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# Occupational Health and Safety for Workers in Precarious Job Situations: Combating Inequalities in the Workplace<sup>1</sup>

Sylvie Gravel and Jessica Dubé \*

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**Abstract.** This paper summarises the findings of a project comprising a research component and a component of social mobilisation on protecting the occupational health and safety (OHS) of workers in precarious job situations. Three worker categories were studied: workers hired through recruitment agencies, temporary foreign workers (TFW) and workers in small non-unionized businesses (SB). This article is comprised of three sections. The first section defines the theoretical framework of cumulative precariousness among workers, including immigrant workers. The second section summarises the main highlights of a review of the literature (> 200 documents) on the health of workers hired through recruitment agencies, temporary foreign workers (TFW) and workers in small non-unionized businesses (SB). The third section outlines the mobilisation capabilities of stakeholders (80 experts) in the areas of OHS, immigration and employability to transform preventive practices. We have observed that these three categories of workers cumulate the risks of exposure to work-related injuries, but that the preventive OHS practices in effect are inequitable and not adapted for these workers, who bear the brunt of the flexibility needs of the job market.

**Keywords:** *Precarious Employment, Occupational Health and Safety, Temporary Employment Agency Workers, Temporary Foreign Workers, Small Non-unionized Business Workers.*

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<sup>1</sup> This project was conducted with the financial support of the Society and Health Institute, the Léa-Roback Research Centre on Social Inequalities in Health of Montreal and the Montreal Public Health Department.

## 1. Cumulative Precariousness among Immigrant Workers

Concern with precarious employment and its consequences on worker health is not new. Despite a certain consensus on the nature of precariousness, its definition varies from one author to another. For some, precariousness is linked to an absence of stable jobs and long-term contracts. Others point to insufficient, unfair or inequitable remuneration. Finally, other authors link precariousness to the social status of workers, to their rights as women, youths, immigrants or seniors. These definitions are wide-ranging, as is the analysis of their effects. Without undertaking an exhaustive review of these definitions, some authors are important to an understanding of the complexity of the concept.

In 1989, Rodgers and Rogers<sup>2</sup> defined four elements of precarious employment: a) job insecurity; b) low individual and collective control over working conditions, pay and hours worked; c) poor worker protection: social protection, unemployment insurance and protection against discrimination; d) insufficient income and the economic obligations of workers. Numerous studies have since used this definition of precarious employment in their study of worker health. Thus, in 2000, at the request of the European Union, Quinlan et al.<sup>3</sup> conducted a meta-analysis of the effects of the growth in precarious jobs and the globalisation of the labour market on the OHS of workers. These authors found that many studies reached the same conclusions<sup>4</sup>:

- there is a very strong correlation between precarious employment and OHS indicators;
- 90% of the studies in question drew a negative correlation between job insecurity and worker health;
- there is a very strong correlation between temporary workers and poor OHS practices;
- there is very strong evidence of a link between small businesses and poor OHS preventive practices;

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<sup>2</sup> G. Rodgers, J. Rodgers J. *Precarious Jobs in Labour Market Regulation : The Growth of Atypical Employment in Western Europe*. 1989. Brussels : International Institute of Labour Studies, Free University of Brussels

<sup>3</sup> M. Quinlan, J.M. Mayhew P.Bohle P. *Contingent work : health and safety perspectives or global expansion of precarious employment, work disorganisation and occupational health : a review of recent research*. Paper presented to the European Union Research Workshop, Dublin, May 22-23, 2000.

<sup>4</sup> B. Barrett, M. Sargeant. The Health, Safety and Well-being of Vulnerable Workers. In M. Sargeant, M.Giovannone. *Vulnerable Workers; Health Safety and Well-being*. Gower Applied Research; 2011, Chapter 1 : 2-20.

- the link between part-time work and OHS practices is not as clear as in the above instances;
- women more often occupy precarious jobs and are especially vulnerable to the consequences of precariousness on their health.

The definition of Rogers et al. and the conclusions of Quinlan et al., and Lewchuk et al.<sup>5</sup> on the effects of precarious work on health were used by the Law Commission of Ontario, which stated that:

Precarious work is characterized by job instability, lack of benefits, low wages, and the extent of control over the situation. Such work is possibly subject to greater risk of injury and ill health [...]. Therefore, vulnerability in this context refers not to the workers themselves but to the situation facing them, because they occupy a precarious job and due to disadvantages associated with gender, immigration, ethnicity and other characteristics. [...] Precarious work affects other aspects of their lives, which are not work-related. Precarious work leads to a greater risk of accidents and illness, stress and difficulties in obtaining medical treatment<sup>6</sup> (our translation).

As the LCO observes, vulnerability is not a characteristic that is intrinsic to individuals themselves, but to the compounding of disadvantageous or devastating circumstances. Yet the migratory experience and professional integration, themselves the source of numerous disadvantageous situations, all too often lead to cumulative precariousness, as several authors who link the job insecurity of immigrants with the global economic context have shown<sup>7,8,9,10</sup>. These authors hold that the 2008 economic crisis accelerated the deterioration of labour standards and their

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<sup>5</sup> W. Lewchuk, M. Clarke, A. Wolff A. *Working without Commitments; The Health Effects of Precarious Employment*. McGill-Queen's University, 2011..

<sup>6</sup> Law Commission of Ontario /Commission de l'Ontario. 2012. Travailleurs vulnérables et travail précaire (p.1). <http://www.lco-cdo.org>. accessed 16-06-2016.

<sup>7</sup> P. James, D. Walters. Supply Chains and the Protection of Vulnerable Workers. In Sargeant M, Giovannone M. *Vulnerable Workers; Health Safety and Well-being*. Gower Applied Research; 2011, Chapter 3: 57-74.

<sup>8</sup> E. Q. Ahonen, F.G. Benavides, J. Benach. Immigrant populations, work and health - a systematic literature review. *Scandinavian Journal of Work, Environment and Health*. 33, n.º2, 2007, 96-104.

<sup>9</sup> J. Benach, C. Muntaner, H. Chung, F.G. Benavides. Immigration, Employment Relations, and Health: Developing a Research Agenda. *American Journal of Industrial Medicine*, n.º.53, 2010, 338-343.

<sup>10</sup> EU-OSHA. *Literature Study on Migrant Workers*. Bilbao: European Agency for Safety and Health at Work (EASHW), European Risk Observatory. 2006.

application and increased migratory movement. These favour job insecurity, as seen in a) the replacement of regular by temporary jobs, b) the outsourcing of jobs, c) work intensification and d) lower wages. The impact of these changes has been largely born by the immigrant workforce.

According to the OECD<sup>11,12</sup>, the effects of job precariousness are first seen in the income gap between the wealthiest populations and the precarious situation of workers due to wage disparities. For example, in Canada, pay differentials between a temporary employee and a regular employee for a 40-hour workweek in 2014 was around \$12,000 CDN per year<sup>13</sup>. Job uncertainty impoverishes workers, and like the other Canadian provinces, Québec is not exempt from such job insecurity<sup>14</sup>.

Some authors looked beyond the precariousness of employment, income and social status to examine precarious labour relations and worker health. According to Lewchuck et al.<sup>15</sup>, there are statistically significant links between job insecurity and stress due to unstable relationships, excessive efforts, ambiguous or inadequate supervision and the lack of support from coworkers or bosses. Those who must exert the greatest effort at establishing relations are usually subject to racial discrimination<sup>16</sup>.

Employment precariousness comports a range of different economic, social and legal components. Drawing on the work of all these authors, including<sup>17,18,19,20,21,22</sup>, we have based our model on the concept of

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<sup>11</sup> Organisation de coopération et de développement économique (OCDE). *Toujours plus d'inégalités : pourquoi les écarts de revenus se creusent*. 2011. <http://www.oecd.org/els/social/inegalite>.

<sup>12</sup> OECD. Overview of Inequality Trends, Key Findings and Policy Directions. In *It Together: Why Less Inequality Benefits All*. 2015. OECD Publishing, Paris. <http://dx.doi.org/10.1787/9789264235120-en>.

<sup>13</sup> B.DePratto, R. Bartlett. La précarité de l'emploi au Canada : au-delà de l'anecdote, des faits avérés? *Étude spéciale. Services économiques Banque Toronto-Dominion*, 2015, 25<sup>th</sup> march. [//www.td.com/francais/document/PDF/economics/special/PrecariousEmployment\\_fr.pdf](http://www.td.com/francais/document/PDF/economics/special/PrecariousEmployment_fr.pdf).

<sup>14</sup> M. Vézina, E. Cloutier, S. Stock, K. Lippel and al. *Enquête québécoise sur des conditions de travail, d'emploi et de santé et de sécurité du travail (EQCOTESST)*. Québec, Institut de recherche Robert-Sauvé en santé et sécurité du travail — Institut national de santé publique du Québec et Institut de la statistique du Québec, 2012, 59 à 158.

<sup>15</sup> *Ibidem* 5.

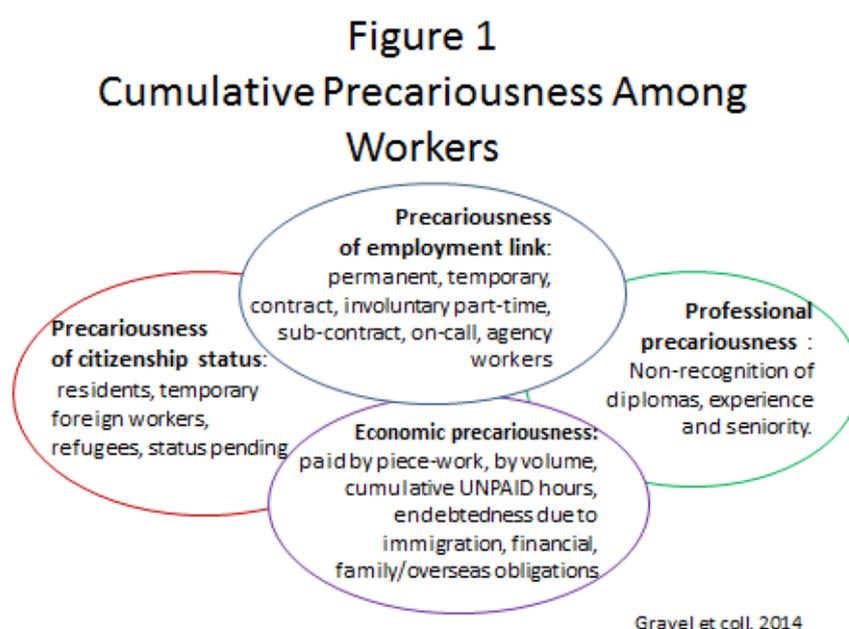
<sup>16</sup> *Ibidem* 5.

<sup>17</sup> *Ibidem* 2

<sup>18</sup> T. Basok. *Tortillas and Tomatoes: Transmigrant Mexican Harvesters in Canada*. McGill-Queen's University Press, 2012.

cumulative precariousness among immigrant workers. This concept covers four areas of precariousness: 1) job insecurity; 2) financial insecurity; 3) non-recognition of professional qualifications; 4) precarious citizenship status (see figure 1). Taking a different approach from several authors, we have recast these elements from the workers' viewpoint, according to their ability to determine the gap between their working conditions and those of regular workers, those they work alongside in the companies that hire them directly or through an intermediary.

Figure 1. Cumulative Precariousness among Workers



<sup>19</sup> M. Sargeant, E. Tucker. Layers of Vulnerability in Occupation Health and Safety for Migrant Workers: Case Studies from Canada and the United Kingdom. *Comparative Research in Law & Political Economy, Research*, 2009. Paper no 8, 51.

<sup>20</sup> A. Kosny, M. Lifshen, E. Maceachen, P. Smith, G.J. Jafri, C. Neilson, D. Pugliese, J. Shield. *Delicate Dances: Immigrant Workers' Experiences of Injury Reporting and Claim Filing*. 2011. Institute for Work and Health, Study Report; 38. [www.iwh.on.ca/system/files/documents/immigrant\\_workers\\_experiences\\_of\\_injury\\_reporting\\_and\\_claim\\_filing\\_2011.pdf](http://www.iwh.on.ca/system/files/documents/immigrant_workers_experiences_of_injury_reporting_and_claim_filing_2011.pdf). accessed 16-06-2016.

<sup>21</sup> *Ibidem* 3.

<sup>22</sup> *Ibidem* 6.

If we refer to the definition given by Rogers et al.<sup>23</sup> employment precariousness refers to high uncertainty regarding the length of the job and the lack of job security provided to workers by those who hire and pay them. Professional precariousness refers to poor worker protection (social, unemployment insurance and protection against discrimination) in Rogers et al.<sup>24</sup>, which is viewed by workers as non-recognition of their qualifications. Economic precariousness is linked to low individual and collective control over working conditions, pay and hours worked, and to low wages and economic vulnerabilities in Rogers et al., which workers experience as the disparity between their wages and their financial obligations. In our model, we include the integration of immigrant workers into the labour market and specifically ethnic or racial job discrimination, in concurrence with the findings of the LCO<sup>25</sup>.

The modest contribution of this model is to show that these elements combine to create a circular effect that renders workers, and in this case immigrant workers, invisible. While in this model, precariousness of status is closely linked to the context of migration, it could easily apply to the context of social insertion into the labour market. Likewise, women, young people, physically or mentally handicapped people and those reintegrating society following extended absence due to health, family problems or imprisonment could just as easily experience precariousness of social status due to some form of discrimination.

## **2. Highlights on the Health of Workers Hired Through Recruitment Agencies, Temporary Foreign Workers (TFW) and Workers in Small Non-Unionized Businesses (SB)**

In 2014-2015, a review of the literature on work-related health inequalities was conducted with funding from the Léa-Roback Research Centre on Social Inequalities in Health of Montreal. Our working premise was based on the following paradox. In view of the numerous scientific advances in OHS, we wanted to understand why a) the frequency and the gravity of injuries among workers in precarious job situations remain so high, and b) workers in precarious job situations also have such a hard time claiming compensation and obtaining rehabilitation when they are victims of

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<sup>23</sup> *Ibidem* 3.

<sup>24</sup> *Ibidem* 3.

<sup>25</sup> *Ibidem* 6.

occupational injuries. This failure led to the formulation of three questions that oriented the review of the scientific literature and the mobilisation of stakeholders.

- What are the mechanisms by which workers in precarious jobs are marginalized from OHS practices?
- How can these mechanisms be countered and adapted to the OHS conditions found in different kinds of precarious jobs?
- Which stakeholders can adapt the OHS practices and conditions found in different kinds of precarious jobs?

The objectives of the review of scientific literature were to:

- determine the production of job-related health inequalities<sup>26</sup> for three categories of workers having cumulative insecurities
- temporary employment agency workers
- temporary foreign low-skilled farm workers
- small non-unionized business (SB) workers (< 50 workers);
- identify recommendations for correcting these situations by improving or changing OHS practices and the application of OHS legislation;
- validate the pertinence and the feasibility of these recommendations.

A number of OHS and immigration search engines were used to review scientific papers, research reports and other legal documents based on keywords relative to the three categories of workers in question. More than two hundred scientific papers published between 2000 and 2014 were consulted. Eleven OHS experts on the pertinence and the feasibility of a series of recommendations found in the literature were invited to debate changing practices.

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<sup>26</sup> G. Baril-Gingras, S. Montreuil, P.S. Fournier. 2013. *La santé et la sécurité au travail, au cœur du travail et de l'emploi : un modèle intégrateur*, Presses de l'Université Laval, p. 1 to 8 in S. Montreuil et coll. 2013. *L'intervention en santé et en sécurité du travail : pour agir en prévention dans les milieux de travail*. Presses de l'Université Laval, 495 p.

### ***2.1. Highlights on the Health of Workers Hired Through Recruitment Agencies, Temporary Foreign Workers (TFW) and Workers in Small Non-Unionized Businesses (SB)***

Five observations can be made from the review of the literature on the three profiles of workers in question: temporary employment agency workers, TFW and non-unionized SB workers.

1) It is impossible in Canada to draw up an accurate health portrait of these three profiles of workers from public compensation or health records, because current methods of epidemiologic monitoring do not specify the employment or origins of these workers. A large number of exploratory studies have shown that temporary foreign workers, recruitment agency workers, sub-contract workers and on-call workers are highly exposed to workplace injuries due to their job conditions.

2) Where it is not possible to locate and identify these workers inside companies, physicians, nurses, industrial hygienists, audiologists and other OHS professionals cannot accord them any special attention. Even worse, in some cases, they are excluded from monitoring under the pretext that they are merely transitory workers.

3) Nothing in the existing OHS legislation excludes these three categories of workers. But these workers, mainly employed in non-priority sectors of activity (manufacturing, agriculture, services, hotels, etc.) in terms of OHS monitoring, are indirectly excluded from prevention activities. In Québec, there are four distinct prevention mechanisms under the Act Respecting Occupational Health and Safety (OHSA): a) form a health and safety committee; b) designate safety representatives; mandatory measures only for establishments having economic activities under categories<sup>27</sup> 1 and 2;

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<sup>27</sup> Group 1: building and public works, chemical industry, logging and sawmills, mines, quarries and oil wells, metal fabrication. Group 2: timber industry (except sawmills), rubber and plastics industry, transportation equipment manufacturing, primary metal manufacturing, fabrication of non metallic mineral products. Group 3: trade, leather industry, machinery manufacturing (except electric), tobacco industry, textile industry. Group 4: other business and personal services, communications, energy transport and other public services, printing, publishing and allied sectors, petroleum and coal products manufacturing, electrical products manufacturing. Group 5: agriculture, hosiery and clothing, education and related services, finances, insurance and real estate, medical and social services, hunting and fishing, other manufacturing industries, un-codified cases. "Twenty years after the adoption of the law [in 1979], the regulations on the joint

c) establish an internal health program; d) implement a prevention program; mandatory measures only for categories 1, 2 and 3. These are sectors that hire very few workers having these profiles.

4) The shared trait of these three worker categories is that they meet the requirements for high flexibility of businesses looking for ways to cut production costs.

5) Temporary employment agency workers and non-unionized SB workers come from an immigrant background, as do temporary foreign workers. The first two profiles are workers who seek to integrate the Canadian job market, which in fact discriminates against them.

## **2.2. Overexposure and Under-reporting to Occupational Injury Risks**

Two elements stand out concerning these three worker categories: overexposure to occupational injury risks and under-reporting of such risks. These were documented in exploratory studies in the absence of a clear portrait based on public OHS records<sup>28</sup>. In Quebec, the Institut de recherche Robert-Sauvé en santé et en sécurité du travail (IRSST) has shown that between 1995 and 1997, the occupational injury rate among temporary employment agency workers was 81.5% of equivalent full-time workers, a higher rate than that of the metal products manufacturing industry (44%, 2<sup>nd</sup> rank) and truck and bus bodywork (40%, 3<sup>rd</sup> rank)<sup>29</sup>. The manual workers hired by temporary employment agencies have an occupational injury rate that “is comparable to or even exceeds in some cases those in construction, lumbering and mines”<sup>30</sup>. Other studies

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committee and safety representative still were not enacted for all these groups. Moreover, 86.4% of workers are not covered under these provisions of the law.” <http://santesecurite.ftq.qc.ca/les-groupes-prioritaires-cest-quoi>.

<sup>28</sup> P. Prud’homme, M.A. Busque, P. Duguay, D. Côté. *Travailleurs immigrants et SST au Québec — État des connaissances statistiques et recension des sources de données*. Rapport R-890, 2015, 121 p. <http://www.irsst.qc.ca/media/documents/PubIRSST/R-890.pdf>. accessed 16-06-2016.

<sup>29</sup> F. Hébert, P. Duguay, P. Massicotte. *Les indicateurs de lésions indemnisées en santé et en sécurité du travail au Québec : analyse par secteur d’activité économique en 1995-1997*. Études et recherches, Rapport R-333, Montréal, IRSST, 2003, 229 p.

<sup>30</sup> P. Duguay, P. Massicotte, P. Prud’homme. *Lésions professionnelles indemnisées au Québec en 2000-2002; II - Tableaux de classement par activité économique*. Études et recherches, Rapport

conducted in the United States, Italy and France report similar findings. Temporary or transient workers have a higher occupational injury rate than their counterparts who have permanent jobs<sup>31,32,33</sup>.

As is the case for temporary employment agency workers, analysis of the exposure of TFW to occupational injuries is difficult to document. It is based exploratory studies or data from medical consultations. An injured TFW would have a slim chance of being rehired the following year, a context that too often leads to under-reporting of injuries<sup>34,35,36,37</sup>. However, the mobile health clinics in rural Ontario have shown that TFW mainly consult for musculoskeletal problems, some injuries caused by handling pesticides (eye problems, skin reactions, respiratory and gastrointestinal disorders), thermal reactions due to heatstroke in summer and frostbite early and late in the season, and psychological distress due to being separated from their families<sup>38,39,40</sup>. Even if all TFW were to report

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R-548, Montréal, IRSST, 2008, 23-23.  
<http://www.irsst.qc.ca/media/documents/PubIRSST/R-548.pdf>. accessed 16-06-2016.

<sup>31</sup> C. Smith, B. Silverstein, D.K. Bonauto, D. Adams, Z.J. Fan Temporary Workers in Washington State. *American Journal of Industrial Medicine*, 2010, 53: 135-145.

<sup>32</sup> B. Fabiano, F. Curro, A.D. Reverberi, R. Pastorino. A Statistical Study on Temporary Work and Occupational Accidents: Specific Risk Factors and Risk Management Strategies. *Safety Science*, n.°44, 2008, 535-544.

<sup>33</sup> C. Grusenmeyer. *Les accidents liés à la sous-traitance : exploitation de la base de données Épicéa*. Note scientifique et technique. 2007. NS 266, INRS, 121 p.  
<http://www.inrs.fr/inrs/recherche/etudes-publications-communications/doc/publication.html?refINRS=NOETUDE%2F4653%2FNS%2026>.

<sup>34</sup> S. Gravel, F. Villanueva, S. Bernstein, J. Hanley. Les mesures de santé et sécurité au travail auprès des travailleurs étrangers temporaires dans les entreprises saisonnières. *Revue PISTES*, 2 n.° 16, 2014, 1-22.

<sup>35</sup> J. Hennebry. Not Just a Few Bad Apples: Vulnerability, Health and Temporary Migration in Canada. *Canadian Issues /Thèmes canadiens*; Spring/printemps. 2010, 73-77.  
[http://www.edsc.gc.ca/fra/emplois/travailleurs\\_etrangers/reform/Reform\\_PTET.pdf](http://www.edsc.gc.ca/fra/emplois/travailleurs_etrangers/reform/Reform_PTET.pdf). accessed 16-06-2016.

<sup>36</sup> M. Amar, G. Roberge, A. LaRue, L. Gélinau, Y. Leanza Y. *Les travailleurs agricoles migrants mexicains et guatémaltèques de l'Île-d'Orléans*. CSSS de la Vieille-Capitale/Centre affilié universitaire, 2009. 80 p. <http://www.csssvc.qc.ca/telechargement.php?id=655>.

<sup>37</sup> J. Hanley, S. Gravel, K. Lippel, J. Koo. Pathways to Healthcare for Migrant Workers: How Can Health Entitlement Influence Occupational Health Trajectories? *Revue PISTES*, 2 n.°16, 2014, 1-18.

<sup>38</sup> M. Pysklywec, J. McLaughlin, M. Tew, T. Haines. 2011. Practice—Doctors Within Borders: Meeting the Health Care Needs of Migrant Farm Workers in Canada. *CMAJ*, 2011. p. 1 à 5.  
<http://www.cmaj.ca/content/183/9/1039?related-urls=yes&legid=cmaj;183/9/1039>. accessed 16-06-2016.

<sup>39</sup> *Ibidem* 34.

their injuries, these findings cannot be confirmed through a systematic analysis of occupational injuries among TFW, because the TFW are not identified as such in the public records.

The workers hired by SB, like temporary employment agency workers and TFW, are exposed to the risks of occupational injuries because they are assigned to arduous tasks. According to some authors, only serious injuries are reported by SB. Employers would rather offer workers temporary leave for minor injuries and assume the costs of an absence<sup>41,42,43</sup>. This would explain the differences between the frequency and gravity rates between injuries observed in SB and major companies. According to Duguay et al.<sup>44</sup>, average compensation for injury lasts 116 days in SB and 64 days in medium to large businesses.

Under-reporting of injuries among these three worker categories is so widespread as to raise serious criticisms of the fair application of OHS standards. This is even more troubling in light of the increased popularity of using agencies and TFW to meet manpower requirements. In the province of Québec, according to the authors, there are an estimated 1,200 agencies of all types<sup>45,46,47</sup>. In Ontario, there are over 1,300 agencies

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<sup>40</sup> J. McLaughlin. Migration and Health: Implications for Development—A Case Study of Mexican and Jamaican Migrants in Canada's Seasonal Agricultural Workers Program. *Policy Paper*, October 2009, 1-16.

<sup>41</sup> D. Champoux, R. Baril, A. Beauvais, J.P. Brun. L'environnement des petites entreprises en santé et en sécurité du travail : tour d'horizon des résultats de la recherche et des enjeux particuliers en contexte québécois. *L'intervention en santé et en sécurité du travail : pour agir en prévention dans les milieux de travail*. Montreuil, Fournier, Baril-Gingras (éds.), Québec, Presses de l'Université Laval, 2013, 14-27.

<sup>42</sup> D. Champoux, J.P. Brun. OSH Practices and Interventions in Small Businesses: Global Issues in the Québec Context. *Policy and Practice in Health and Safety*, n.º 1, 2015, 47-64.

<sup>43</sup> S. Gravel, D. Vergara, J. Dubé, J.F. Ducharme-Varin, G. Legendre, K. Lippel. *Santé et sécurité des travailleurs qui cumulent des précarités : la lutte aux inégalités de santé attribuables au travail*. Rapport de recherche, Centre Léa-Roback sur les inégalités sociales de santé de Montréal, 2016. <https://iss.uqam.ca/upload/files/05-04-2016-Rapport-SGravel.pdf>.

<sup>44</sup> P. Duguay, A. Boucher, M.A. Busque P. Prud'homme, D. Vergara. *Les indicateurs de lésions professionnelles indemnifiées : analyse par industrie et catégorie professionnelle, Québec, 2005-2007*. Études et recherches, Rapport R-749, Montréal, IRSST, 2012. <http://www.irsst.qc.ca/media/documents/PubIRSST/R-749.pdf>. accessed 16-06-2016.

<sup>45</sup> J. Bernier. *L'industrie des agences de travail temporaire : Avis sur une proposition d'encadrement*, *Cahier de transfert CT-2011-001*, ARUC, Université Laval.

<sup>46</sup> Centre des travailleurs et travailleuses immigrants. *Le lancement l'Association des travailleurs et travailleuses temporaires d'agence*. 2011. <http://iwc-cti.ca/fr/launch-of-the-temporary-agency-worker-association>.

<sup>47</sup> Direction de la santé publique de Montréal. Traitement spécial des données du fichier du Réseau de santé et sécurité au travail de l'île de Montréal sur le nombre

employing close to 700,000 workers<sup>48</sup>. The same applies to TFW, from 2002 to 2013, hiring of these workers increased 264%, to the point where temporary immigration, primarily of unskilled workers, exceeded permanent immigration<sup>49,50,51</sup>.

### 2.3. Inequitable Preventive OHS Practices

For each of these three worker profiles, preventive OHS practices are inadequate for different reasons. Temporary employment agency workers in Québec have a three-way relationship involving the agency, the client company and the worker, which leads to confusion concerning OHS accountability. According to the 40 agency workers in Québec canvassed by Dubé et al.<sup>52</sup> (2014), most of the basic preventive OHS practices, such as task initiation, training on risks, emergency measures and the use of individual protection equipment, are largely unknown or unavailable. Few agency workers had been advised of their rights (right of refusal, to compensation, etc.) and of the risks they were exposed to in the client business. Supervisors seldom went to the client company. Only specialised services agencies, such as nursing care, security officers or truck drivers conducted a prior risk characterisation for the client company.

The same goes for TFW; they don't clearly understand their rights or hesitate to exercise them, and are not very familiar with preventive practices<sup>53,54,55</sup>. Farms and other seasonal enterprises are not included in

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d'établissements étant des bureaux de placement de personnel et des services de location de personnel et le nombre de travailleurs déclarés à la CSST. 2015.

<sup>48</sup> Ministry of Labour Ontario. *A consultation paper on work through temporary help agencies*. The association of management, administrative and professional crown employees of Ontario, 2008.

<sup>49</sup> Citizenship and Immigration Canada / Citoyenneté et immigration Canada (CIC). *Faits et chiffres 2012 — Aperçu de l'immigration : résidents temporaires*. 2012. <http://www.cic.gc.ca/francais/ressources/statistiques/faits2012-preliminaire/04.asp>. accessed 16-06-2016.

<sup>50</sup> Statistique Canada. *Bulletin de service - Services d'emploi 2011*. 2012, No 63-252-X. <http://www.statcan.gc.ca/pub/63-252-x/63-252-x2013001-fra.pdf>.

<sup>51</sup> Government of Canada /Gouvernement du Canada. *Réforme globale du programme des travailleurs étrangers temporaires : Les Canadiens d'abord*. Canada. 2014. WP-191-06-14F.

<sup>52</sup> D. Dubé, S. Gravel. Les pratiques préventives auprès des travailleurs d'agences de location de personnel temporaire ou permanent : comparaison entre les travailleurs immigrants et non immigrants. *Revue PISTES*, no spécial : Travailleurs immigrants et santé et sécurité du travail, n.º 14, 2014, 16-2. <http://pistes.revues.org/3631>.

<sup>53</sup> S. Gravel, J. Rhéaume, G. Legendre. Faible participation des travailleurs immigrants aux mesures de santé et de sécurité au travail dans les petites entreprises. *Alterstice — Revue Internationale de la Recherche Interculturelle*, 2 n.º 2, 2012 : 63-78.

the priority sectors that are monitored by public health departments. They receive little support or guidance in adapting preventive practices to the cultural and linguistic reality of these workers, originating primarily from Central and South America<sup>56,57</sup>. This is even more disturbing given that hiring TFW continues to increase, as mentioned above<sup>58, 59,60</sup>.

Unlike temporary employment agencies, accountability for preventive OHS practices in non-unionized SB is not ambiguous. But, interventions are much longer and difficult because SB seldom have the means to put preventive OHS practices in place<sup>61</sup>. The costs are too high, the SB lack time, knowledge and adequate OHS management skills<sup>62</sup>. According to several authors, the solution would be to closely work with the SB during the first years of implementation, at a time when the company is more concerned with its commercial viability<sup>63,64</sup>.

In short, preventive OHS measures are not adapted to these three worker categories, even though they occupy a growing place in the labour market.

#### ***2.4. Indirect Exclusion by OHS Regulations and Orientations Concerning Prevention***

The three worker categories under study derive little benefit from preventive measures, even though none of the provisions of the OSHA Act Respecting Industrial Accidents and Occupational Diseases (IAODA)

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<sup>54</sup> *Ibidem* 35.

<sup>55</sup> *Ibidem* 40.

<sup>56</sup> S. Gravel, S. Bernstein, F. Villanueva, J. Hanley, D. Crespo, E. Ostiguy E. 2014. Cohabitation résidentielle et des métiers des travailleurs étrangers temporaires avec les travailleurs locaux dans les communautés rurales du Québec, le point de vue des employeurs. *Diversité Urbaine*, INRS-Culture. *Diversité urbaine*, 14 n.º 2, 2014, 97-122.

<sup>57</sup> *Ibidem* 49.

<sup>58</sup> *Ibidem* 49.

<sup>59</sup> *Ibidem* 50.

<sup>60</sup> *Ibidem* 51.

<sup>61</sup> *Ibidem* 26.

<sup>62</sup> R. Lancaster, R. Ward, P. Talbot, A. Brazier A. *Costs of Compliance with Health and Safety Regulations*. Entec UK Limited for the Health and Safety Executive, Rapport 174, 2003. <http://www.hse.gov.uk/research/rrpdf/rr174.pdf>. accessed 16-06-2016.

<sup>63</sup> S. Mélançon, M. Alarie. *Taux de survie des entreprises au Québec et taux de passage*. Québec, ministère de l'Industrie et du Commerce, Direction générale de la planification, Direction de l'analyse économique. 2001. <http://collections.banq.qc.ca/ark:/52327/bs59128>. accessed 16-06-2016.

<sup>64</sup> *Ibidem* 41.

prescribe any form of exclusion. It is the interpretations of these laws and their application by the administrative offices of health departments that lead to this form of indirect exclusion<sup>65</sup>. Current OHS measures are no longer adapted to today's job market; employers are looking not for a stable workforce, but for one that meets their criteria for flexibility in terms of size, scheduling, wages and versatility<sup>66, 67</sup>. Back in 2004, Lippel et al.<sup>68</sup> held that, as concerns self-employed workers, OHS legislation should be revised in light of the evolving labour market, and that the ways these workers are excluded from the overall system should be examined.

Employers that use the services of one of these three profiles of workers: temporary employment agency workers and their clients, seasonal enterprises (agricultural, horticultural or other) and SB, generally avoid application of one or another of the legal OHS requirements because of their small size (< 50 workers), which exempts them from the obligations to form a health and safety committee, name security representatives and implement a general and specific health program. They are required to comply with preventive measures when an emergency occurs, a context in which a reactive approach to accidents and illnesses prevails to the detriment of a preventive approach<sup>69</sup>.

For some people, changing practices means changing the paradigm of prevention, while for others, certain legislative modifications would serve the purpose, some raised the penalty for non-reporting or incitement to non-reporting from \$100,000 to \$500,000<sup>70,71</sup>. In Québec, unlike the other

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<sup>65</sup> L.F. Vosko. Less than Adequate: Regulating Temporary Agency Work in the EU in the Face of an Internal Market in Services. *Cambridge Journal of Regions, Economy and Society*, 2 n.º 3, 2009, 395-411.

<sup>66</sup> *Ibidem* 7.

<sup>67</sup> D. Mercure, M. Vultur. *La signification du travail. Nouveau modèle productif et ethos du travail au Québec*. Presses de l'Université Laval, 2010, EAN : 9782763790916.

<sup>68</sup> K. Lippel, S. Bernstein, K. Messing. *Travail atypique : protection légale des conditions minimales d'emploi et de la santé*. Université du Québec à Montréal, Rapport final soumis au FQRSC dans le cadre du programme d'Actions concertées — Le travail atypique, la mutualisation du risque, la protection sociale et les lois du travail. march 31, 2004. [http://www.crimt.org/Publications/Rapport\\_Lippel\\_Bernstein.pdf](http://www.crimt.org/Publications/Rapport_Lippel_Bernstein.pdf).

<sup>69</sup> *Ibidem* 41.

<sup>70</sup> Legislative Assembly of Ontario /Assemblée législative de l'Ontario. *Projet de loi 109, Loi de 2015 modifiant des lois en ce qui concerne l'emploi et les relations de travail*. 2015. [http://www.ontla.on.ca/web/bills/bills\\_detail.do?locale=en&BillID=3402](http://www.ontla.on.ca/web/bills/bills_detail.do?locale=en&BillID=3402). accessed 16-06-2016.

<sup>71</sup> K. Lippel, E. MacEachen, R. Saunders, N. Werhun, A. Kosny, L. Mansfield, C. Carrasco, D. Pugliese. Legal Protections Governing Occupational Health and Safety and Workers' Compensation of Temporary Employment Agency Workers in Canada:

Canadian provinces, an employer is not required to report an occupational injury to authorities unless the accident is especially severe (death, amputation, an accident involving more than one worker or an accident causing damages exceeding \$150,000, article 62 of the OHSA). In Québec today, this kind of financial incentive is still not enough to adapt preventive practices to the reality of a job market, at a time when companies are increasingly turning to temporary hires rather than a stable workforce.

### *2.5. Anonymous Workers within Companies*

In Québec, it is impossible to document the scope of the trend toward multiple hires from statistical data: permanent workers, workers from recruitment agencies, FTW, subcontract and on-call workers. Within the same company several groups of workers work side by side without necessarily belonging to the same unit, although they work at similar jobs, the OHS conditions are always distinct<sup>72</sup>.

Industrial health teams (IHT) attempt to identify the compound composition of the workforce within companies, but have no systematic information on job status. Some IHT professionals justify this situation by the approach adopted by public OHS authorities, which encourages them to focus on workstation-related risks, regardless of who is doing the job<sup>73</sup>. For example, workers from recruitment agencies are rarely included in workstation analyses, even though they have been working for the client company for six months. When they are, they are systematically absent from feedback on corrections made to the workstations in the months that follow. This is a situation that calls into question the efficacy of OHS interventions in companies that use such worker groups and of the means available for developing equitable approaches for workers who are all too often relegated to the shadows.

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Reflections on Regulatory Effectiveness. *Policy and Practice in Health and Safety*, 9 n.º2, 201, 69-90.

<sup>72</sup> S. Gravel, M. Lortie, H. Bilodeau, J. Dubé. *Interaction Between Human Resources Management and OHS - Preparing Future Managers*. Studies and Research Projects / Report R-788, Montréal, IRSST, 2013. <http://www.irsst.qc.ca/media/documents/PubIRSST/R-788.pdf>. accessed 16-06-2016.

<sup>73</sup> J. Dubé, S. Gravel S. Les pratiques préventives auprès les travailleurs d'agence de location de personnel: discours des professionnels de la santé au travail. (In preparation).

### 2.6 *Workers in the Shadows, Immigrant workers*

Studies conducted by various authors confirm that workers in precarious situations are mainly immigrants. At the height of the season, their presence reaches a significant demographic ceiling in small rural communities and TFW are isolated because of the distance between farms<sup>74</sup>. The other two profiles, recruitment agency and non-unionized SB workers, are also immigrants seeking experience in the Canadian job market<sup>75,76</sup>. On the one hand, it is impossible to systematically document the origins of workers based on claims for work injuries, and on the other hand, it is impossible to document the origins of workers hired based on the size of the company<sup>77</sup>. These two preventive approaches, one based on the frequency and severity of injuries and the other on the size of the company, are not effective in the case of these workers in the shadows.

The three worker categories are subject to cumulative precariousness in terms of jobs, income, recognition of skills and immigration status. On the one hand, they bear the brunt of the ever-growing demands of businesses for flexibility and are also subject to job discrimination. On the other hand, they are unduly exposed to the risk of occupational injuries and excluded from preventive measures, even though nothing in the OHS legislation specifically excludes them. Another paradox has arisen: how can OHS professionals and departments, in light of their moral and ethical responsibilities toward all workers regardless of their job, their status, problems with professional recognition and manner of remuneration, assume their role under current preventive approaches?

### 3. Mobilising Stakeholders to Change Practices

Having reviewed the literature, the *OHS-Immigration and Employability Roundtable*, the *Institut santé et société de l'Université du Québec à Montréal* and

<sup>74</sup> *Ibidem* 56.

<sup>75</sup> S. Gravel, S. Premji S. Travailleurs migrants : une histoire sans fin de cumul des précarités de statut, d'emploi et de conditions de santé et de sécurité au travail. *Revue PISTES*, no spécial : Travailleurs immigrants et santé et sécurité du travail, 16 n.° 2, 2014. <http://pistes.revues.org/3631>.

<sup>76</sup> M. Vultur, Y. Provencher. Les logiques de recours aux agences de travail temporaire et leurs pratiques de recrutement et de sélection de la main-d'œuvre, dans Bernier, J., Vultur, M. *Les agences de travail temporaire; leur rôle et leur fonctionnement comme intermédiaire du marché du travail*, Presses de l'Université de Laval, chap. 2, 2014 : 39-65.

<sup>77</sup> *Ibidem* 43.

the *Institut de recherche Robert-Sauvé en santé et sécurité du travail* (IRSSST) backed this initiative in the form of a *Grand Debate* on the issues involved in changing OHS practices for workers who are subject to cumulative precariousness<sup>78</sup>. Aimed at mobilising OHS stakeholders into addressing the issue of job precariousness and worker vulnerability, the analytical framework for this mobilisation was based on the works of Quinlan<sup>79</sup>, Boocock et al,<sup>80</sup> and others.

According to Quinlan, adapting OHS practices to the social and economic context of today's labour market is a constantly evolving process. Quinlan conducted an historic analysis of the 19<sup>th</sup> and 20<sup>th</sup> centuries, paying particular attention to the mobilisation of stakeholders to counteract the adverse effects of job precariousness. Child labour, women, and workers in the mining and merchant marine sectors were pinpointed as historic examples of such mobilisation. The conclusions are striking: history repeats itself. Quinlan found that the mobilisation of stakeholders to change OHS practices revolves around certain key moments that can be summed up in seven major phases:

- 1) *Denounce, through a credible group, the poor conditions of vulnerable workers.* Depending on the period, this credible group could be the church, labour unions, women's or civil rights groups. Not being linked to the governing party, this group is sufficiently tolerated to be heard, and to influence public opinion regarding the vulnerable workers in question.
- 2) *Show that the deprivation (financial, legal and social justice) in the community of workers targeted is such that the intervention of a third party to denounce the situation is justified.* These groups are too often threatened with losing their jobs, their income or their advantages to defend their cause themselves. They are often poorly equipped to assert or claim a right whose existence they could ignore or poorly understand.
- 3) *Determine the contexts giving rise to such deprivation and identify the stakeholders who have contributed directly or indirectly to this situation.* The authors point to the economic pressures on companies facing

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<sup>78</sup> *Ibidem* 43.

<sup>79</sup> M. Quinlan. We've Been Down this Road Before : Vulnerable Work and Occupational Health in Historical Perspective. In Sargeant M, Giovannone M. *Vulnerable Workers; Health Safety and Well-being*. Gower Applied Research; Chapter 2, 2011, 21-55.

<sup>80</sup> M. Boocock Z. Hannif, S. Jamieson, J.R. Lamare, F. Lamm, C. Martin, N. McDonnell, Robertson, P. Schweder, S. Boaz. Occupational Health and Safety of Migrant Workers : An International Concern. In Sargeant M, Giovannone M. *Vulnerable Workers; Health Safety and Well-being*. Gower Applied Research, Chapter 6, 2011, 121-144.

international competition in the 21st century, such as cutting manpower costs, requiring a highly-flexible workforce and other strategies that create job precariousness.

- 4) *Look for alternative OHS management practices to allow vulnerable workers to receive fair and equitable treatment.* As was the case with the arrival of women in the job market and the special measures needed for the protection of pregnant workers, management of OHS prevention is barely keeping up with today's changes in the labour market.
- 5) *Review the worker health surveillance system in light of emerging characteristics of vulnerability.* As in the past, those responsible for monitoring OHS have added to the list of information gathered from workers and companies: age to identify workers under the age of 14, gender to identify women, and the sector of economic activity to identify the jobs most at risk.
- 6) *Take steps to document the frequency and the severity of injuries in the group of workers targeted as vulnerable.* To adjust prevention targets and take effective action, it is important to know in which kind of companies the greatest number of vulnerable workers are found.
- 7) *Simultaneously mobilise those stakeholders who can help change OHS practices.* Each has a separate role to play in the coordination of these transformations for them to be real and significant.

This process of changing OHS practises is logical. However, it is not easy to mobilise stakeholders for workers in precarious situations, especially immigrant workers, because few countries collect data on the worker's country of origin<sup>81</sup>. Despite our efforts, the under-reporting of injuries is recurrent, along with immigrant workers<sup>82,83,84</sup>. According to Boocok et al<sup>85</sup>, we must raise the visibility of workers in precarious situations,

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<sup>81</sup> *Ibidem* 80.

<sup>82</sup> *Ibidem* 20, 34, 35, 36, 41, 53.

<sup>83</sup> E. MacEachen K. Lippel, R. Saunders, A. Kosny, L. Mansfield, C. Carrasco, D. Pugliese. Workers' Compensation Experience-Rating Rules and the Danger to Workers' Safety in the Temporary Work Agency Sector. *Policy and Practice in Health and Safety*, 10 n.º 1, 2012, 77-95.

<sup>84</sup> S. Premji, P. Duguay, K. Messing, K. Lippel. Are Immigrants, Ethnic and Linguistic Minorities Over-Represented in Jobs with a High Level of Compensated Risk? Results from a Montréal, Canada Study Using Census and Workers' Compensation Data. *American Journal of Industrial Medicine*, 53 n.º 9, 2010, 875-885.

<sup>85</sup> *Ibidem* 83.

regardless of the angle of approach. For example, Lamare<sup>86</sup> documented the invisibility of workers in precarious situations by measuring the income gap found in the activities declared by independent subcontracting companies in the State of New York.

For James et al.<sup>87</sup> and Weil<sup>88</sup>, the multiplication of intermediaries carrying out a task or a mandate renders workers invisible in the chain of employers. In this case, OHS practices must innovate and adjust to the phenomenon of the multiplication of chains of intermediaries and the outsourcing of the most risky production activities<sup>89</sup>.

Given the growing complexity of the composition of the workforce within a single company, the OHS-Immigration and Employability Roundtable and the Society and Health Institute of the University of Quebec at Montreal took the initiative of bringing OHS, immigration and employability stakeholders together for a grand debate on the question of changing OHS practices as concerns workers cumulating precariousness.

#### **4. Highlights of the Mobilisation of OHS, Immigration and Employability Stakeholders**

Briefly, the objectives of this *Grand Debate*<sup>90</sup> were to:

- identify the disparities and the barriers to the protection of the health and safety of workers who are subject to cumulative precariousness, including immigrant workers;
- report on the changes in OHS practices to provide workers all the protection to which they are entitled;
- explore the developments needed to adapt public policies and OHS practices to the conditions of workers in precarious situations, including immigrant workers.

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<sup>86</sup> J.R. Lamare. Employees Without Protections : The Misclassification of Vulnerable Workers in New York. In Sargeant M, Giovannone M. *Vulnerable Workers; Health Safety and Well-being*. Gower Applied Research; Chapter 9, 2011, 189- 210.

<sup>87</sup> *Ibidem* 57.

<sup>88</sup> D. Weil. *The Subcontracted Workplace. The Fissured Workplace: Why Work Became So Bad for so Many and What Can Be Done to Improve it*. Harvard University Press, chap. 5, 2014, 99-121.

<sup>89</sup> *Ibidem* 57.

<sup>90</sup> The Grand Debate was held on April 8, 1 2016.

The *OHS-Immigration and Employability Roundtable* invited partners in areas of OHS, public health, job integration and the integration of immigrants from the public sector, unions and community services. Each member organisation was asked to bring eight to ten of their people to the debate. There were 80 participants registered for the event, and all took part. Four participants who had to decline at the last minute were replaced so that their organisation could take part in the *Grand Debate*. Among the participants were some ten directors of OHS and public health departments. The debate covered two major topics: a) the state of current and past work in the area; b) the stakes and perspectives involved in changing practices.

#### ***4.1. Issues Involved in Modifying OHS Practices for Workers who are Subject to Cumulative Precariousness***

Nine actions, training, mobilisation and communications projects gave a brief overview of the outcomes and the difficulties encountered over the course of the project. After three years of operations, with some twenty partner organisations diligently attending the dozen meetings held, the *OHS-Immigration and Employability Roundtable* gave a positive assessment of its activities. New and sometimes unorthodox partnerships between the *Commission des normes, de l'équité et de la santé et de la sécurité au travail* (CNESST) and organisations responsible for the integration of immigrants were forged. Four projects had been conducted over the past two years, creating opportunities to exchange and share knowledge. Despite the positive outcomes, it must be noted that modifying practices presents significant challenges. On the one hand, immigrant workers often fall outside regular worker groups, either because they are not recorded since they hold temporary jobs in the company or because their conditions are not specifically monitored. On the other hand, modifying OHS practices for immigrant workers involves targeting workers based on job precariousness, and identifying the sectors of activity and the companies that hire them. And finally, to maximise the potential for modifying practices, OHS interventions need to be developed for each phase in the integration of immigrants or any other workers in a precarious job situation into the labour market.

Each project reported on the obstacles encountered and the possibilities for modifying OHS practices in their respective area of expertise: communications, training, rehabilitation and demographic analysis.

#### *Communications*

The communications project consisted of revising and adapting the communication plan of the *Commission des normes, de l'équité et de la santé et de la sécurité au travail* (CNESST), a plan intended for immigrant workers and employers who hire them<sup>91</sup>. The revision was largely facilitated by taking into account all of the comments from the working group. Even though the CNESST was open to adjusting its communication strategies, certain issues remain to be addressed. Efforts must be made periodically to raise the awareness of employers regarding the specific OHS situation of immigrant workers and to remind them of their obligations to initiate and train their employees as they are hired, and to closely supervise them. As the profile of immigrant workers evolves along with migratory movements (political refugees, family reunification, etc.); actions must be adapted to the types of new arrivals to the job market. We must adapt linguistically and culturally, and take into account the qualifications gap between the jobs held and the skills acquired in the country of origin. However, the message to recent immigrants must remain the same: encourage them to exercise their rights, remind them of the obligations of employers and workers, and above all inform them of the CNESST's services and mandate.

### *Training*

Two training projects were featured at the grand debate. One was intended for cultural integration officers and other for OHS professionals. The first project consisted of developing an OHS training program for cultural integration officers. This project was led by a non-profit organisation working toward integrating refugees and immigrants, a project funded by the CNESST, an unusual partnership, but one that was a great success<sup>92</sup>. In fact, the CNESST kept a portion of the material produced for its website. In spite of the project's success, issues remain.

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<sup>91</sup> See the website: <http://www.csst.qc.ca/prevention/theme/immigration/pages/travailleurs-immigrants.aspx>. And the paper: <http://iss.uqam.ca/upload/files/3.%20Trudel%20Serge%20-%20Grand%20d%C3%A9bat%20Immigration%20et%20SST.pdf>.

<sup>92</sup> See the paper: <http://iss.uqam.ca/upload/files/4.Rosini-%20TCRI%20-%20Grands%20d%C3%A9bats%20Immigration%20et%20SST.pdf>.

On the one hand, immigrants hesitate to speak about their experience of job injuries, fearing a backlash that could make it hard to get hired. On the other hand, it is difficult to train integration officers on so many OHS situations (exposure, reporting, claims, rehabilitation). The content is too broad for all the issues to be covered in a single training program. For prevention paradigms to evolve, we must consolidate the community approach aimed at assisting immigrants as they progress in their integration of the job market.

The second project was also a training project on the situation of immigrant workers, this time intended for occupational health and safety professionals, a project conducted by an intercultural relations research and training centre<sup>93</sup>, another unusual partnership for OHS services. This training program did not obtain the desired response from public OHS monitoring services because the network is undergoing major restructuring and organisational changes, including the merger of institutions. Their training needs in the area of intercultural relations are not currently a priority. Nevertheless, several partners, including the inspectorate, compensation and rehabilitation departments showed an interest for a training program on intercultural encounters adapted to their respective mandates and needs.

### *Rehabilitation*

Two projects involved the rehabilitation of immigrant workers who were victims of work-related injuries. One focused on the difficulties of rehabilitation, including that of immigrant workers who are overqualified<sup>94</sup>, and the other concerned the barriers to returning to work encountered by workers who do not master either of the two official languages<sup>95</sup>. In both cases, the conclusions sparked discussions on equitability<sup>96,97</sup>. Simply adopting an equitable approach is not enough to

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<sup>93</sup> See the paper: <http://iss.uqam.ca/upload/files/4.Rosini-%20TCRI%20-%20%20Grands%20débats%20Immigration%20et%20SST.pdf>. accessed 16-06-2016.

<sup>94</sup> See the paper: <http://iss.uqam.ca/upload/files/8.%20CÔTÉ-ISS%20Grand%20débat%20Immigration%20et%20SST.pdf>. accessed 16-06-2016.

<sup>95</sup> See the paper: <http://iss.uqam.ca/upload/files/9.%20Premji%20Stephanie-Grand%20débat%20Immigration%20et%20SST.pdf>. accessed 16-06-2016.

<sup>96</sup> D. Côté, S. Gravel, J. Dubé, D. Gratton, B.W. White. Identifying Key Moments in the Process of Work Rehabilitation: practitioners' experiences among culturally diverse clientele in Montréal (Québec, Canada). *Ethnicity and Health* (Submitted 2016-09)

improve the rehabilitation process for immigrant workers. An equitable approach must be developed that can counteract injustices that immigrants are victims of, such as hiring discrimination. Such services could include language upgrading for workers who have poor or no mastery of the official languages so they can find work outside immigrant job ghettos.

*Demographic analysis:*

The demographic analysis project synthesised the known variables for the situation of immigrant workers. The conclusion of this project showed that it is impossible to draw up a clear picture, even by cross-referencing such large databases as the Canadian census and Citizenship and Immigration Canada with data on occupational injuries<sup>98</sup>. While this is technically possible, it is extremely difficult to accomplish. Without reliable and recurrent statistics, it is impossible to monitor the health of immigrant workers and of workers in precarious situations in general. In order to document the health of these workers and better target prevention efforts, public OHS services must invest in the inclusion of variables such as length of residence, immigrant status, profession, sector of economic activity and the kind of job occupied. At the same time, further exploratory and qualitative studies are needed to enrich our understanding of those aspects that are difficult to measure with statistical data (compensation, training and initiation, etc.), such as the effects of over qualification on the physical and mental health of immigrant workers.

By the end of this presentation, all participants agreed that there was a genuine desire to create partnerships, even if unlikely, in order to develop expertise appropriate for immigrant workers and for all workers in a situation of precariousness.

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<sup>97</sup> S. Premji. Barriers to Return-to-Work for Linguistic Minorities in Ontario: An Analysis of Narratives from Appeal Decisions. *Journal of Occupational Rehabilitation*, 25 n.º2, 2015, 357-367.

<sup>98</sup> See the paper: <http://iss.uqam.ca/upload/files/7.%20Prud'homme%20Grand%20d%C3%A9bat%20Immigration%20et%20SST.pdf>. See the article: Prud'homme P, Busque MA, Duguay P, Côté D. 2015. Travailleurs immigrants et SST au Québec — État des connaissances statistiques et recension des sources de données. Rapport R-890, 121 p. <http://www.irsst.qc.ca/media/documents/PubIRSST/R-890.pdf>. accessed 16-06-2016.

#### *4.2. Potential for Modifying OHS Practices for Immigrant Workers*

To debate the stakes and perspectives involved in changing practices, eight panellists were asked to speak on the possibilities of adapting practices in their respective fields in the interests of workers who are subject to cumulative precariousness. Among these panellists, some held high positions in the development of OHS research and policies, while others were public health directors of worker health monitoring.

##### *Legal action*

The first panellist, head of the Canada Research Chair in Occupational Health and Safety Law<sup>99</sup>, held that while the protection of immigrant workers could be improved without changing the laws, during the next reform of the OHS Act it would be timely to promote effective interventions in the interest of providing fair treatment for workers having a precarious status such as sub-contract and recruitment agency workers<sup>100</sup>.

##### *Scientific action*

The scientific head of the Institut de recherche Robert-Sauvé en santé et en sécurité du travail (IRSST) announced the inclusion in its master plan of a line of research on immigrant workers. It came out in favour of supporting projects aimed at documenting knowledge on the frequency and gravity of injuries among workers in a situation of precariousness.

##### *Public health action*

The Montreal Public Health Directorate announced that it was considering the inclusion of variables on the employment status and origins of workers in files used for characterisation of the enterprises it serves. The PHD-Mtl therefore intends to support special projects on emerging issues, such as prevention for recruitment agency workers. This could mean modifying the company characterisation grid to include

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<sup>99</sup> <http://iss.uqam.ca/upload/files/10.%20Lippel-Gravel-Grand%20débat%20Immigration%20et%20SST.pdf>. accessed 16-06-2016.

<sup>100</sup> Ibidem 71 and K. Lippel K. Precarious Employment and Occupational Health and Safety Regulation in Quebec, dans L. F. Vosko (dir.), *Precarious Employment, Montréal et Kingston*, McGill-Queen's University Press, 2006, 241-255.

variables on the type of job that workers hold. This would make it possible to identify temporary workers (agency, subcontract, temporary foreign, on call) within the companies who are often anonymous or excluded from the picture of the labour force. This data would be of use to regional public health departments, such as rural areas where the great majority of temporary foreign workers are found. This approach would make it possible to draw up a frame of reference on monitoring practices for workers in cumulative precariousness situations.

#### *Union action*

The two major unions in attendance agreed to document and take actions to protect various labour collectives inside companies, even those that are not members of the union, such as recruitment agency workers. These labour unions proposed training union reps in intercultural communications and intend to strengthen their commitment to expose the situation of immigrant workers and of all workers in precarious situations.

#### *Employer action*

The OHS directors for the provincial Chamber of Commerce and the Conseil Patronal agreed to examine questions of employer accountability toward various labour collectives found in companies. They would like to see the employer mentoring program to be extended to administrative regions across the province to support the sponsorship of immigrant workers and their socio-occupational integration, while reducing the risks of job injuries.

#### *Surveillance*

And finally, the Montreal Area OHS Inspectorat confirmed that it would make every effort to refine its investigative methods in accidents involving workers having a precarious employment status, such as recruitment agency workers, regardless of the origins of these workers. To this end, inspectors will investigate not only the client company where the injury occurred, but the agency as well. To justify their new investigative practices and in particular to raise employer awareness of the importance of prevention, inspectors refer them to article 51.1 of the OHS Act, which stipulates that “A person who, although not an employer, retains the

services of a worker for the purposes of his establishment must fulfill the obligations imposed on an employer by this Act”.

To everyone's great relief, participants were clearly motivated to adapt OHS practices for workers who are subject to cumulative precariousness. Some services, for policy reasons, were more comfortable with workers in precarious job situations, while others had no ethical problem dealing with immigrant workers. For the researchers and militants who were long-standing supporters of fair and equitable practices for anonymous workers such as women, young people and other marginalised groups<sup>101</sup>, this favourable turnaround was astonishing. Why were all these services now ready to become involved? Nevertheless, one clear point seemed to emerge from this reversal of position: it is possible to change preventive OHS practices without embarking in legal procedures. Participants appeared to be confident that they could adapt their practices to the realities of today's job market and revise those approaches that were pertinent 30-40 years ago, but have been outdated for many years, without risk of professional misconduct. In fact, many participants were relieved to learn that nothing in the law excluded workers having a precarious status and that on the contrary, an approach adapted to current job market demands could bring renewed coherency to their work and to the mission of their establishment.

### **5. Positions to Take to Change OHS Practices for Immigrant Workers**

It is true that public OHS services cannot be expected to rectify the perverse effects of excessive flexibility in the job market and in competitiveness. Nor should they be asked to compensate for failed integration policies for immigrants, young and marginalised people in the job market. However, public OHS services could review their prevention paradigms for equitable practice. This involves revising the definition of a worker at risk and rendering workers in cumulative precariousness situations visible. The grand debate on "Immigration and OHS: workers the shadows" reached its objective of mobilising a wide range of stakeholders toward changing practices. If we were able look ahead four years and report on the actions taken, we would have a better idea of the

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<sup>101</sup> K. Messing, S. Boutin. Les conditions difficiles dans les emplois des femmes et les instances gouvernementales en santé et en sécurité du travail. *Relations industrielles/Industrial Relations*, 52 n.º 2, 1997, 333- 362.

outcomes of this mobilisation. Note that most of the conditions favourable for the mobilisation of stakeholders suggested by Quinlan<sup>102</sup> had been brought together.

### ***5.1. Revise the Definition of High-risk Jobs***

These are not incompetent workers who have no knowledge of protection methods. They are in a situation of cumulative job insecurities, which prevents them from exercising their rights. With this in mind, we suggest taking another look at the definition of precarious work set out by the Law Commission of Ontario<sup>103</sup> given in the first section of this article:

Precarious work is characterized by job instability, lack of benefits, low wages, and the extent of control over the situation. Such work is possibly subject to greater risk of injury and ill health [...]. Therefore, vulnerability in this context refers not to the workers themselves but to the situation facing them, because they occupy a precarious job and due to disadvantages associated with gender, immigration, ethnicity and other characteristics. [...] Precarious work affects other aspects of their lives, which are not work-related. Precarious work leads to a greater risk of accidents and illness, stress and difficulties in obtaining medical treatment (our translation).

This definition should serve as a basis for suggesting ways to render analyses of precariousness operational in accordance with the mission of institutions and departments in charge of data on workers. This is a clearly enounced definition from a credible organisation, the Law Commission of Ontario, an independent body that leaders listen to.

### ***5.2. Render Workers in Precarious Situations Visible***

The context of job insecurity at the outset of the 21<sup>st</sup> century is very clearly delineated. Workers in precarious situations are subject to the combined effects of the economic crisis, the search for highly flexible manpower and the growth in migratory movements. Public OHS services need to introduce variables on the origins of workers, length of stay in the host country, and the kind of job occupied (temporary, foreign/seasonal worker, etc.).

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<sup>102</sup> *Ibidem* 79.

<sup>103</sup> *Ibidem* 6.

On the provincial level, a file or a means of cross-referencing data from the various public files is needed to answer the following questions: What is the extent of job insecurity in Québec compared to stable jobs? How has the situation evolved over time? Which companies make use of workers in precarious situations to meet their manpower needs? What OHS practices apply to workers who occupy unstable jobs? These data would be very useful to redefine intervention goals based on concentrations of precarious jobs by sector of activity, company size or their region of operations.

On the regional level, public OHS services should also include variables in their files that allow them to characterize the needs of immigrant workers according to the role of their organisation or their service. For example, worker health surveillance services, which do screening tests and medical follow-up, should be able to characterize the composition of the workforce of the companies they visit in terms of origin, length of stay in Canada, verbal mastery of official languages and the kind of job held in the company where they actually work and where they are exposed to risks. These services need a complex data set to make sure that they have enough information to give workers their medical surveillance results so that they can understand and receive medical follow-up for their health condition, regardless of their job status or origins. This also goes for rehabilitation services which, in the interest of efficiency, need a certain amount of data to help immigrant workers return to work.

However, ethical questions could be raised against making changes to monitoring and assistance practices aimed at immigrant workers. Obviously, organisations must guard against anything that could lead to discrimination. Yet it's possible to consult such data so as to give fair treatment to vulnerable workers without referring, in the media or elsewhere, to workers' ethno cultural or religious characteristics. There is a difference between collecting and processing sensitive information and disseminating it<sup>104</sup>.

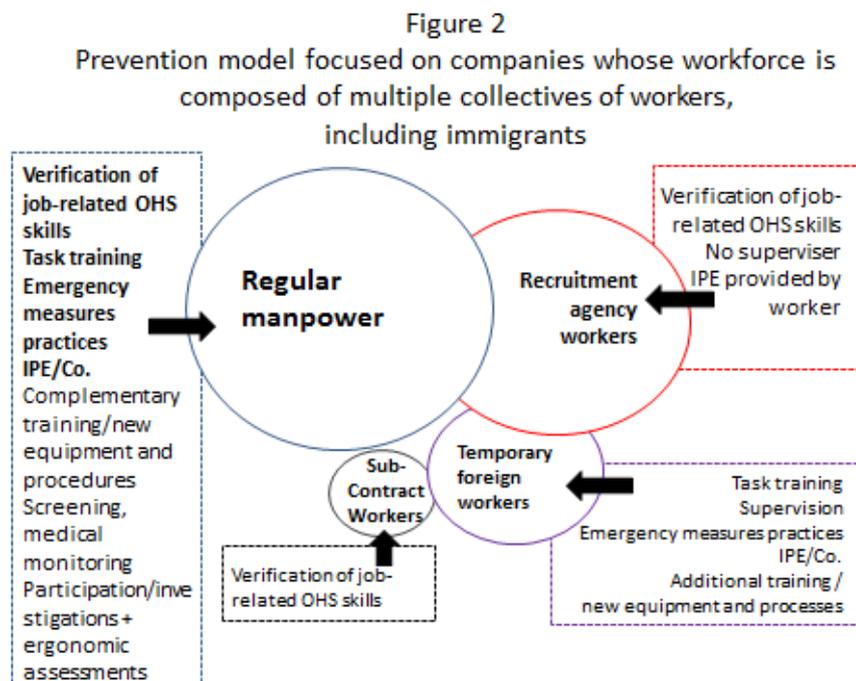
### ***5.3. Intervene Primarily in Companies that Have Multiple Groups of Workers***

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<sup>104</sup> S. Gravel, A. Germain, E. Leclerc.. Les données ethniques dans les services publics : dilemmes de gestion de la diversité et protection de la vie privée dans Barth I, Falcoz C. 2010. *Nouvelles perspectives en management de la diversité; égalité, discrimination et diversité dans l'emploi*. Collection gestion en liberté, EMS, Paris, chap. 6, 2010, 119-137.

The multiplication of groups of workers within a single company makes it possible to maximize the flexibility of its workforce at all levels and renders those workers most at risk anonymous. Public OHS services and professionals should be able to draw up an accurate picture of the companies they deal with by configuring the place that each group of workers occupies and the OHS protection that they receive. To do so, we suggest working from the following model<sup>105</sup>:

Figure 2. Prevention Model focused on companies whose workforce is composed of multiple collectives of workers, including immigrants



<sup>105</sup> See the paper: <http://iss.uqam.ca/upload/files/2.%20Gravel%20Sylvie%20Grand%20d%C3%A9bat%20Immigration%20et%20SST.pdf>. accessed 16-06-2016.

#### ***5.4. Mobilise Stakeholders in Unorthodox Partnerships***

This fourth and final position is similar to the 7<sup>th</sup> key phase in Quinlan's historic analysis model<sup>106</sup>. To maximise the effectiveness of this initiative to change OHS practices for immigrant workers, each and every organisation must deploy their efforts simultaneously. Although community organisations responsible for the social and professional integration of immigrants are not OHS experts, they have a great deal of expertise in barriers to inclusion. Likewise, employability departments are not rehabilitation specialists, but rather, networks of companies that make use of employability programs for workers excluded from the job market. Each, according to their area of expertise, should contribute to the redefining of OHS practices, policies and regulations so that immigrant workers, at every step of the integration process, are no longer unfairly denied the OHS protection that they are entitled to.

#### **6. Conclusion**

It is possible, through concerted action, to build our respective capabilities to assist and support immigrant workers, who are too often subject to various forms of precariousness. In this second decade of the 21<sup>st</sup> century, we need to focus on immigrant workers, but 20 or 30 years from now, who will the workers be who pay the price of an evolving labour market? For our interventions to be effective, it is imperative that we have the means to characterize workers and the companies that employ them.

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<sup>106</sup> *Ibidem* 79.



**ADAPT** is a non-profit organisation founded in 2000 by Prof. Marco Biagi with the aim of promoting studies and research in the field of labour law and industrial relations from an international and comparative perspective. Our purpose is to encourage and implement a new approach to academic research, by establishing ongoing relationships with other universities and advanced studies institutes, and promoting academic and scientific exchange programmes with enterprises, institutions, foundations and associations. In collaboration with the Centre for International and Comparative Studies on Law, Economics, Environment and Work, (DEAL) the Marco Biagi Department of Economics, University of Modena and Reggio Emilia, ADAPT set up the International School of Higher Education in Labour and Industrial Relations, a centre of excellence which is accredited at an international level for research, study and postgraduate programmes in the area of industrial and labour relations. Further information at [www.adapt.it](http://www.adapt.it).

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