



Workers United Canada Council

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Workers United Canada Council Submission to Ontario's Changing Workplaces Review

Introduction

On behalf of Workers United Canada Council, we welcome the opportunity to present the following submission to the *Ontario Workplaces Review* and are pleased to see the government playing an active role in ensuring that legislative regulations and protections for workers are strengthened to better reflect today's economic and labour market realities. While we do plan on having members of Workers United contribute both oral and/or written personal statements and testimonies for the review process based on their own workplace experiences, our submission will focus largely on supporting key recommendations put forth by our labour and community allies to improve critical aspects of the Employment Standards Act (ESA) & Labour Relations Act (LRA).

About us

Formed in 2009, Workers United is a labour union which represents nearly 10,000 members across Canada – the majority of whom are in Ontario. Our members work in a variety of industries including: warehouse and distribution; hotels and food service; social services; garment and apparel; retail and the healthcare sector. Our membership is increasingly made up of racialized workers, women, and newcomers – key demographics that are rapidly representing the diversity of Ontario's workforce. As such, we feel that there are a number of important areas where the government can intervene to better protect marginalized and vulnerable workers.

Our submission is divided into three sections and we will be highlighting a few specific recommendations pertaining to the LRA, the ESA, and protections for migrant workers in Ontario.

Ontario's Labour Relations Act

Workers United fully supports the recommendations put forth by the **Ontario Federation of Labour** in regards to the LRA, and would like to highlight a few specific recommendations in order to better facilitate and protect workers who wish to organize into unions. These areas include: **card-check certification, reinstatement of fired workers during organizing campaigns and prohibiting the use of replacement workers during work stoppages.**

Reinstatement of card-check certification

We support the return of card-check certification in Ontario to better facilitate worker's desire to collectively organize in the workplace. A majority of signed cards should be sufficient in order to receive union certification. In our experience, the requirement of a "secret" vote a week after cards are submitted only provides employers the opportunity to coerce, threaten, and bribe workers into not voting for the union. In our experience, employers enjoy complete freedom to compel workers to sit through "captive audience" meetings during work time and conduct mandatory one-on-one meetings with individual workers. It is our experience that employers utilize tactics of fear and intimidation to spread false and misleading information regarding people's right under the law to organize. The intensity of these meetings and aggressive anti-union messaging amounts to an abuse of power in the employer – employee relationship. This has resulted in workers voting against union representation even in cases when the majority of workers in a workplace had originally expressed their desire to join a union by signing a union card. This has been corroborated not only through research, but in our organizing experiences and discussions with workers post-organizing drives and campaigns. Further, we have had instances where employers have attempted to bring in family members or move office staff into areas where we had planned to organize to potentially skew voting results in the employer's favour, undermining the neutrality of the voting process.

Reinstatement of fired workers during organizing campaigns

Despite the fact that the right to unionize is protected under the law, this has not stopped employers from threatening workers to prevent them from unionizing and acting on those threats by firing workers who have been engaged in union organizing activities. We have had instances of workers who have been targeted by their employers for union activity and terminated even before union cards had been collected or once a union vote had been lost. Being a worker leader or even a vocal union supporter in a workplace essentially places cross-hairs on workers' backs. Often times, employers will find some reason to justify worker dismissals, making it difficult for the union to file an "Unfair Labour Practice" to the Labour

Relations Board to help the worker get their job back and prove that the firing was as a result of union activity – resulting in lengthy and costly legal battles. In 2008-2009 for example, we needed to engage in a lengthy public campaign, one of the goals being to get a worker reinstated to her position after she was unjustly fired by management from a hotel in St. Catherines due to organizing activities. Such employer actions not only cause fear to permeate throughout a workplace, but sometimes results in workplace harassment and bullying amongst co-workers who feel their jobs are threatened simply when a few decide to stand up and exercise their workplace rights.

Prohibiting the use of replacement workers during work stoppages

We also support the recommendation that employers be prohibited from hiring replacement workers during work stoppages. During a recent strike action taken by our members in the fall of 2014 at a manufacturing plant in Guelph, employers wasted no time in attempting to bring in replacement workers from surrounding areas to continue plant operations. These workers who stood their ground to refuse unreasonable contract concessions imposed by the employer had to then fight another battle to ensure their jobs were not lost to replacement workers. Not only do such actions undermine the collective bargaining and negotiation process and threatens job quality, it also puts workers at risk, as untrained replacement workers are promptly put into place to perform work functions handled by more experienced and trained workers.

Ontario's Employment Standards Act

Workers United fully supports the recommendations put forth by the **\$15 and Fairness Campaign** (which we are members of) and the **Workers' Action Centre's** recent report entitled *"Still Working on the Edge"* around key changes to Ontario's ESA. In particular, we wish to highlight a few of the following recommendations pertaining to ESA:

Paid sick days: We strongly support the recommendation to ensure that all workers, regardless of their industry and size of workplace, have access to paid sick days and emergency leave. Lack of such provisions disproportionately impacts workers in low-wage precarious work, especially those who work closely with the public, such as healthcare, hospitality, food service, and social services. We also support the recommendation that eliminates the requirement for workers to submit evidence to employers in order to take sick days or emergency leave (i.e. doctor's notes).

Removal of all exemptions on minimum wage laws: We recommend that the Province eliminate all minimum wage exemptions that specifically target vulnerable groups such as students and agricultural workers. Workers who perform the same duties should not be paid at differential rates.

Increased workplace inspections and stricter penalties for employers found to be violating provisions of the ESA: Active enforcement of workplace standards must be at the core of ensuring effective protection for workers. This also includes stricter penalties for employers found guilty of worker rights violations in order to curb abuse and exploitation. The low-risk of detection and minimal fines and penalties provide little incentive for employers to comply with employment standards.

Increase to the minimum wage to \$15 an hour: We call on the Provincial government to increase the minimum wage to \$15 an hour in 2015 to ensure that low-wage workers are able to lift themselves out of poverty.

Improved Protections for Migrant Workers

Workers United fully supports the recommendations put forth by the **Migrant Workers Alliance for Change** (of which we are members of) in regards to improved protections for migrant workers. In particular, we wish to highlight the following recommendations:

Access to unionization for migrant workers: We ask that the government ensure that agricultural workers and live-in caregivers, two groups that often face critically poor and exploitative working conditions, have full access and ability to unionize.

Removal of all exemptions: We support the recommendation that all ESA exemptions faced by migrant workers be eliminated. Such exemptions only serve to create a two-tiered system of rights and protections which result in workers being denied basic entitlements afforded to other Ontario workers, such as minimum wage, overtime pay, and public holiday pay.

Establishing a registration and licensing system for employers and recruiters: In order to curb abuse of migrant workers, the Province must set up a registration and licensing system for employers and recruiters so that migrant workers are protected from paying exorbitant fees in order to work in Ontario and that the province has full access to information as to which employers are hiring migrant workers and their relationship with recruiters.

Conclusion

It is clear that past legislative reforms implemented have been used specifically to limit and restrain union activity in the workplace under the guise of “increased competition” and “external global pressures” and the false assumption that unions are “bad for business”. Unions are in fact

not anti-business. We want employers to do well so that members and their families can maintain an adequate standard of living and that neighbourhoods and communities can thrive.

However, what declining union coverage rates has resulted in is not prosperity and good jobs, but rather increased precarity, lack of proper workplace protections, skewed workplace relations in favour of employers, and employees who are fearful of raising even the most simple of issues for fear of retaliation and job loss. These changes have disproportionately impacted marginalized and vulnerable workers (i.e., workers of colour, women, newcomers, workers without full immigration status) the most, resulting in increased income inequality and disparities based on gender, race and immigration status.

In light of the challenges unions face in order to better protect workers, which are largely the result of imposed legislative reforms, we disagree with assertions that unions have become ineffective and that alternative models of worker organizing should be promoted. Rather, the rights that guarantee workers to collective representation and the bargaining process should first and foremost be strengthened to ensure everyone's basic rights are respected.