
Submissions to the Workforce Recovery Advisory Committee

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About

The **Durham Community Legal Clinic (DCLC)** is a Community Legal Clinic that provides legal services, information, education, and representation for historically marginalized and low-income residents of Durham Region. DCLC also engages in advocacy and law reform activities, in particular to ensure that laws properly consider the perspectives of historically marginalized and low-income Ontarians. The main areas of services DCLC provides includes employment law and related services, housing and tenancy issues, and social benefits. Through the Hub, DCLC provides even broader services to focus on the root causes of poverty and engages in deeper forms of poverty alleviation

The **Durham Access to Justice Hub®** (the “Hub”) was established by the clinic in 2019 with the assistance of several other agencies and community partnerships. This inter-agency and inter-disciplinary initiative intended to provide legal services beyond the income thresholds and subject matter of LAO, and other social, financial, and psychological services. These cooperative relationships seek to foster better client-centered services, reduce administrative barriers and silos, and improve efficiency of services that are funded or subsidized by taxpayer dollars. Some techniques used to achieve these goals include recruitment of volunteers to contribute towards improving access to justice, and by embedding students into workflows and innovative projects through experiential education.

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Introduction

1. The COVID-19 pandemic has already brought a permanent shift to the landscape of work, and will continue to create disruptions to the labour market. Ontario's Workforce Recovery Advisory Committee will need to carefully consider how to make Ontario a leading jurisdiction with a world-class workforce and talent supply, ensure that the Ontario remains the best place in North America for workers, and promote greater working conditions for workers in Ontario.
2. These considerations will be informed by significant changes in technology, increased mobility in remote working, and the emphasis in global labour markets on skills. Crucial to developing this plan is the recognition that a country is not a company, and that attracting investment and capital to Ontario operates very differently than attracting investment and capital to a private company.¹
3. Given the unusual nature of the pandemic, the aftermath and effects on the workforce is itself expected to be unique. Millions of workers across North America have indicated they are eager to quit their jobs, signalling an anticipated sharp increase in turnover for all industries.² Ontario will not be immune from these trends, and employers will find themselves competing with other businesses and with other jurisdictions to provide the best

¹ Paul Krugman, "A country is not a company," *Harvard Business Review*, February 1996, available at: <<https://hbr.org/1996/01/a-country-is-not-a-company>>.

² Andrea Hsu, "As The Pandemic Recedes, Millions Of Workers Are Saying 'I Quit'," *NPR*, June 24, 2021, available at: <<https://www.npr.org/2021/06/24/1007914455/as-the-pandemic-recedes-millions-of-workers-are-saying-i-quit>>; Jennifer Liu, "1 in 4 workers is considering quitting their job after the pandemic—here's why," *CNBC*, April 19, 2021, available at: <<https://www.cNBC.com/2021/04/19/1-in-4-workers-is-considering-quitting-their-job-after-the-pandemic.html>>; Kristin Stoller, "One Third Of Millennials Plan To Quit Their Jobs After The Pandemic—Here's Why, And What Employers Can Do," *Forbes*, April 6, 2021, available at: <<https://www.forbes.com/sites/kristinstoller/2021/04/06/one-third-of-millennials-plan-to-quit-their-jobs-after-the-pandemic-heres-why-and-what-employers-can-do/?sh=2d0d9ac58033>>.

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working conditions possible.³ These talent shortages will be particularly acute for high-skilled jobs, remote work, and jobs related to technology.⁴

4. While these jobs in Ontario are often (but not always) well compensated,⁵ they are also characterized by a lack of stability and predictability, and often have greater risks of discrimination and harassment. This makes the labour markets particular susceptible to disruption following the pandemic, but may also provide an opportunity to make significant improvements to labour and employment law reforms to strengthen Ontario's competitive position to improve economic recovery through supporting workers.
5. Knowledge-based training may prove to be particularly amenable to remote learning, and the jobs based on this type of training alone may be especially mobile in the global

³ Bailey Nicholson, "More Canadians look to quit their jobs after pandemic: survey," *CityNews1130*, May 24, 2021, available at: <<https://www.citynews1130.com/2021/05/24/canadians-quit-jobs-after-pandemic/>>; Robert Half, "More Than One-Quarter Of Workers Say Pandemic Contributed To A Career Setback, Robert Half Survey Finds," May 3, 2021, available at: <<https://www.roberthalf.ca/en/more-than-one-quarter-of-workers-say-pandemic-contributed-to-a-career-setback-robert-half-survey>>; Deja Leonard, "The real and raw reasons why Canadians are quitting their jobs," *The Globe and Mail*, June 20, 2021, available at: <<https://www.theglobeandmail.com/business/careers/article-the-real-and-raw-reasons-why-canadians-are-quitting-their-jobs/>>; Anne Gaviola, "A workplace resignation boom may be looming. Here's why," *Global News*, May 17, 2021, available at: <<https://globalnews.ca/news/7863137/workplace-resignation-boom-why/>>; R Dallon Adams, "Great Resignation: Top reasons employees are quitting right now," *TechRepublic*, July 27, 2021, available at: <<https://www.techrepublic.com/article/great-resignation-top-reasons-employees-are-quitting-right-now/>>; Kate Morgan, "The Great Resignation: How employers drove workers to quit," *BBC Worklife*, July 1, 2021, available at: <<https://www.bbc.com/worklife/article/20210629-the-great-resignation-how-employers-drove-workers-to-quit>>.

⁴ Jared Lindzon, "Canadian industries struggle to hire and retain talent, data suggests," *The Globe and Mail*, June 11, 2021, available at: <<https://www.theglobeandmail.com/business/careers/article-canadian-industries-struggle-to-hire-and-retain-talent-data-suggests/>>; Owen Hughes, "Tech workers are getting ready to quit. This is what's pushing them to leave their jobs," *Tech Republic*, May 14, 2021, available at: <<https://www.techrepublic.com/article/tech-workers-are-getting-ready-to-quit-heres-what-is-pushing-them-to-leave-their-jobs/>>.

⁵ Jared Lindzon, "Canada's growing pool of gig workers among the world's highest paid, new data suggests," *The Globe and Mail*, June 18, 2021, available at: <<https://www.theglobeandmail.com/business/careers/article-canadas-growing-pool-of-gig-workers-among-the-worlds-highest-paid-new/>>; Viet Vu et al., "Who Are Canada's Tech Workers?," Brookfield Institute, January 2019, at 17-18, 34, available at: <<https://brookfieldinstitute.ca/wp-content/uploads/FINAL-Tech-Workers-ONLINE.pdf>>; Ellen Huet, "Underrepresented Tech Workers Say They're Overworked and Stressed," *Yahoo!finance*, March 30, 2021, available at: <<https://ca.finance.yahoo.com/news/underrepresented-tech-workers-overworked-stressed-160004807.html>>; Catherine Skrzypinski, "Canadian Employers Confront Workplace Harassment," Society for Human Resource Management, March 17, 2021, available at: <<https://www.shrm.org/resourcesandtools/hr-topics/global-hr/pages/canada-employers-confront-harassment.aspx>>.

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economy. However, skills-based training may still be learned through at least some in-person contact.⁶ Jobs that are characterized by the highest levels of physical proximity are also the most likely to be disrupted in the post-pandemic economy.⁷ This suggests that an economy in Ontario that supports, rewards, and protects skilled jobs may ultimately flourish and thrive, even in a knowledge-based economy that seeks to attract jobs to the province.

6. These submissions will focus on recommendations that will prioritize the interests of Ontarians, and do so in a manner that puts workers first. The Workforce Recovery Advisory Committee should focus on increasing the minimum wage in Ontario, improve the enforcement of employment standards, and address precarious employment.
7. A workforce recovery plan that seeks to make Ontario open for business must necessarily be for the people, and confirm that the people of Ontario are the center of any such plans.

Recommendation #1: Increase Minimum Wage

8. The minimum wage in Ontario is set in Part IX of the *Employment Standards Act, 2000*.⁸ The current minimum wage in Ontario is \$14.25, and will go up to \$14.35 on Oct. 1, 2021. The special minimum wage rates for other workers will also increase on this date, from

⁶ John Ferguson, “After more than a year of remote work, many practices established during the COVID-19 pandemic are here to stay,” *The Globe and Mail*, July 27, 2021, available at: <<https://www.theglobeandmail.com/business/careers/leadership/article-after-more-than-a-year-of-remote-work-many-practices-established/>>.

⁷ Susan Lund et al., “The future of work after COVID-19,” McKinsey Global Institute, Feb. 18, 2021, available at: <[https://www.forbes.com/sites/bernardmarr/2020/04/17/8-job-skills-to-succeed-in-a-post-coronavirus-world/?sh=330222b12096](https://www.mckinsey.com/featured-insights/future-of-work/the-future-of-work-after-covid-19#>”; Bernard Marr, “8 Job Skills To Succeed In A Post-Coronavirus World,” <i>Forbes</i>, April 17, 2020, available at: <; Gwen Morgan, “6 skills employees will need in the post-pandemic workplace,” *FastCompany*, Oct. 27, 2020, available at: <<https://www.fastcompany.com/90568262/6-skills-employees-will-need-in-the-post-pandemic-workplace>>.

⁸ SO 2000, c 41, s. 23.1.

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\$13.40 to \$13.50 an hour for students, from \$12.45 to \$12.55 an hour for liquor servers, and from \$15.70 to \$15.80 an hour for homeworkers.

9. A minimum wage creates a wage floor, and it prevents employers from taking unfair advantage of workers. However, historically any increases were conducted on an ad hoc basis, and took into consideration a number of factors, including monetary comparisons internationally (and especially to the U.S.).⁹
10. Decades ago, the average minimum wage in Canada was lower than that of the U.S., which reflected an interest in attracting low-skilled and low-wage jobs to Canada, but as the Canadian industry shifted to more of an information economy, this this is has been reflected in a decoupling of minimum wage from American standards, and a consistent pattern of average increases that exceed the averages across the U.S.¹⁰
11. In 2014, the *Stronger Workplaces for a Stronger Economy Act*,¹¹ changed this approach to tie increases to the minimum wage to inflation as determined by the Consumer Price Index (CPI). Further changes in 2017 in the *Fair Workplaces Better Jobs Act*¹² adjusted these rates further.
12. Increases to the minimum wage are often controversial, and frequently misunderstood. They are erroneously assumed to automatically increase the operating costs to domestic businesses, and therefore have a dampening effect on the economy. These conclusions rely on simplistic models on the effects of minimum wage, and overlook broader benefits that suggest that the opposite is in fact true.

⁹ <https://www.ontario.ca/document/employment-standard-act-policy-and-interpretation-manual/part-ix-minimum-wage>

¹⁰ <https://www.ontario.ca/document/employment-standard-act-policy-and-interpretation-manual/part-ix-minimum-wage>

¹¹ SO 2014,

¹² SO 2017, c 22.

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13. In 1982, George Akerlof developed the “efficiency wage” theory that employees would consistently provide higher effort levels in response to higher wages.¹³ This higher labour productivity is observed at both the enterprise level and the aggregate economy-wide level.
14. Although this fair wage-effort model may be regarded as irrelevant for explaining cyclical unemployment fluctuations, it may be useful for policy development as an external factor that can improve macroeconomic workforce efficiency. It is also useful because it employs equity theory in social psychology and exchange theory, which is markedly omitted in other economic models.¹⁴ Consequently this theory has been supported by “a large number of experimental studies,” gave rise to gift-exchange game theory, and is recognized internationally.¹⁵
15. Increasing minimum wage can also lead to higher retention rates, reducing the business costs associated with replacing employees. American data suggests that the cost of replacing a low-wage worker is approximately 16% of their annual salary, and jobs that are very complex requiring higher levels of education and training have even higher turnover costs.¹⁶ Increased wages are positively associated with reduced turnover, and therefore reduced turnover costs.¹⁷

¹³ George A. Akerlof, “Labor Contracts as Partial Gift Exchange,” *The Quarterly Journal of Economics*, 97:4 (November 1982) at 543–569.

¹⁴ George A. Akerlof and Janet L. Yellen, “The Fair Wage-Effort Hypothesis and Unemployment,” *The Quarterly Journal of Economics*, 105:2 (May 1990) at 255-283, available at: <https://www.washingtonpost.com/blogs/wonkblog/files/2013/10/fair_wage_effort_hypothesis.pdf>; George A. Akerlof and Janet L. Yellen, “Fairness and Unemployment,” *The American Economic Review*, 78:2, (May 1988) at 44-49, available at: <<https://www.washingtonpost.com/blogs/wonkblog/files/2013/10/fairnessunemployment.pdf>>.

¹⁵ International Labour Organization, “Minimum Wage Policy Guide,” at 75, 116, available at: <https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_508566.pdf>.

¹⁶ Heather Boushey and Sarah Jane Glynn, “There Are Significant Business Costs to Replacing Employees,” Center for American Progress, November 16, 2012, available at: <<https://cdn.americanprogress.org/wp-content/uploads/2012/11/16084443/CostofTurnover0815.pdf>>.

¹⁷ Arin Dube et al., “Minimum Wage Shocks, Employment Flows and Labor Market Frictions,” Institute for Research on Labor and Employment, 2012, available at: <<https://escholarship.org/uc/item/76p927ks>>

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16. Given these American findings, comparative pressures from the U.S. such as the *Raise the Wage Act of 2021*¹⁸ will invariably have an effect on Ontario, especially for industries and businesses looking at the broader impacts of wages.¹⁹ The Canadian workforce, which is already more highly educated, also saves American manufacturers operating in Ontario “large sums in benefit payments compared to their costs in the United States” due to our healthcare system, offsetting any concerns of increased operating costs from increased wages.²⁰
17. In contrast, most other American studies on minimum wage, especially prior to 2014, have significant methodological limitations, especially in size and use of comparators.²¹ A metadata analysis of minimum wage studies concluded there was little evidence to suggest a substantively significant impact on the number of jobs, people working, or number of hours.²² Broad assumptions about the adverse impacts of minimum wage may therefore be premature and based on improper analysis of historical data.²³

¹⁸ S.53 — 117th Congress (2021-2022), available at: <<https://www.congress.gov/bill/117th-congress/senate-bill/53/text>>.

¹⁹ Hon. Robert C. Bobby Scott, “Raising the Minimum Wage: Good for Workers, Businesses, and the Economy,” available at: <<https://edlabor.house.gov/imo/media/doc/FactSheet-RaisingTheMinimumWageIsGoodForWorkers,Businesses,andTheEconomy-FINAL.pdf>>; Committee on Education & Labour, “Top Democrats Introduce Bill Raising Minimum Wage to \$15 by 2025,” Jan. 26, 2021, available at: <<https://bobbyscott.house.gov/media-center/press-releases/top-democrats-introduce-bill-raising-minimum-wage-to-15-by-2025>>; Edward Lempinen, “A \$15 minimum wage would cost jobs, right? Probably not, economists say,” *Berkley News*, March 18, 2021, available at: <<https://news.berkeley.edu/2021/03/18/a-15-minimum-wage-would-cost-jobs-right-probably-not-economists-say/>>.

²⁰ Paul Krugman, “Toyota, Moving Northward,” *The New York Times*, July 25, 2005, available at: <<https://www.nytimes.com/2005/07/25/opinion/toyota-moving-northward.html>>.

²¹ Dale Belman and Paul J. Wolfson, “What Does the Minimum Wage Do?,” (2014) Kalamazoo, MI: W.E. Upjohn Institute for Employment Research, at 28-30, available at: <https://research.upjohn.org/cgi/viewcontent.cgi?article=1245&context=up_press>.

²² *Ibid* at 402.

²³ David Neumark, “Promising ideas for future research on the employment effects of minimum wages,” Oct. 9, 2017, available at: <<https://voxeu.org/article/employment-effects-minimum-wages-directions-research>>; Isaiah Andrews and Maximilian Kasy, “Identification of and Correction for Publication Bias,” *The American Economic Review* (2019) 109:8, available at: <<https://maxkasy.github.io/home/files/papers/PublicationBias.pdf>>; Sylvia Allegretto et al., “Credible Research Designs for Minimum Wage Studies: A Response to Neumark, Salas, and Wascher,” *ILR Review* (2017) 70:3, available at: <<https://journals.sagepub.com/doi/10.1177/0019793917692788>>.

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18. Although the real value of the federal U.S. minimum wage is at a historic low, it is very likely to increase in coming years as an evidence-based intervention to improve the American economy.²⁴ The failure of Ontario to take similar measures may lead to a relative stagnation in recovery following the pandemic.
19. Canadian economists have commented that increases to minimum wage in Ontario in 2019 was beneficial to the economy. They laud these increases as being an effective way to lift income for low-paid workers and reducing wage inequality, and that properly conducted studies find that it boosts spending power for low-income workers and has a positive economic effect.²⁵
20. The Workforce Recovery Advisory Committee could easily get bogged down with competing theories of the economic impacts of increasing the minimum wage. However, protracted delays in doing so in Ontario could have numerous unforeseen ripple effects in the economy, and therefore requires some degree of prioritization. This intervention is also most likely to assist those most adversely impacted by the pandemic, namely women and racialized Ontarians.²⁶

²⁴ Annie Lowrey, “The Counterintuitive Workings of the Minimum Wage,” *The Atlantic*, Jan. 29, 2021, available at: <<https://www.theatlantic.com/ideas/archive/2021/01/counterintuitive-workings-minimum-wage/617861/>>; James Kwak, “The Curse of Econ 101,” *The Atlantic*, Jan. 14, 2017, available at: <<https://www.theatlantic.com/business/archive/2017/01/economism-and-the-minimum-wage/513155/>>.

²⁵ Lars Osberg et al., “Ontario gets it right with move to higher minimum wage,” *The Globe and Mail*, June 30, 2017, available at: <<https://www.theglobeandmail.com/opinion/ontario-gets-it-right-with-move-to-higher-minimum-wage/article35499483/>>; Michal Rozworski, “Economists Support \$15 Minimum Wage in Ontario,” *Progressive Economics Forum*, available at: <<https://progressive-economics.ca/wp-content/uploads/2017/06/EconomistsSupport15inOntario.pdf>>.

²⁶ Lowrey, *supra* note 24.

Recommendation #2: Improving Enforcement of Workplace Protections

21. Minimum wage is an important protection for workers in Ontario, but it is one of many that exist in creating employment standards. This legislation is only effective if there is proper adherence and enforcement. Ensuring an economic environment that helps workers through Ontario's economic recover must guarantee that violations to employment standards do not occur.
22. Only a small number of employees who file complaints of ESA violations do so while continued to be employed, largely due to fear of reprisals. The Ministry's historic approach to managing the volume of complaints through public management and governance reforms may not be effective, as the number of individual complaints is expected to continue to grow.²⁷
23. Enforcement of legislative requirements is also important under the *Occupational Health and Safety Act*.²⁸ Efforts to improve enforcement for young workers in Ontario in 2000 led to a 45% decrease in lost-time injury rates for teenagers by 2008.²⁹
24. Workers in Ontario have previously been described as in a crisis, due to the deficiencies in the ability to enforce employment standards, and specifically on its reliance of complaints by unrepresented workers.³⁰ This is particularly true for low-wage workers, who typically do not have the same type of assistance as other Ontarians absent community-based legal

²⁷ Heather Steel, "Improving protections for workers in precarious jobs: new book published on employment standards enforcement," *Canadian Law of Work Forum*, April 17, 2020, available at: <<https://lawofwork.ca/improving-protections-for-workers-in-precarious-jobs-new-book-published-on-employment-standards-enforcement/>>.

²⁸ RSO 1990, c O.1.

²⁹ Tony Dean, "Expert Advisory Panel on occupational health and safety," Dec. 16, 2010, available at: <<https://www.ontario.ca/document/expert-advisory-panel-occupational-health-and-safety/better-protection-vulnerable-workers>>.

³⁰ Leah F. Vosko, "'Rights without Remedies': Enforcing Employment Standards in Ontario by Maximizing Voice among Workers in Precarious Jobs," *Osgoode Hall Law Journal* 50.4 (2013) at 852-855, available at: <<https://digitalcommons.osgoode.yorku.ca/cgi/viewcontent.cgi?article=1003&context=ohlj>>.

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supports, such as through Community Legal Clinics (CLCs).³¹ Proactive investigations, community-based enforcement, and better partnerships between state agencies and community-based organizations, have all been suggested as solutions to these historic deficiencies.³²

25. Recommendations from a 2010 report on vulnerable workers focused on targeted enforcement and improving enforcement strategies by being more proactive.³³ This report also led to the creation of mandatory requirements for basic occupational health and safety training programs,³⁴ and transferring accident prevention responsibilities from the Workplace Safety and Insurance Board (WSIB) to the Ministry of Labour.³⁵
26. The focus on enforcement also led to significant improvements in quality assurance tools, the creation of new penalties for contraventions,³⁶ and providing additional training for inspectors.³⁷ However, the creation of Administrative Monetary Penalties (AMPs) as contemplated in this report³⁸ was never implemented, and prosecution continued to be the sole enforcement mechanism in Ontario.³⁹ In contrast, the federal government has recently

³¹ *Ibid* at 851.

³² *Ibid* at 865-869.

³³ Dean, *supra* note 29.

³⁴ Ministry of Labour, Training and Skills Development, "A Guide to OHS Requirements for Basic Awareness Training," April 11, 2014, available at: <https://www.labour.gov.on.ca/english/hs/pubs/training_guide/background.php>.

³⁵ Canadian Occupational Safety, "Ontario ministry begins implementing recommendations of Dean Report," March 3, 2011, available at: <<https://www.thesafetymag.com/ca/topics/legislation/ontario-ministry-begins-implementing-recommendations-of-dean-report/185566>>.

³⁶ Construction Projects, O Reg 213/91; Industrial Establishments, RRO 1990, Reg 851; Occupational Health and Safety Awareness Training, O Reg 297/13.

³⁷ Government of Ontario, "Status of the occupational health and safety recommendations from the Expert Advisory Panel," Sept. 27, 2018, available at: <<https://www.ontario.ca/page/status-occupational-health-and-safety-recommendations-expert-advisory-panel>>.

³⁸ Dean, *supra* note 29 at Recommendation 27, available at: <<https://www.ontario.ca/document/expert-advisory-panel-occupational-health-and-safety/enforcement-and-penalties>>.

³⁹ Jeremy Warning, "Administrative monetary penalties expanding," *Canadian Occupational Safety*, Jun. 25, 2018, available at: <<https://www.thesafetymag.com/ca/news/opinion/administrative-monetary-penalties-expanding/187430>>.

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introduced AMPs for health and safety violations as of Jan. 1, 2021.⁴⁰ These changes were specifically introduced to address non-compliance, with 35% of federally regulated employers being identified as repeat offenders.⁴¹

27. AMPs have been adopted in Ontario in other contexts because they are more efficient for government, and more informal for the parties.⁴² The legal principles for adopting this approach from a regulatory perspective have been upheld and can be implemented while maintaining procedural fairness.⁴³ This approach should be considered by Ontario for the enforcement of occupational health and safety violations as well.

Recommendation #3: Address Precarious Employment

28. Precarious work is described by the International Labour Organization as jobs that have reduced financial security, and can include jobs beyond informal work to include temporary contracts, self-employment, and involuntary part-time work.⁴⁴
29. When businesses resort to temporary work practices during an economic recovery, they can themselves shape the economy and create weaker economic conditions that dampens

⁴⁰ Part IV of the *Canada Labour Code*, RSC 1985, c L-2.

⁴¹ Government of Canada, "Canada Gazette, Part I, Volume 153, Number 34: Administrative Monetary Penalties Regulations (Canada Labour Code)," Aug. 24, 2019, available at: <<https://gazette.gc.ca/rp-pr/p1/2019/2019-08-24/html/reg1-eng.html>>.

⁴² Law Commission of Ontario, "Modernizing the Provincial Offences Act: A New Framework and Other Reforms – Interim Report," March 2011 at 5, 19, 72, available at: <<https://www.lco-cdo.org/wp-content/uploads/2011/03/ProvincialOffencesActInterimReport-March2011.pdf>>; Ministry of the Attorney General, "Exploring an online Administrative Monetary Penalty System for infractions of provincial statutes and municipal by-laws in Ontario," March 3, 2015, available at:

<https://www.attorneygeneral.jus.gov.on.ca/english/POA%20ConsultationPaper%20Final_ENG.html>; Amanda Tait, "The Use of Administrative Monetary Penalties in Consumer Protection," Public Interest Advocacy Centre (PLAC), May 2007 at 12-13, available at: <<https://www.piac.ca/wp-content/uploads/2014/11/amps.pdf>>.

⁴³ Stanley David Berger, "Report Into Administrative Monetary Penalties (AMPs) for Parking Infractions," Law Commission of Ontario, June 2010, available at: <<https://www.lco-cdo.org/wp-content/uploads/2010/11/poa-commissioned-paper-berger.pdf>>.

⁴⁴ International Labour Organization, "ACTRAV Symposium on Precarious Work," Oct. 4-7, 2011, available at: <http://www.ilo.org/actrav/events/WCMS_153972/lang--en/index.htm>.

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economic development.⁴⁵ Addressing precarious employment in Ontario is therefore an essential strategy for fostering economic growth following the pandemic.⁴⁶

30. Although historically solo self-employment was largely dominated by men, more recent studies suggest that women and youth are overrepresented among precarious workers in Ontario. Other historically marginalized populations in Ontario are also overrepresented in this type of work, including racialized persons, immigrants, Indigenous persons, migrant workers, people with disabilities, and older adults.⁴⁷

31. Many of these Ontarians are also the ones who have been disproportionately affected by the pandemic, especially those working in the service industries.⁴⁸ These impacts invariably have discernible effects on the risk of injury and illness, as well as health consequences and barriers to medical treatment and medicine.⁴⁹

⁴⁵ Ronald Janssen, “Precarious work makes for a precarious recovery,” *Global Labour Column* 32, September 2010, available at: <https://global-labour-university.org/fileadmin/GLU_Column/papers/no_32_Janssen.pdf>.

⁴⁶ Jessica Cheung, “Black people and other people of colour make up 83% of reported COVID-19 cases in Toronto,” *CBC News*, July 30, 2020, available at: <<https://www.cbc.ca/news/canada/toronto/toronto-covid-19-data-1.5669091>>; Aaron Wherry, “One country, two pandemics: what COVID-19 reveals about inequality in Canada,” *CBC News*, Jun 13, 2020, available at: <<https://www.cbc.ca/news/politics/pandemic-covid-coronavirus-kerb-unemployment-1.5610404>>; Sarah Cooper, “Pandemic hits marginalized populations hardest,” *Winnipeg Free Press*, Canadian Centre for Policy Alternatives, March 9, 2021, available at: <https://www.policyalternatives.ca/sites/default/files/uploads/publications/Manitoba%20Office/2021/03/Pandemic_hits_marginalized_populations_hardest.pdf>; Government of Canada, “Perspectives on COVID-19: Impacts on disadvantaged populations,” Social Sciences and Humanities Research Council, available at: <https://www.sshrc-crsh.gc.ca/news_room-salle_de_presse/perspectives/covid-19/populations-eng.aspx>.

⁴⁷ Law Commission of Ontario, “Vulnerable Workers and Precarious Work – Final Report,” December 2012, at 19-27, available at: <<https://www.lco-cdo.org/wp-content/uploads/2013/03/vulnerable-workers-final-report.pdf>>; Francis Fong, “Navigating Precarious Employment in Canada: Who is Really at Risk?,” Chartered Professional Accountants Canada, 2018, at 10-13, available at: <https://www.cpacanada.ca/-/media/site/operational/sc-strategic-communications/docs/g10475-sc_precarious-employment.pdf>; Workers’ Action Centre, “Still Working on the Edge: Building Decent Jobs from the Ground Up,” March 2015, at 11, 27, 30, available at: <<https://workersactioncentre.org/wp-content/uploads/2016/07/StillWorkingOnTheEdge-WorkersActionCentre.pdf>>.

⁴⁸ Andrew Agopsowicz, “COVID-19’s Threat to Canada’s Vulnerable Workers,” RBC Economics, March 20, 2020, available at: <<https://thoughtleadership.rbc.com/covid-19-could-affect-millions-of-canadas-most-vulnerable-workers/>>

⁴⁹ Denise Ryan, “Vulnerable and marginalized most affected by mental health challenges during COVID,” *Vancouver Sun*, Feb. 17, 2021, available at: <<https://vancouversun.com/news/vulnerable-and-marginalized-most-affected-by-mental-health-challenges-during-covid>>; Law Commission of Ontario (December 2012), *supra* note 47 at 28-31.

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32. An estimated 27-45% of all Canadian workers did not have what would normally be considered as stable full-time jobs, even prior to the pandemic.⁵⁰ The impact of low-wages, income volatility, insecure working arrangements, lack of opportunities have significant impacts on workers and their families, including the creation or exacerbation of stress and mental health issues.⁵¹
33. The COVID-19 pandemic resulted in a sharp decrease in full-time permanent jobs in Canada in 2020, but this has already demonstrated some recovery, in part due to governmental responses at the federal level.⁵² Ontario should employ similar mitigation strategies to develop efficient policies and effective social safety nets, especially considering existing federal interest in cooperating with the provinces to do so.⁵³

Conclusions

34. The Workforce Recovery Advisory Committee has a unique opportunity to help position the Government of Ontario in a manner that places the workers first and encourage the province to focus on the needs and the interests of its residents. This can be done by avoiding ideological perspectives of economic growth, and ones that are outdated and otherwise discredited, and instead focus on evidence-based policy making.

⁵⁰ Elizabeth Cahill, “Precarious Employment in Canada: An Overview,” Library of Parliament, Nov. 21, 2018, available at: <<https://hillnotes.ca/2018/11/21/precariou-employment-in-canada-an-overview/>>.

⁵¹ Bryan May, “Precarious Work: Understanding the Changing Nature of Work in Canada,” Report of the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities, June 2019, 42nd Parliament, 1st Session, at 36-38, available at: <<https://www.ourcommons.ca/Content/Committee/421/HUMA/Reports/RP10553151/humarp19/humarp19-e.pdf>>.

⁵² Elizabeth Cahill, “Understanding Precarious Work in Canada,” Library of Parliament, Dec. 1, 2020, available at: <<https://hillnotes.ca/2020/12/01/understanding-precariou-work-in-canada/>>.

⁵³ May, *supra* note 51 at 12, 16, 30, 49, 51.

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35. Post-pandemic global markets will invariably be characterized by a large degree of protectionism, in a misguided attempt to limit the economic damage.⁵⁴ The Canadian approach will require stronger partnerships with like-minded trade partners, demonstrating leadership and projecting progressive policies to foster even greater globalization.⁵⁵
36. The competitive advantages that Ontario offers will be in high-end knowledge workers, an information economy, and greater use of technology. However, this can only be properly fostered in an economic ecosystem of worker stability, security, and effective utilization, and where regional agencies utilize specific targeting plans towards key sectors of a local economy.⁵⁶
37. Historic models of trade and migration (i.e. the Heckscher–Ohlin model) had largely assumed that both were substitutable, suggesting that a significant level of trade would lead to a jurisdiction’s specialization in production of goods for which there are ample input factors, due to a competitive advantage.⁵⁷ However, newer evidence suggests that trade and migration actually complement each other, with an increase in the volume of trade

⁵⁴ Yen Nee Lee, “Coronavirus pandemic will cause a ‘much bigger wave’ of protectionism, says trade expert,” *CNBC*, April 9, 2020, available at: <<https://www.cnn.com/2020/04/10/coronavirus-expect-a-lot-more-protectionism-says-trade-expert.html>>; Magnus Lodefalk et al., “Migration can play a role in the post-pandemic reboot of global trade,” *VoxEU*, April 27, 2021, available at: <<https://voxeu.org/article/migration-and-post-pandemic-reboot-global-trade>>.

⁵⁵ Scott Vaughn, “As global protectionism grows, Canada must look for new ways to operate,” *Policy Options*, May 29, 2020, available at: <<https://policyoptions.irpp.org/magazines/may-2020/as-global-protectionism-grows-canada-must-look-for-new-ways-to-operate/>>; Farok J. Contractor, “The world economy will need even more globalization in the post-pandemic 2021 decade,” *International Journal of Business Studies*, Feb. 1, 2021, available at: <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7848245/#>>

⁵⁶ Riccardo Crescenzi et al., “Governments strive to attract investment, but so far there’s no evidence of what works,” *London School of Economics*, Feb. 22, 2019, available at: <<https://blogs.lse.ac.uk/businessreview/2019/02/22/governments-strive-to-attract-investment-but-so-far-theres-no-evidence-of-what-works/>>.

⁵⁷ Robert C. Feenstra, “The Heckscher–Ohlin Model,” *Advanced International Trade: Theory and Evidence*, August 2002, available at: <http://course.sdu.edu.cn/G2S/eWebEditor/uploadfile/20120417190154_999045912265.pdf>.

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associated with increased labour mobility, especially with trade-enhanced developments that focus on higher-skilled labour.⁵⁸

38. Canada will continue in the post-pandemic world to encourage highly-skilled immigration, and Ontario will invariably a preferred destination within Canada for many of these workers. The Workforce Recovery Advisory Committee's recommendations necessarily needs to complement federal priorities and strategies as it relates to immigration, diversification of trade, and economic growth.⁵⁹
39. Ontario's recovery will occur by continuing to be a preferred destination for skilled labour, and can foster this by generating a workforce that is properly paid, free from reprisals, where otherwise characterized by stability. Existing operations in Ontario benefit from these characteristics, and future industries contemplating commercial activities in the province will also be considering these key attributes.
40. Workforce recovery can only occur through stronger employment policies, and an investment in workers that prioritizes workplace issues that have been identified and studied now for many years. The only way to properly open for business in Ontario following the pandemic is to put the people of Ontario first.

⁵⁸ Lodefalk, *supra* note 54; Arvind Panagariy, "Factor mobility, trade and welfare: A North-South analysis with economies of scale," *Journal of Development Economics*, (1992) 39:2, at 229-245, available at: <<https://www.sciencedirect.com/science/article/abs/pii/030438789290038B>>.

⁵⁹ Hon. Mary Ng, "Statement of Priorities and Accountabilities for Invest in Canada," Government of Canada, Sept. 18, 2020, available at: <<https://www.international.gc.ca/global-affairs-affaires-mondiales/partners-partenaires/iic/mandate-mandat.aspx?lang=eng>>; Sean Kilpatrick, "Despite closed borders, Canada aims for record immigration," *The Globe and Mail*, July 23, 2021, <<https://www.theglobeandmail.com/politics/article-despite-closed-borders-canada-aims-for-record-immigration/>>.