

(Re)Shifting Risk: Regulating For Decent Work in Ontario

Submission to The Changing Workplaces Review

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Precarious work is employment characterized by “limited social benefits and statutory entitlements, job insecurity, low wages and high risks of ill-health” (Vosko 2006, p.3).

Precarious employment can be characterized as highly gendered and racialized, with a higher percentage of women, people of colour and new immigrants likely to be engaged in precarious work (Vosko 2006, p.24-27). According to the report “It’s More Than Poverty” compiled by the United Way of Toronto and McMaster University, more than 40% of people working in the GTA experience some form of precarity in their jobs, across a broad range of social and income categories (2013). The outcome of increased precarious work is to shift risk from employers to workers, a shift that is disruptive to individuals, families, and communities. Precarious work is hurting Ontario.

OPSEU GTAC fully endorses all of the recommendations of the Workers Action Centre report *Still Working on the Edge* (2014). In the popular imagination, precarious work is considered a problem that occurs primarily in the private sector – the standard image is that of a bad boss, driven by profit. Increasingly, however, the public service is a site for precarious work. The Ontario Public Service Employees Union’s (OPSEU) Greater Toronto Area Council, as a voluntary affiliation organization within OPSEU works locally with members across a wide variety of agencies in the public sector. Our members include those who work directly for provincial Ministries, but also include LCBO workers, college faculty and support staff, social and developmental services workers who work with youth, seniors, women at risk for violence, those in the shelter system, at-risk youth, the homeless and the insecurely housed. GTAC members daily witness the negative effects of casual, part-time and temporary work on our clients and increasingly on ourselves as cutbacks, privatization and divestment impact the public services offered to Ontarians. Precarious work practices affect everyone across Ontario,

and must be addressed comprehensively as a problem in both the private and public sectors. If the Government of Ontario is sincere in its goal to update the Employment Standards Act and Labour Relations Acts to provide fairer and safer workplaces, they must lead by example.

Work Is Work – Addressing Employment Status Inequities Through Regulation

Part-time, temporary and self-employed make up almost half of those currently employed in Ontario. Part-time work is growing much more rapidly than full-time work in Canada, with a sharp rise in involuntary part-time work that has increased by 43% since 2000, with one third of those engaged in part-time work preferring to work full-time (Teissen 2013, p.6-7.) Wages for part-time and temporary work lag behind full-time work considerably – the average full time wage in May 2015 was \$26.79, compared to an average part-time wage of \$17.39 and average temporary wage of \$19.88, with larger numbers of women experiencing part-time work, and a higher wage gap between part-time and full-time work for women and youth (Statistics Canada 2015). In non-union workplaces, the gaps grow unchecked. But even in unionized workplaces, considerable bargaining power must be expended simply to achieve parity on wages and extra-wage benefits for part-time, temporary and full-time employees performing the precisely the same work.

Many areas and sectors of the public sector are affected by precarious work. The Ontario broader public sector is a well-established site, with part-time, contract, temporary and casual hiring now in the majority in certain sectors. A substantial example is the 24 Ontario Colleges of Applied Arts & Technology, where more than 17,000 part-time faculty and support staff work for substantially lower pay, no access to over-time, sick time, or benefits. The ratio of part-time to full-time faculty in Ontario publicly funded colleges is now 3 to 1 (Report on Education in Ontario). Wages and working conditions for part-time college workers are sharply lower than full-time faculty performing the same work, with no sick days, no vacation pay, no statutory holiday pay and a norm of extremely short-term contracts, often 4 months or less, with no obligation of renewal (MacMaster p.28).

In the LCBO, casual workers, who have no guaranteed hours or set shift schedules make up as much as 60% of the workforce (Ontario Hansard - June 2, 2009), despite repeated rounds of

negotiations that struggle to stem the tide. Workers in the LCBO commonly work for an average of 10 years before reaching full-time status. Despite performing exactly the same duties as more securely employed co-workers, thousands of casualized workers in the LCBO lack job security, guaranteed hours, paid sick leave or regularized shift assignments in this public sector workplace.

A current snapshot example of the casualization of skilled public sector work that is the result of private-public partnerships (PPPs) is the struggle of home care nurses at Care Partners. Care Partners is a privately-owned, publicly-funded business providing home and clinic care in southern Ontario. Having worked unsuccessfully for 2 years to reach a first contract with their employer, this group of nurses have been on strike for more than 20 weeks. Central to their dispute is the piece-work model adopted by their employer; the nurses are paid on a per visit basis, in lieu of a regular salary or established hourly rate, and are under pressure to provide ever quicker care to vulnerable patients. Turnover in their workplace is high, and morale is low in a job that is skilled, demanding and at higher than usual risk for injury. The impact on their clients is a lack of continuity in care, shorter visits and less time to deal with complex medical needs.

The Ontario government is also perpetuating the growth of precarious work in their role as a direct employer. Examples include the Ontario Ministry of Citizenship and Immigration, where the government regularly hires Investigators into “seasonal” roles, a category of work that was originally intended to staff roles like summer parks employees. These investigators are hired for 10 of 12 months of the year, and may be rehired the following year. The work of the ministry, however, is performed 12 months of the year, and while the seasonal workers are laid off, their absence is supplemented by summer students, hired at minimum wage. Despite the artificial wage disparity, what the two groups of employees have in common is a lack of access to medical benefits, paid medical leave, or pensions.

Just as in the private sector, public sector jobs are being eroded by multiple precarious elements. The growth of casual temporary and fixed term workers, once supposed to be the exception to full-time or voluntary part-time work is growing in multiple sectors of the public

service, with dangerously eroded working conditions. The new normal of casual, part-time and temporary categories of employment that enshrine erratic schedules, restricted hours, lack of job certainty, lack of paid sick time and inadequate wages shifts risks to workers and hurts communities.

Recommendation:

Employment standards need to address the new realities of work arrangements, and provide protections that enforce equal pay for equal work across part-time, shift, temporary and full-time categories of workers. Regulation that enshrines minimum hours, limits ratios of casual, part-time and temporary workers in relation to full-time equivalents, ensure scheduling fairness and provides an adequate minimum wage to lift people over the poverty line are necessary to provide stable, healthy communities.

We Are In This Together – Ending Exemptions & Increasing Fairness

The Employment Standards Act is intended to set a basic floor of rights for all Ontarians, to ensure a minimum level of protection for all of us. Currently, the list of exemptions under the Act is substantial – exemptions by age, temporary employment status, recognition as a government employee, and/or the field of work a person is engaged in, including construction, food service, agriculture, etc. affect, limit and exclude various protections (ESA 2000). In a unionized environment, excluded employees are forced to bargain for what are generally acknowledged as basic rights, but outside of a union, excluded employees simply go without access to basic protections. Nowhere in the public sector is this more apparent than in Ontario colleges, where approximately 17,000 part-time employees have no access to overtime pay, statutory holidays, vacation pay, mandated break periods or many other basic protections of the Employment Standards Act (Pt V-XI). Accessing these basic rights has proved elusive under legislation that specifically prescribes the process of unionization for college workers (MacMaster 2013, p. 27). Public sector workers who are non-unionized, like this large group of college workers are particularly vulnerable to elements precarious work. As workers excluded by law from basic protections, they have difficulty gaining access to the limited rights they do have. Adding their formal exclusion to a highly stratified workplace that enshrines rights for

full-time employees through collective bargaining, but provides no voice for part-time employees reinforces this vulnerability. Currently there are more part-time and sessional employees in the Ontario colleges than full-time employees by a ratio of more than 2 to 1 - it is not a small problem. This is just one example of the hardship created exceptions and exclusions to basic labour rights, a highly visible example that points to the dangers of exclusions in the public sector.

Recommendations:

Exemptions harm everyone, and should be eliminated. Access to rights must be available to all Ontarians through a robust complaints process, with increased protect against reprisals, and more employment standards officers trained to investigate improve everyone's ability to access their rights.

Strong unions create a pathway to employer compliance, and help raise the bar for everyone.

Easier access to unionization for both private and public sector workers through card check certification is key.

Conclusions

Workers in Ontario, whether publicly or privately employed, unionized or non-unionized, are in need of better protections.

The Government of Ontario must lead by example, not only via improved regulation through the Changing Workplaces review, but by ensuring flexible work arrangements do not slide into precarious work in the broader public sector or as a direct employer.

OPSEU's Greater Toronto Area Council asks this panel to give consideration to the full elimination of exemptions. Our labour laws must enforce equal standards of pay and working conditions for all work types: casual, part-time, full time contract, temporary, and permanent. We also call for language on mandatory minimum hours and shift change notice to offer some hope at income security for working families in Ontario. We are all in this together.

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