Peel Regional Labour Council's

Submission To

The Changing Workplaces Review

Introduction

I would like to thank The Changing Workplace Review for allowing the Peel Regional Labour Council to present this submission.

The PRLC is a collective organization of public and private sector unions who have come together to advance the interests of working people, the poor and the disadvantaged across this region.

The Peel Regional Labour Council engage individuals and groups through organization, mobilization and education. We join parents, students, education workers and community groups in the fight for accessible, affordable, public and post-secondary education. We assist health care workers and community coalitions in the struggle for continued universal, quality health care.

We come together with community allies to advocate for a living wage and a decent standard of living for all people especially young people, new immigrants and the disabled through job creation, community economic development, training, safe and healthy workplaces and adequate social programs such as unemployment insurance.

We advocate for equality for all, universal childcare, employment protection from discrimination, precarious employment, harassment and violence against women, the disabled, people of colour, Aboriginal peoples and the LGBTQ community.

The Employment Standards Act, 2000 (ESA)

Hours of work, vacation and sick leave

The ESA gives employers substantial control over hours of work and scheduling. Some people work too many hours and some workers do not get enough hours. Violations of overtime and hours of work standards cut a wide swath across many industries.[1]

According to Statistics Canada, over one million Ontario workers worked overtime in 2014 and 59 percent of these workers did so without overtime pay.

Ontario's hours of work standards allow for longer work days and work weeks than many other jurisdictions and need to be updated to support job development. There is also a confusing myriad of industry and occupational exemptions and special rules for hours of work and overtime – there is no real ceiling on maximum work hours.

Recommendation: The ESA should provide for an eight-hour day and a 40-hour workweek. Employees should have the right to refuse work beyond 40 hours. Overtime at time and a half should be paid (or taken as paid time off in lieu) after 40 hours. No overtime exemptions or special rules.

Fair wages

Many Ontario workers are struggling to get by. More and more decent jobs are being replaced by low-wage work. The fastest growing jobs in Ontario are in the service sector, where wages are the lowest. Even before the recession, our economy was shifting to lower-wage work. In 2014, 33 percent of workers had low wages, compared to only 22 percent in 2004, the *Toronto Star* reports.[1]

In 2014, the Ontario government took the encouraging step of increasing the provincial minimum wage to $11 an hour and introducing the province's first annual inflation adjustments. However, the fact remains that any worker earning less than $15 an hour is living below the poverty line. Employment and hard work should lift people out of poverty, not entrench them in it. Studies show that when workers can provide for their families, they also contribute to the local economy and have a net positive impact on the economy.

Recommendation: The Ontario government should raise the provincial minimum wage to $15 an hour, adjusted annually for inflation.

1. http://www.workersactioncentre.org/wp-content/uploads/dlm_uploads/2015/04/StillWorkingOnTheEdge-Exec-Summary-web.pdf

The Labour Relations Act, 1995 (LRA)

Card-based union certification (Card-Check)

A troubling fact of life in 2015 is that growing numbers of Ontario workers, particularly many women, workers of colour and new Canadians whose first language is neither French nor English, are not keeping up.

Because of Mike Harris's changing the rules of democracy and technology's changing the nature of the work and of the workplace, one of the most basic and traditional means historically available to Ontario workers to improve their own circumstance, access to unionization, though technically legally accessible, is in reality not attainable by hundreds of thousands of low paid, "sectorally stuck" workers.

Setting aside the blatant unfairness (and constitutional questionability) of the reality that under today's Ontario labour legislation (partially restored in the post-Harris – McGuinty era) card check certification is available to the construction worker who leaves home every morning for the work site, but is denied to construction worker's spouse or child because they happen to go to work at Walmart, there is evidence to show that employer intimidation results in less union certification than there would be if card based certification had not been removed from workers in Canada's largest province.

Existing academic research (Slinn et al) demonstrates that without card based certification, the current means of non-construction union certification in Ontario simply cannot avoid undue employer intimidation (some would argue is an incentive for it) and effectively bars unionization of many workers who need it most and otherwise would achieve it. It may also be the case that as a result of the reduced chances of success, unions with finite resources are less likely to initiate organizing drives.

Although Canada's Charter of Rights and Freedom states that workers have the right to join unions, there are far more barriers to forming a union that most would believe possible in Canada.

When workers seek to organize a union, the pressure from employers intensifies. In fact those workers most in need of forming a union often face intimidation and threats of reprisals, from employers hostile to unions. In fact, according to Osgoode Hall Law School professor Sara Slinn:

> "A survey of managers at Canadian workplaces where union organizing had recently occurred found 94 percent used anti-union tactics, and 12 percent admitted to using what they believed to be illegal, unfair labour practices to discourage employees from unionizing."

Professor Slinn's evidence corroborates the experience of workers trying to join a union:

> "Ignacio is a hotel worker who has been organizing for a union in his workplace. He was reprimanded for distributing information about unionizing, even though he was on break. Ignacio explained: "I feel like management is targeting me. My co-workers feel the same way. It makes people very afraid to participate in union activities. Many of my co-workers are too afraid to express their support for the union openly. This isn't right."

In this context, we need to modernize labour law to ensure that workers can freely discuss, deliberate and decide on union membership free of employer intimidation. This means knowing who else in the workplace should be consulted on the decision to unionize (employers should cooperate in providing accurate employee lists to the neutral Ontario Labour Relations Board), better protection from retribution if they discuss unionizing. At a minimum, if their terms and conditions of work change, workers should be reinstated to their original terms and conditions, pending the outcome of a proper process. Critically, workers should have the right to express union membership by signing a union membership card (card-based certification).

As it stands, workers – especially in smaller workplaces or workplaces that are spread out over multiple locations – can be targeted for even contemplating joining a union. Many workers don't have a chance to discuss the issue with their co-workers, either because they don't work together (in the same shift or geographic location) or because they are too fearful to do so. The legislative requirement to have a balloted vote – in the context of a workplace where democracy is, for all intents and purposes suspended, serves as little more than a provocation to employers to do everything in their considerable power to undermine workers' confidence in workplace organizing.

At one time, a worker's signature on a union membership card was legal proof of that individual's desire to join a union (card-based certification). Now a worker must sign a card and also participate in a balloted vote before they have the protection of a union, so the employer has multiple opportunities to target them. This was a measure imposed by Progressive Conservative Premier Mike Harris in the mid-1990s. It's time to do away with the Mike Harris era and restore card-based union certification.

There is broad-based consensus among both public and private sector unions that card-based certification must be a key focus for statutory change. Card-check levels the playing field by providing fewer opportunities for employers to exert undue influence on the certification process. The mandatory secret ballot required under current law (for workers outside the construction sector) serves as a public announcement to the employer of workers' balloting preferences – before a union is even certified. This additional requirement gives the employer an extended period of time in which to intimidate, coerce and otherwise dissuade workers from joining a union. Since the Mike Harris government imposed the mandatory ballot, the number of successful certifications has declined.

Recommendation: The Labour Relations Act should be reformed so that workers vote only once to join a union by signing a union card. When a clear majority of workers have done so, the union should be certified.

Conclusion

Workers in this region are feeling greater workplace stress now than ever before. These stressors are negatively effecting workers lives in almost every aspect.

Workers need changes to The Employment Standards Act (ESA) and to The Labour Relations Act (LRA) now to help alleviate these stressors and improve their lives.

Acknowledgements

The Peel Regional Labour Council would like to thank the Ontario Federation of Labour, the Canadian Labour Congress and the Workers' Action Centre for helping prepare this submission.

The Peel Regional Labour Council (PRLC)

P.O. Box 173 STN A Brampton, Ontario L6V 2L1
Phone: 905 696-8882