

Willy Noiles
President

Jeannie Howe
Secretary

Janet Paterson
Treasurer



HEAD OFFICE
412 Louth St, Unit 1
St. Catharines, ON
L2S 3P7

(289) 219-4473

IN UNITY THERE IS STRENGTH

Workers Compensation: Morality vs. The Business Case

New Study Examines Why Some WCB Claims are Prolonged and Conflicted

“Injured Workers’ Moral Engagement in the Compensation System: The Social Production of Problematic Claiming Experience” is a Doctoral Thesis recently published by Dana Howse at the University of Toronto. The experience of being injured at work and claiming workers’ compensation can greatly influence injured workers’ possibilities for rehabilitation and successful return to work.

However, a significant percentage of workers’ compensation claims in Ontario are complex, prolonged, and frequently associated with confrontational interactions between workers and others in the compensation system including employers and WCB/WSIB staff. Based on interviews with injured workers, advocates and health care providers Dr. Howse examines claiming from the perspective of injured workers in Ontario who have experienced this.

In these cases, she found that the injured workers experienced and understood the workers’ compensation system in moral terms: they see workers’ compensation as part of our justice system and evaluate experiences in terms of what is just and unjust, fair and unfair. However, the WSIB’s texts and practices reflected a neo-liberal view of the system where the goals are administrative and financial cost efficiency and policies and procedures are created or changed to achieve them.

To move forward and improve circumstances for injured workers with difficult claims, Dr. Howse suggests the WSIB reflect on its key texts and practices and consider the way its understanding of workers’ compensation is seen by injured workers.

What struck me is...

Steve Mantis from the Thunder Bay Injured Worker Support Group said “The percentage of injured workers with prolonged claims seems small but when we understand that this is an additional 10,000 workers with severe injuries every year the size of this problem really is huge. The research shows that 45% of

these workers end up with mental health problems along with major wage losses, so it's not hard to see why, when workers' expectations of the workers' compensations system are so very different than what the WSIB plans to deliver.”

Joan Eakin, a retired professor from the University of Toronto and Dana's former research supervisor, spent much of her career studying problems of work injury from the point of view of different participants including workers, employers, doctors, and those working at the WSIB. She notes: “For me, the significance of Dana's research lies in her finding that: 1) there is an important difference between how work injury and compensation are understood by injured workers themselves and how they are understood by the WSIB as an institution and by those acting on behalf of it ; 2) the difference in perspective is rooted in the differing social locations, interests, stakes and power of injured workers and the compensation system; and 3) the difference accentuates injured workers' suffering and erodes the potential for satisfactory resumption and/or re-shaping of their working and personal lives.

In addition to what Dana offers as possible ways to mitigate the effects of colliding standpoints, I suggest that the need for recognition of the differences in perspective and their roots in broader social forces is needed on both sides of this perennial divide. For workers, recognition of the difference and its consequences might enable them to more successfully confront the WSIB from a politically strategic platform “

Attached is a summary of Dr. Howse's Doctoral Thesis.

Injured Workers' Moral Engagement in the Compensation System: The Social Production of Problematic Claiming Experience

Summary of Doctoral Thesis

Dana Howse, PhD

INTRODUCTION

A percentage of workers' compensation claims in Ontario are complex, drawn out, and frequently associated with strained interactions between injured workers and the Workplace Safety and Insurance Board (WSIB).

Research suggests about 20% of filed compensation claims become problematic, yet make up approximately 80% of total compensation claim costs.

In addition to placing significant financial and administrative burden on the compensation system, these 'problematic claims' are linked to injured workers' worsening physical and mental health, chronic disability, and unemployment.

This thesis aims to better understand **how and why injured workers have such problematic experiences with claiming** by hearing from workers themselves as well as by considering the social and institutional contexts in which the compensation plays out.

Previous studies looking at compensation and return to work suggest features of the claiming *process* may contribute to injured workers' negative experiences. The literature has mainly focused on two aspects:

1. **characteristics of the claimants** such as gender, health, age, job satisfaction, access to and understanding of information about compensation, and impressions of the claiming process; and
2. **technical features of compensation policies and practices** such as their complicated bureaucratic nature, flawed treatment and return-to-work programs, and confusion regarding the roles and responsibilities of various players (e.g., doctors).

Additionally, a developing literature suggests **social influences**, including dominant negative attitudes (stigma) about injured workers such as suspicion that they're faking or exaggerating their injury/illness, may contribute to workers' problematic claims and related suffering.

Continuing along this analytic path, I take a sociological approach to examine problematic claiming, and to offer a broader and more detailed explanation of workers'

experience with those claims that includes social and institutional influences on the process.

The central finding of this study is that injured workers engage with the compensation system morally.

That is, injured workers think about their experience of claiming in terms of right and wrong, just and unjust, good and bad. Their claiming stories include feelings of mistrust, dehumanization and judgement, and confrontation with system players (e.g., WSIB adjudicators, employers), as well as injured workers' attempts to repair their diminished moral standing by demonstrating their status as 'good workers' and 'good claimants'.

This study also finds that the broader social context may play a role in shaping the compensation system and the experiences of those within it. Specifically, I identify three 'discourses'¹ - the injured worker movement's 'justice discourse' and the broader discourses of 'sick role' and 'neoliberalism' – that contribute to not only injured workers' understandings and practices related to claiming, but the WSIB's as well.

Finally, this study finds that injured workers and the WSIB have different and conflicting ideas, values and practices concerning claiming.

While injured workers engage with compensation morally and see it as a matter of fairness and justice, the WSIB seems primarily concerned with the administrative and financial consequences of claiming.

The opposing perspectives of injured workers and the WSIB shape the way they understand each other's attitudes and practices, and contribute to increasingly fixed positions on both sides and an ever-growing distance in between. Efforts to close this gap in understanding are suggested as a way forward.

METHODOLOGY

This qualitative study involved in-depth interviews with:

- i. 26 injured workers in Ontario, most of whom had problematic claims; and
- ii. 4 key informants, worker representatives and health care professionals who could offer a different or broader perspective on problematic claiming.

¹ Discourse refers to a shared, often taken-for-granted, set of interconnected ideas, actions, and ways of thinking and talking about things, people, society, events, and the relationships among and between them. Discourse is expressed in everyday behavior, media and institutional texts, through which it contributes to our understandings and language, determining not only if and how we think and speak about things, but also what we do and how we interact with others.

Additionally, I conducted document analysis to examine texts that are well-known and widely used and cited by the various players in the compensation system, including relevant texts produced by and for:

- i. the WSIB (e.g., the Workplace Safety and Insurance Act, sections of the Operations Policy Manual); and
- ii. Ontario's injured worker community (e.g., fact sheets, conference materials, websites, an email listserv).

RESULTS

Injured workers experience claiming in moral terms

Injured workers with problematic, unresolved claims engage with the compensation process morally, and their experience is characterized by issues of mistrust, confrontation with system players, and feelings of dehumanization and judgement. Injured workers' 'identity work' - efforts to restore their reputation – is both evidence of and a response to their moral experience of claiming.

Broader discourses play a role in problematic claiming

Ideas and practices associated with three social discourses may contribute to injured workers' moral understandings of and responses to compensation claiming:

1. The injured workers movement's 'justice discourse'

Many of the injured workers in this study were connected to the injured worker community or 'movement' and exposed, through its activities and texts, to a 'justice discourse' – the movement's framing of compensation as an issue of justice and integrity – which offered them particular, morally-oriented language and justice-related concepts for understanding and talking about their situation. Interview participants' stories of wanting to be believed and seen as trustworthy, and their references to Meredith's Principles and calls for a fair and just compensation system reflect central ideas of the injured worker movement's justice discourse.

2. 'Sick role' discourse

The sociological idea of a 'sick role' was introduced by Talcott Parsons in 1951 who proposed a particular social role for sick people, which includes special rights and obligations. In this role, sick people are expected to: have their sickness diagnosed or acknowledged by a health professional, want to recover and be seen as making an effort to do so, and seek out and follow medical advice to get better. In return, they enjoy the right to take time away from normal responsibilities to get well, and the right to be presumed blameless for their illness.

I argue that sick role discourse contributes to society's understanding of illness as a moral issue (rather than, or in addition to, seeing it as a medical or biological one) and creates expectations of 'good citizens' – those who cooperate with authorities, quickly recover from illness and resume obligations – that injured workers may be unable to

meet. In breach of the sick role, injured workers often struggle to have their condition recognized by both their doctor and the WSIB, fail to recover as quickly as the WSIB deems appropriate, if at all, and experience scrutiny and blame.

Injured workers trying to meet expectations of the sick role and of the WSIB process may feel a tension to, on the one hand, eagerly participate in their early and safe return to work and, on the other hand, appear sufficiently unwell to demonstrate the legitimacy and extent of their suffering. Essentially, they must strike a careful balance between doing too little and doing too much. This tug-of-war places injured workers in an in-between social space where they are seen as neither sick nor well and where they experience the moral weight of being unable to assume the rights and obligations of neither the sick role nor the health role.

3. 'Neoliberalism' discourse

Neoliberalism is both an ideological position and policy perspective that values the shifting of economic power from governments to private markets and individual responsibility for one's health and well-being. These neoliberal priorities contribute to societal attitudes that champion healthy, top performers and reject those who are unwell and in need of support. Like sick role discourse, neoliberalism creates expectations of 'good citizens', which injured workers may be unable to meet.

For example, neoliberal citizens are expected to actively participate in social and economic activity, make thoughtful choices to manage risk, and possess skills, habits and attitudes that enable them to be healthy, self-reliant and responsible. In a context where work and health are framed as moral duties, workers who are injured or ill, who are off work or unemployed, and relying on workers' compensation or social support may be seen, and may see themselves, as violating citizenship norms, and their actions and worth may be evaluated morally accordingly.

Like injured workers, the WSIB is exposed to sick role and neoliberalism discourses, which it interprets and takes up in its own way through its policies and practices. Influences of sick role discourse can be seen in the WSIB's claiming process in which it sets out rigid expectations and requirements for injury/illness assessment, cooperation, and early and safe return to work. An analysis of key WSIB texts suggests that the board sees compensation as an administrative, business matter and that it is mostly concerned with reducing costs. The WSIB's Strategic Plans, for example, expose neoliberal values, in their portrayal of a board that is increasingly concerned with achieving administrative and financial efficiency in order to manage its unfunded liability.

CONCLUSION

The finding that injured workers with problematic claims experience and understand the system in moral terms is supported in existing literature that has documented feelings of frustration, victimization and stress among injured workers as well as the presence of stigma, a dominant discourse of abuse and expectation of moral hazard.

This study contributes to research and practice in work and health, by demonstrating the value of taking a social perspective and applying social concepts to occupational health issues, which can deepen understanding of them as well as shed light on other contexts or problems with similar features.

The study also reveals implications for injured workers' experience and for the functioning of the WSIB. Considering the WSIB's administrative position in relation to that of injured workers' moral stance highlights the stark contrast and growing distance between the two parties.

*While injured workers understand and respond to their situation in terms of personal moral justice and worthiness, the WSIB's frames compensation in terms of monetary efficiency, bureaucracy and eligibility criteria, and depersonalizes the claiming process. **Injured workers' and WSIB's conceptions of claiming are not only different, they are problematically related.***

The different conceptions of compensation between injured workers and the WSIB, for example, have consequences for how each party interprets the attitudes and behaviours of the other. Injured workers who see the WSIB as being preoccupied with finances and efficiency may interpret the various steps in the claims process as being set up to deny claims. The compensation board, on the other hand, with its focus on administrative efficiency and cost reduction, may view claims as an obstacle to cost-cutting and perceive injured workers' efforts to access benefits as illegitimate and even suspicious.

To improve circumstances for injured workers with problematic claims and thus, for the WSIB and system more widely, I propose possible strategies that may ease the tensions contributing to problematic claiming, including:

- i. The WSIB could reflect on its key texts and practices and consider the way its framing of compensation and operational priorities are portrayed and perceived by injured workers.
- ii. The WSIB could take efforts to identify and address main sites and causes of tension between the WSIB and injured workers through, for example, training with front line staff, the revision of existing policies and/or adoption of new ones.
- iii. Formal mechanisms for improved communication between the injured worker community and the WSIB (e.g., regular meetings) should be introduced so that concerns and priorities can be discussed and assumptions and misunderstandings addressed.

November 2017

Dalla Lana School of Public Health, University of Toronto

Full thesis available online:

[https://tspace.library.utoronto.ca/bitstream/1807/80854/3/Howse Dana 201711 PhD thesis.pdf](https://tspace.library.utoronto.ca/bitstream/1807/80854/3/Howse_Dana_201711_PhD_thesis.pdf)

Questions and comments are welcomed and can be directed to:

Dana Howse, PhD

Postdoctoral Fellow, Centre for Research on Work Disability Policy

SafetyNet Centre for Occupational Health and Safety Research

Memorial University

St. John's, NL

Email: dhowse@mun.ca