplace injury in Canada

“The Alberta government has made the political decision to privilege the interests of farmers over the needs of farm workers seemingly in order to maintain electoral support in rural Alberta.”

Every Canadian province and territory operates a no-fault workers' compensation system. While injured workers are often critical of their treatment by workers' compensation systems, these systems provide most workers who are injured on the job with a combination of wage-loss, vocational rehabilitation, and medical-aid benefits without needing to prove their employer caused their injury. In exchange for this stable, predictable, and immediate compensation, workers gave up their right to sue their employers for damages, including aggravated and punitive damages.¹

Legislation typically compels employers to carry workers' compensation coverage for their employees.² Approximately 86% of Alberta workers are covered by workers' compensation.³ Self-employed workers and workers in non-standard employment relationships (e.g., contractors, temp agency workers) are often without coverage. Some governments have also excluded certain categories of employers from having to carry mandatory coverage⁴ for their workers. For example, farmers in Alberta, Saskatchewan, Nova Scotia, and Prince Edward Island are not required to enroll their workers in workers' compensation, although these employers may purchase voluntary coverage for their workers.⁵

Most workers' compensation claims arise from acute, physical injuries—such as lacerations, burns, and fractures. Determining whether such an injury arose from and occurred in the course of work—and is therefore compensable—is usually fairly straightforward, because the cause of the injury is plainly evident. By contrast, occupational diseases often have long latency periods and murky causation.⁶ For example, lung cancer caused by an occupational exposure to asbestos may not be diagnosed until 20 years after the worker was exposed. There are many potential causes of lung cancer, and the worker may not even know about the occupational exposure. Compounding these inherent challenges to occupational disease claims are employer efforts to minimize liability by withholding information about the injurious nature of materials and work processes, as well as government reluctance to take action that would expand employer liability.⁷

For these reasons, occupational diseases often don't result in workers' compensation claims.⁸ Further, these claims are less likely to be accepted because of the evidentiary burden placed on the worker.⁹ Despite these challenges, occupational disease claims are increasing. For example, accepted workers' compensation claims for deaths due to occupational cancer increased by more than 500% Canada-wide between 1997 and 2010. Led by increases in Ontario, the number of accepted claims for cancer-related death has now surpassed claims for traumatic-injury related deaths.¹⁰

Governments have recognized some diseases are clearly related to occupational exposures and thus have granted workers with these diseases presumptive status. Presumptive status means that a provincial workers' compensation board (WCB) automatically accepts claims when workers demonstrate they have a specified disease. For instance, firefighters, coal miners, and workers exposed to asbestos are often granted presumptive status for some forms of cancer. This presumption is often conditioned upon the worker having worked in a specific industry, sometimes for a minimum period of time.

Presumptive status may be the only realistic way to ensure compensation for occupational cancer. For example, there is broad agreement that 8-10% of cancers have an occupational link.¹¹ The need to prove an occupational link and difficulty in doing so may partially explain why, in 2005, only 0.22% of cancer diagnoses and 0.68% of cancer deaths in Alberta resulted in successful workers' compensation claims—the majority being presumptive-status claims.¹²

“ Governments have recognized some diseases are clearly related to occupational exposures and thus have granted workers with these diseases presumptive status (the provincial workers' compensation board automatically accepts these claims). ”

Farms and farm workers in Alberta

“Over the last 30 years the number of smaller “ma-and-pa” farms in Alberta has declined significantly, while the number of large farms has increased.”

Understanding farm workers’ exclusion from workers’ compensation requires some understanding of farms and farm work in Alberta. While most of Alberta’s 43,234 farms are run by families, the size of these “family farms” is steadily and significantly increasing. As noted in Table 1, the number of smaller “ma-and-pa” operations has declined significant over the last 30 years, while the number of large farms has increased. In 2011, an average farm was 1168 acres in size—about the size of 1000 football fields.¹³

Table 1 Number of Alberta farms by size (acres), 1981-2011¹⁴

Year	<560 acres	560-1119 acres	1120-1599 acres	1600-2239 acres	2240-2879 acres	≥2880 acres	Total farms
1981	32,915	14,004	4978	2849	1222	2088	58,056
1991	32,143	12,497	5188	3232	1512	2673	57,245
2001	30,875	10,225	4382	3297	1594	3279	53,652
2011	24,512	7255	3335	2694	1575	3863	43,234
% chg	-25.5%	-48.2%	-33.0%	-5.4%	+28.9%	+85.0	-25.5%

“Between 1991 and 2011, the number of Alberta farms reporting paid farm workers decreased, but the number of weeks of employment reported per farm doubled.”

A similar pattern of growth is evident in gross farm receipts (i.e. farm income before expenses). Between 1981 and 2011, farms with annual gross receipts of \$500,000 to \$999,000, \$1 million to \$1.999 million, and \$2 million and up, increased by 603.5%, 648.4%, and 1186.9% respectively. During this same period, farms with receipts under \$100,000 per year shrunk by 45.4%.¹⁵ Although rising commodity prices may contribute to the growth in receipts, changes in gross receipts supports the notion that farm consolidation is occurring—farms are getting bigger, and some farms are getting very big.

The 2011 Agricultural Census identified 37,852 paid farm workers (15,598 year-round and 22,254 part-year) in Alberta who worked 898,452 weeks (73% by year-round workers).¹⁶ Paid farm workers do not include farm operators (i.e. owners or co-owners) or unpaid workers but do include 2396 international migrant workers.¹⁷ Between 1991 and 2011, the number of farms reporting paid farm workers decreased from 22,482 to 12,798, although the number of weeks of employment reported per farm climbed from 34.9 to 70.2.¹⁸ This suggests a concentration of paid agricultural work on a subset of farms over time.

Figure 1 demonstrates that as farm size increases so too does the chance the farm will have employees. Similarly, larger farms typically have larger numbers of employees.

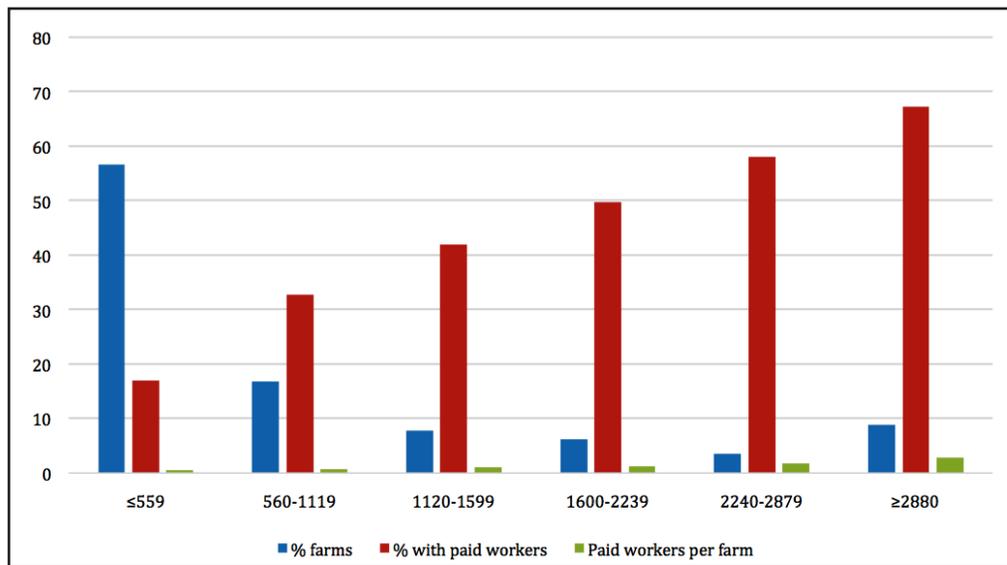


Figure 1 Paid Employment on AB Farms by Size, 2011

Farms of 1120 or more acres comprised 26.4% of all farms. Figure 2 shows that these farms employed 52.9% of all paid workers and were responsible for 59.4% of all weeks of paid work. The largest category of farms (≥2880 acres) comprised only 8.9% of all farms, but employed 28.9% of all paid workers and was responsible for 37.6% of all weeks of paid work.

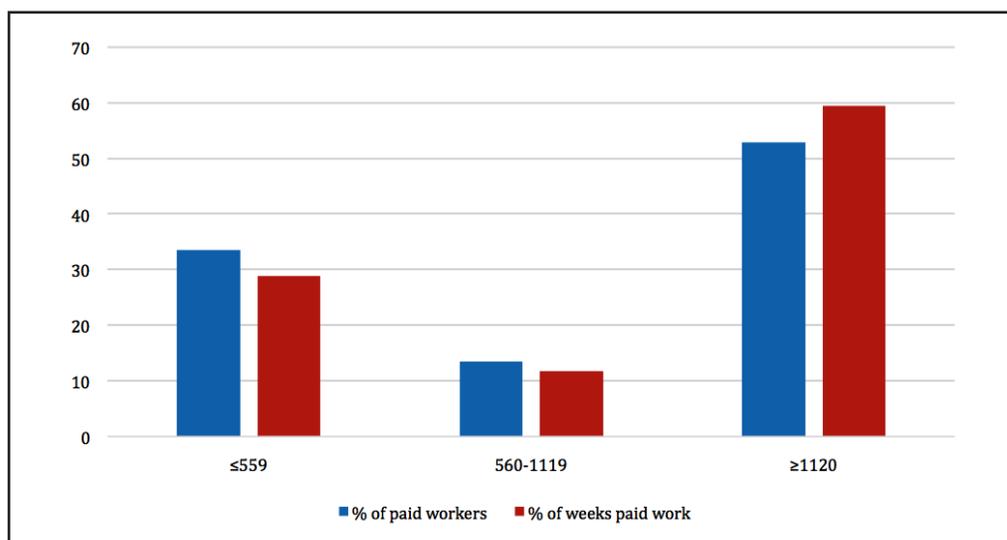


Figure 2 Paid Workers & Paid Weeks of Work on AB Farms by Size, 2011

A similar pattern is evident when examining paid employment by farm gross receipts. Figure 3 shows that as farm gross receipts increase (\$000s) so too do the number of employees, and the chances the farm will have employees and that those employees will be employed year round.

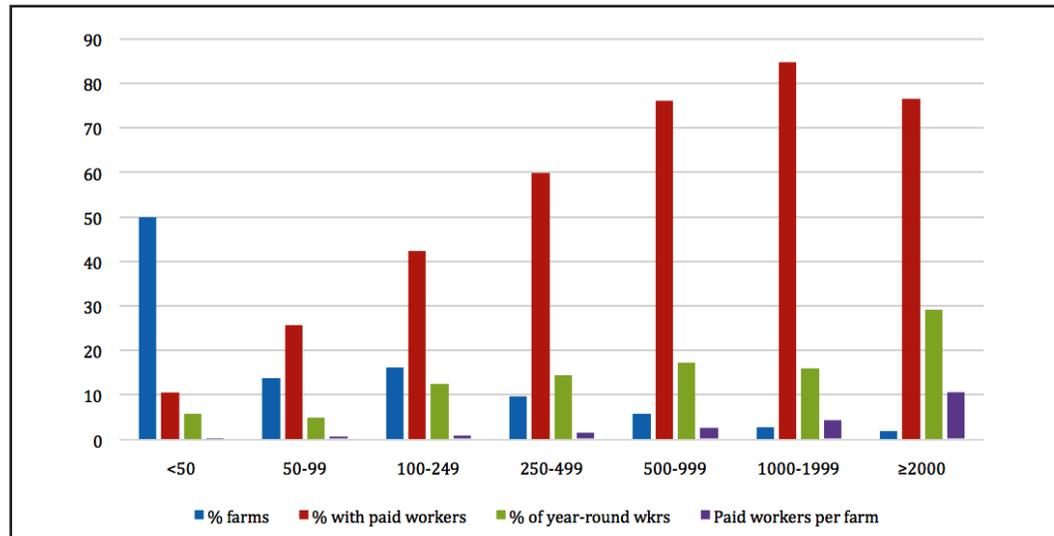


Figure 3 Paid Employment on AB Farms by Gross Receipts, 2011

Farms with gross annual receipts above \$250,000 comprised 20.0% of farms. Figure 4 shows that these farms employed 67.3% of all paid workers and accounted for 81.2% of all weeks of paid work. The largest category of farms (\geq \$2 million) comprised only 1.8% of farms but employed 21.5% of all paid workers and accounted for 33.0% of all weeks of paid work. These farms employed an average of 10.4 workers each.

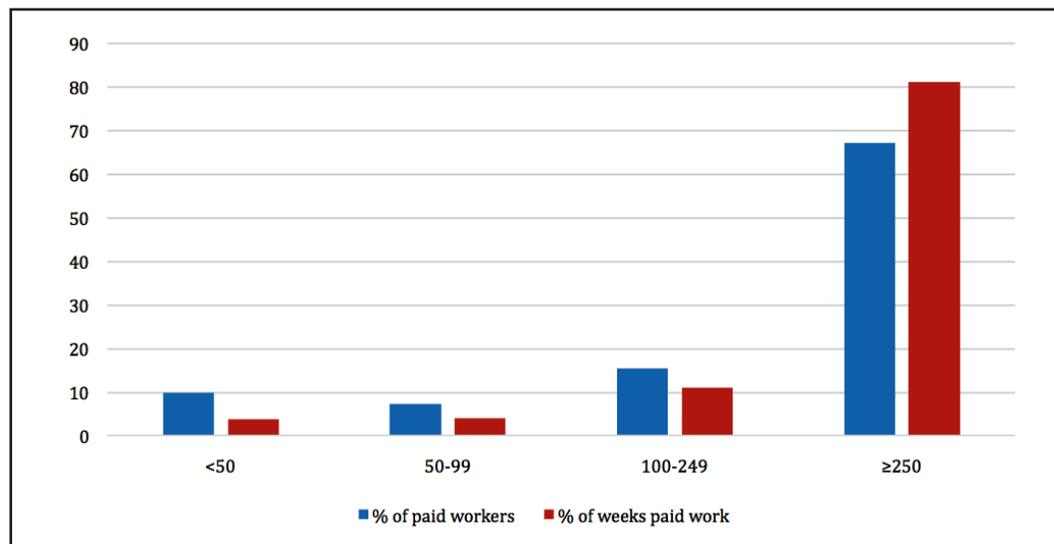


Figure 4 Paid Workers & Paid Weeks of Work on AB Farms by Gross Receipts, 2011

“ Farm work is precarious employment: farm workers cannot join a union or collectively bargain, and are excluded from the rules around a minimum wage, hours of work, vacation protections, and restrictions on child labour.”

In short, the number of physically and financially large farms is growing, and these operations account for the majority of paid farm work in Alberta. While such farms are often still operated by families, the increasing size and use of paid workers suggests these farms are no longer the “family farms” of the settlement period.

The prevalence of part-year work and below-average wages¹⁹ indicate that farm work is often precarious—that is to say, “characterized by limited social benefits and statutory entitlements, job insecurity, low wages and high risks of ill health.”²⁰ Alberta farm workers are also excluded from virtually all of the statutory employment rights that other Alberta workers enjoy. For example, farm workers are excluded from the rules around a minimum wage, hours of work, vacation protections, and restrictions on child labour.²¹ And they have no right to join a union or to collectively bargain.²²

Farm workers are also at high risk of experiencing workplace injuries. Although good data on agricultural injuries is elusive, Canada’s agricultural industry has among the highest fatality rates of any Canadian occupation.²³ American data suggests farm workers have the highest incidence of workplace fatalities and higher rates of many occupational diseases and injuries.²⁴ In both Canada and the US, these injuries stem from well known agricultural dangers, such as farm workers exposure to hazardous chemical and biological agents, long working days, physically demanding and repetitive tasks, hazardous equipment and livestock, unsafe transportation, inadequate housing and sanitation, and working alone.²⁵

“ Canada’s agricultural industry has among the highest fatality rates of any Canadian occupation, and farm workers face a heightened risk of various kinds of cancer.”

Of particular concern is that farm workers face a heightened risk of various kinds of cancer, including melanoma, non-Hodgkin’s lymphoma, leukemia, and multiple myeloma, as well as brain, cervical, esophageal, oral, prostate, and stomach cancers.²⁶ This heightened risk is likely the result of occupational exposures to pesticides, solvents, exhaust, dusts, and microbes. In Alberta, farm workers have no right to know about such hazards in their workplace, and no right to refuse such unsafe work, because the government has excluded them from occupational health and safety legislation.²⁷

Interestingly, Alberta’s WCB provides presumptive status for numerous occupational diseases or conditions with close links to the agricultural industry. These include poisoning by nitrous fumes (e.g. silo filler’s disease) and nitriles, hydrogen cyanide or its soluble salts (often present in pesticides), infection cause by brucella organisms (found on animal carcasses and byproducts), and extrinsic allergic alveolitis (including farmer’s lung and mushroom worker’s lung).²⁸ Yet the exclusion of most farm workers from mandatory workers’ compensation denies workers with these diseases the ability to file claims.

“Absence of mandatory workers’ compensation coverage for Alberta’s farm workers shifts costs of workplace injuries from employers onto farm workers and taxpayers.”

Farm workers’ exclusion from workers’ compensation

In Alberta, employers are not obliged to provide farm workers with workers’ compensation coverage.²⁹ Only approximately 7.5% of Alberta farm workers have access to workers’ compensation via voluntary coverage taken out by their employer.³⁰ In the absence of mandatory coverage, costs related to workplace injuries are shifted from employers onto farm workers, who must cope with wage loss and medical expenses, and onto taxpayers, who fund public health-care services.

The impact of being excluded from workers’ compensation is amply demonstrated in the case of Kevan Chandler. Chandler was a farm worker at Tongue Creek Feeders near High River. On Father’s Day 2006, Chandler was suffocated by several tons of falling grain. Chandler’s employer had no workers’ compensation coverage, and Chandler’s widow, Lorna, spent six years suing Tongue Creek Feeders, while raising two children.³¹ The employer settled the suit and subsequently filed for bankruptcy—laying off 40 other employees. Had the employer had workers’ compensation coverage, Lorna Chandler could not have sued the employer—she would have instead received survivor benefits from the Alberta Workers’ Compensation Board.³² These are exactly the problems—injury-induced poverty, costly lawsuits, uncertain remedies, and employer bankruptcy—that gave rise to the historic compromise of workers’ compensation.³³

Farmer interest in Mandatory Workers’ Compensation

The potential for crippling injury awards highlights the utility of the workers’ compensation liability shield for employers. In essence, employers who carry workers’ compensation are protected from lawsuits, and the cost of an injury is shared by all members of the industry who have enrolled in workers’ compensation.

Following the Chandler settlement, some members of Alberta’s largest farm lobby group—the Alberta Federation of Agriculture (previously the Wild Rose Producers Group)—passed a motion directing their organization to explore mandatory workers’ compensation coverage.³⁴ So far, this motion appears to have created discord within the Alberta Federation of Agriculture, and their executive continues to resist mandatory workers’ compensation behind the scenes.³⁵

Workplace cancer poses particular challenges to farm workers. If one of the small percentage of farm workers with coverage does seek to make a workers' compensation claim for occupational cancer, the worker would need to demonstrate that the cancer arose from and occurred during the course of employment. Such a claim is difficult to prove in the best circumstances. Farm workers' ability to prove an occupational cause is further hampered by their lack of the right to know about the hazards they are exposed to because they are also excluded from the *Occupational Health and Safety Act*.

Migrant farmworkers

There are approximately 3000 farm workers in Alberta who are citizens of a different country.³⁶ These migrant workers enter Canada through federal programs such as the Temporary Foreign Worker Program (TFWP) and the Seasonal Agricultural Worker Program (SAWP).³⁷ These programs allow foreign nationals to work for specific Canadian employers for limited periods of time.

Farmers who employ migrant farm workers under the provisions of SAWP must provide these farm workers with injury-compensation insurance—either provincial workers' compensation or similar private insurance.³⁸ In this way, migrant farm workers are more likely to have access to workers' compensation than Canadian farm workers. That said, the degree to which migrant workers can access their rights is unclear. There are anecdotal reports of claim suppression and deportation following injury of migrant farm workers.

“In recent legislative debates, Tory MLAs have given three questionable reasons for continuing the exclusion of farm workers from workers' compensation.”

The exclusion of Alberta farm workers from workers' compensation dates back to 1918. Farmers successfully lobbied for the exclusion of farm workers from (then) workmen's compensation because of the expected cost.³⁹

Recent legislative debates have seen Tory MLAs advance three reasons for continuing this exclusion: the capacity of education to solve the problem, the character of farms as mixed-use worksites (i.e. they are both homes and businesses), and the evidence of farmer resistance—often based on the cost of premiums—to mandatory coverage.

The purported solution of education

Some Tory MLAs assert that educating farmers about the benefits of taking out voluntary workers' compensation for their workers is better than forcing farmers to do so. For instance, Hector Goudreau, MLA for Dunvegan-Central Peace-Notley, claimed in the Legislature that

when we do some of the work and talk with the farm families, there are many of them who are aware that they can get coverage under WCB, and a lot of individuals opt to take the optional WCB coverage. So there is some protection that's available for farm workers if the employers and employees make that arrangement between themselves. On that basis, we don't anticipate any immediate changes.⁴⁰

The efficacy of education is undermined by the fact that, despite high levels of workplace injury, over 90% of farm workers have no workers' compensation coverage.

The supposedly problematic character of farms

MLAs argue that farms can't be regulated like so-called regular worksites, primarily because farms are mixed-use worksites. Thomas Lukaszuk, MLA for Edmonton-Castledowns, argued that the

work environment on a farm obviously differs a great deal from that in any industrial setting. A farm is also a place where people actually live and raise children, and it's a community, so applying strict industrial standards to a farm setting is not exactly comparable.⁴¹

MLAs' insistence that farms can't be regulated like so-called regular worksites because they are both homes and businesses ignores that nine other provinces and territories in Canada require mandatory coverage: clearly regulation is not impossible.

The claimed opposition of farmers

Some MLAs assert farmers don't want mandatory workers' compensation coverage forced upon them. Shirley McClellan, MLA for Drumheller-Stettler, argued that

it's not about (the government) finding money. It's about the producers' desire. I know that if the producers, in their wisdom not ours, were to come forward in a majority view to the minister of agriculture, he would bring that forward to this table. He represents them extraordinarily well. But I must inform the hon. member, being a part of the agricultural community myself, that they are very independent thinkers, and they like to make their decisions and ask us to carry out policy they believe is in their best interest.⁴²

For his part, Jack Hayden, McClellan's successor as MLA for Drumheller-Stettler, stated that he

had it reinforced for me again this morning in a meeting that I had in Trochu, Alberta, with a group of 25 agricultural producers when I asked them right flat out how we could help them and they said: no more regulations. I said: are we moving in the right direction with our farm safety instead of workmen's compensation and occupational health and safety? They said: absolutely; this is what we want.

MLAs' belief that farmers don't want mandatory workers' compensation coverage forced upon them ignores that employer resistance to regulation is generally not considered a valid basis upon which to make public policy.

“ MLAs' belief that farmers don't want mandatory workers' compensation coverage forced upon them ignores that employer resistance to regulation is generally not considered a valid basis upon which to make public policy.”

Firefighters' exceptional access to workers' compensation

While Alberta denies mandatory workers' compensation coverage to farm workers, it provides Alberta's firefighters—whose employers must provide them with coverage—with exceptional access in the form of presumptive status for 14 kinds of cancer. In short, if firefighters are diagnosed with any of these forms of cancer and meet the service requirements (e.g. 5 years of service for primary leukemia), they are automatically awarded workers' compensation benefits.⁴⁵

Canadian legislation granting firefighters presumptive status for cancer was first enacted in Manitoba in 2002. Presumptive status reflects two factors. First, full-time, municipal firefighters are at heightened risk of various kinds of cancer, including melanoma, non-Hodgkin's lymphoma, leukemia, and multiple myeloma, as well as bladder, brain, colon, esophageal, kidney, lung, prostate, stomach, and testicular cancers.⁴⁶ This heightened risk is most likely the result of occupational exposures to burning materials. Second, proving cancer causation for firefighters has been difficult. For example, British Columbia reported a 35% acceptance rate for cancer claims between 1985 and 2004.⁴⁷

Beginning in 2003, Alberta (along with British Columbia, New Brunswick, the Northwest Territories and Nunavut, Nova Scotia, and the Yukon) followed Manitoba's lead in according exceptional access to workers' compensation to firefighters.⁴⁸ Alberta's Tory MLAs justified granting presumptive status to firefighters in six different ways during the 2003, 2010, and 2011 legislative debates.⁴⁹

MLAs asserted that firefighters get cancer more often than the average person, most likely from occupational exposures to carcinogens. As explained by Richard Magnus, MLA for Calgary-North Hill:

Studies from Burnett, Guidotti, Mount Sinai, and the Ontario industrial disease panel, to name a few, all have told the same story: the profession of fire fighting makes firefighters more likely to get these cancers than you and I. Why? Because every time that a firefighter walks into a fire... he steps into a toxic soup of soot and gases that are released by the burning materials.⁵⁰

MLAs also asserted that firefighters are the only workers who cannot refuse exposures to occupational carcinogens. Magnus provides another example:

...There's a huge difference between firefighters and other professions. If in any other profession workers encounter a dangerous situation, an environmental risk, they can refuse to work under that danger... but firefighters cannot. When an oil refinery explodes or a chemical factory catches fire, firefighters are duty bound to enter that environment and work in it.

MLAs argued that firefighters have difficulty demonstrating the clear link between a specific exposure(s) and their cancer necessary to gain workers' compensation benefits. Neil Brown, MLA for Calgary-Mackay-Nose Hill, elaborates:

The fundamental problem from an evidentiary point of view is that many cancers arise from many, many different types of causes. ... It's very difficult, if not impossible, for us to know exactly what the causes of those cancers were and when they might have arisen. The result has been that it's been extremely difficult for our firefighters to muster the evidence necessary to show that there is a nexus between the various types of cancer and the exposure to toxic compounds that they encounter in the course of their employment, sometimes years and years before a cancer arises.⁵²

Placing such an evidentiary burden on firefighters and their families was deemed by Tory MLAs to be unfair, as evidenced in comments from Art Johnston, MLA for Calgary-Hays:

Without this legislation Alberta firefighters... would have to file a workers' compensation claim and endure the uncertainties of the claims process. This process of claims and appeals can take years to produce a final decision, and even then there is no guarantee that the claims system will recognize their illness as occupational and award appropriate compensation. [Presumptive status] would allow these families to focus all of their attention and energy on fighting these diseases rather than on the claims and appeals process of workers' compensation.⁵³

“MLAs have argued that firefighters have difficulty demonstrating the clear link between a specific exposure(s) and their cancer necessary to gain workers' compensation benefits. The same is true for farm workers but, unlike firefighters, they're not granted basic workers' compensation coverage, let alone presumptive status for their workers' compensation claims about occupational diseases.”

MLAs also argued in favour of granting firefighters presumptive status because the cost was expected to be small, as made clear by Harvey Cenaiko, MLA for Calgary-Buffalo:

Another concern is that all of a sudden there will be an outpouring of claims for WCB benefits. Let's face it. No one wants to have cancer. Cancer claims aren't going to appear mysteriously out of nowhere if Bill 202 is passed. Current statistics bear this out. Each year 1.8 of every 1,000 firefighters are diagnosed with cancer. In Alberta there are roughly 2,300 firefighters. Using simple math, then, it can reasonably be assumed that four cancer cases involving firefighters would be brought to the WCB's attention in Alberta each year.⁵⁴

MLAs noted that other jurisdictions had adopted similar presumptive status provisions around firefighter cancer. As Yvonne Fritz, MLA for Calgary-Cross commented:

This has already been accomplished in one other Canadian province and 23 states of the United States. ...Manitoba set the standard for other provinces to follow by passing Bill 5, the Workers Compensation Act, on May 2, 2002. ...The road to introducing Bill 5 in Manitoba was one that involved tragic events. Since 1987 17 firefighters have died in Winnipeg from work-related cancers. That is 17 lives lost and 17 families shattered.⁵⁵

Finally, MLAs described firefighters as heroes and indicated that society owed firefighters presumptive status. Magnus went on record on this issue:

There's another reason to support this bill, a more emotional, less tangible reason, and that is that firefighters deserve it. They deserve to know that just as they are there for us whenever we encounter danger and just as they answer any call for help, they can count upon us as legislators and Albertans to back them up in their rare times of need. Firefighters haven't come before the Legislature before, making demands or asking for help. That would be out of character for them, but this matters to them deeply. It matters that we send a signal that we understand the risks they take, the dangers they face, and the duty they accept, a duty that few of us would ever consider.⁵⁶

A variation on this theme was that society owed firefighters' families presumptive status, as laid out by Mr. Johnston:

The service of the men and women who bravely enter burning buildings, gladly risking their lives for ours, is quite obvious. More subtle is the service rendered to the people of Alberta by the families of these firefighters. Each day, like the firefighters themselves, they deal with a great amount of uncertainty. Mr. Speaker, they're also the ones who will take care of our firefighters if they have to battle cancer and are the ones left behind if they lose that fight.⁵⁷

“The claims made in support of granting presumptive status to firefighters are also valid for farm workers. The cost of granting farm workers access to workers’ compensation will be small and the responsibility of employers, not farm workers or the public health-care system.”

Alberta’s reasons for granting firefighters presumptive status are valid and support presumptive status. Interestingly, the claims that have been made in support of granting presumptive status to firefighters are also valid in relation to farm workers.

Farm workers are more likely to be diagnosed with certain cancers that come from occupational exposures.

Farm workers are unable to refuse unsafe work because they have been excluded from the ambit of the *Occupational Health and Safety Act*.

Farm workers who have workers’ compensation coverage have difficulty demonstrating the clear link between a specific exposure(s) and their cancer necessary to gain workers’ compensation benefit, in part because their exclusion from the Occupational Health and Safety Act gives them no right to know about their exposures.

The additional costs of granting farm workers access to workers’ compensation will be small. The trick here is that the cost of workplace injuries will shift from farm workers and the public health-care system to employers, who will now have to pay WCB premiums.

It may be more difficult to argue that farm workers are heroes. Yet, as a society, we don’t condition access to workers’ compensation on workers’ behaviour. The simple fact that one is a worker—and thus potentially subject to workplace injury—is the usual threshold test for access. If heroism were the standard to be met for eligibility, the vast majority of Alberta workers would be excluded from mandatory workers’ compensation.

The politics of farm workers, firefighters, and workers' compensation

It is difficult to reconcile the radically different access that firefighters and farm workers have to workers' compensation, given the similarities in the occupational risks that they face. A part of the explanation likely reflects who these workers are.

Firefighters typically have good jobs, with high wages and job security, and significant access to employment and statutory benefits. Their employers tend to be few, large, and sophisticated in matters of labour relations. Firefighters' success at maintaining and improving their working conditions may stem from a high rate of unionization, firefighting's ties to capital interests (i.e. property protection and loss mitigation), and efforts by firefighter advocates to politically capitalize upon the "honourable white masculinity associated with firefighting."⁵⁸

While Canadian firefighters sought presumptive status for a number of years, some commentators suggest that the widespread adoption of presumptive status in Canada beginning in 2002 reflects firefighter advocates utilizing their increased political capital post-9/11 to trigger long-sought legislative change.⁵⁹ Indeed, Alberta legislators made specific reference to the heroism of firefighters during 9/11 in justifying presumptive coverage.⁶⁰

By contrast, Alberta farm workers are archetypal precarious workers, with low wages, limited job security, and few statutory employment rights. Their employers tend to be many, relatively small, and less sophisticated in matters of labour relations. That farm workers are precluded from unionization and collective bargaining limits their ability to advocate for their own interests—interests that often run contrary to those of farmers.⁶¹

A second part of the explanation for the differential treatment of farm workers and firefighters may reflect the influence of electoral politics on some MLAs' decision-making. As noted above, some Tory MLAs have been very candid that, when it comes to questions of workers' compensation, they prioritize the needs of farmers over the needs of farm workers. This may reflect the long-standing electoral power of rural Alberta. Specifically, the Progressive Conservative party has been electorally reliant upon rural voters to gain enough seats to form government. Over the past 30 years, rural Alberta has both shown strong support for the Conservative party and been electorally over-represented in the Legislature.

“The exclusion of farm workers from mandatory workers' compensation likely reflects electoral politics: over the past 30 years rural Alberta has shown strong support for the Tories and been electorally over-represented in the Legislature.”

As set out in Table 2, it has only been mathematically possible to form a majority government by winning “urban” seats since 1997. And the Tories continue to require rural seats to maintain their hold on government. Rural over-representation (in terms of seats in the Legislature) varies by year and location. In 2006, for example, the urban riding of Edmonton Centre had a population of 41,299 as compared to the 30,403 people living in the rural riding of Battle River-Wainwright. At the most extreme, rural Dunvegan-Central Peace had 23,649 residents in 2006 while urban Calgary-North West had 60,511.⁶²

Table 2 Alberta Electoral Ridings by Election, 1982-2012⁶³

	1982	1986	1989	1993	1997	2001	2004	2008	2012
Ridings	79	83	83	83	83	83	83	83	87
Seats Needed to Form Majority	40	42	42	42	42	42	42	42	44
Urban Ridings	29	32	32	45	47	47	48	48	51
Rural Riding	50	51	51	38	36	36	35	35	36
Total Tory	61	61	55	51	63	74	62	72	61
Urban Tory	28	25	22	21	28	38	28	37	39
Rural Tory	33	36	33	30	35	36	34	35	22

“While not all “rural” voters are farmers, imposing additional regulatory burdens on farmers, such as granting farm workers mandatory access to workers’ compensation, is likely to entail electoral risk to the PC party, a risk that has been heightened by the significant shift of rural support from the PC party to the Wildrose party during the 2012 election.”

Alberta’s Progressive Conservative party has carefully cultivated its rural power base.⁶⁴ It has also provided significant support to rural communities struggling with population losses, including maintaining government-operated services (e.g. hospitals, schools, and seniors lodges⁶⁵), attracting medical personnel,⁶⁶ increasing post-secondary access,⁶⁷ providing broadband internet,⁶⁸ providing informational and financial support to rural businesses,⁶⁹ and providing hundreds of millions of dollars to farmers affected by “mad cow” disease (itself partly caused by government deregulation) and other cost pressures.⁷⁰

While not all “rural” voters are farmers, imposing additional regulatory burdens on farmers is likely to entail electoral risk to the PC party, a risk that has been heightened by the significant shift of rural support from the Conservative party to the Wildrose party during the 2012 election. Wildrose MLAs have confirmed they too do not support requiring workers’ compensation coverage for farmworkers.⁷¹ This decision increases the electoral pressure on Progressive Conservative MLAs to maintain the farm worker exclusion for fear of driving more rural support to the Wildrose party.

Conclusions

Tory MLAs have resisted mandatory workers' compensation for farm workers. They justify the continued exclusion of farm workers by referencing the effectiveness of education, the difficulty in regulating mixed-use worksites such as farms, and the apparent opposition of farmers. These justifications are unsound. A comparison between firefighters and farm workers makes clear that farm workers face many of the same hazardous working conditions as do firefighters. This suggests farm workers should be provided with at least basic workers' compensation coverage.

An examination of the political context in which farm workers have been denied compensation suggests that Tory MLAs may be valuing continued electoral success over the physical and financial welfare of farm workers and their families. In this context, farm workers working for employers who choose to risk workers' safety in order to maximize profit are not subject to the protections from such behaviour that many other workers enjoy. In this way, the government is legitimizing employer behaviour that might otherwise be considered unacceptable by the public.

“Given the ongoing reluctance of the Alberta government to provide farm workers with even basic workers' compensation coverage, farm worker advocates are left with four mutually reinforcing strategies to achieve this end.”

Prospects for change

Given the ongoing reluctance of the government to provide farm workers with even basic workers' compensation coverage, farm worker advocates are left with four strategies to achieve this end:

1. Sue farmers for workplace injuries to escalate the cost of not taking out workers' compensation coverage.
2. Identify the hypocrisy of requiring workers' compensation for migrant workers but not Canadian citizens.
3. Address the farm worker exclusion by mounting a challenge through the *Canadian Charter of Rights and Freedoms*.
4. Use social media to inform workers about which farms do and do not carry voluntary coverage.

These strategies can be pursued individually, but are also mutually reinforcing.

Suing farmers for injury

Farm workers suing farmers over workplace injuries highlights the key benefits of workers' compensation for employers: liability protection, and spreading the cost of specific injuries across all employers.⁷² Absent liability protection, farmers can be on the hook for significant awards, including aggravated and punitive damages.

The spectre of crippling awards for farm injuries has already heightened interest among some farmers in the liability protection offered by workers' compensation coverage. As the level of voluntary workers' compensation coverage increases, those employers who have coverage will want to make it mandatory for all farmers in order to take the cost of coverage out of competition.

In this way, farm workers suing employers can create political opportunities for change, including the possibility of farmers and farm workers developing a shared framing of mandatory coverage as mutually beneficial. A key barrier for this strategy is the cost and delay of litigation, and the willingness of farm workers (or their families) to engage in it.

Leveraging Differential Treatment

A second strategy centres on the growing use of migrant farm workers. At present, Alberta farmers employ approximately 3000 migrant farm workers. The federal government requires farmers to provide migrant farm workers who come to Canada under the Seasonal Agricultural Worker Program with injury insurance, either from a provincial Workers' Compensation Board or private insurer.⁷³ Recent cases of (non-farm) employers seeking to displace Canadian workers with migrant workers in order to erode wages and working conditions has become politically problematic. In this political context, highlighting that the federal government gives foreign farm workers better access to injury compensation than the Alberta government gives to Canadian farm workers may be a potent rhetorical lever.

Constitutional Challenge

A third strategy is to challenge the constitutionality of farm workers' exclusion from mandatory workers' compensation coverage as violating ss.7 and 15 of the Canadian Charter of Rights and Freedoms. Section 7 of the Charter stipulates:

7. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.⁷⁴

Excluding farm workers from the ambit of workers' compensation means these workers must access medical services through the public health-care system, which entails long wait times. By contrast, workers within the workers' compensation system have expedited access to diagnostic and treatment services for which the WCB pays directly. The diminished speed and quality of health services caused by the farm worker exclusion may cause detrimental physical and psychological effects, which is a violation of farm workers' security of person.⁷⁵

Section 15(1) stipulates:

15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

Alberta's farm worker exclusion may discriminate on the basis of occupational status and disability.⁷⁷ While occupational status is not an enumerated ground of discrimination, the jurisprudence suggests it may be an analogous ground.⁷⁸

The farm worker exclusion may also constitute discrimination on the basis of disability. Several illnesses (e.g. silo filler's disease, farmer's lung) for which Alberta has granted presumptive status are likely to be caused by exposures unique to farm workers. Excluding farm workers from workers' compensation coverage indirectly discriminates against farm workers who develop these diseases.

These forms of discrimination create a disadvantage by precluding farm workers from accessing the medical and vocational rehabilitation services they would otherwise be entitled to under workers' compensation. Instead, these farm workers must rely upon likely slower and poorer publicly provided medical services.

Publicizing Working Conditions

The final strategy is one of social mobilization via social media (e.g. Facebook). Traditionally, it has been difficult to organize or even disseminate information to farm workers, because of their physical isolation and fear of being ostracized.⁷⁹ The ubiquity of mobile devices, the penetration of social media, and the anonymity of the internet dramatically reduces issues of distance and the risks of information sharing and organizing.

Anonymously sharing employment experiences serves a dual purpose. In the short term, it provides prospective farm workers with information about the conditions of work offered by potential employers, including the availability of workers' compensation coverage. This information allows the labour

“Using social media to publicize working conditions on farms provides prospective farm workers with information about the conditions of work offered by potential employers, including the availability of workers' compensation coverage.”

“A vibrant Facebook group also creates a mobilizing structure that farm worker advocates may eventually be able to parlay into more concrete action.”

market to function more efficiently and exerts pressure on farmers to provide desirable working conditions.

In the longer term, a vibrant Facebook group also creates a mobilizing structure that farm worker advocates may eventually be able to parlay into more concrete action (e.g. demonstrations and letter writing campaigns). It also brings attention to the dangerous working conditions on farms—conditions warranting workers’ compensation coverage.

Endnotes

- 1 Barnettson, B. (2010) *The political economy of workplace injury in Canada*. Edmonton: Athabasca University Press.
- 2 In 2015, WCB premiums for farms are \$2.71 per \$100 of insurable earnings. WCB. (2014). *2015 Premium Rates by Sector and Rate Group*. Edmonton: Author.
- 3 WCB. (2014) *2013 year at a glance*. Edmonton: Workers' Compensation Board; Alberta. (2014) *Alberta Labour Force Statistics, December 2013*. Edmonton: Jobs, Skills, Training and Labour.
- 4 Arthurs, H. (2012) *Funding fairness: A report on Ontario's workplace safety and insurance system*. Toronto: Workplace Safety and Insurance Board Funding Review; Bernstein, S., Lippel, K. & Lemarche, L. (2001) *Women and homework: The Canadian legislative framework*. Ottawa: Status of Women in Canada.
- 5 Alberta, *Workers' Compensation Act, RSA 2000, c.W-15*; Saskatchewan, *The Workers' Compensation Act, 2013, SS 2013, c. W-17.11*; Nova Scotia, *Workers' Compensation Act, RSNS 1994/95, c.10*; Prince Edward Island, *Workers Compensation Act, RSPEI 1988, c.W-7.1*.
- 6 Elinson, L. (1995) *The compensation of occupational disease in Ontario*, in Thomason, T. & Chaykowski, R. (eds.), *Research in Canadian workers' compensation*. Kingston: IRC Press: 195-209; Ison, T. (2005) *Recognition of occupational disease in workers' compensation*. Paper presented at the CCOHS Conference on the Recognition and Prevention of Occupational Disease, Toronto.
- 7 Brophy, J., Keith, M. & Schieman, J. (2007) *Canada's asbestos legacy at home and abroad*. *International Journal of Occupational and Environmental Health*. 13: 235-242; Rennie, R. (2006) 'All part of the game': *The recognition of and response to an industrial disaster at the fluorspar mines, St. Lawrence, Newfoundland, 1933-1978*, in Tucker, E. (ed.), *Working disasters: The politics of response and recognition*. Amityville: Baywood Publishing: 77-102; Storey, R. & Lewchuk, W. (2000) *From dust to DUST to dust: Asbestos and the struggle for worker health and safety at Bendix Automotive*. *Labour/Le travail*. 45: 103-140; Firth, M., Brophy, J. & Keith, M. (1997) *Workplace roulette: Gambling with cancer*. Toronto: Between the Lines; Kotelchuck, D. (1989) *Asbestos: The funeral dress of kings—and others*, in Rosner, D. & Markowitz, G. (eds.), *Dying for a living: Workers' safety and health in twentieth-century America*. Bloomington: Indiana University Press: 192-207; Nugent, A. (1989) *The power to define a new disease: Epidemiological politics and radium poisoning*, in Rosner, D. & Markowitz, G. (eds.), *Dying for a living: Workers' safety and health in twentieth-century America*. Bloomington: Indiana University Press: 177-191; Epstein, S. (1998) *The politics of cancer revisited*. New York: East Ridge Press.
- 8 For example, see Cree, M., Lalji, M., Jiang, B. and Carriere, K. (2009) *Under-reporting of compensable mesothelioma in Alberta*. *American Journal of Industrial Medicine*. 52(7): 526-533.
- 9 This assertion is axiomatic among practitioners. Relatively few studies examine this phenomenon, but there is support for the assertion. See Blessman, J. (1991) *Differential treatment of occupational disease v occupational injury by workers' compensation in Washington state*. *Journal of Occupational Medicine*. 33(2): 121-126; Leigh, P. and Robbins, J. (2004) *Occupational disease and workers' compensation: Coverage, costs and consequences*. *The Milbank Quarterly*. 82(4): 689-721.

- 10 Del Bianco, A. & Demers, P. (2013) Trends in compensation for deaths from occupational cancer in Canada: A descriptive study. *Canadian Medical Association Journal*. 1(3): E1-E6.
- 11 Takala, J. (2005) XVIIth World Congress on Safety and Health at Work, ILO introductory report. Orlando: International Labour Organisation; Steenland, K., Burnett, C., Lalich, N., Ward, E. & Hurrell, J. (2003) Dying for work: The magnitude of US mortality from selected causes of death associated with occupation. *American Journal of Industrial Medicine*. 43(5): 461-82; Proctor, R. (1995) *Cancer wars*. New York: Basic Books; Epstein. *The politics of cancer*.
- 12 Barnetson. *The political economy of workplace injury in Canada*.
- 13 Canada. (2012) *2011 Census of Agriculture*. Ottawa: Statistics Canada. An acre is 43,560 square feet (about 91% of a football field minus the ends zones) so 1168 acres is 50,870,080 square feet or about 1000 football fields.
- 14 Alberta. (2013) *Agriculture Statistics Yearbook 2012*. Edmonton: Alberta Agriculture and Rural Development.
- 15 Canada. (2007) *Selected Historical Data from the Census of Agriculture*. 95-632-XWE. Ottawa: Statistics Canada; Canada, 2011 *Census of Agriculture*.
- 16 Canada, 2011 *Census of Agriculture*. This data, derived from the federal *Agricultural Census*, indicates there were 15,598 year-round and 22,254 part year work in 2011 (see Alberta (2013) *Industry Profiles: Agricultural Industry*. Edmonton: Department of Enterprise and Advanced Education).
- 17 *Employment and Social Development Canada*. (2014) *Labour Market Opinion Annual Statistics*. Ottawa: Author.
- 18 Alberta. (2013) *Agriculture Statistics Yearbook 2012*. Edmonton: Alberta Agriculture and Rural Development.
- 19 Alberta. (2013) *Industry Profiles: Agricultural Industry*. Edmonton: Department of Enterprise and Advanced Education. Farm workers' wages averaged \$18.19 per hour in 2012 which is well below the average Alberta wage of \$26.70 per hour.
- 20 Vosko, L. (2006) *Precarious employment: Towards an improved understanding labour market insecurity*, in Vosko, L. (ed.) *Precarious employment: Understanding labour market insecurity in Canada*. Montreal: McGill-Queen's University Press: 3-42 (p.6); Quinlin, M. (1999) *The implication of labour market restructuring in industrialized societies for occupational health and safety*. *Economic and Industrial Democracy*. 20: 427-460; Quinlin, M. & Mayhew, C. (1999) *Precarious employment and workers' compensation*. *International Journal of Law and Psychiatry*. 22(5-6): 491-520; Quinlin, M., Mayhew, C. & Bohle, P. (2001) *The global expansion of precarious employment, work disorganization and consequences for occupational health: A review of recent research*. *International Journal of Health Services*. 31(2): 335-414; Lewchuck, W., Clarke, M. & de Wolff, A. (2011) *Working without commitments: The health effects of precarious employment*. Montreal: McGill-Queen's University Press; Lewchuk, W., de Wolff, A., King, A. & Polanyi, M. (2006) *The hidden costs of precarious employment: Health and the employment relationship*, in L. Vosko, (ed.) *Precarious employment: Understanding labour market insecurity in Canada*. Montreal: McGill-Queen's University Press: 141-162; Probst, T., Barbaranellu, C. & Petitta, L. (2013) *The relationship between job insecurity and accident under-reporting: A test in two countries*. *Work & Stress*. 27(4): 383-402.

- 21 Employment Standards Code, RSA 2000, c E-9; Employment Standards Regulation, Alta Reg 14/1997
- 22 Labour Relations Code, RSA 2000, c L-1, section 4(2)(e).
- 23 Pickett, W., Hartling, L., Brison, R. & Guernsey, J. (1999) Fatal work-related farm injuries in Canada, 1991-1995. *Canadian Medical Association Journal*. 160: 1843-1848. One of the reasons good data on agricultural injuries is hard to come by is because such data is almost always drawn from workers' compensation claims. By excluding farmworkers from workers' compensation, the government of Alberta eliminates evidence that can be used to argue for greater injury prevention or compensation efforts.
- 24 Centers for Disease Control and Prevention. (2014) Agricultural Safety. Retrieved from <http://www.cdc.gov/niosh/topics/aginjury/>, November 2014; Hovey, J. & Magana, C. (2002) Psychosocial predictors of anxiety among immigrant Mexican migrant farmworkers: Implications for prevention and treatment. *Cultural Diversity and Ethnic Minority Psychology*. 8L, 274-289; Sakala, C. (1987) Migrant and seasonal farm workers in the United States: A review of health hazards, status and policy. *International Migration Review*. 21: 659-687.
- 25 Hennerbry, J. (2010) Not just a few bad apples: Vulnerability, health and temporary migration in Canada. *Canadian Issues/Themes Canadiens*. Spring: 73-76; Otero, G. & Preibisch, K. (2010) Farm worker health and safety: Challenges for British Columbia. Burnaby: Simon Fraser University; Anthony, M., Williams, J. & Avery, A. (2008) Health needs of migrant and seasonal farm workers. *Journal of Community Health Nursing*. 25: 153-160; Arcury, T. & Quandt, S. (2007) Delivery of health services to migrant and seasonal farmworkers. *Annual Review of Public Health*. 28: 345-363; Arcury, T., Quandt, S., Cravey, A., Elmore, R. & Russell, G. (2001) Farmworker reports of pesticide safety and sanitation in the work environment. *American Journal of Industrial Medicine*. 39: 487-498; Hansen, E. & Donohue, M. (2003) Health issues of migrant and seasonal farm workers. *Journal of Healthcare for the Poor and Underserved*. 14: 153-164.
- 26 Mills, P., Dodge, J. & Yang, R. (2009) Cancer in migrant and seasonal hired farm workers. *Journal of Agromedicine*. 14(2): 185-191; Blair, A. & Freeman, L. (2009) Epidemiological studies in agricultural populations: Observations and future directions. *Journal of Agromedicine*. 14(2): 125-131; Blair, A. & Zahm, S. (1995) Agricultural exposures and cancer. *Environmental Health Perspectives*. 103(8): 205-208; Fincham, S., Hanson, J. & Berkel, J. (1992) Patterns and risks of cancer in farmers in Alberta. *Cancer*, 69: 1-16.
- 27 Occupational Health and Safety Act, RSA 2000, c 23; Farming and Ranching Exemption Regulation, Alta Reg 27/95
- 28 Workers' Compensation Regulation, Alta Reg 325/2002
- 29 Workers' Compensation Act, RSA 2000, c W-15; Workers' Compensation Regulation, Alta Reg 325/2002
- 30 There is no agreed upon data on coverage for farm workers in Alberta. In 2011, there were 1298 farms with coverage for 2820 workers. If the farm worker population was 37,852 (as per the federal Agricultural Census), this yields a coverage rate of approximately 7.5%. Workers' Compensation Board. (2014) Industry Synopsis: Farming Operations. Edmonton: Author. This conclusion should be used with caution due to potential inconsistencies in data definitions. The number of farms and workers covered has increased since 2011.
- 31 Canadian Press. Kevan Chandler killed in grain elevator: Alberta family gets compensation six years later. *Huffington Post*. November 1, 2012. http://www.huffingtonpost.ca/2012/11/01/kevan-chandler-killed-grain-elevator-compensation_n_2061473.html

- 32 Barnetson, B. (2013) The most unsafe workplace in Alberta: Why farm workers have so few rights or protections. *Alberta Views*. 16(4): 28-32.
- 33 Barnetson. The political economy of workplace injury in Canada.
- 34 Barnetson, B. (January 21, 2013) Movement on farm safety. Retrieved from <http://albertalabour.blogspot.ca/2013/01/movement-on-farm-safety.html>, June 2014.
- 35 Barnetson, B. (2013) More on mandatory WCB for Alberta farm workers. Retrieved from <http://albertalabour.blogspot.ca/2013/10/more-on-mandatory-wcb-for-alberta-farm.html> June 2014.
- 36 Employment and Social Development Canada. (2014) Labour Market Opinion Statistics. Ottawa: Author.
- 37 Canada. (2013) Table 10a. Number of temporary foreign worker positions on positive labour market opinions under agricultural occupations, by location of employment. Ottawa: Human Resources and Skills Development Canada.
- 38 Employment and Social Development Canada. (2013) Hiring Seasonal Agricultural Workers. Ottawa: Author.
- 39 Danysk, C. (1995) *Hired hands: Labour and the development of prairie agriculture, 1880-1930*. Toronto: University of Toronto Press.
- 40 Alberta. (2008) Alberta Hansard, November 19.
- 41 Alberta. (2010) Alberta Hansard, March 15.
- 42 Alberta. (2006) Alberta Hansard, May 18.
- 43 Alberta. (2011) Alberta Hansard, March 15.
- 44 WCB. (2011) Worker Fact Sheet: Firefighters with Cancer. Edmonton: Workers' Compensation Board. Firefighters are currently granted presumptive status for primary site brain, bladder, ureter, kidney, colorectal, lung (in non-smokers), testicular, esophageal, prostate, skin, and breast cancers, as well as multiple myeloma, primary leukemia, and primary non-Hodgkin's lymphoma.
- 45 Ibid.
- 46 Pukkala, E., Martinsen, J., Weiderpass, E., Kjaerheim, K., Lynge, E., Tryggvadottir, L., Sparen, P. & Demers, P. (In Press) Cancer incidence among firefighters: 45 years of follow-up in five Nordic countries. *Occupational and Environmental Medicine*. doi:10.1136/oemed-2013-101803; Bates, M. (2007) Registry-based case-control study of cancer in California firefighters. *American Journal of Industrial Medicine*, 50(5): 339-34; Guidotti, T. (2007) Evaluating causality for occupational cancers: The example of firefighters. *Occupational Medicine (London)*, 57(7): 466-471; LeMasters, G., Genaidy, A., Succop, P., Deddens, J., Sobeih, T., Barriera-Viruet, H., Dunning, K. & Lockey, J. (2006) Cancer risk among firefighters: A review and meta-analysis of 32 studies. *Journal of Occupational & Environmental Medicine*. 48(11): 1189-1202.
- 47 WorkSafeBC. 2004. Firefighters and Certain Cancers. Vancouver: Author.
- 48 AWCBC. (2012) Firefighter Presumptions. Toronto: Association of Workers' Compensation Board of Canada. Alberta's 2003 legislation named seven cancers, with seven more following in 2005, 2010, and 2011.

- 49 Barnettson, B. (2014) 'Fortis et liber' unless you are a farm worker: Farmworkers, firefighters and workers' compensation exceptionalism in Alberta, Canada. *Journal of Workplace Rights*. 18(1): In press. The 2003 arguments were reprised verbatim when presumptive coverage was expanded to other cancers as well as part-time and volunteer firefighters in 2010 and 2011. The consistency of the narratives used each time was striking and exemplars set out below have been selected from 2003, 2010, and 2011 debates.
- 50 Alberta. (2003a) Alberta Hansard, March 3.
- 51 Alberta. (2003) Alberta Hansard, March 3.
- 52 Alberta. (2010) Alberta Hansard, March 22.
- 53 Alberta. (2010) Alberta Hansard, March 15.
- 54 Alberta. (2003) Alberta Hansard, March 3.
- 55 Alberta. (2003) Alberta Hansard, March 3.
- 56 Alberta. (2003) Alberta Hansard, March 3.
- 57 Alberta. (2010) Alberta Hansard, March 15.
- 58 Braedley, S. (2009) A ladder up: Ontario firefighters' wages in neoliberal times. *Just Labour* 14: 129-149.
- 59 Guidotti, T. (2003) Presumption for selected cancers and occupation as a firefighter in Manitoba: The rationale for recent Canadian legislation on presumption. *International Journal of Risk Assessment and Management*, 4(2/3): 245-259; Foster, J. personal communication, May 2013. Former policy director, Alberta Federation of Labour.
- 60 Alberta. (2003) Alberta Hansard, March 3. Alberta. (2003) Alberta Hansard, April 7.
- 61 Barnettson, B. (2009) The regulatory exclusion of agricultural workers in Alberta. *Just Labour*. 14: 50-74.
- 62 Johnscrude, L. (2010) The value of your vote: Rural votes are worth up to three times as much as urban votes. *Alberta Views*. 13(2): 26-33; Thomson, G. (March 22, 2008) First shot fired in battle of electoral boundaries. *Edmonton Journal*; Archer, K. (1993) Conflict and confusion in drawing constituency boundaries: The case of Alberta. *Canadian Public Policy*. 19(2): 177-193.
- 63 Alberta. (2012). Summary of Results by Electoral Division, 1982-2012. Edmonton: Elections Alberta. Ridings were categorized by the researcher as urban or rural, based upon an examination of riding boundaries. The utility of this admittedly crude categorization is that it provides an accessible way to consider the electoral impact of the rural-urban dynamic evident to observers of Alberta politics. The drawback of this approach is that it assumes a degree of voter uniformity within ridings. On balance, the risks associated with the generalization are outweighed by the analytical utility of being able to (however crudely) quantify the electoral power and tendencies of rural Alberta.

- 64 Epp, R. (2001) The political de-skilling of rural communities, in R. Epp and D. Whitson, (eds.), *Writing Off the Rural West: Globalization, Governments, and the Transformation of Rural Communities*. Edmonton: The University of Alberta Press: 301-324; Larsen, K. (2005) Alberta's thirty year war against the family farm, in T. Harrison, (ed.), *The Return of the Trojan Horse: Alberta and the New World (Dis) order*. Toronto: Black Rose Books: 190-212; Neitsch, A. (2011) *Political monopoly: A study of the Progressive Conservative Association in rural Alberta 1971-1996*. Doctoral Thesis, University of Ottawa; Wilson, B. (1995) *Cultivating the Tory electoral base: Rural politics in Ralph Klein's Alberta*, in T. Harrison and G. Laxer, (eds.), *The Trojan Horse: Alberta and the Future of Canada*. Montreal: Black Rose Books: 61-69.
- 65 Alberta. (2009) *Alberta's Rural Development Strategy: 2009 Update Report*. Edmonton: Department of Agriculture and Rural Development.
- 66 Alberta. (2011) *The Alberta Rural Physician Action Plan*. Edmonton: Agriculture and Rural Development.
- 67 Alberta. (No date) *Seeing Success: Increasing Learning Opportunities in Rural Communities*. Edmonton: Agriculture and Rural Development.
- 68 Alberta. (2011) *Rural Connections: Community Broadband Infrastructure Pilot Program Approved Projects*. Edmonton: Agriculture and Rural Development.
- 69 Alberta. (2011) *Programs and Services for All Audiences*. Edmonton: Agriculture and Rural Development.
- 70 Roy, D., Klein, K. & Klvacek, T. (2006) *The losses in the beef sector in Canada from BSE*. Guelph: Canadian Agricultural Trade Policy Research Network; Urban Renaissance Institute. (2002) *Agricultural subsidies in Canada, 1991-2001*.
- 71 Buchanan, F. (August 21, 2014) "Farm worker advocates call for safety rules, workers' compensation to govern farm industry," *Edmonton Journal*.
- 72 Barnetson. *The political economy of workplace injury in Canada*.
- 73 *Employment and Social Development Canada. Hiring Seasonal Agricultural Workers*.
- 74 Canada. (1982) *Canadian Charter of Rights and Freedoms*. Ottawa: Author.
- 75 Medeiros, N. & McIntyre, R. (2014) *The constitutionality of the exclusion of farm industries under the Alberta Workers' Compensation Act*. Retrieved from <http://ablawg.ca/2014/05/14/the-constitutionality-of-the-exclusion-of-farm-industries-under-the-alberta-workers-compensation-act/> May 2014. Such a challenge would need to engage whether the resulting deprivation is arbitrary, overbroad, and grossly disproportional. Both the ss.7 and 15 challenges would also need to withstand a likely government argument that these violations can be reasonably justified in a free and democratic society (s.1). The key impediment to this strategy is mostly one of cost and delay, but the prospect of a court victory by farm workers may pressure the government to preemptively amend its legislation.
- 76 Canada. *Canadian Charter of Rights and Freedoms*.
- 77 Medeiros & McIntyre, *The constitutionality of the exclusion of farm industries under the Alberta Workers' Compensation Act*.

- 78 Concurring opinions in *Dunmore v Ontario (Attorney General)*, 2001 SCC 94 and *Ontario (Attorney General) v Fraser*, 2011 SCC 20 provided differing views as to whether occupational status as an agricultural worker is a protected ground, thus the facts of any challenge will be an important factor in the outcome of a challenge.
- 79 *Danysk, Hired hands*.



1-12 Humanities Centre
University of Alberta
Edmonton, Alberta
T6G 2E5
Phone: 780.492.8558
Email: parkland@ualberta.ca
Website: www.parklandinstitute.ca

ISBN 978-1-894949-46-0