

WWEC Presentation to Changing Workplaces Review

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I'm happy to take part in this timely review of the "...current labour and employment law framework..." as set out in the Employment Standards Act (2000) and the Labour Relations Act (1995). My remarks will be primarily addressing the ESA and are anecdotal in nature.

The Windsor Workers' Education Centre (WWEC) has functioned since 2008 and I should note I am a volunteer board president as is the board itself to which I report and speak on behalf of. Since 2013 the centre has been funded by a Trillium grant which supports a paid worker to do outreach and volunteer recruitment in order to carry out education on the rights of non-union workers under the ESA. I have been a volunteer at the centre since 2010 and I have met with several hundred workers in manufacturing, packaging, retail and hospitality, personal support worker, and so on over five years who have presented various issues including complaints of non-payment of wages, vacation pay, and overtime pay, as well as health and safety complaints, and workers who are already in the WSIB system looking for further help. I'm not a lawyer, policy-maker, or an expert on anything really; rather you can view me as a worker of 30 years who advocates on behalf of those who aren't able to be here.

Increasingly, many workers are presenting complaints of bullying, harassment – physical and sexual - and in general are describing toxic workplaces.¹ We have had many workers referred to us from local agencies that do job placements for newcomers to Canada and/or have been placed in workplaces as an alternative to social assistance. Many of the newcomers are women of colour and it is those workers who seem to be at most risk of bullying and harassment which include racist statements. Of all the workers I've met the stories that stick with me are the ones of women of colour and they include people originally from African countries, primarily Ethiopia, and also from Vietnam, and Eastern Europe.

A non-union parts factory employed a group of women originally from Vietnam. The workers had time at the company ranging from 10 to nearly 20 years. One morning in

¹ <http://www.ohrc.on.ca/en/learning/what-discrimination/poisoned-environment>

August 2012, the company announced a wage cut of \$3 per hour. The women, who had for years laboured under bullying, yelling, unsafe conditions, and harassment, and a group of Arabic men, eventually resigned rather than take the pay cut. We at the workers centre and other community allies rallied to their support and helped the workers file for termination and severance pay. The reason I mention this particular case is that while the employer was new to us, he was not unknown to the MOL. When we met with Chris McKinnon at the local ministry office he had a file on the company that was without exaggeration this thick.....containing all manner of infractions. Neighbours had even called the MOE multiple times to complain about illegal dumping of toxic material down sewers on company property. It occurred to me that if an employer can have a file so thick, what enforcement is there to make sure he complies with the law? The owner appeared to be gaming the system and when he had to he'd pay fines and whatever else was owed. His case also illustrates another real problem in Windsor/Essex: parts companies and packaging plants are competing with low wage areas in Michigan and the U.S. south. Also increasingly seen are U.S. owners with workers in Ontario who are used to weak labour legislation and seem to want to ignore the labour laws here. This is especially evident in kiosk locations in malls and the casino. The right to work mentality in the U.S. south and Michigan is affecting attitudes of both employers and workers: employers are in a race to the bottom for wages and workers appear to be losing hope that they can ever get decent work at a living wage.

Here are some other worker experiences:

- In 2010 an employer hired newcomers to Canada and people on social assistance to sort and bundle rags, old clothes and so on to be shipped overseas as material for new clothing. The YMCA referred a group of workers to us because their cheques were bouncing. The employer kept putting them off, asking them to keep working until they were owed thousands of dollars. The same employer had been in the Toronto area constantly changing corporate titles leaving dozens of workers without pay. He resurfaced again last year when a young worker originally from Burma wasn't getting paid.

- A couple, originally from Iran, were referred to WWEC by a YMCA settlement officer. They worked in a local packaging plant. His wife was injured; she received some treatment and light duty, and was soon pressured to get back to full production.(a common story) Whenever her husband tried to help her he was yelled at by supervisors and told to go to the lunchroom. He faced bullying until he got angry and they both walked out but did not quit. The company told them they quit and handed them their ROE and final pay. We've multiple stories similar to this where repetitive strain injuries leave workers in the packaging plants disabled, unable to do that type of work again.
- An experienced press operator was placed in a job by a local temp agency. He refused unsafe work and was never called back. He filed a complaint alleging reprisal for refusing unsafe work and got a settlement. Temp agencies are still a problem, even with recent changes, primarily because they are barriers to full time employment, and in this case he was unclear to whom he should be talking to regarding unsafe equipment and work procedures.
- I met with a call centre worker recently and over the years several. In this case the worker described how she'd seen people leave in tears or in one case carried out on a gurney with an emotional breakdown. The worker I spoke with was trying to transfer to another job so as to be accommodated for depression and anxiety. The worker also explained that the health and safety committee, while in existence, doesn't function.
- Recently a young worker at a tool and die plant described how a magnetic lifter failed with no action by the employer and a near miss with a press where a piece of metal broke after he had tried to explain that the work operation was unsafe.
- A woman originally from Ethiopia working in a packaging plant was bullied and harassed until her health and self esteem were damaged. She worked there for 19 years and expected to be able to advance into a job that paid more. It was when she pushed to get that job she was subjected to harassment and racial slurs.
- There are numerous workers in retail and hospitality who have complained of schedules that leave them unable to plan for much else, bad treatment by employers, wage theft, and problems getting vacation pay.

- We are becoming more exposed to the situation of temporary foreign workers both in the seasonal agricultural program and in trades like welding where foreign workers in Windsor are being fired after being injured and subjected to discrimination in the way jobs are handed out, for example. A system is being created where there are layers of rights created where some workers doing the same or similar job are paid differently, have the right to breaks, overtime and so on that the TFWs won't have. So workplaces can have TFWs, newcomers to Canada, and Canadian born workers on social assistance, for example, and what they have in common is a fear of speaking out if they believe their rights are being violated. Indeed it's a big question as to whether they have full knowledge of their rights because there isn't someone who is responsible for informing them in the workplace.

These are samples of what we've seen in workplaces around Windsor/Essex and I believe that they are just the tip of the iceberg so to speak. I can't break it down for you, but my sense has been that for every worker who has come in there are several more with the same experiences. Some workers file complaints on their own and many come to us or look for legal help.

To sum up, in addition to what I call the usual complaints around wages, vacation pay, scheduling, and so on, the most significant things workers are communicating is a lack of respect, bullying, and even threats of mistreatment, whether it's the threat of firing, having hours cut, or falling out of favour in some way. There is confusion on how to invoke the refusal of unsafe work. I hope I have given you a picture of what we are seeing in this area. Based on what we've seen over the years the worker centre has existed I must insist that workplaces are not areas where there is a level playing field for workers and employers. A revamping of the ESA needs to consider the plight of workers in low wage precarious work.

The changes to the ESA need to include:

- Wages, holiday pay, sick days, and vacation pay be standardized for all workers including temporary foreign workers.
- More protection for workers against retaliation who do speak out for their rights, especially migrant workers who are the most vulnerable.
- The minimum wage is still not adequate and needs to be pegged at least at \$15 per hour for all workers.
- More inspectors and enforcement is required and especially in addition to money owed to a worker, a fine is also levied against an employer for violations of the ESA.
- Paid sick leave for all workers.
- More must be done, and urgently, to alleviate the growing cases of psychological damage occurring in workplaces.
- There should be a requirement for employers to give advance posting for work schedules including start and end times, breaks and so on with compensation if a change occurs in a certain period. Workers should be protected from reprisals when asking for a shift change.
- Limits to temporary staffing are needed: same rates of pay, joint responsibility for all rights under the ESA, remove barriers for workers with temp agencies so they can be hired directly for long term employment.
- The concept of independent contracting is being abused and a worker should be presumed to be an employee unless the employer can prove otherwise.
- Ideally, easier access to unionization so workers are in a stronger bargaining position should be a priority. Also, funding for places like worker centres to carry out education for workers on their rights and employer responsibility would also level the power imbalance in workplaces. Health and safety committees need to be reinforced and perhaps the European model of worker councils is an idea whose time has come. I'd also suggest having yearly round-tables with workers and employers under the auspices of the MOL so all these issues can be discussed and acted on regularly.

Overall, from where I sit, workplaces have changed but not for the better. The erosion of unions, the very real and actualized threat of plants closing and moving to the U.S., and the general lack of respect for the dignity of workers have left workers floundering and employers using intimidation and fear as methods of control. I can't stress enough that from what I am seeing, workers need more protection than ever – it can't simply be left to the market which seems to be what's happening. I grew up in a society where rules and regulations existed to make the market economy a little fairer and workplaces a little more balanced. To take up the narrative on Pg 12 of the guide to these consultations on seeking the right balance, we've moved too far in the direction of efficiency, competitiveness, and productivity, and too far away from equity and voice. Workers, in my experience, have little meaningful participation into what happens in the workplace, and their dignity and worth are not reflected in the attitudes of too many employers, nor in the compensation they receive for the hard work they do.