

Canadian Union of Public Employees



Submission to Special Advisors on Changing Workplaces Review (Ontario)

September 21, 2015

**34 St. Patrick Street
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C. Michael Mitchell and the Honourable John C. Murray, Special Advisors
Changing Workplaces Review, ELCPB
12th Floor, 400 University Avenue
Toronto, ON M7A 1T7

Dear Mr. Mitchell and Mr. Murray:

RE: The Changing Workplaces Review

I am Tim Maguire, President of the Canadian Union of Public Employees (CUPE) Local 79. I represent approximately 20,000 Members who work at the City of Toronto, Toronto Community Housing Corporation (TCHC), and Bridgepoint Hospital.

This review is being held in the most socio-economically divided city in the country.

Members of CUPE Local 79 are often on the front-lines delivering services to people struggling with precarious work and underemployment. For example, we have members working in Toronto Employment and Social Services, Public Health, and Shelters. As such, our members are uniquely positioned to make an informed and valuable contribution to this discussion.

In the spring, CUPE Local 79 distributed an electronic survey to our Members regarding income inequality and poverty reduction. The majority of responses came from Members working in Recreation, Toronto Employment and Social Services, Public Health, Shelters Support and Housing, Long Term Care Homes and Services, and Children's Services. Their responses reflected what CUPE Local 79 members experience as community members and in their workplaces.

In response to specific questions in our survey:

- 89.6% agreed that income inequality is having a significantly negative impact on their community;
- 90.7% agreed that income inequality is having a significantly negative impact on Toronto as a city;
- 95% agreed that the gap between the rich and the poor has increased; and,
- Many who responded pointed to the importance of employment supports for helping people escape poverty.

I am here today on behalf of those Members to talk about how the Labour Relations Act and the Employment Standards Act can best be amended to protect workers in an economy where employers increasingly rely on part-time, low-wage workers. Over the two past decades we have seen the increasing casualization of what used to be full-time work and an accompanying loss of worker representation, health benefits, paid sick days, predictable scheduling and overall security. As you know, non-standard employment – including part-time and temporary employment – has grown almost twice as fast as standard employment since 1997.

Because this shift has been so well established in Ontario (and across Canada), workers are already feeling its effects – and the effects are incredibly damaging. In the GTA alone, 43% of workers are precariously employed. Precarious and low-wage employment mean a constant struggle to make ends meet. The 2013 report, by McMaster University, United Way Toronto and the Poverty and Employment Precarity in Southern Ontario group, titled “It’s More than Poverty”, showed that not only is precarious employment increasingly common, it negatively affects people’s ability to participate in family and community activities, isolates people socially, and contributes to myriad other social ills.

In that context, then, this review is long overdue. The City of Toronto has been developing a Poverty Reduction Strategy for about a year now. In July, City Council adopted an interim report and Council’s Committees are now looking at implementing those recommendations. I am proud of CUPE Local 79’s participation in that process. Throughout the City’s consultations, CUPE Local 79 and others have argued that the best path out of poverty is a good job.

Unfortunately, a key aspect of what constitutes a good job sometimes gets lost in these discussions, and that is the fact that, as labour history has demonstrated, the “safe, fair and respectful workplace practices” this review is charged with supporting, have been achieved through union representation.

Therefore, my comments today will focus on what the Province needs to do to catch up to a changing economy and changing workplaces, both in terms of union representation and supporting all workers who find themselves in low-wage and precarious positions.

As I make these comments, I have to point out how distressing it is that the Review’s scope has been limited to exclude, among other things, questions of the minimum wage, issues regarding migrant workers and provisions relating to the construction industry. These issues cannot be separated out from the broader discussion. In part, this is because they deserve to be given consideration in multiple contexts, but it is also because the worst effects of the changing economy are felt disproportionately often by women, newcomers, and migrant workers.

Further, if the Review is excluding discussion of the minimum wage because of changes that were implemented several years ago, I would suggest that those small increases were insufficient and warrant another review.

Leaving minimum wages aside, however, I would encourage the Province to catch up to what is happening in many other jurisdictions and take a leadership role in promoting *living wages* across the province.

A living wage is, basically, how much it would cost for workers to meet the basic requirements – food, shelter, transportation, and health care – given the cost of those things in their city or town.

There are economic benefits to promoting living wages. Employers enjoy reduced staff turnover and improved customer service when they pay living wages.¹ Further, evidence from the United States shows that jurisdictions that raised wages experienced higher growth than those that did not.²

However, a living wage is not just about economic growth; it's also about social growth and social development. It's about building safer, stronger communities.

At this point, for the Province to take a leadership role would not be a particularly radical move. 140 cities and towns in the United States have already become living wage employers, as have New Westminster and Vancouver. Toronto is also considering becoming a living wage employer as one of the key provisions in its Poverty Reduction Strategy.

Aside from encouraging the Province to become a living wage leader, I want to make some specific comments about the Labour Relations Act and the Employment Standards Act.

Labour Relations Act

First, the Province needs to extend card-based certification to industries outside of construction. The practice of allowing workers to ask for representation in ways other than a formal vote is worth extending beyond construction precisely because so many workers find themselves in highly precarious and non-traditional work settings.

Second, agricultural workers need to be included, for all purposes, under the Labour Relations Act. This would need to be done with the explicit intention of eradicating the separate and the inferior provisions limiting agricultural workers' ability to organize and bargain collectively.

Third, the Province ought to reintroduce restrictions on the use of replacement workers during labour disputes.

Finally, when there are hearings related to labour-relations issues, the Province ought to reintroduce interim relief on substantive issues to ensure that the inherent delays in the hearing process do not undermine substantive claims for relief.

Employment Standards Act

The Act should be revised to introduce a just cause provision covering unorganized workers with more than one year of service with an employer. Currently an unorganized employee terminated

¹ Reich, M. et al. (2003). *Living Wages and Economic Performance: The San Francisco Airport Model*. Institute of Industrial Relations University of California, Berkeley

Tait, C. (2014). *Work That Pays: Final Report of the Living Wage Commission*. Living Wage Commission, United Kingdom.

² Neuman, S. (2014). "States That Raised Minimum Wage See Faster Job Growth, Report Says". News Blog, National Public Radio, U.S.A. Retrieved from <http://www.npr.org/blogs/thetwo-way/2014/07/19/332879409/states-that-raised-minimum-wage-see-faster-job-growth-report-says>.

without cause is limited to entitlement to termination pay and perhaps severance pay under the Act. The introduction of a just cause provision similar in nature to Section 240 of the Canada Labour Code would provide unorganized employees with the possibility of reinstatement when terminated without cause.

The Province also needs to strengthen provisions designed to protect interns. Interns provide services that are similar in nature to standard employment and should be paid for those services. Currently there are a substantial number of people in the province who are providing services and not being paid on the erroneous theory that the work that they perform is exclusively for their benefit and their benefit alone. There are numerous organizations – banks for example – that can well afford to pay interns, but simply refuse to do so.

The Act should address the lack of income security experienced by many workers in Ontario. For example, in his Labour Day address, President Obama pointed out the urgent need to provide millions of workers with access to paid sick leave. Ensuring all Ontarians have access to paid sick leave ought to be a core goal of this review.

Finally, the Act also ought to establish either minimum guaranteed hours or a minimum threshold of hours for part-time and casual workers. The minimum or the threshold would likely vary across industry, but at the very least it would provide a degree of predictability and security for people who are often struggling to make ends meet.

Although I am submitting the above comments and recommendations on behalf of the Members of CUPE Local 79 – and we do have Members who face precarious employment below a living wage – the benefits of these recommendations would go beyond our membership to support workers across Ontario.

We will all benefit from stronger labour laws that better protect workers, lift them out of poverty and help the growing numbers of precarious workers to form unions.

As I indicated earlier, income inequality is reaching near-crisis levels in Toronto as the most socio-economically divided City in the country, but income inequality is a problem across Ontario and Canada. We are in this position not by happenstance, but by choice. Economic actors make choices and those choices have real impacts on the nature of the economy and the workplace. Political actors need to make choices in response.

I thank you for your time and I urge you to take CUPE Local 79's recommendations into consideration as you review the Labour Standards and Employment Standards Acts.

Yours Truly,

A handwritten signature in black ink, appearing to read 'T. Maguire', written in a cursive style.

Tim Maguire
President