Canadian governments have assumed a central role in injury prevention. Unfortunately, their injury-prevention efforts are not very successful. As noted in Chapter 3, this lack of success often reflects inherent weaknesses in government strategies. To understand why governments adopt demonstrably ineffective approaches, it is necessary to consider the pressures, options and constraints governments must navigate when setting policy. That is the goal of this chapter.

The state, of course, is only one actor. The actions of employers and workers are also important. Employers have further intensified work during the past 30 years. They have also created increasingly precarious employment. The effects of increasing intensity and precariousness shed useful light on employer priorities in the modern workplace. This analysis allows us to draw some preliminary conclusions regarding injury prevention in Canada.

**WHY REGULATE INEFFECTIVELY?**

*Context of state action*

Canadian governments began directly intervening in the economy to prevent workplace injuries in the late nineteenth century.
To understand why and how the state chooses to intervene, we need to examine the contradictory demands governments face. On the one hand, Canadian governments must facilitate the capital accumulation process. That is to say, they must act in ways that allow employers to produce goods and services in a profitable manner and thereby encourage private investment. Failing to do so may result in an economic downturn, for which the government may well be held responsible. This may have significant social consequences for society and electoral consequences for the government.

Typically, private investors want government regulation only to the degree that it facilitates the capital accumulation process. A legal system that enforces contracts is desirable because it facilitates investment and transactions. On the other hand, regulation that limits managerial discretion in the workplace is undesirable for two reasons. First, funding regulation normally entails additional taxation, which may reduce profitability. Second, regulation impedes the ability of employers to—or at least increases the cost associated with—maximize their profitability through maximally efficient job design.

On the other hand, governments must maintain their own legitimacy with the electorate as well as the legitimacy of the capitalist social formation. The operation of capitalist systems often negatively affects workers, who comprise the majority of the electorate. We see this in the form of low pay, poor working conditions, and workplace injury and death. These effects can cause a loss of confidence in a particular government or in the capitalist social formation.

In order to gain re-election and perpetuate the capitalist social formation, the state has chosen to address these issues via employment laws and regulation. In doing so, government policy must navigate the contradictory demands of employers and workers. The importance of each demand is further shaped by the relative political power of the groups.
Regulation of workplace injury

It is tempting to begin talking about the political economy of injury prevention with what behaviour is regulated and how. It is more instructive, however, to begin with what isn’t regulated. Most importantly, Canadian workers continue to have little or no control over what, when, where, or how goods and services are produced. These decisions are left largely to employers, although harmful decisions may provoke a response from workers. This policy choice means that employers determine what hazards exist in the workplace, who is exposed to them, and the nature of the exposure.

That governments don’t challenge the notion of the employer’s right to manage — despite employers’ long record of managing in ways that harm their workers — is not a ground breaking observation. Yet, this basic fact is often lost in the rhetoric around the burdensome nature of government regulation. Further, this policy choice shows that employers have been able to shape in important ways how the state views workplace injury and responds to pressures for prevention.

The state has, of course, imposed some limits on employers’ discretion. Governments have largely prohibited some activities, such as the employment of children. They also set standards, give workers health and safety rights, and conduct workplace inspections. Despite this effort, hundreds of thousands of workers are injured on the job each year. The ineffectiveness of government injury-prevention efforts requires explanation.

Inadequate standards

One reason injury-prevention efforts are ineffective may be that regulations do not adequately address some hazards. Consider our discussion about exposure limits in Chapter 3. There is little data about and no exposure limits for 99 percent of chemical agents. Where there are limits, they are often set at levels easily achievable by employers but consistently too high to ensure
worker safety. And there is no requirement for employers to ensure these substances are safe before exposing workers to them.

Clearly, governments are doing relatively little to regulate these hazards. It is unclear why states choose, through inaction, to prioritize profitability over safety, but several factors are likely at play. First, occupational diseases are difficult to “see” due to their long latency periods and murky causality. These characteristics have made it difficult for workers to gain recognition and compensation for their diseases. Similarly, many biological and chemical hazards are difficult for regulators to detect. They require specific equipment and testing. And, when detected, such substances may exist at levels below (incorrectly) “acceptable” exposure levels. Further, the lack of agreement about what causes occupational diseases makes it easier to justify inaction than do traditional hazards, such as unguarded machinery.

Second, the effort workers must expend and the evidence they must gather to gain recognition for occupational diseases focuses debate at the level of individual diseases. In this way, effort and attention are channelled towards discussing specific diseases and exposures. Left largely unexamined is the widespread absence of information about the toxicity of substances and the lack of a requirement on employers to ensure substances are safe before introducing them to the workplace. Further, when pressure begins to mount, states have an alternative to strict regulation. By providing compensation, they can undermine the political potency of worker demands — the injury has, after all, already occurred.

This dynamic means the state can set exposure limits that pose little threat to the capital accumulation process without jeopardizing social reproduction. Of course, injuries and illnesses caused by biological and chemical agents are only one form of workplace injuries. It is also necessary to consider why regulation aimed at traditional workplace hazards doesn’t work.
Regulation of hazards in the workplace

Occupational health and safety laws require employers to inform workers about workplace hazards and to prevent the injury of workers. Again, while it is tempting to focus on the specific requirements, it is more useful to begin by looking elsewhere. For example, why do legislators believe that employers must be compelled to tell workers about safety hazards? Similarly, why do legislators believe employers must be compelled to protect workers?

Our discussion in Chapters 2 and 3 sheds some light on these questions. Employers have a long track record of withholding information about hazards. In some cases, they have even withheld diagnoses of occupational diseases, thereby preventing workers from reducing their exposure or seeking treatment. Employers do this to limit corporate liability and facilitate continuing to expose workers to hazards that that they might not voluntarily accept.

In this behaviour, we see that slogans such as “workers are our most valuable resource” have an ironic truth to them. Employers do treat workers as resources and deploy them in the most beneficial manner to the employer. The impact of these decisions on workers’ health and well-being are only considered if the cost of the decision to the employer exceeds the benefit. While clearly immoral, this behaviour is a rational response to the profit imperative under capitalism.

Ignorant and reckless?

This context is important because it places the commonplace belief that injuries are caused by worker ignorance or recklessness in a new light. Let’s start with ignorance. Certainly, it is possible for workers not to know about a safety hazard or a regulation. But why did the employer not inform the worker about the hazard? Can we believe that the employer did not know? Perhaps. But the history of workplace injury suggests
employers often do know about hazards and just don’t say anything.

And what about the notion of worker carelessness? This narrative’s recurring popularity has several explanations. It is premised on a negative view of workers—a view supported by (the few) instances where workers do seemingly stupid things. Of course, we don’t generally look beneath the event to ask why the worker crawled under the conveyor belt without locking it out. Such explanations are slow to emerge, are tinged by concerns about liability, and are too complicated for a 15-second news clip. It is easier to blame the worker (who is likely dead).

The careless worker notion also places responsibility on individual workers for being safe. Blaming the victim allows us to avoid considering how injuries occur in the context of a relationship marked by significant differences in power and interests. This, in turn, allows us to avoid the uncomfortable fact that most of us are in this same position—our own ability to know about and resist workplace hazards is really quite limited. It also allows us to avoid uncomfortable questioning about the legitimacy of the capitalist social formation by deflecting attention away from the role that employers’ largely unfettered right to manage plays in creating workplace hazards that injure and kill us.

Social sanction of workplace injury
There is significant evidence that government injury-prevention efforts fail because employers simply ignore them. Most forms of regulation are based, at least implicitly, on the premise that a penalty ought to reflect the seriousness of the behaviour being punished. This reflects notions of parity (“an eye for an eye”). It also rests on an expectation that individuals respond rationally to incentives and penalties. So, for example, if you want people to obey the speed limit in construction zones, increasing
the penalty (e.g., higher fines, the threat of jail) is expected to increase compliance.

Health and safety penalties are rare. They are also overwhelming monetary in nature. The few prosecutions that occur rarely criminalize violators. The state may even allow the employer to donate the penalty to a charity or safety organization, instead of paying a fine as they would if they had broken any other law. This approach is rather surprising given that injuring and killing others outside of the workplace results in social disapprobation and a variety of criminal and civil sanctions.

It is unclear why employers are treated differently. Most probably, it is because worker injuries and deaths occur during economic activity that is considered (otherwise) socially useful. Further, employment appears to be a voluntary relationship between employers and workers, where each experiences some risk. Yet, as noted by Harry Glasbeek and Eric Tucker, the risks taken by employers and workers are very different: employers can, at worst, lose money; workers face the loss of their livelihood and/or life. Further, employers are legally able to limit their liability by forming limited liability corporations.

When the injury and death of workers is constructed as non-criminal behaviour, it follows that regulation need not be as intensive. This allows the state to implement injury-prevention regulations in ways that minimally impact the capital accumulation process. Limited regulation and monetary penalties then appear to be a proportional response to the issue.

**Ineffective penalties**

The monetary nature of the penalty also naturally results in employers considering the costs and benefits of compliance. Are the risk of being caught and the cost of the penalty worth whatever advantage noncompliance offers? For example, a company may save money by not buying safety equipment — betting they will never be inspected and, if they do, the worst that will
happen is that they will receive an order to fix things. Or a company might continue to use cheap but hazardous substances or dangerous but fast production processes. Again, the company is betting the profit will outpace the penalty.

This is an uncharitable characterization of employers. Certainly other issues may factor into employer decisions. A company may risk its reputation by acting unsafely. It may also face higher workers’ compensation premiums. And individual managers and directors may question the morality of trading their workers’ health for profit. The effects of these factors are unknown, but they must be considered in the context of the capitalist social formation. Maximizing profit is widely accepted as a legitimate (and the main) goal of corporations. Where this results in the injury and death of workers, so long as you have enough money to pay the fine (if you even get one), society generally looks the other way.

Based on the evidence in Chapter 3, it is highly unlikely that employers will be caught if they violate safety standards. If they are caught, it is most likely that they will be ordered simply to remedy the violation. In effect, there is no cost to violating the law. The one exception to this is if a worker is very seriously injured or killed. In this case, an employer is likely to face an inspection that may lead to prosecution. But here, the odds of a prosecution are still relatively slim and the fines imposed — while significant in absolute value — are often small in terms of a firm’s overall operating budget.

This analysis is confirmed by the research of Tompa, Trevithick, and McLeod. Health and safety inspections are weakly associated with fewer or less severe injuries. There was also only mixed evidence that the prospect of being penalized for health and safety violations lead to fewer or less severe injuries. Not surprisingly, however, there is strong evidence that actually being penalized leads to fewer injuries.

This analysis simply makes sense. Employers begin
complying when there is a high probability of enforcement and penalty. This suggests that regulation can be effective — just not in its current form. Again, this should not be a surprise. Why obey the speed limit when the cops at the speed trap didn’t bring their ticket books? Given this fairly commonsense conclusion, why do so few governments enforce occupational health and safety laws aggressively? And why do they, instead, focus on softer forms of regulation such as education and incentives?

Why regulate ineffectively?
Legislators and bureaucrats rarely acknowledge their systems don’t work very well, let alone proclaim why they choose to regulate ineffectively. So, to understand why ineffective regulation is the norm requires some speculation. Let’s begin by recalling that the state must mediate the conflicting claims of workers and employers. The resulting policy will likely be influenced (although not entirely determined) by the power each group wields.

Historically, capital has been much more powerful than labour. There are relatively few capitalists (versus many labourers), thus they are easier to organize. Capitalists have more resources. They also have clearly common interests. Consequently, they are better able to articulate what they want and apply pressure on politicians and bureaucrats. This does not mean that capital always gets what (or all that) it wants. It does, however, suggest that capital can exert significant influence on public policy. Capital typically seeks to minimize state intervention, exerting pressure on the state both directly (e.g., by lobbying) and indirectly (e.g., by shaping public discourse). Capital certainly benefits from state efforts that legitimize the capitalist social formation through laws that protect workers. But any such laws must minimally impair the ability of employers to maximize productivity, either by organizing work efficiently or by externalizing costs.
By contrast, workers are more difficult to organize. To create sustained pressure on government, individual workers must create or join a mobilizing structure, must develop a shared understanding of the problem and the potential solutions. There must also be a political opportunity for workers to exert pressure. These are not insurmountable barriers, but there difficulties to overcome. Existing mobilizing structures (e.g., trade union, service, civic and cultural groups) typically already have a purpose. To re-task them requires effort, may reduce the resources available to the original and/or new task, and may meet with resistance. Further, developing a common understanding can be impeded by the illegitimacy according to worker claims by the dominant ideology (which suggests workplace injuries are normal). Political opportunities are shaped by the discourse around workplace injury. The reaction to even stark evidence that workers have been sacrificed for profit is shaped by this discourse.

**How is this legitimized?**

Capital is also often able to frame the debate around public policy. The importance of economic stability is often linked (or sometimes made synonymous) with the public interest. Thus, public policy options are discussed in economic terms. Consequently, an employer perspective on risk of injury (it is minimal, unavoidable, and acceptable) shapes the discussion. Narrow, technical discussions about the costs and benefits (to employers) of different approaches to injury prevention displace discussions about how employer behaviour results in injuries, which might then lead to awkward questions about why employers would allow workers to be injured. This approach falsely assumes that the major consequence of workplace injury is economic. It is not—it is the injury and death of workers.

The power of capital is increased by the nature of workplace injuries. These injuries are often hard to see. Employers and governments don’t keep accurate and public counts of injuries
and deaths. And when injuries occur, they are widely dispersed in time and space. These factors make it hard to see the scale of the problem or patterns. Layered on top of this is the tendency to describe injuries as unusual or “freak” events. This dynamic allows employers, the state, and even workers to dismiss such events as unpredictable and unpreventable. This, in turn, suggests that there is no broader problem and action is neither possible nor required. Further, states construct data that makes the system look effective.

A further complication is how the careless worker narrative obscures the responsibility of employers for exposing workers to hazards. Worker rights under the internal responsibility system (IRS) further reinforce this narrative and get government off the hook for regulatory failure. It is up to workers to raise issues, despite their inability to compel employers to address them. And it is up to workers to refuse unsafe work, despite the risks they run by such a refusal.

This pattern of thinking around workplace injuries allows regulators to appear to be addressing workplace injuries (even though their regulatory approach is clearly ineffective) while at the same time minimally impeding employer decision making — decision making that is important in maintaining profitability and thus attracting investment. Casting discussion in economic terms also obscures that a political decision about whether profit or workers’ health will be protected has been made by disguising it with quantification and technical discussion. In this way, the state is able to balance the demands of the capital accumulation process and social reproduction.

**INJURY IN THE NEW ECONOMY**

While the purpose of employing workers — making a profit — has not changed over time, the way employers organize work and their relationships with workers have changed. These changes negatively affect injury prevention efforts. They also allow us
to infer from employer behaviour how employers truly view health and safety. Two changes in particular warrant discussion: the intensification of work and the development of precarious employment.

**Work intensification**
The purpose of organizational restructuring is to increase the efficiency of an organization, generally with an eye to improving the bottom line. This can take a number of forms, including downsizing, outsourcing, just-in-time production, and the implementation of various quality improvement initiatives. One consequence of such changes is that workers may find themselves working harder and/or longer. More work, more complex tasks, and being responsible for multiple tasks (often eliminating “down time” on the job) or tasks over which one has little decision-making authority are all ways in which employers can intensify work. Technological change (e.g., portable computing devices and phones) also means that work can now follow some workers home or on vacation.¹¹

Work intensification increases worker stress and negatively affects worker health. Among the outcomes identified by the U.S. National Institution on Occupational Safety and Health are cardiovascular disease, musculoskeletal disorders, and psychological disorders. Intensification can also increase exposure to toxic substances, accidents (due to fatigue and inexperience), impact the development of repetitive strain injuries (RSIs), and may increase the risk of experiencing workplace violence (due to working more hours and at unconventional hours). Reduction in workforce size may also result in a loss of safety knowledge and training.¹²

Darius Mehri provides a rare insider’s glimpse into lean production, based on his time working in Japan for a Toyota subsidiary.¹³ Fast production lines contributed to ill health, including high blood pressure, hearing problems, injuries (including
amputations), and deaths. Minimizing the floor space used creates more hazards due to proximity of workers and equipment. Compelling workers to complete multiple tasks (instead of the single task typical of production line work) increases the opportunity for errors and reduces the opportunity for workers to recover or rest during work. Injuries are hidden to transfer medical costs from the employer to the state medical system. Injured workers are immediately returned to work. Those who cannot work must still come into work to sit and do nothing. Safety is framed as the responsibility of workers.

Precarious employment increases risks

Over time, Canada has also seen a shift away from standard employment relationships. In their place, many workers (disproportionately women and ethnic minorities) find themselves engaged in precarious work. Precarious work is characterized by "limited social benefits and statutory entitlements, job insecurity, low wages, and high risks of ill-health." Self-employed and (notionally) independent contractors may experience precarious work. So, too, may employees whose jobs are short-term and part-time.

There is some evidence that precarious work itself leads to poorer health for workers. A recent Canadian study found some job characteristics — such as scheduling uncertainty, constantly searching for work, and constant evaluation — are associated with poorer health outcomes. This suggests certain employment relationships with certain characteristic appear to be associated with different health outcomes.

Precariousness can also have a direct effect on workplace injuries. Workers with less experience on the job are more likely to be injured. Precarious workers appear to experience different hazards from workers with more permanent jobs. Workers who fear for their jobs may have a higher rate of injury because they may ignore safety policies to maintain production levels.
It appears that knowledge of safety, while important, does not by itself lead to compliance with safety rules or lower levels of injury. An important mediating factor appears to be whether workers are motivated to follow the rules based on their assessment of what behaviour is rewarded by the employer. This research—while preliminary—is consistent with evidence that lean production techniques negatively affect worker health and safety.20

Workers in precarious jobs may also have less access to health and safety protections. Some forms of work (e.g., self-employment) may fall outside of statutory regulation. Other sectors where precarious work is common (e.g., agriculture and domestic work) are often excluded from the ambit of legislation. When workers in precarious jobs have the right to know, participate, and refuse, their ability to exercise these rights is mediated by the increased vulnerability that their employment status creates. Precarious workers are also less likely to believe raising a health and safety issue will result in the remediation of the issue. In effect, precarious work further undermines the already weak rights to know, participate, and refuse. This should not be surprising; undermining worker power is, of course, one of the reasons employers have sought to reorganize how work is completed.

**What do intensification and precarious employment tell us?**

Earlier in this chapter, it was suggested that companies may choose to endanger workers in order to increase their profitability. It is difficult to prove conclusively that this occurs, outside a few well-documented cases, but this conclusion is consistent with the profit imperative that underlies capitalist social formation. It is also a plausible explanation for the many instances where employers have acted in ways that both endanger workers and maximize their profitability.
Intensifying work and altering the nature of the employment relationship provide further and contemporary evidence that supports the conclusion that employers prioritize profit and intentionally trade it off against workers’ health. Increasing work intensity is designed to maximize profitability. And it has clearly known (and predictable, if one takes a moment to think about it) health consequences for workers.

Precarious employment has similar health consequences but evidences much more elaborate and intentional employer behaviour. Reorganizing work so independent contractors and temporary employees can do it is a significant undertaking for an employer—one that must be motivated by an expectation of a significant return. This may come in the form of a lower wage bill. It also comes in the form of a reduction or elimination of statutory standards they must meet for these workers. The intentionality of these changes—that employers explicitly trade off worker health and safety for profit—is difficult to deny.

CONCLUSION

This discussion suggests three major conclusions about injury prevention in Canadian workplaces. The first conclusion is that injuries occur in high numbers. This appears to represent an intentional strategy by employers to transfer production costs to workers in order to maximize employer profitability. Such a strategy is consistent with the imperatives of capitalism. It is also facilitated by the significant labour market and legal power of employers—power that workers typically cannot effectively challenge. It is also important to note that hundreds of thousands of workplace injuries occur each year despite prevention efforts.

Among the factors contributing to this regulatory failure is the long-term use by the state of demonstrably ineffective regulatory strategies. These strategies are ineffective for several reasons. Chief among these reasons is that injury prevention
schemes channel worker energy and workplace conflict into mechanisms that manage and diffuse such conflict. For example, workers are given responsibility to police the provision of safe workplaces by their employers. But they are not given strong rights or access to an effective enforcement system. Consequently, workers must work hard and/or take significant risks to challenge unsafe work situations. This reduces the threat posed by workplace injuries to the capital accumulation and social reproduction processes — worker efforts are channelled into systems that are structurally defective and away from taking direct electoral or workplace action.

Finally, governments legitimize allowing employers to prioritize profitability over safety in three ways: (1) they blame workers for injuries, making it difficult to refocus discussion on the contribution of employers to injuries; (2) they use cost-benefit arguments, which implicitly adopt an economic perspective on workplace injury and prioritizes maximizing profit over preventing injury and death; and (3) they take advantage of the difficulty we have in “seeing” workplace injuries and, indeed, exacerbate this by manipulating injury statistics to create the appearance that workplaces are safer than they are.