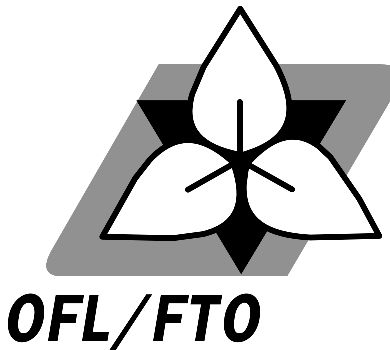
Ontario Federation of Labour
9th Biennial Convention
November 26-30, 2007



Policy Documents

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Toronto, Ontario, Canada

The Fight For Good Jobs

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The Fight For Good Jobs

EXECUTIVE SUMMARY

Today, just as fifty years ago when the Ontario Federation of Labour was founded, most of us spend much of our lives in the workplace. It is here that our labour – whether in manufacturing, public sector or private service sector – is central to the creation of products, their distribution, administration and thereby the creation of wealth. What happens in the workplace is not only important to the economy, it is also where our knowledge and activity result in an income – making working conditions, benefits and compensation levels crucial. It is here, as well, where we feel the direct impact of employer restructuring, downsizing, closures, layoffs, cutbacks and demands for a "flexible" work force.

The purpose of this policy paper is to examine and analyze developments in our globalized and highly competitive world of work with a particular emphasis on the crisis of employment in the manufacturing sector.

Section 1 of this paper is on global restructuring. Today we see continued economic growth, especially in countries such as China, India, Mexico, Brazil and others; economic restructuring involving out-sourcing and off-shoring to the global south; increasing inequality between the richest and the poorest; the rise of neo-liberal policies with their emphasis on the private market; and the consequent cutbacks in public services, the demise of economic planning, public ownership and full employment policies.

At the same time, profound change is occurring in the global labour market that is more economically integrated than ever before. This global labour force has doubled in the past 20 years. The struggle for jobs and decent work remains elusive for nearly a billion people around the world. There are also 1.4 billion people living on less than two dollars (US) per day.

Given the amount of outsourcing to countries in the world where production and labour costs are less, given the mobility of investment capital and the phenomenal growth of the global workforce, there are serious challenges confronting collective bargaining and in gaining improvements in people's standard of living.

Section 2 discusses in some detail how employers have responded to competitive pressures and tried to reduce production costs, circumvent unions, increase productivity, cut corporate taxes and erode public services for which workers have fought so hard.

Currently, there is a further way in which employers are cutting costs, that is by moving from full-time permanent work to various forms of non-standard or precarious employment such as contract work, part-time work, casual work and self-employment. All of these forms of work enable employers to shift the financial costs of paying benefits and pensions to the individual rather than themselves. These jobs also generally pay less.

Statistics Canada's 2006 survey of new jobs shows that almost two-thirds of them fit this category. This development has also led to an explosion of temp agencies across the province. Thousands of women, immigrant and young people flood into temp agencies hoping to find full-time work only to find that contractual arrangements between the agency and the client company prevent them from being hired full-time.

Section 3 documents a core problem in our society today, namely the crisis of employment in manufacturing.

At first glance, Ontario's and Canada's economy appears to be healthy; economic growth continues and unemployment is down. Yet, in the manufacturing core of the economy, tens of thousands of jobs have been lost and more layoffs and plant closures are expected as company after company announce that they are "restructuring," "downsizing" or "outsourcing".

Since the peak of manufacturing employment, November 2002 until February 2007, Ontario has lost 141,600 manufacturing jobs, approximately one in eight jobs. Nearly all of these job losses are permanent. This crisis in the manufacturing sector has major implications, not only for the workers losing their jobs but also for the economic base of social services and hence, communities across the province will suffer.

Rather than coming to grips with this crisis with direct assistance governments at both the provincial and federal levels are promoting policies which exacerbate the difficulties. Two ominous examples are analyzed in this paper: first, the federal/provincial governments Temporary Foreign Workers Program (TFWP).

This program is designed to alleviate the alleged shortage of labour in Ontario and Canada by bypassing immigration and tying new entrants to a particular employer upon which they will be dependent to maintain their legal status. Employers will, as they have with agricultural workers for decades, have the power to deport such workers should they find them "unsuitable".

The second example involves the governments of British Columbia and Alberta who have signed an inter-provincial free trade agreement known as the Trade, Investment and Labour Mobility Agreement (TILMA).

These governments have invited Ontario and other provinces to join them in this agreement. The provisions of TILMA place serious constraints on government policy, law, regulation and action. In short, TILMA, like the TFWP, is designed to be another mechanism for deregulation and the weakening of public policies, the authority of government and the strength of the labour movement.

Section 4 concerns what is termed the myth of the "skills shortage" and the de-skilling of the skilled trades. As a strategy to reduce wages, employers – and too often government – are weakening standards on two key fronts: apprenticeship training and the fragmentation of whole trades.

Authentic apprenticeship training models must be understood as an employment-based relationship where 80 - 90% of learning is completed through hands-on, adequately paid employment under the supervision of a regulated minimum number of qualified journeypersons; the remaining 10-20% of class training is undertaken at either public community colleges or non-profit Building Trades Training Centres. Yet for the past three years, the Ontario government has been

using money earmarked for apprenticeship training to fund a variety of programs that are not bona fide apprenticeship training models.

McGuinty bills these new college programs as "new ways" to "get into the trade". The OFL will continue to fight the re-direction of money that should be going toward authentic apprenticeship training.

The establishment of the *Apprenticeship Certification Act (ACA)* by the previous Conservative government set in motion a dangerous and accelerating trend toward fragmentation of what should be understood as "whole trades". While the construction trades have been left intact, all other sectors fall under the *Apprenticeship Certification Act.* This *Act* does not contain critical regulations such as minimum ratios of journeypersons to apprenticeships, minimum rates of pay for apprenticeships; cohesive standards that ensure apprentices receive proper training and supervision.

Further, the *ACA* is designating as "new trades" what, in fact, are aspects of a broader trade. Part of the fight to protect and increase the number of good jobs will be fighting to protect the integrity of whole trades and to preserve authentic apprenticeship training.

Section 5 concerns labour adjustment and training. A critical aspect of the mass job losses outlined earlier is the devastating impact it has on those affected. Lives are disrupted and financial losses put enormous strain on individual workers and their families. Statistics show that those who do find new employment often earn significantly less than they earned previously. This paper documents a number of issues, including the erosion of Employment Insurance to the point where a majority of unemployed workers no longer qualify, the wide array of bureaucratic hurdles workers face in attempting to gain access to training benefits, computer skills, literacy upgrading and high school equivalency. In addition to these concerns, this paper outlines the case for more protection for workers facing adjustment.

The **final section** calls on the government to implement a job strategy that promotes economic development, particularly in the manufacturing sector, and creates jobs. This part of the paper also outlines a range of ideas for a job strategy that needs further discussion, debate and development by all of us. They include, but are not limited to:

- Developing strategies for offsetting the impacts of currency fluctuations on the ability of manufacturers to operate in a global environment.
- Levering more value-added and manufacturing jobs from resource industries.
- Introducing procurement strategies in areas such as health care in order to further industrial capacity and expand employment.
- Implementing effective energy policies that provide a stable and low-cost supply of energy to manufacturers and working families.
- Linking climate change policies to job creation in "green industries" and help existing industry transition to "greener production".
- Expanding worker-oriented education and training provisions for authentic apprenticeships, skills upgrading, literacy and ESL training.

- Expanding research and innovation so as to raise productivity and further develop the capacities of the work force.

- Introducing new legislation as part of a jobs strategy, requiring corporations to justify shutdowns and major layoffs.

- Creating a provincial training levy requiring every employer not already investing in authentic apprentices, to contribute one percent of payroll into the fund. Employers who hire apprentices or pay into a union or union-employer administered training fund would be exempted.

- Establishing the position of a Jobs Protection Commissioner to advocate for jobs.

- Amending Employment Insurance so that more workers qualify and that severance pay is not deducted for benefits.

- Increasing union representation, including part-time college instructors and agricultural workers, to assist in a jobs strategy to both create jobs and to ensure that such jobs are good and secure.

The Fight For Good Jobs

Introduction

Today, just as fifty years ago when the Ontario Federation of Labour was founded, most of us spend much of our lives in the workplace. It is here that our labour – whether in manufacturing, public sector or private service sector – is central to the creation of products, their distribution, administration and thereby the creation of wealth.

What happens in the workplace is not only important to the economy, it is also where our knowledge and activity result in an income, making working conditions, benefits and compensation levels crucial. It is here, as well, where we feel the direct impact of employer restructuring, downsizing, closures, layoffs, cutbacks and demands for a "flexible" work force.

The purpose of this policy paper is to examine and analyze developments in our globalized and highly competitive world of work:

- global restructuring and pro-market policies;
- the changing nature of work in the public and private service sector;
- the decline of full-time permanent employment and the rise of precarious employment;
- the devastating employment crisis in the manufacturing and resource sector;
- new developments to be aware of: the Temporary Foreign Workers Program (TFWP) and the Trade, Investment and Labour Mobility Agreement (TILMA);
- the myth of the "skills shortage" and the de-skilling of skilled trades;
- labour adjustment and training; and
- ideas for an alternative agenda.

We begin with a look at the global picture and end with concrete proposals for a progressive jobs strategy.

1. Global Restructuring

The world has evolved dramatically from when the Ontario Federation of Labour was first founded, with economic growth, new information technologies and economic restructuring to name but three of many changes. One need only recall the economic development of countries such as China, India and Mexico, due in part to the outsourcing of substantial manufacturing from developed countries.

Today there is also increased inequality linked to the rise of neo-liberal policies with their emphasis on the private market and the consequent demise of economic planning, public ownership and full employment policies which characterized the post World War II period.

At the same time, profound change is occurring in the global labour market that is more economically integrated than ever before. With the entry of countries such as China, India and the former Soviet Union into the global economy, the world's integrated labour force has doubled in the past 20 years. The struggle for jobs and decent work remains elusive for nearly a billion people around the world who are unemployed or underemployed.

There are also ***1.4 billion people living on less than 2 dollars (US) per day in the global labour force***. Given the amount of outsourcing to countries around the world where production and labour costs are less, given the mobility of investment capital and the phenomenal growth of the global workforce, there are serious challenges confronting collective bargaining and in gaining improvements in people's standard of living.

Unless governments around the globe pull back from their current policies of leaving economic activity solely up to the private market and start planning, actively intervening and managing economic development and employment, this enormous expansion of the global labour force threatens to undermine the wages and working conditions of developed countries and exacerbate poverty, unemployment and inequality in underdeveloped economies.

The failure of governments thus far to effectively manage globalization and ensure that workers can participate equitably in the benefits of economic growth can be seen in the falling share of wages in national income throughout the Organization of Economic Cooperation and Development (OECD) countries.

In Canada, the United States and Europe, the benefits of globalization have largely accrued to the wealthiest families, while the majority of working people have been unable to share in the benefits of increased productivity and economic growth.

As a result, the OECD notes that in 17 out of 20 countries they surveyed, income inequality has risen substantially, undermining social cohesion in the societies concerned and fuelling political alienation. As the Director of the International Labour Organization (ILO) stated recently: "Today, we are facing a global jobs crisis that calls for a global response."

Several decades of mass privatization and cuts to the public sector have already weakened social safety nets in Ontario and Canada, not only through the perspectives and activities of pro-market elites and governments, but also by global institutions such as the World Bank, the International Monetary Fund (IMF) and the World Trade Organization (WTO), as well as by the restrictions of free trade agreements such as the North American Free Trade Agreement (NAFTA).

The loss of well-paying manufacturing and resource jobs and the growth of low-wage, part-time and precarious work, conspire to further lower standards of living and erode the tax base of local, provincial and national governments, creating further downward pressure on public services and, consequently, public

sector jobs. Such developments will have unequal impacts in terms of geographical regions, different sectors of the economy and on people where current trends suggest that women, youth and immigrants will be the most negatively affected.

Despite the unevenness of economic development around the globe, those countries with not only strong economic growth, but also strong labour movements and viable economic and employment plans will tend to have less negative impacts from market driven or neo-liberal globalization.

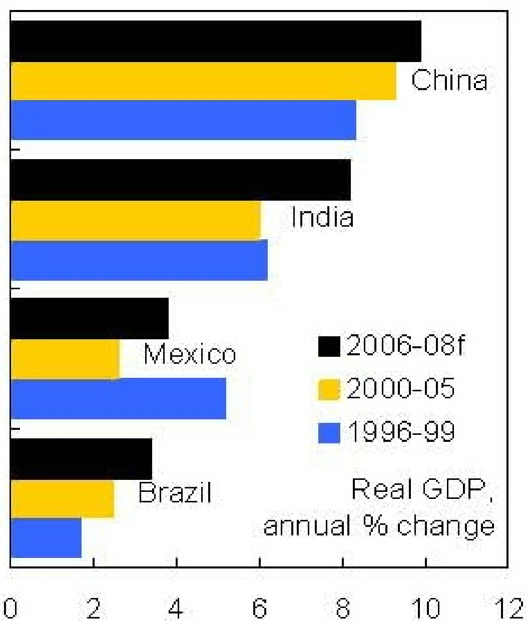
2. Changing Nature of Work, Restructuring of the Global Labour Market

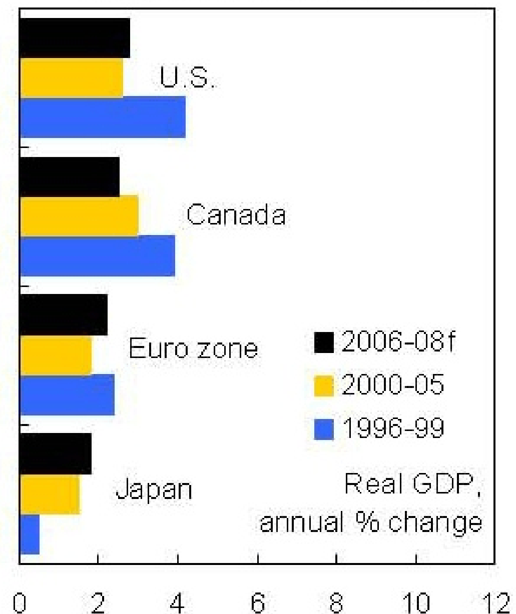
The new era of globalization, of trade liberalization agreements, and the emergence of developing economies have significantly transformed the global labour market.

Countries like China, India, Mexico and Brazil are combining new technology with large, low-paid workforces to produce manufactured goods and services for a global market.

As these economies expand, they both drive the demand for raw resources and increase the total amount of lower-cost goods and services for the global economy. This globalized world is fundamentally shifting the nature of the workforce in western countries, and Canada is no exception.

The graphs below from the Scotia Bank's January 2007 issue of *Global Outlook* illustrates the gap in the marginal growth rates between "emerging" and "developed" economies.





In the past, western economies have been able to combine technological advances with (more or less) healthy, well-educated workers, to produce a growing number of goods for market. As long as the markets can absorb these products and demand remains stable or growing, such a recipe can bring improvements in both the number of jobs and in wages.

However, as new, lower-cost products enter the market there is necessarily a squeezing out, either of the new products – or the old. To compete with these emerging economies, employers in the west must find new ways to "improve labour productivity" or reduce production costs. As outlined earlier, this competition is reshaping the global labour force.

Reducing Production and Labour Costs in the Private Sector

A 2002 Statistics Canada Report on production costs in Canada's manufacturing sector made the following observation:

> Production costs accounted for 80.1% of gross output in 1985, 78.3% in 1989 and only 75.7% in 1995 for the manufacturing sector as a whole, representing a decrease of more than 5% between 1985 and 1995. … In general, Canadian manu-facturing establishments permanently cut their costs as a proportion of gross output between 1985 and 1995, and this process should continue if industries are to remain competitive.

Production costs generally include the cost of wages, along with fuel, electricity and raw materials. As highlighted by Statistics Canada, reducing production costs or increasing productivity has been a feature of Canada's manufacturing sector for nearly 30 years.

However, recent changes in domestic conditions have negatively affected productivity costs. The accelerated development of Canada's oil sands have led to a significantly higher Canadian dollar (which means that for international markets, it costs more to "buy Canadian" than previously). The May 1, 2002 decision to de-regulate Ontario Hydro has meant huge increases in electricity prices.

In the face of seemingly immovable production cost increases in the areas of fuel and electricity, the pressure to reduce wage expenditures has grown even more immense.

Virtually all sectors of Canada's economy have experienced a reduction in labour costs (our standard of living), this can take a variety of forms: downsizing, plant and factory closures, greater reliance on part-time and temporary workers, cuts or concessions in wages and benefits, work intensification, contracting-out and outsourcing work to other countries.

Cutting Tax Revenue and Reducing Costs in the Public Sector

For the past 30 years, there has been a more or less steady erosion of the social services and social safety nets fought for and won in the post-World War II period. As employers respond to economic pressure, they also placed pressure on federal, provincial and local governments to help maintain their rate of return by reducing the rate of corporate taxation. Most governments began restructuring public sector services in the late 1970s, and gained momentum during the 1980s, whether this new turn was known as "Reagonomics"; "Thatcherism"; "The New Reality"; or "Restraint".

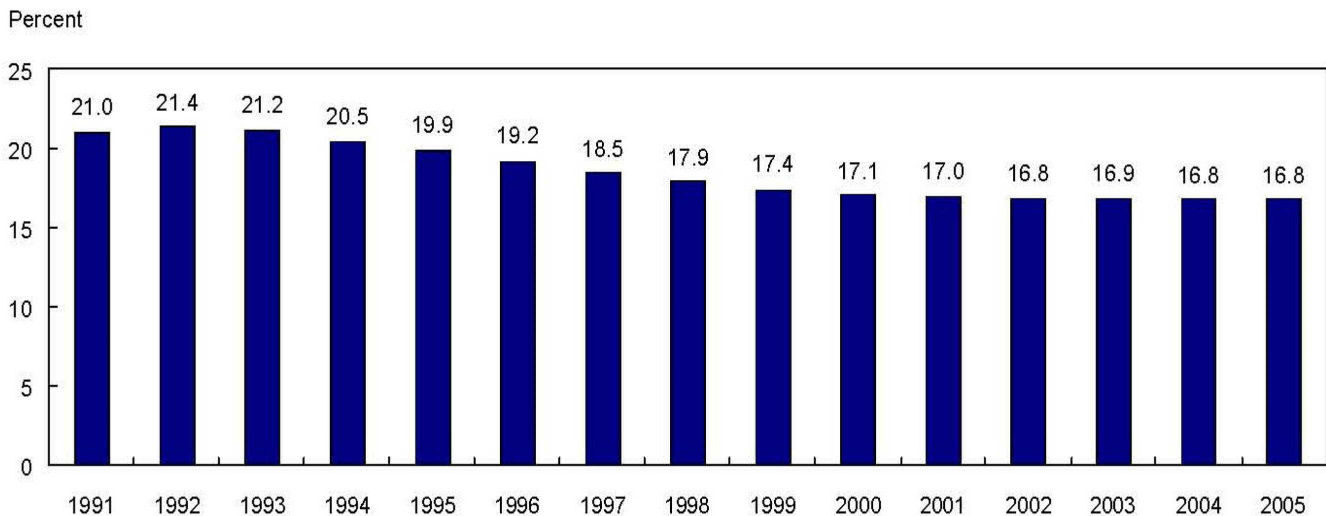
Further pressure unleashed by new global competition in the post-cold war period of the early 1990s saw continued pressure on government to reduce taxation, especially in the corporate sector, reaching its zenith in Ontario under Conservative Premier Mike Harris.

However it was the federal Liberal government of Jean Chrétien and Paul Martin (succeeding the Progressive Conservative government of Brian Mulroney in 1994) which unleashed the most significant round of public service cutbacks and social program spending since World War II.

In Canada, social spending cutbacks resulted in a decline of public sector employees. In fact, between 1992 and 1996, the absolute number of public sector workers decreased from a numeric high point 2,724,781 to 2,509,106 – a reduction in approximately 200,000 jobs in only four years. And although the public sector is growing again numerically, as a percentage of the overall workforce, the public sector has remained stagnant for nearly a decade.

Chart 1.2

Government sector employees as a percentage of total employment, Canada, 1991 to 2005



The average number of government employees per 1000 inhabitants has fallen from a peak of 96.5 in 1991 to 84.2 in 2005. This is attributable to a proportionate reduction in all sectors of government employment, but most significantly among federal employees. (See Table 1.1).

Source: Statistics Canada: *Public Sector Statistics: Supplement* (2006)

Federal cuts were passed on to provincial governments that in turn, passed cuts to local government. In fact, as a percentage of federal government expenditures, provincial transfers fell from 18.3% in 1989 to 16% in 1999, hitting a low of 15% in 1998. Correspondingly, provincial government expenditures on local government fell from 31.1% in 1989 to 25.9% in 1999. 2006 data demonstrates that only 24.1% of provincial expenditures were allocated toward local government. In other words, local government funding, as a percent of provincial expenditures, has still not recovered from the budget cuts of the 1990s.

Instead, local, provincial and national governments have adopted strategies to "do more with less" or in other words, cut services, cut wages, salaries and personnel, implement lay-offs through attrition or outright layoffs, out-source, privatize and accelerate public-private partner-ships.

Business Transformation Outsourcing: Canadian Perceptions was the title of a November 2001 report published by Accenture, a "global management consulting, technology services and outsourcing company". This report stated that 88% of "public sector leaders" had a positive view of outsourcing as a management strategy and the most cited priority for 2002 and 2003 fiscal years was "reducing costs".

Decline of Full-Time Work and the Rise of Part-Time and Precarious Work

According to Statistics Canada's December 2006 Labour Force Survey, 113,000 new jobs were created in 2006. However, almost two-thirds of these new jobs (about 75,000) were part-time, and the majority were service-sector jobs. By contrast, this report noted an average of 32,000 full-time manufacturing jobs have been lost each year since 2002. Clearly, while a superficial reading of the statistics might suggest that job loss is mitigated by job creation, a closer examination of the facts is in order.

Released in January 2005, the Statistics Canada study *Are Good Jobs Disappearing in Canada?* looked at the nature of employment between 1981 and 2004. It revealed that:

> …newly hired employees have been increasingly employed in temporary jobs since the late 1980s. Of all private sector employees recently hired in 1989, 11% had a temporary job. In 2004, the corresponding proportion was almost twice as high at 21%…

According to the study, of all women newly hired in 2004, 23% held temporary jobs – a figure that is more than double the 1989 rate of 12%. At the same time, new employees were also experiencing a deterioration in wages.

Newly hired men working in the manufacturing sector experienced a median wage decrease of nearly 20% between 1981 and 2004. Those outside the manufacturing sector experienced an 11% drop in median wages.

This period has also seen nearly a 20% drop in the unionization rate of newly hired men, from 38% in 1981 to 19% in 2004. It should be noted that this drop took place in a generalized context of decreased union density. The drop in unionization rate for new hires has implications for young workers with respect to the labour movement in general. As the relative number of unionized jobs decline, the fewer young workers have access to them; consequently young workers are often under-represented in the labour movement in general. The same is true

for newcomers to Canada. This phenomenon underscores the importance of developing strategies to increase union density.

Precarious employment includes: part-time work, contract work, various forms of temporary work, self-employment, seasonal employ-ment and casual labour. Full-time permanent employment across Canada, which up until this point has been known as standard employment, has now dropped from 67% in 1989 to 64% in 1994 and 63% in 2003.

Viewed another way, along side of what is termed "just in time" or JIT production, we see the rise of a "just in time" workforce largely engaged in various types of precarious work such as contract work or what Statistics Canada terms self-employment "own account" (meaning self-employed with no employees). Closely associated with the latter is the rise of temp agencies.

The number of temp agencies has exploded across Canada today to 3,299 temp agencies, according to the Directory of Recruiters. In cities such as Kitchener, the number of temp agencies is listed at 79. Other cities and towns across the province are experiencing similar growth in the number of temp agencies. Thousands of young people are going to temp agencies hoping to find full-time employment, yet this prospect is most often thwarted as contracts between employees, client companies and the temp agencies contain language preventing a temp agency employee working full-time for client companies and/or imposing financial penalties.

Statistics Canada found that in 2003, temporary workers earned an average of 16% less per hour than permanent workers, and between 1997 and 2003 this gap fluctuated between 16% and 19%. Of the four categories of non-permanent employees (contract, seasonal, casual and temp agency employees) the largest gap in earnings occurred between temp agency workers where the temporary workers earned as much as 40% less than their permanent employee counterparts.

Hiring part-time employees or using the services of an employment agency are mechanisms employers use to cut wages and associated expenditures. Benefits like health and dental coverage, workers compensation, and pensions are rarely offered to part-time employees and provide employers substantial cost-savings.

Statistics Canada notes that between 1983 and 2000 there has been a marked decline in the percentage of men covered by a registered pension plan – a drop of nearly 15%. While the percentage of women covered by a pension plan increased slightly, it must be noted that in 1983 approximately 55% of men, but only 38% of women were covered by a registered pension plan. According to the study, released in January 2005, by the year 2000 men's pension coverage was about 42% while women's coverage was about 39%. While the gap between men and women has closed significantly, this is largely a result of the decline in male worker registered pension plan coverage. As noted in the study:

> Even if increases in group Registered Retired Savings Plans (RRSP) coverage have fully offset the decline in Registered Pension Plan (RPP) coverage observed among men, one consequence is that the investment risk associated with employer-sponsored pension plans has been shifted, in many cases, onto male workers, rather than being borne by their employer.

A good example of the trend to "do more with less" is offered by Ontario's community college system. Chronic government under-funding has led college administrators to rely on part-time, instead of full-time staff. Over the past 15 years, the number of full-time college students has increased by 53% while the number of full-time faculty decreased by 21%. At the time of writing the McGuinty Liberal government has promised, but has yet to deliver, legislative change to enable part-time instructors to unionize.

This section has been concerned with the decline of full-time permanent work and the dramatic rise of insecure non-standard or precarious work and the practices of temp agencies. These developments demand new legislative controls to ensure fairness of treatment and substantially improved compensation levels.

3. Manufacturing and Resource Sector Restructuring and Job Loss

At first glance, Ontario's and Canada's economy appears to be healthy, economic growth continues and unemployment is down. Yet in the manufacturing core of the economy tens of thousands of jobs have been lost and more layoffs and plant closures are expected as company after company announces that they are "restructuring", "downsizing" or "outsourcing". This crisis in the manufacturing sector has major implications for not only the workers losing their jobs and their families, but also for the economic base of social services and therefore public service and private service sector workers and hence whole communities across the province.

With more and more employment in the public and private service sectors, particularly in the major urban centers of Ontario, it is useful to remember just how crucial the manufacturing is to the overall well-being of Ontario and Canada as a whole. As of 2006 this sector, despite all the job losses, accounted for 2.1 million jobs or 12.9% of all jobs across the country. Ontario employs 1.06 million manufacturing workers and they account for 48.2% of national manufacturing employment and about 17% of Ontario's total employment. In other words, nearly half of Canada's manufacturing employment is in Ontario. These job numbers are even more significant when we realize that they pay a higher average wage of $20.68 per hour in 2006, wherein the overall average hourly wage was $18.42 per hour. In short, unionized manufacturing jobs – about one in three manufacturing jobs – pay well above the average and also typically come with decent benefit packages and pension plans.

Manufacturing also accounts for a very significant share of exports and supports many jobs in other sectors of the economy such as business services. Ontario has the second highest number of manufacturing employees in any jurisdiction in North America (only California, with a much higher total population, has a higher number of manufacturing employees). The taxes on well paying manufacturing jobs help support health care, education and other important public services. Even though the unemployment rate is relatively low in Ontario, between 6-7%, the low-paid largely precarious (non-standard) jobs being created are not equitable to the largely full-time, higher paid manufacturing jobs being lost. In addition, Statistics Canada reports that Canadian workers who have been displaced by closures and mass layoffs and who find other jobs suffer an average decline of 25% in annual earnings. This works out to about $10,000 per manufacturing worker.

Nor are the jobs being made up for by the boom in energy and resource extraction. The influx of workers to the Alberta job market, for example, while substantive, is not making up for the job losses in manufacturing. Resource sectors such as mining and energy are highly capital intensive, it is typically in manufacturing processes which adds value to such resources that one finds more job creation. The energy boom has certainly facilitated a rise in the value of the dollar, indeed some refer to the Canadian dollar as a "petro dollar," but this dollar appreciation has functioned to the disadvantage of many manufacturing industries and thereby only exacerbated the current crisis in employment.

Government policy of letting the private market decide hasn't helped. The "leave it to the market" approach means that the key decisions on whether or not to invest, where to locate and what job creation will occur are virtually all made in the corporate board rooms. Today, it is mainly large trans-national corporations that dominate most sectors of industry and in so doing have the ability to downsize, outsource or transfer production and jobs to whatever part of the globe they find most profitable. That thousands of working people are out of work is of decidedly secondary importance to them. The challenge we face today, particularly in Ontario and Quebec, is that the manufacturing sector is in danger of permanent shrinkage and with it will go both value-added products and services which sustain our economy and thousands more jobs that pay above average compensation.

Table 1 shows job losses in manufacturing in the industrial provinces of Ontario and Quebec since it peaked in November 2002 through to February 2007. Between these two peaks, more than half the job losses in Ontario and Quebec were offset by job growth in other parts of the country. The losses are due to plant closures, layoffs and the non-replacement of retiring workers.

Table 1:
Lost Jobs and (Gains) in Manufacturing
November, 2002 - February, 2007

	Total Job Loss
Ontario	141,600
Quebec	124,100
Rest of Canada (Gains)	(18,400)
All of Canada	247,300

Source: Seasonally-adjusted Statistics Canada figures

As can be seen in the figures above, by far the majority of job losses have occurred in Ontario and Quebec. Since the peak of 2002 Ontario has lost 141,600 manufacturing jobs, approximately one in eight – Quebec has lost 124,100, approximately one in five – Canada as a whole has lost 247,300, nearly one in ten positions. A more detailed breakdown of these figures would show the many varied sectors in manufacturing and how each of these has been impacted and regional variations. It would also show that slightly more women than men have lost jobs and substantially more unionized workers than non-union workers are out of work. This latter is caused by the job losses in the more unionized province of Quebec and the dramatic losses in the highly unionized pulp and paper industry in such locations as northern Ontario.

Finally, some decline in manufacturing jobs is not unique to Ontario and Quebec or indeed, the rest of Canada. Most developed countries have seen employment declines in manufacturing, particularly where policy is left to private

markets with little progressive government policies or intervention. What is unique to Ontario and Canada as a whole, is that substantive job losses are linked to Canada's soaring deficit in the trade of manufacturing goods and the penetration of the Canadian domestic market by substantial and growing imports from low-wage Asian countries. As the number of Canadians employed in manufacturing has fallen in the face of profit-driven production and government inaction, the economy has been increasingly oriented to the extraction of raw, non-renewable resources, leaving more and more working people forced to make do with largely unstable, low-wage jobs in the private service sector.

4. New Developments to Be Aware Of: The Temporary Foreign Workers Program (TFWP) and the Trade, Investment and Labour Mobility Agreement (TILMA)

Temporary Foreign Workers Program (TFWP)

The Government of Canada has recently established a Temporary Foreign Workers Program in line with proposals from the International Organization for Migration (IOM) – an inter-governmental organization – the private sector, some governments and the World Bank. The IOM's proposals call for more integration of the world's labour markets and more "flexibility." Not flexibility for employees in terms of having some say over their work shifts or child care or family emergencies, but rather more flexibility for employers to hire who they want, when they want them and to let them go the moment the work load is a little less. The Federal Government's program, which Ontario is now a participant in after signing what is called The Canada-Ontario Temporary Foreign Workers Annex (TFWA), is also directed at issues concerning the supply and demand for labour given what are considered to be labour shortages.

To match the demand for labour with the supply, the federal government and Ontario have shifted from immigration – which at least formally assured full legal protections and eventually citizenship rights – to the temporary migration of workers. Such migrants tend to be tied to particular employers and dependent upon them to maintain their legal status. Employers will, as they have with agricultural workers for decades, have the power to deport them should they find such migrants unsuitable.

The Conservative government's policy is to make "improvements to the Temporary Foreign Worker Program to respond to employer needs." The TFWP website states that the new changes are aimed at assisting employers "who are experiencing difficulty filling job vacancies." But rather than having to advertise job openings where allegedly there are shortages – what the government terms "occupations under pressure" – within Canada for six weeks, most employers have only to advertise for seven days before getting permission to hire workers from abroad.

Under the redesigned TFWP, employers can be granted permission to employ a temporary migrant for up to three years. Yet to date, the redesign of the TFWP has not included any government monitoring, compliance or enforcement mechanisms to ensure basic human and worker rights. This is not due to a lack of complaints; on the contrary, numerous abuses have been documented by such organizations as the United Food and Commercial Workers (UFCW), concerning seasonal agricultural workers, and by INTERCEDE, the major domestic worker organization for live-in caregiver programs.

Another controversial feature of the redesigned TFWP is the identification of "occupations under pressure." In Ontario and other provinces and territories across the country, working groups have been established consisting of federal and local officials. Their task is to compile lists of occupations for which there are alleged shortages. To carry out this task they have been consulting with employers. Consultations with labour have been inconsistent if not a mere formality.

There is much more to the Temporary Foreign Workers Program than can be outlined here. A more thorough understanding can be found in the Canadian Labour Congress' research paper entitled *"Analysis, Solidarity, Action – a Workers' Perspective on the Increasing Use of Migrant Labour in Canada."* Yet even in this short overview it is apparent that there are several issues to be highly concerned about:

First, the foreign temporary workers are not coming to Ontario and Canada as immigrants with full, formal, legal protections and citizenship rights, but rather are dependent upon and beholding to the employer they are brought in to work for;

Second, the federal and provincial governments are largely listening to and serving the interests of employers only, this includes believing employers when it comes to labour shortages – there may well be a shortage of a particular occupation or skill, but in a whole range of cases the shortage is because an employer wants high qualifications at low cost and is therefore refusing to pay union wages;

Third, there is little to no monitoring or enforcement of what protective employment laws and regulations that do exist; and

Fourth, the importing of temporary workers in relatively large numbers and under such circumstances can only serve to undermine everyone's work standards and this is particularly the case where temporary workers are from low-wage countries and working for lower than average wages here.

Trade unionists need to be aware that this TFWP could end up importing massive numbers of "guest workers" with few rights and that it could function to drag down the living standards and take the jobs of working people in Ontario and the rest of Canada.

Trade, Investment and Labour Mobility Agreement (TILMA)

A second development looming on the horizon concerns another free trade agreement. This one is called the Trade, Investment and Labour Mobility Agreement (TILMA). It isn't between countries, such as the North American Free Trade Agreement (NAFTA) (signed by Mexico, the United States and Canada) but rather an internal free trade agreement already signed by British Columbia and Alberta on April 28, 2007.

Other provinces are being encouraged to sign this agreement and Ontario Premier McGuinty has already indicated his support for TILMA. Given our concern about the nature of the Agreement the OFL commissioned a full GUIDE and analysis of it that has already been circulated in the trade union movement and to all Members of Provincial Parliament (MPPs), (see OFL web site: www.ofl.ca). Its key findings are:

- Provisions that place serious constraints on government policy, law and actions unless they are explicitly exempted. These are policies, regulations and actions that allegedly impair or restrict trade. Thus, if Ontario signed such an agreement, a large amount of government actions and programs would be exposed to private complaints and claims for damages.

- Surprisingly most government measures that are subject to TILMA have little if anything to do with inter-provincial trade, investment or labour mobility per se. Rather, these measures which include provisions from environmental controls to health care insurance plans, were created to serve broad public or social goals. Nonetheless, such programs could be challenged for allegedly violating TILMA prohibitions.

- Key to TILMA are those provisions which establish an enforcement regime to be used by the private sector. Claims may be made where it is alleged that a government or public body has failed to comply with the provisions of TILMA. As claims can be unilaterally asserted by countless individuals and companies they are likely to be widespread and thereby exert pressure on governments to weaken or water down a host of needed public policies, laws and programs.

- TILMA expands the scope of foreign investor rights beyond those that can be asserted under NAFTA. Indeed, these rights are bestowed on American and Mexican investors absent of any reciprocal gains for British Columbia and Alberta investors.

- TILMA does exclude labour standards from its purview, but such standards are defined narrowly and the exceptions are likely to be limited to its labour mobility provisions. This would allow companies to challenge other labour standards and labour law provisions.

- There is some expansion of labour mobility between provinces in the agreement, but this is likely to come at the expense of weakening training, certification and apprenticeship programs due to the overall pressure that TILMA will exert to reduce standards to their lowest common denominator.

On the issue of labour mobility, TILMA needs to be situated in the context of current federal and provincial initiatives including the Temporary Foreign Workers Program highlighted above wherein workers are imported to fill alleged "occupations under pressure" from low-wage countries as well as developed countries. TILMA, like the TFWP, is designed to be another mechanism for deregulation, and the weakening of public policies, laws and provisions inclusive of training, licensing and certification standards.

Taken together, these two programs represent a fundamental assault on the scope and authority of government and have the potential to lower the quality of life of the average worker in Ontario. The CLC position calling for a moratorium on the "occupations under pressure" provisions of the TFWP should be supported. The invitation of British Columbia and Alberta for Ontario to join TILMA should be rejected.

Like the North American Free Trade Agreement (NAFTA) and the proposed Free Trade Agreement with South Korea, such agreements provide advantages to large transnational corporations to export into the Canadian market, enable capital mobility and private investment, but expose workers to more corporate downsizing, outsourcing, layoffs and terminations due to production being moved to jurisdictions wherein employers expect to make a higher rate of profit.

5. The Myth of the "Skills Shortage": De-Skilling the Skilled Trades

At the same time as there is an ongoing crisis of employment in manufacturing and a dramatic growth in low-paid precarious employment, there has also been considerable press on what is termed a "Skills Shortage." More often than not, however, when employers speak of "skills shortages" they mean a shortage of people who are deemed "qualified," but are willing to work for substandard wages.

As a strategy to reduce wages (increase productivity), employers – and too often government – are weakening standards on two key fronts: apprenticeship training and the fragmentation of whole trades.

This section will look at each phenomenon in turn.

Apprenticeship Training

Authentic apprenticeship training models must be understood as an employment-based relationship where 80-90% of learning is completed through hands-on, adequately paid employment under the supervision of a regulated minimum number of qualified journeypersons; the remaining 10-20% of class training is undertaken at either public community colleges or non-profit Building Trades Training Centres.

Most apprenticeships take about four years to complete and provide the apprentices with adequate on-the-job experience (working with and under the supervision of a variety of skilled journeypersons) to translate knowledge into real skill and experience.

When they finish their apprenticeship, they are certified and licensed in their whole trade. If they take the Red Seal exam, their qualification will allow them to work anywhere in Canada in any aspect of their trade.

These high standards ensure that tradespeople in the field deliver safe, high quality, professional work.

Once qualified and certified, there is a relatively good rate of pay that is expected for this high level of skill. As such, there is high demand for existing apprenticeship positions.

However, employers have been increasingly reluctant to invest in training or increase the number of apprenticeships. This is especially so if "qualified" workers can be imported temporarily from other countries or if other workers can get "qualified" workers from other provinces where the certification standards are less stringent.

The Liberal government of Dalton McGuinty promised to create 26,000 new "apprenticeships" by the current year. It made this promise without a meaningful job strategy that would ensure enough employers are creating authentic apprenticeship opportunities.

For the past three years, the Ontario government has been using money earmarked for apprenticeship training to fund a variety of programs that are not bona fide or authentic apprenticeship training models, even if the word "apprenticeship" appears in the name of

the course or program. McGuinty bills these new programs – often offered through the public (and in some cases private) college system – as "new ways" to "get into the trade".

So while apprenticeship completion rates for existing positions continues to stagnate (the Apprenticeship Tax Credit is given to employers in the first years of the apprenticeship, not the latter years), and while the rate of apprenticeship employment also stagnates, McGuinty can report that he is on target to create 26,000 new apprenticeships in Ontario.

By redefining apprenticeship as some sort of college or high school program, and by re-directing apprenticeship training funds into the college system, McGuinty pretends to improve access to the skilled trades and artificially mitigates the funding crisis in Ontario's Colleges through the re-direction of apprenticeship funding.

The OFL calls for adequate public funding earmarked for all public colleges to ensure that the most up-to-date materials and equipment are available for all programs. The OFL opposes the re-direction of money that should be going toward authentic apprenticeship training into colleges in a manner that undermines the authentic model of apprenticeship. Sadly, the chronic under-funding of Ontario's colleges means that college administrators are under pressure to access apprenticeship funds by developing curricula bearing the name "apprenticeship" but that in fact erodes the authentic apprenticeship model.

Furthermore, the trend directing potential apprentices first into the college system (as opposed to the earn-while-you-learn apprenticeship model) creates additional incentives for college administrators to envision a system where they can pocket the revenue from hundreds of tuition fee-paying students who enrol in so-called "apprenticeship courses," only to find there are no employers willing to take them as apprentices.

The OFL has consistently opposed apprenticeship training models that would concentrate the entire in-class portion of apprenticeship training in the college system before the student even secured employment as an apprentice. There is a real danger that so-called apprenticeship training will become an academic adventure, further downloading the cost of the first two years of apprenticeship training away from the employer and onto the individual, without even a commitment by employers at the end of the college program. Such a scenario would allow employers to pick-and-choose among these graduates, let employers off the hook for training, and could even promote unnecessary credentialism for a career in the trades.

Of course, there is also another danger that puts the general public at risk. With the clamour for a "speed-up" in the process by which workers are certified, there is also a danger that workers will be certified with only a two-year college program. This is like solving the medical doctor shortage by doing away with the residency and internship requirements for practicing medicine!

Fragmenting the Trades

The establishment of the *Apprenticeship Certification Act (ACA)* by the previous Conservative government set in motion a dangerous and accelerating trend toward fragmentation of what should be understood as "whole trades".

While the construction trades have been left intact under the long-standing *Trades Qualification and Apprenticeship Act (TQAA),* all other sectors of the economy were marshalled under the *Apprenticeship Certification Act.*

Because the *ACA* does not contain critical regulations such as minimum ratios of journeypersons to apprenticeships, nor minimum rates of pay for apprenticeships, there are no cohesive standards that ensure apprentices receive proper training, supervision and mentorship from a variety of qualified journeypersons.

Moreover, the *ACA* is designating as "new trades" what, in fact, are aspects of a broader trade. This reduces the training time required to become certified, and it decreases the value (and expected rate of pay) of the certification. The certificate system ushered in by the *ACA* fragments, de-skills and de-values the trades.

The training concerns outlined above are a product of the implementation of the *ACA* because under the *TQAA* legislation apprenticeship is legally defined as an employment-based relationship (wage earning) with only a fraction of time spent in a classroom setting.

Stopping the assault on skilled workers

Part of the fight to protect and increase the number of good jobs will be fighting to protect the integrity of whole trades and to preserve authentic apprenticeship training. This means fighting for a job strategy that ensures all employers pay their fair share of training costs.

6. Labour Adjustment/Training

A critical aspect of the mass job losses outlined earlier in this paper is the devastating impact it has on those affected. Lives are disrupted and financial losses put enormous strain on individual workers and their families. Statistics show that those who do find new employment often earn significantly less than they earned previously.

Erosion of Employment Insurance

All workers contribute to Employment Insurance (EI) premiums, yet over the past 15 years cuts to Employment Insurance has meant that a majority of workers no longer qualify; when they do, the duration of the coverage is entirely inadequate.

Changes to program rules have made it much harder for workers to qualify. Workers now must have between 420 and 700 hours of employment before they can draw EI. For new entrants and re-entrants to the workforce, such as young people, recent immigrants and women, the requirement is between 267% and 129% *higher* (910 hours).

Part of a comprehensive job strategy must include legislative changes to the *Employment Insurance Act* so that more workers qualify, coverage is extended, and the payouts are more generous.

Adjustment Action Centres – Building Capacity

Part II of the *Employment Insurance Act* outlines benefits and measures that EI eligible workers have access to during their coverage period. However, currently, workers attempting to access these training benefits face a wide array of bureaucratic hurdles.

For example, the required "Return to Work Action Plan" is a bureaucratic research exercise in which the laid-off worker is expected to undertake market research, summarize their findings, identify their training needs, and find

training opportunities that fit into the time constraints set out by government regulation. For any worker, this requirement is a significant challenge and barrier to accessing the funds – the more so for workers whose first language is not English or for workers with literacy challenges.

There is an urgent need to streamline the process for applying and qualifying for EI training funds.

The labour movement has developed significant experience in helping workers affected by adjustment. Worker-based peer models that organize assistance through adjustment committees or action centres are a proven asset for workers facing layoff. Labour's capacity to meet this demand, however, is often a function of the size of the bargaining unit affected, and the resources of any one union. It is critical that government funding be increased that will assist the labour movement in building its capacity to develop local and regional worker-based peer models that can assist all workers both before, during and after a layoff.

Worker-Based Education and Upgrading

Layoffs in the manufacturing sector have underscored the urgency for an expansion of workplace education and upgrading programs. Many workers currently affected by adjustment are re-entering a labour market vastly different from the one they entered 20 and 30 years ago when well-paying jobs could be secured without a high school diploma.
In today's labour market, technological changes have made computer literacy or other skills a prerequisite – yet newly unemployed workers may have literacy challenges or lack high school equivalency.

In other cases, employers admit that applications from those without high school equivalency are often discarded, even though high school equivalency may not be necessary for the position(s) available.

The gap between the educational attainment of older workers and the reality of today's labour market makes the need for worker/worksite-based education programs that encompass literacy, English as a Second Language (ESL) and skills upgrading an urgent requirement. To be successful, workplace education initiatives must be developed in partnership with labour and other community partners.

More Protection for Workers Facing Adjustment

If a corporation is failing, it can apply for protection under the *Companies' Creditors Arrangement Act (CCAA)*. This *Act* allows a company to keep functioning while at the same time making arrangements to ease its financial obligation.

Too often, companies use the threat of closure to extract concessions from its workers. With growing frequency, companies are using *CCAA* as a means of ignoring or by-passing collective agreements, and are even circumventing human rights, environmental, health and safety and employment standards regulations.

If bankruptcy is declared under the *Bankruptcy and Insolvency Act (BIA*), workers often lose wages, pensions and severance pay. Legislative change is required to ensure that workers are given priority in the event of bankruptcy.

Crucially, significantly more notice must be given to workers at risk of layoff. At present, employers are only required to give workers between one and eight weeks notice of termination for layoffs of less than 50. For larger layoffs, notice can range from 8 - 16 weeks.

By contrast, some Scandinavian countries provide workers with as much as two years notice before layoffs. This allows workers to begin education and upgrading programs to equip them with the qualifications they may need to re-enter the workforce. It allows workers time to make financial arrangements and to seek alternative employment at a more self-defined pace.

Worse still, some employers have avoided even the minimal notice requirements established in Ontario by the *Employment Standards Act* by staggering layoffs in swaths of less than 50.

While it is important that the labour movement has been pushing for legislative changes, some unions have successfully bargained contract language that improves the minimum layoff notice, and other aspects of layoff provisions, including jointly-funded union-management committees to assist workers in making the transition from their jobs.

7. The Future of Work and the Need for a Jobs Strategy

The future of manufacturing employment, and indeed manufacturing itself, faces divided paths: continued degradation of work and lost employment or a better work world with a viable manufacturing sector? This is the stark choice confronting us all. In large part, the direction to be taken is left to those of us in the labour movement.

The loss of full-time, well paying, permanent jobs and growth of low paying, non-union jobs and precarious (non-standard) jobs, poses a serious challenge for those of us in the work world, particularly to young people entering the labour force, for the trade union movement and for the future of our society.

It also means we need to examine new ways in which to improve employment: just leaving jobs and the quality of work up to "the market" isn't working.

The OFL is calling on the provincial government to implement a meaningful Ontario and Canada-wide jobs strategy that promotes economic development – particularly in the economy's manufacturing core – with substantive job creation. Such a Jobs Strategy should include the convening of sectoral task forces by the Government to bring together key stakeholders in order to develop strategies for each manufacturing sector (forestry, steel, automotive, etc.). Both the OFL and the CLC have called for a Labour Market Partners Forum to assist in developing a particular economic sector, in reversing the growing manufacturing trade deficit (mainly with Asian countries) and in maintaining and creating jobs.

Such a job strategy needs to include:

- Developing strategies for offsetting the impacts of currency fluctuations on the ability of manufacturers to operate in a global environment.
- Levering more value-added and manufacturing jobs from resource industries.
- Introducing procurement strategies in areas such as health care in order to further industrial capacity and expand employment.

- Implementing effective energy policies that provide a stable and low-cost supply of energy to manufacturers and working families.

- Linking climate change policies to job creation in "green industries" and help existing industry transition to "greener production".

- Expanding worker-oriented education and training provisions for authentic apprenticeships, skills upgrading, literacy and ESL training.

- Expanding research and innovation so as to raise productivity and further develop the capacities of the work force.
- Introducing new legislation as part of a jobs strategy, requiring corporations to justify shutdowns and major layoffs.

- Creating a provincial training levy requiring every employer not already investing in authentic apprentices, to contribute one percent of payroll into the fund. Employers who hire apprentices or pay into a union or union-employer administered training fund would be exempted.

- Establishing the position of a Jobs Protection Commissioner to advocate for jobs.

- Amending Employment Insurance so that more workers qualify and that severance pay is not deducted for benefits.

- Increasing union representation, including part-time college instructors and agricultural workers, to assist in a jobs strategy to both create jobs and to ensure that such jobs are good and secure.

Public Services

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Public Services

EXECUTIVE SUMMARY

Public services underpin our society. Every aspect of our lives is supported by them. Every day we use electricity, drinking water, roads, and health care. Public services sustain and improve the quality of life for individuals, communities and businesses across Ontario. Since March 1957, the Ontario Federation of Labour has been acutely aware of the importance of quality public services in the lives of Ontarians and their communities.

Public services came about because Ontarians wanted them and were willing to struggle for them. Improvements to these public services happened but it was never easy. As a labour movement we were always aware that there are those in our society who have no commitment to these public services and would privatize them for their own private gain if they were given the opportunity. We have seen the deliberate hurt to Ontarians and their communities caused by this philosophy. It has happened before and could happen again if we are too complacent.

As a labour movement we must be leaders in both defending the public services we have and in improving on them to better address the diverse needs of all Ontarians. We must work with other Ontarians to bring this about. We must understand what is our vision and principles for public services and how it evolved.

Our Vision and Principles for Public Services

Our vision for public services evolves from a broad base:

- Workers and their unions who understand the importance of public services and are attempting to provide them in spite of such challenges as the lack of available resources and the political agendas that negatively impact the implementation of needed public policy.

- Workers who serve as members/ volunteers with agencies providing services in the community.

- Workers who in the past used or continue to use the services available in their communities.

- Workers as citizens and taxpayers who want quality and accessible services in their community.

OFL policies are rooted in the belief that there are certain principles that govern the development, implementation and refinement of public services:

- Universality
- Accessibility
- Comprehensiveness

- Accountability
- Prevention
- Quality public services for the people of Ontario
- Quality jobs in unionized workplaces
- Democratization of services
- Socialization of services

Ontarians have always needed and used an array of public services. They will continue to do so. These services should be seen as both an investment in the future of our province, as well as addressing the immediate needs of Ontarians.

Public services did not come about by accident. They were initiated to meet the needs of people when the private sector and charities could not or would not adequately meet these needs. The workers who provide public services are our brothers and sisters. Public sector workers and their unions must know that they can count on the support of the wider labour movement and the community as they continue to struggle for justice for their members and for quality public services for Ontarians.

Labour's view of public services is not shared by all groups. There have always been those who put private interest ahead of public interest. "True believers" such as Mike Harris and Stephen Harper see their roles as winning power, and, with their friends, building the kind of economy that works for them. The idea of public services has little place in their world view. Other governments of various political persuasions lack a deep commitment to public services.

Public services provide an important counter-balance to the use of private wealth and power.

Public Services for Ontarians

Our members reflect the diversity of Ontario. As such, public services support every aspect of their daily activities and at all stages of their lives. They need an array of public services, provided by fellow union workers at every point of their lives. Examples of these public services (by no means an exhaustive list) include:

- Electricity
- Infrastructure
- Child Care
- Publicly Funded Education
- Social Assistance
- Social Services
- Health Care (including Home Care, Long-Term Care and Mental Health)

In every example, the labour movement, through the OFL, has been active in addressing the needs of Ontarians for this kind of public service. The history of the public service is important as is the present situation in order to better understand both the needs facing Ontarians in the 21st Century and challenges posed by the advocates of privatization.

Public services address immediate needs but they are also an investment in the future of Ontarians and in our province. It is for these reasons that, since March 1957, the Ontario Federation of Labour has always spoken out and acted for public services in our province. We will continue to do so.

Public Services

Introduction

Public services underpin our society. Every aspect of our lives is supported by them. Every day we use electricity, drinking water, roads, education and health care. We take for granted laws and regulations such as minimum wages, health and safety, speed limits and pollution controls. Public services sustain individuals and businesses.

Since the founding convention of the Ontario Federation of Labour (OFL) in March 1957, the major purpose of the OFL has been to speak out for, and to act on behalf of, all working people of this province. Today, as always, our first constituency is the 700,000 organized workers in Ontario whose organizations are affiliated to the OFL.

As noted in Article II (2) of the OFL Constitution, one of the purposes of the Ontario Federation of Labour is:

> *To promote the interests of its affiliates and generally to advance the economic and social welfare of the workers of Ontario.*

This purpose has been part of the OFL's Constitution since March 1957.

It is this desire to "advance the economic and social welfare of the workers of Ontario" that has made us acutely aware of the importance of quality public services in the lives of Ontarians and their communities. It has also made us aware that there are those who have no commitment to these public services and would privatize them for their own private gain.

Our Vision for Public Services

Our vision for public services evolves from a broad base:

- Workers and their unions who understand the importance of public services and are attempting to provide them in spite of challenges such as the lack of needed resources and the political agendas which negatively impact the implementation of these needed public services;
- Workers who serve as members and volunteers with agencies providing services in the community;
- Workers who in the past used or continue to use the services available in their communities;
- Workers as citizens and taxpayers who want quality and accessible services in their community.

Principles of Public Services

OFL policies are rooted in the belief that there are certain principles which should govern the development, implementation and refinement of public services.

These principles are:

- **Universality**
  services should be available to all in need;

- **Accessibility**
  services should be available when and where they are needed and in a format that allows for the full participation of all citizens;

- **Comprehensiveness**
  services should evolve to meet new or different needs;

- **Accountability**
  government should be held accountable to consumers, potential consumers and providers of services for the continuing provision of, and access to, quality services;

- **Prevention**
  the need for some services may be lessened in the future by the availability of other services today;

- **Quality public services for the people of Ontario**
  history illustrates the point that services delivered by the public sector have served the people of Ontario well;

- **Quality jobs in unionized workplaces**
  services provided by workers in a safe working environment where they and their union are treated with respect;

- **Democratization of services**
  consumers and workers are given the opportunity to have real input into decision-making regarding the implementation and delivery of services;

- **Socialization of services**
  services are seen as providing what the community needs and not as a means of profit-making through privatization and contracting out.

The following aspects of these principles will be addressed:

- the development of public services in response to the needs of Ontarians;

- the role of government in the development of public services and how this role changed over time;

- the need for labour rights for public sector workers in response to how they have been treated by their employers and by government;

- public services are part of the ongoing struggle for democratic safeguards and accountability. Public space and services are created to benefit all citizens. As such, they form one area where all citizens are equal, regardless of their private wealth.

The Numbers and Needs of Ontarians

Members of the Ontario Federation of Labour live across Ontario (from Kenora to Cornwall from Moosonee to Windsor) and work in every sector of the economy. Our membership reflects the diversity of Ontario's population.

As the Ontario Federation of Labour grew, so did the population of Ontario between 1945 and 1960. Ontario's population grew faster than that of any other Canadian province or any other industrialized country in the world.

The 1956 census (the year before the creation of the Ontario Federation of Labour) recorded Ontario's population at 5,404,933. Between 1951 and 1956 the population grew by 807,391 people, 430,386 as a result of births and 377,005 as a result of immigration.

Since the 2001 census, Ontario's population has increased by 750,236. That represents half of Canada's population growth (+1.6 million) during this period. Alberta was the only other province above the national average. More than 600,000 immigrants settled in Ontario, about half of all those who immigrated to Canada between 2001 and 2006.

Ontario's population is expected to increase by 30.7% or 3.9 million over the next 25 years. Immigration is expected to contribute the majority of Ontario's population growth in the years to come, with an estimated 90,000 to 150,000 new immigrants making their home in Ontario each year. Over the same period, the population aged 65 and over is expected to more than double from 1.6 million or 12.8% of the population to 3.6 million or 22% of the population.

More Ontarians are making a contribution to our economy and society now and will continue to do so in the future. They use an array of public services. The availability of these services should be seen both as an investment in the future of our province, as well as addressing the immediate needs of fellow Ontarians.

At the founding convention of the OFL in 1957, one of the resolutions passed called on the Ontario government to bring about a program of public welfare which, in the wording of the resolution, "would provide standards of health and respectability".

Another example, in a 1969 convention statement entitled *General State of Labour,* the OFL called for all workers to have the right to bargain collectively. It also called for improvements in social welfare legislation, the educational system and called on working with others in the community to improve housing, day care centres and homes for the aged programs. From the founding convention to the present, it has been our standing policy to call upon governments to develop, implement and refine public services to address the needs of Ontarians.

Governments and Public Services

Public services didn't come about by accident. They were initiated to meet the needs of people when the private sector and charities could not or would not adequately meet those needs. Some of the first public services in Ontario were regulations controlling sewage and garbage in cities in order to ensure a supply of safe clean drinking water.

Public services were also created to support business and economic growth. The development of reliable transportation systems (canals, railways and highways) encouraged investment in the harvesting of raw materials and manufacturing of finished goods. It created employment and mobility opportunities for Ontarians.

The development of reliable and cheap electricity greatly benefited the business community. It also improved the quality of life of Ontarians and their communities.

The material benefits flowing from these kinds of public services usually overcame the philosophical opposition to this kind of government activity by the business community. Simply put, the government was providing reliable and accessible services that were needed by the business community at a cost that they were unable and/or unwilling to match.

The experiences of the Great Depression and World War II altered the view of the role of government in addressing economic and social needs. Since then government has been expected to play an active and more positive role in developing programs and services to meet the needs of Canadians.

In the 1950s and 1960s the federal government introduced conditional grants and federal-provincial cost-sharing programs for hospitals, health insurance, post-secondary education (PSE) and welfare transfers and services. Conditional transfers and shared-cost programs allowed Ottawa to impose some national standards in the areas of health and welfare (Canada Assistance Plan – CAP) with the provincial governments being required to abide by federal criteria as a condition of receiving federal funding.

There was a change in federal funding of services in the 1970s. Health and PSE cost-sharing programs were replaced by block grants called Established Program Financing (EPF). The amounts were set unilaterally by the federal government after discussions with the provinces, but not linked to spending levels and paid out on an equal per capita basis as of 1982.

In the 1980s the federal government unilaterally decided to reduce the EPF. Federal spending was restrained with a "cap on CAP" imposing a 5% annual growth ceiling on CAP payments to the three provinces then ineligible for Equalization Payments: Alberta, British Columbia and Ontario. The elimination of cost-sharing under CAP modified the incentives for provinces to spend on social assistance programs.

In the mid-1990s CAP was replaced with another block grant, the *Canada Health and Social Transfer (CHST*). This covered the federal government's contribution to three major social policy areas – health, post-secondary education and social assistance, and in the year 2000 it was also used to further policy goals regarding children. This was a smaller overall transfer envelope. The 2002 Federal-Provincial Health Accord divided the CHST into a *Canada Health Transfer (CHT*) and a *Canada Social Transfer (CST)* as of 2004-05.

The *Social Union Framework Agreement* signed in 1999 stated that co-operation and efficiency would take precedence over the constitutional division of powers and that the federal government would refrain from unilaterally introducing new, shared, cost policy initiatives.

In the 1950s and 1960s, the lure of money from the federal government "convinced" Ontario's Conservative government to become part (in 1959) of a hospitalization plan through the Ontario Hospital Services Commission. In 1965 the province established a voluntary medical insurance plan and by 1969 "was forced" into the national Medicare system. In 1962 a tax-sharing agreement between Ottawa and the provinces was a catalyst for the development of Ontario’s social programs.

Under Conservative Premier John Robarts (1961-1971) the Ontario government invested in an expansion of primary and secondary schools, new universities, a province-wide system of colleges of applied arts and technology, the Ontario Institute for Studies in Education (OISE) and the Ontario Educational Communications Authority (TV Ontario). The Ontario Housing Corporation was established, a legal aid plan was created and provincial investment in homes for the aged was expanded through the Canada Assistance Plan.

In 1975, Conservative Premier Bill Davis (1971-1985) established the *Special Program Review*. It called for sweeping cutbacks in government health, welfare and education programs. It was opposed by the OFL, the wider labour movement and community organizations. It was the first major attack on public services by the Ontario government. It would not be the last.

It was a Conservative government that set up Ontario's public electricity system in 1906, over the opposition of private electricity producers, to supply the provincial economy with reliable and cheap electricity. In 1997 another Conservative government, Harris', began the privatizing of electricity resulting in a decade of disruption for Ontarians and the provincial economy especially in the resource based industries of northern Ontario. This privatization move was opposed by the OFL, the wider labour movement and community organizations.

The British North American Act, 1867 renamed *The Constitution Act* in 1982 assigned control over municipal to provincial government, which, in turn, delegated power to control local matters to local government. Local government was viewed as a "creature" of the provincial government. Over time local government has taken over such areas as health, social services, education, housing, roads, public transit, water and garbage.

The Conservative government that came to power in 1995 cut some provincial services and downloaded others to municipalities. They also forced amalgamation of municipalities and the restructuring of two-tier counties and regional governments into single-tier governments.

In 1995 there were 850 local governments in Ontario; by 2001 there was half that number. A similar exercise was imposed on boards of education across the province. This exercise and its aftermath were disruptive for local governments, workers providing services (our members) and for Ontarians needing the services provided by this level of government.

Moving away from the prescriptive approach of earlier legislation, *The Municipal Act, 2001,* took a more permissive approach towards local government. They have also announced a *Provincial-Municipal Fiscal and Service Delivery Review,* which will provide an opportunity for some to argue for more privatization of municipal services - which does not serve the best interests of the community. Our agenda for a positive and progressive local government has to be put forward.

The city of Toronto's decision to buy unionized, Ontario made, subway cars with the support of the local labour council, labour movement and community organizations, shows that local governments have the capacity to act in a positive manner. The city of Ottawa's infatuation with the P3 model in spite of the spirited opposition from the local labour council, the labour movement and community organizations, shows that local

governments also have the capacity to act in a negative manner.

The OFL and our affiliates will continue to advocate for local government that understands the needs of the community and is willing to act in a positive and innovative manner and where the labour movement plays a full and positive role.
Not all public services are offered to the community by governments. Often governments provide funding to the non-profit sector to deliver services. According to the *2007 Ontario Alternative Budget,* Ontario's non-profit community sector is the largest in Canada.

It includes approximately 45,000 organizations with annual revenues of $29 billion. One in 11 Ontarians work in a non-profit organization and 7.8 million people volunteer for a non-profit organization, contributing a total of 791 million hours of volunteer labour each year. Many of our members are employed in this sector.

The Ontario government contracts with community agencies to deliver specific services, but does not provide core funding to support the general mission of organizations.

Public Sector Workers

Workers providing similar public services may be in different unions in different locations across Ontario. Workers in one location but providing different services may be in a number of unions who are all dealing with the same employer.

At different times since 1957, public sector workers, through their unions, have affiliated with and become active in the OFL:

1957:
Board of education workers, fire fighters, health care workers, municipal workers, transit workers, utility workers.

1958:
Postal workers.

1971:
Federal government workers.

1979:
Provincial government workers, community college workers.

1995:
Primary and secondary school teachers.

2002:
University teachers.

2005:
Registered nurses.

The first resolution discussed by the founding convention of the Ontario Federation of Labour (March 1957) concerned the issue of public sector workers (in this case municipal and county employees) and their right to organize themselves into unions. A later OFL convention (1962) called on the federal and provincial governments to establish legislation providing collective bargaining for all their workers. The 1961 OFL Convention called for the *Ontario Labour Relations Act* to be amended to clearly establish that all workers had the right to organize into a union and to bargain collectively.

Public sector unions fought long and hard to make advances for their members. CUPW has struggled for years against Canada Post. CUPE has struggled against municipal governments, school boards and employer groups such as the Ontario Hospital Association (OHA). OPSEU has struggled against the provincial government, community colleges, the OHA and other employer groups. ETFO, OECTA and OSSTF have struggled with school boards. SEIU and ONA have struggled against the OHA and other employer groups. PSAC has struggled against the Federal government.

As employers, governments have imposed restrictive legislation on their own employees, such as the 1976 federal *Public Service Staff Relations Act* and the 1972 Ontario *Crown Employees Collective Bargaining Act*. Affiliates have spent decades struggling against these laws. Governments impose legislation on their employees to get what they can't get through fair collective bargaining.

The following example involving PSAC and the federal government is taken from a 1999 report examining the deterioration of labour-management relations. Here are some of the actions taken by the federal government against its own employees:

1975:
A three-year program of wage and price controls.

1982:
A second round of controls, applied only to wages of federal employees.

1991:
Freeze of public service salaries first-ever nationwide strike by PSAC (September) ended by legislation.

1994:
Two-year freeze on salaries, along with cuts in departmental operating funds.

1995:
Budget cuts of 45,000 public service jobs, to be implemented in 3 years.

1996:
Announcement that salary arbitration would be suspended

1997:
Legislation restricting compensation increases as collective bargaining resumes.

The delay until year 2000 in implementing the pay equity decisions.

As well as bargaining for their own members, public sector unions have worked with and through the OFL to educate the broader labour movement on the importance of public services, building links between the public and private sectors for greater solidarity and coordinated action to convince government and the broader community of the importance of defending and improving public services.

Public sector unions work closely with the communities who use the services they provide to defend those services. This working together has also led to the development of effective province-wide community organizations such as the Ontario Health Coalition, the Ontario Coalition for Better Child Care and the Ontario Coalition for Social Justice.

Public sector workers and their unions must know that they can count on the support of the wider labour movement and the community as they continue the struggle for justice for their members and quality public services for Ontarians. Working together is the recipe for success.

The Conservative government led by Mike Harris – elected in 1995 – had little time or use for public services or public sector workers. As part of their "Common Sense Revolution" this government passed *The Labour Relations and Employment Statute Law Amendment, 1995 (Bill 7).* This Bill repealed *The Labour Relations Act* including recent amendments aimed at modernizing the legislation, and enacted *The Labour Relations Act, 1995.* In 1997 they passed *The Public Sector Dispute Resolution Act* and *The Public Sector Labour Relations Transition Act, 1997 (Bill 136). The Education Quality Improvement Act, 1997 (Bill 160)* repealed *The School Boards and Teachers Collective Negotiations Act* and replaced it with collective bargaining under *The Labour Relations Act, 1995.*

Harris knew that the labour movement would be in opposition to his overall agenda of cuts to, and privatization of, public services. And he was right! During his entire term of office (1995-2003) the OFL, the wider labour movement, and Ontarians across our province, opposed his agenda every step of the way. Public sector workers were in the forefront of this struggle.

One incident typified the Harris approach to public sector workers and their unions. In 2001 there were changes made to *The Public Service Act* to allow the Ontario Provincial Police Association (OPPA) to organize 2,000 civilian employees of the Ontario Provincial Police, who were then members of OPSEU. The issue for Harris was that the OPPA had supported him while OPSEU had not.

Another View: Hostility to Public Services and to People

Labour's view of public services is not shared by all groups. There have always been groups and individuals who put private interest ahead of public interest; those who believe that the so-called "free market" can, and should, deal with and solve any issue.

They believe that public activities, as well as public sector workers, are a drain on the wealth of society. They believe they generate this wealth and it is theirs to do with as they see fit. They believe that decisions, whenever possible, should be made behind closed doors and that they should not be bothered by issues of process or public accountability. Simply put, their mantra is: public sector bad, private sector good; regulation bad, market forces good. This philosophy has a strong and entrenched following in Ontario, Canada and across the world. A current label for this philosophy is neo-liberal. Neo-liberals view privatization as an important tool to dismantle the public sector in order to build the kind of economy that will service their needs.

Privatization is the movement of activity and resources from the public sector to the private sector. According to Feigenbaum et al., "*Shrinking the State: the Political underpinnings of Privatization" (1998),* this can be done in a variety of ways including:

- **Management Reforms:**
  Changing policies and processes to have the public sector structures, especially governments, operate in a more "business-like" manner;

- **Service Shedding:**
  Governments withdrawing from providing services with the expectation that voluntary organizations, charities or self-help groups will provide the services if they are really needed;
- **Asset Sales:**
  Disposing of existing assets often at less than the asset is worth;

- **Contracting Out:**
  Management in public sector becomes contract administrators, identifying what needs to be done and who can do it at what cost;

- **User Fees**
  People paying for services that used to be provided for out of general taxation revenues;

- **Voucher System:**
  Providing vouchers for the purchase of specific goods or services from the private sector as an alternative to the government providing the goods or services;

- **Public-Private-Partnerships:**
  The government working with the private sector to provide mutually agreeable goods or services. Beneficial to the private partner at the expense of the users/taxpayers who end up paying more over a longer period, often for little or no improvement in services.

The electoral successes of both Margaret Thatcher as Prime Minister of Great Britain (1979-1990) and Ronald Reagan as President of the United States (1981-1989) gave life to privatization as a tool of this ideology. Their political successors carried on the policy of privatization.

Throughout the 1980s and 1990s, other political leaders in jurisdictions across the world, including Canada, advocated this philosophy and were elected and re-elected.

Canadian governments that support this world view have been elected. At the federal level Conservative and Liberal governments both embraced and adapted to this philosophy.

The Brian Mulroney Conservative government (1984-1993), by signing the Free Trade Agreement (FTA) and the North American Free Trade Agreement (NAFTA), sought to impose/strengthen the grip of this philosophy on Canadians. This was done over the spirited opposition of the labour movement and many Canadian organizations and individuals. Large scale privatizations such as Air Canada and Petro Canada were undertaken. They attacked their own employees which resulted in the 1991 PSAC strike which the Conservatives ended through legislation. They cut billions from federal-provincial transfers – especially in health care – a move which resulted in the restructuring of health care across Canada resulting in the growth of for-profit health care.

In 1993, the Liberals, under Jean Chrétien, ran against the Conservative record, got elected and proceeded to implement the same agenda.

In the 1995 federal budget, as part of the "war on the deficit", they announced the firing of 45,000 federal government employees as part of a massive cutback of programs and services. The government rejected all viable alternatives put forward by the Public Service Alliance of Canada.

The Liberals continued privatization. The Chrétien government made severe cuts to transfer payments and in 1995 introduced the *Canada Health and Social Transfer Act (CHST)* to replace the Established Programs Financing and the Canada Assistance Plan. Under CAP, the funding of social programs also included national standards. The CHST allowed for block funding to the provincial governments rather than funding tied to particular programs. In February 2003, a health accord was signed between the federal, provincial and territorial governments. After two days of closed-door negotiations, more money was dedicated to Medicare but without a collective and clear stand against the role of private for-profit corporations in providing health care services.

Jean Chrétien was succeeded by Paul Martin as Prime Minister in November 2003. Martin had been Finance Minister during the Liberal "war on the deficit". A second health accord was signed in September 2004.

The process began as an open meeting which was adjourned the second day and the meeting carried on behind closed doors. Money was a major item and the agreement centered on a $41 billion transfer from the federal government over the next twenty years. Discussion on such issues – as the role of private for-profit providers – was sidestepped.

Martin was replaced as Prime Minister by Conservative leader Stephen Harper in the federal election on January 23, 2006.

Harper was a "true believer" when it came to this right-wing philosophy. In the past he had said that Canadians were content to live in a "second-tier, socialistic country". He had called on Alberta to build a "firewall" to preserve its values from the federal government. He had been the head of the National Citizens' Coalition, a group which had been originally organized to fight Medicare. He was an eager cheerleader for the actions of the U.S. government especially after September 11, 2001. His views are a matter of public record.

After the June 28, 2004 federal election which the Conservatives thought they would win, Harper was "repackaged" as more flexible and less ideological. He won a minority government on January 23, 2006. The Harper government continues the "repackaging" in the hopes that Canadians will see him and his government as competent and caring and reward them with a majority government in the next federal election. Their attitudes and actions on issues have been challenged by many Canadians.

Two incidents illustrate the attitude of Harper and his government. In the fall of 2006 his government announced their decision to cut $1 billion in social programs – on the same day that they announced a $13 billion budget surplus. In November 2006 Federal Finance Minister, Jim Flaherty, announced that the federal government intends to require every province and territory to consider public-private or "so-called" P3 partnerships as a condition of receiving federal funding.

Ontario had its own version of a "true believer" in the person of Mike Harris, the Conservative leader who was elected Premier in June 1995. The Conservative platform released in 1994 was called *The Common Sense Revolution*. It was a blueprint on how they wanted to change Ontario. It called for a 30% reduction in the provincial income tax rate and a balanced budget. It vowed to shrink the public sector and the role of government. It called for cutbacks to needed social programs and legislative rights won by workers

and their unions. It wanted to "open" Ontario for business.

Harris acted quickly. An economic statement in July 1995 called for $2 billion in cutbacks including $500 million in service and staff cuts to ministries. In November another $3.5 billion in cuts were announced. This included significant cuts to services, financial grants and a 21.5% cut in social assistance rates. The cuts went beyond the Ontario public service and into the broader public sector. For example, financial support for municipal government was virtually cut in half. Monies were cut to transit, education and social assistance. The government gave itself the power to eliminate, merge or amalgamate local municipal structures and hospital boards. In 1997 the release of the report *Who does What?* called for a realignment of provincial and municipal roles and responsibilities.

In April 1996 "business plans" by ministries and agencies were released. The obvious reason for these plans was to identify public assets which could be privatized. They established a Red Tape Commission to "weed out" unnecessary regulations and agencies. The hostility of the Harris government towards public services never abated until he left office in 2002 and was replaced by his Finance Minister Ernie Eves.

The disruption and hurt caused to Ontarians and their communities by the Harris government is a matter of historical record. So, too, is the broadly-based extensive, creative and spirited opposition to this government. This opposition encompassed the Ontario Federation of Labour, its affiliates, other labour organizations, the Ontario New Democratic Party and a wide variety of social partners and individuals.

After winning the provincial election in October 2003 the Liberals did not break with the Harris/Eves agenda to the extent that Ontarians had expected they would. An expectation based on their words while in opposition.

The "true believers" like Harris and Harper see their role as winning power, and, with their friends, building the kind of economy that works for them. The idea of public services has little place in their world view. There is little need to talk to anyone about what needs to be done because they know what needs to be done. Opposition to their agenda must first be ignored, and if it persists, then the power of the state should be brought to bear to silence it.

Other governments of various political persuasions lack a deep commitment to public services and are willing to accommodate themselves to other views in the hopes of winning and keeping political power.

The availability of public services provided by public sector workers goes beyond any philosophical preference. Public services provide an important counter-balance to the use of private wealth and power. Ontarians should have a real say in how they are governed and how programs are developed, implemented and refined as needs change. The process should be both accountable and transparent.

Ontarians should also benefit collectively from the public ownership of assets which are working in their best interests. Public services are an investment in the present and future of our province. The presence of quality public services should be a key component of any economic and/or social strategy for our province.

Public Services for Ontarians

As already mentioned members of the Ontario Federation of Labour have always lived across Ontario (from Kenora to Cornwall from Moosonee to Windsor) and worked in every sector of the economy. Our membership reflects the diversity of Ontario's population. As such, public services support every aspect of their daily activities and at all stages of their lives.

For example, a new parent may want access to quality child care, and later, quality publicly funded education. A worker who has lost their job may need access to social assistance. An injured worker may need access to quality home care. Workers at some point may want access for themselves or family members to quality care for seniors. Most Ontarians will need access to quality health care at some point in their lives.

These public services are only examples – not an exclusive list – of the kinds of support that Ontarians may need at different points in their lives. It is because of this range of needs, as reflected in our membership, that the OFL has always called upon governments to develop, implement and refine public services to address the needs of Ontarians.

These services should be provided by unionized workers who are members of our affiliated unions.

Electricity

Given the climate and geography of Ontario, access to reliable and affordable electricity is a necessity. The OFL's position on this issue is best represented by the title of a 1980 convention document: *Statement on Energy: Under Public Ownership and Control to Serve the Canadian Economy.*

It was a Conservative government that set up Ontario's public electricity system in 1906, over the opposition of private electricity providers. The Hydro Electric Power Commission, or as it became commonly known – Ontario Hydro – supplied Ontario's economy, communities and people with reliable and affordable electricity. It also provided employment across Ontario for our members. This was good for the provincial economy, communities and for the people of Ontario.

In 1997 another Conservative government (Harris) began privatizing electricity resulting in a decade of disruption for Ontarians and the provincial economy, especially in the resource-based industries of northern Ontario. This privatization move (as already noted in this paper) was opposed by the OFL, the wider labour movement and community organizations.

Ontario governments (either Conservative or Liberal) do not seem to see it as an important public service – a public asset which should not be handed to the private sector.

Since 2003 the Liberals have squeezed public power generation while encouraging private power. The high cost of which is hidden because most of our electricity still comes from public low-cost power generation. They have kept open the electricity market but hide it from consumers because their rates are still regulated. They (Liberals) effectively bar Ontario Power Generation – the public power structure – from participating in the new, green, environmentally-friendly power generation.

The Liberals are forcing local municipal utilities to act like corporations rather than providers of public service. The results of this are that prices keep going up. A price we pay as direct users of electricity and indirectly through the impact of job losses and cuts in services from schools, hospitals and other public institutions faced with increased electricity costs. Existing "free trade agreements" will increasingly lock Ontario into the volatile U.S. electricity market. We will lose control over our electricity rates and our ability to control emissions from electricity generation.

We need to return to publicly-owned electricity sold at cost. Public power generation will help our communities. Our control of new, green, power generation will ensure that conservation plays an important role. It will also ensure that jobs are created and retained in communities across Ontario.

Infrastructure

The 1960 OFL convention called on governments to invest in "projects of sound social value" such as public enterprise, the construction of "badly-needed" schools, hospitals and highways and the development of natural resources. The convention correctly saw that any discussion of economic activity had to include a discussion of public infrastructure. This approach has been the consistent policy of the OFL.

Governments which provide publicly-owned infrastructure are providing a public service. The presence of such services as roads, public transit, water and garbage, ensures a quality of life for members of the community and underpins the economic and social activity of the community.

The provision of these services provides employment opportunities for dedicated and qualified members of the community (our members). Because they are publicly-owned, community members have a democratic say and control regarding the development and operation of these services in their community.

Studies such as the 2003 Statistics Canada *Public Infrastructure and the Performance of the Canadian Economy, 1961-2000* confirm the point that publicly-owned infrastructure has a positive impact on the productivity and economic performance of the business sector.

This is not a view that is accepted by everyone. As already noted, the 1980s saw the ascendancy of a political ideology that sought to replace the "public" with the "private". To them, the role of government should be diminished and services and programs if needed should be provided by the private sector not by the public sector. Programs and services were viewed as potential sources of "profit" rather than satisfying the needs of the society.

In this period there was a preoccupation with debt and deficits. Government spending was viewed with suspicion even by some governments. Caught in this suspicion were the needed investments to replace aging infrastructure and the need to expand infrastructure in response to increased demand. A "crisis in infrastructure" was evident. For example, in 2004 the Federation of Canadian Municipalities estimated Canada's infrastructure deficit to be as high as $60 billion and growing by approximately $2 billion a year.

In response to these developments the Ontario government, then conservative, borrowed from Britain the idea of the Private-Public-Partnerships (P3s). The attraction of the idea to them was that it provided the opportunity to expand capital spending to address the accepted consensus that there was a "crisis in infrastructure" without appearing to be spending more. It was touted as a way to bring private sector expertise and money to the construction and operation of public facilities. The idea was first imposed in health care to deal with the construction of needed new facilities in Brampton and Ottawa. The Liberals, although critical of P3s before the October 2003 provincial election, signed the deals for the Brampton and Ottawa hospitals soon after they were elected. They (the Liberals) kept the policy but re-named it "Alternative Financing and Procurement" (AFP).

The 2005 OFL convention statement *Public-Private-Partnerships (P3s) and the Transformation of Government* analyses this political shell game by illustrating a number of points:

- Governments have the lowest cost of borrowing. Using the P3 model the government pays a private corporation to go out and borrow on the government's behalf, at a cost which is higher than if the government borrowed the money itself.

- The P3 model shifts administrative and public policy control to a third party. It drives a wedge between public services and their delivery, creating a category of services that are still public services, but which are privately delivered. The idea of democratic control and input from the wider community is abandoned.

The Ontario government has tried to move the P3 model beyond health with limited success. Even the creation of a new crown corporation – Infrastructure Ontario – to deliver infrastructure funding programs in other sectors has not resulted in much uptake. Perhaps, the widespread problems involving the operation of Highway 407 and the sustained public opposition it has generated has resulted in a reluctance to repeat the experience in other sectors.

In their last budget the Federal Conservative government (with a number of the key players from the Harris government in Ontario) repackaged their infrastructure funding for provinces and municipalities as the "Building Canada" fund which will require that P3s be "fully considered" as a condition of receiving funding. This is an obvious threat from the Federal government to accept this model or suffer the consequences.

The sustained opposition from labour and the community to the imposition of P3s in health has had an impact on the Liberal government. They have responded by limiting the coverage of some P3s.

The 2005 OFL convention statement suggests three elements to a strategy to combat the spread of P3s in Ontario:

- A concerted effort, in the media and in the courts if necessary, to force disclosure of the details of P3 agreements.

- A consistent, sophisticated and cogent analysis of the cost and other implications of every P3 deal.

- Targeted campaigns to build public awareness of those implications.

Part of this public awareness must be a greater understanding by all Ontarians of the importance of publicly-owned infrastructure as the underpinning of our society and economy. Part of this must be to engage Ontarians on how to best create, maintain, expand and control this infrastructure to better serve the needs of our people.

Child Care

As early as 1972 the OFL was talking about the importance of this issue. In 1980, Ontario Federation of Labour convention delegates adopted a child care policy and launched a campaign for universal early learning and child care. In the spring of 1981, the Federation held public hearings across the province and the Ontario Coalition for Better Daycare was formed.

In the almost three decades since then, the OFL and the now Ontario Coalition for Better Child Care, have organized and mobilized for the creation of a system of child care that is universally accessible, high quality, not-for-profit, regulated, and publicly funded, that would meet the needs of families and provide decent wages and working conditions for workers in the sector.

The benefits of a well-funded, high-quality, affordable and universally accessible system of early learning and child care will be felt across sectors and in all communities by:

- contributing to the equality of women, who are often the primary caregivers for their children and who also make up 97 per cent of the child care work force;
- supporting parents in their child care responsibilities while allowing them to stay in the labour force and access skills training;
- enhancing early learning for children as an essential first stage in a system of lifelong learning that promotes and equalizes opportunities for all children regardless of family income and social background/circumstances.

There is no coherent child care system in Ontario. Decades of ad-hoc, piecemeal government policies, a market-driven approach based on parents' ability to pay, declining provincial child care budgets and downloading onto cash-strapped municipalities have caused a serious child care crisis for families with young children. A situation which leads to:

- long-established child care centres, including community college lab schools, have been forced to close. Existing child care centres report difficulties attracting and retaining qualified staff since wages are low and benefits and working conditions are poor;
- parents are having a tough time affording quality child care - if they can find spaces. Thousands of Ontario’s parents are forced to resort to make-shift child care arrangements because high-quality licensed programs are simply not available;
- currently, less than 11 per cent of children under 12 in Ontario have access to high-quality, regulated child care.

The need for a child care strategy and funding to build and sustain it has never been greater. Provincial investments in early learning and child care services were slashed under the Harris government.

During the 2003 election, Dalton McGuinty promised to invest $300 million in provincial dollars for early learning and child care as part of his party's Best Start plan. Today, despite an escalating crisis in the child care system and repeated calls for that promise to be kept, the provincial government has failed to meet its commitments.

In its implementation, the plan does not produce a seamless service; commit to a universal system of early learning and care; address early learning and care needs of children 0-3 and 6-12; protect against expansion in the commercial child care sector; address the role of the informal sector in child care in Ontario; address the most essential ingredient of quality: the staff; commit new provincial funding to child care; plan for adequate and meaningful consultation with all members of Ontario's child care community; contain adequate timetable and targets.

In the most recent provincial budget, the government announced the first provincial money allocated to child care since the Harris cuts over a decade ago. In Budget 2007, the government announced $25 million this year and $50 million next year − falling $275 million short of the funding promised in 2003. Funding announced in the federal budget the same week was not included in the provincial funding announcement – totaling just under $100 million.

While new provincial and federal dollars are welcome, in their current amounts they do very little to rebuild the damage of the past 12 years including the $152 million cut during the Harris/Eves years and the dismantling of a federal child care program. There is a lack of political will and absence of vision with regard to early learning and child care.

Why is this happening? The current provincial government has continually blamed its own lack of action and political will on the cancellation of the federal/provincial 2005 child care funding agreements, despite its own 2003 commitment to fund child care independent of any federal support. Ontario's families and children are paying for that inaction.

Quebec is building such a system. The system developed by Quebec is a model in this regard, with parents paying a maximum of $7 a day and government paying the balance. This model, applied in Ontario, would ensure that care is affordable for and accessible to all families.

By ensuring affordability, it would mean that families are not paying up to 20 per cent of their income for child care. In particular, it would ease the financial burden of child care for young families with low and modest incomes, especially single-parent families and women. There is no economic reason that Ontario cannot do the same as Quebec is doing.

Federal

A national child care program has been advocated by the Canadian Labour Congress, women and child care advocates for 30 years. The struggle for a high quality, universally accessible, not-for-profit, regulated, publicly funded system has continued at both the provincial and federal levels.

During the 2004 federal election, the labour movement, women's groups and child care advocates pressed all political parties to support a national child care system. The Liberals and NDP did include a child care commitment in their election platforms. This was not the first time political parties promised a national child care system during an election. Canadian

families have been promised a national child care program for two decades now – first, by the Conservatives under Brian Mulroney in the 1980s, and then, several times by the Liberal government in the 1990s. They still are in need of a system of high quality, affordable, universal child care. We know that the building blocks of such a system are:

- funding child care services directly and not through vouchers or subsidies;
- expansion in the not-for-profit sector only;
- measures that hold provinces and territories accountable for how they spend federal child care dollars;
- legislation that enshrines the principles and structure (national child care standards) of a high quality system for future generations.

In 2005, we were close to achieving that vision. The Martin government, faced with a minority government and realizing strong public support for child care, was forced to deliver on their election promise. In its 2005 budget, the federal government committed to spend $5 billion over the next five years to kick-start a national early learning and child care system.

The budget was a significant step forward for child care. It was the first time in Canadian history that a federal election commitment to child care was backed up with a funding commitment in the budget. However, the budget did not tie any strings to the first year of these new dollars – $700 million. There was concern that not all provinces and territories would invest this funding towards growing regulated, high quality child care, as we saw in Ontario when the Mike Harris Tory government spent little of the federal child care dollars on child care delivery.

Across Canada we organized to demand strong federal/provincial agreements that would deliver a high quality national child care system for all Canadians. In the dying days of the Martin government, a number of provinces signed child care agreements, including Ontario. If those agreements were still in place, this province would have received almost $450 million in dedicated child care funding from the federal government.

This basic foundation was destroyed after the next federal election, in January 2006, which saw the election of the Harper Conservative government.

Stephen Harper followed through on the Conservative "child care" promises: ***He tore up the child care funding agreements with the provinces.***

The immediate impact of cancelling the agreements is the stalling of Ontario's Best Start and the loss of 11,000 planned child care spaces across the province. The spaces that were created under Best Start with the federal funding are becoming unsustainable, and municipalities are forced to pay more than their share of downloaded child care costs. Rural and remote municipalities, where early learning and child care has always been difficult to come by, will not see an expansion of services and spaces. In addition, we stand to lose significant new investments in special needs resourcing across the province.

> *Mr. Harper offered employers $10,000 in tax credits to create (but not sustain) child care spaces.*

Past experience in Ontario shows that this type of tax incentive scheme does not build a child care system, or even build any spaces. Mike Harris' government used the same scheme – a tax incentive to employers for workplace child care -and no new spaces were created. And in the first year of the federal Conservatives' scheme, not a single new child care space was created.

> *Mr. Harper gave a taxable benefit of $1,200 a year to parents for each child under the age of six.*

The child care allowance is taxed back from all families except those with one parent at home, so $1,200 per year represents a maximum. This cash does not help parents find high quality child care – you cannot buy what does not exist. Even existing child care costs 10 to 20 times the $3 or $4 a day the allowance provides.

These policies are a throwback to the past. They do not deliver the kind of high quality child care our children deserve, and do not support the needs of today's parents.

And, in the meantime, international research reports – such as the Organization for Economic Development and Co-operation's Starting Strong II – now rank Canada last among developed countries in spending on early childhood education.

Solving Canada's child care crisis will take a lot more than sound bites, simplistic ideas and discredited theories. Canada needs a plan and a program that recognizes the social and economic benefits that high quality early learning and child care produces for children, families and all of society. Most successful industrialized nations recognize the benefits of public investment in high quality child care and already have universal programs. Canada, its children and their families deserve one too.

The Quality Universally Accessible Developmental (QUAD) principles build the foundations of an early learning and child care system based on:

- **Quality**
  evidence-based, high quality practices relating to programs for children, training and supports for early childhood educators and child care providers, and provincial regulation and monitoring;

- **Universally inclusive**
  open to all children, without discrimination;

- **Accessible**
  available and affordable for those who choose to use it;

- **Developmental**
  focused on enhancing early learning opportunities and the developmental component of ELCC programs and services.

Child care must be seen as an essential, quality service offered to children and parents. Our vision for child care in Ontario is a comprehensive support system that is built on the following principles:

- Publicly funded,

- Not-for-profit,

- Has a universal entitlement,

- Inclusive services for children with disabilities,

- Programs reflective of the diversity of our communities,

- High quality,

- Stable working environment for workers in the sector with good wages and benefits.

Publicly Funded Education – Junior Kindergarten, Grades 1 to 12 and Post-Secondary

After World War II, Canada's economic expansion was reflected in the growth of educational institutions. The relative prosperity of the 1950s and 1960s gave rise to a new vision of education – that it was not just for getting a job. Although getting a job was important, it was also about developing citizenry, building democratic institutions, and helping all members of society in reaching their potential.

The Ontario Community College system – Colleges of Applied Arts and Technology – was established in the 1960s as a means of accommodating the growing number of children entering and completing education. These colleges were intended to serve the specific needs of the local and rural communities and offer a unique education.

New universities were built and increasing numbers of working families took advantage of the opportunities offered through the public education system.

However, the economic recession of the early 1980s ushered in a new era of cutbacks and restraint. In many ways, the history of public education over the past three decades is a history of struggle to ensure that high quality education remains accessible for all Ontario families, regardless of their socio-economic status.

When the Progressive Conservative government of Mike Harris was elected in 1995, education was one of their first targets in his "Common Sense Revolution." Education Minister Snobelon vowed to create a crisis in education; within two years he made good on that promise setting the stage for some of the largest-ever mobilizations of teachers' unions and other public sector workers.

Along with a number of other bills aimed at cutting funding to the public sector, Bill 160 - *The Education Quality Improvement Act* – created turmoil and chaos within the public education system. Ten years later, the system has not yet recovered.

Prior to the legislation adopted by the Mike Harris regime, Ontario's public education system was jointly managed by democratically elected local school board trustees who operated within the parameters established by the provincial government. Within 24 months of getting elected, the Conservatives virtually eliminated the role of local school board trustees. The school curriculum was developed and imposed by the provincial government, and the number of school boards was reduced as a cost-saving measure. Today, local school boards are expected to administer the budget decisions made by Queen's Park. Furthermore, issues such as teacher workloads and class sizes were removed from the realm of collective bargaining and put under the authority of Queen's Park policy-makers. Crucially, about $1 billion was cut from education spending.

During the Harris decade, key elements of the public system were dismantled. Grade 13 was removed from the secondary school system – where it was available for free to Ontario families - and transferred to the post-secondary sector that is based on a user-fee model (tuition fees).

Shop classes were quietly removed from the elementary and secondary school curriculum as frivolous "extras" and reinvented as user-fee based programs in community colleges.

Fundraising and private donations helped schools in affluent neighborhoods deliver more diverse curricula and offer more after-school programs while schools in less affluent neighborhoods struggled under the weight of the cuts. From their own pockets, teachers themselves subsidized the inadequate resources of their schools.

Benchmarking, efficiencies and standardized tests came to symbolize Ontario's approach to education, leading to school closings, high drop out rates, and streaming.

In the meantime, the federal Liberal government (under then-Prime Minister Jean Chrétien) was implementing the largest social programs cuts since WWII. Post-secondary education funding was cut by half a billion dollars, extending the crisis in education to colleges and universities just as the system was preparing for an enrollment surge – the obvious result of the elimination of Grade 13.

But rather than increase the capacity of Ontario's colleges and universities, instead, tuition fees increased by the maximum until the Harris government fully de-regulated tuition fees for certain college, professional, graduate and post-diploma programs. As a result, tuition fees for college programs like Computer Animation or Dental Hygiene increased from $1,400 in 1998 to $11,000 by 2001. Today, tuition fees for medicine, dentistry and law hover around $20,000 per year.

Tuition fee hikes spurred an outcry among working families that higher education was fast becoming unaffordable. Moreover, as new generations of indebted students graduated into the workforce, the issue of crushing student loan debt became a matter of national debate and concern.

While proponents of massive tuition fee increases claim that tuition fee hikes improve the quality of education, Ontario's experience demonstrates the opposite. Tuition fee increases tend to occur most rapidly in a climate of underfunding. In fact, user-fees are a means of privatizing the cost of education and transferring the burden to the individual.

In the elementary and secondary school systems, this kind of privatization has taken the form of reliance on private donations and fundraising. Schools in affluent areas can afford to fundraise hundreds of thousands of dollars, while others cannot.

In the post-secondary system, high user fees (tuition fees and ancillary fees) have translated into crushing debt loads for students who must rely on student debt programs to finance their studies. Tuition fees are the soft shoulder for government. As long as tuition fees continue to rise, the government does not have to provide the funding the system requires. Furthermore, the very existence of user fees lays the foundation for private, for-profit institutions aiming to sell education and make a profit.

Within the public school system, staffing shortages persist. Whether it is guidance counselors, librarians, shop teachers, support staff, maintenance staff and others, this reality bodes poorly for Ontario's children.

Within the community college system, chronic underfunding has meant that fewer full-time staff have been hired to keep up with a growing demand for higher education. Part-time staff now comprises the bulk of Ontario's Colleges and Applied Arts and Technology, including both support staff and teaching staff.

Ontario's universities warn of an impending faculty shortage, set to escalate over the next 10 years. Support staff continues to face contracting-out and overwork. Basic maintenance – deferred for over a decade – needs addressing.

When Dalton McGuinty and the Ontario Liberal Party were elected in 2003, many hoped that the new government would restore funding for public education in Ontario and take steps to make genuine improvements in Ontario's overall investment in education.

The McGuinty government did make new money available for education both at the elementary, secondary and post-secondary levels. However, the amount of funding restored has simply not been enough to repair the damage that accumulated for nearly a decade.

For the elementary and secondary school system, the funding formula has still not been fixed. New funding tends to be pre-allocated and tied to initiatives determined at Queen's Park – not by local school boards.

Without a full restoration of the funding, including allowances for enrollment increases and inflation, the climate of underfunding cannot be eliminated. Consequently, there will be continued pressure on school boards to cut services as a means of addressing budget shortfalls. The urgent and pressing issue is the need to fix the funding formula in a manner that is sensitive to local needs and addresses the priorities identified by teachers, staff and parents.

At the same time, some of the most pernicious elements of the Harris regime have been maintained. For example, many teachers report that standardized tests, far from revealing a student's potential, tend to discriminate against students attending schools in low socio-economic municipalities.

When students from all socio-economic areas are averaged throughout the province, it follows that those students will be at a disadvantage compared to students from more affluent localities. Rather than just the poorest in the class being lumped together, province-wide standardized tests means that the poorest in the province can be lumped together. These are the ones that have the least access to quality learning at the elementary, secondary and post-secondary levels. These tests are contributing to a new form of streaming within the public school system – now known as "pathways."

Without shop classes, arts programming, physical education, and other curricula that appeals to a wide array of learning preferences, students have lost a host of options they might have otherwise pursued. At the same time, the introduction of standardized tests will help to exclude whole swaths of students who might have excelled in a college or university environment. By allowing tuition fees to increase, even more students will face barriers in reaching their potential. These factors conspire to mitigate enrollment in our public colleges and universities, while at the same time create a market for private institutions operating alongside public institutions.

Teachers, staff and parents have been successfully mobilizing to prevent the worst of the cuts to mitigate the damage. Students, staff, faculty and parents have been mobilizing to stop the acceleration of tuition fee increases at the post-secondary level - even winning a two-year freeze on tuition fee increases – (Premier McGuinty had campaigned on freezing tuition fees for at least two years) while at the same time calling for adequate, accountable public funding for all levels of education.

The Ontario Federation of Labour's vision for education is that it is a collective right, that it is the foundation of democracy, and that it allows all of us to realize our potential, not just as workers, but as creative individuals in a broader, equitable society.

The Ontario Federation of Labour believes the right to education should exist – not just for young people, but for all people, regardless of their age. Workers should be funded and granted leave to participate in educational programs. Such programs should not be dependent on who can afford to pay, or on which community is richest.

Lifelong learning should be an entitlement of all those who have worked in and contributed to building the society we know.

Education can, indeed, be the great equalizer – but only if we fight for equal access, for adequate public funding, and for the rights of all those who work within the system, from support staff to teachers to faculty to students to parents to workers.

Social Assistance

The OFL always sought to improve the social assistance system. For example, the 1964 convention called on the Ontario government to adjust the income limit in line with the cost of living for recipients of Mothers' and Dependent Children's Allowances. In 1967 there was a call for the Ontario government to introduce and fund needed youth programs. In 1975 there was a call for the Ontario government to amend existing legislation to better provide for the needs of recipients.

In 1969 – to ensure that labour's voice would be heard – there was a call for a labour representative to be part of the review board for welfare cases.

Ontarians in need are not second class citizens. As early as 1957 the OFL was opposing the use of means tests on mothers applying for allowances under the *Mothers' Allowance Act* and on blind adults applying for blind persons' allowances. By 1966 we were opposing the use of all forms of the means test by the Ontario government. The 1961 convention opposed the decision of the Ontario Municipal Association to call for municipal welfare recipients to do civic employment in return for their benefits.

In 1995 the OFL opposed the Conservative government's 21.6% cut to social assistance. The rate for Ontarians with disabilities was frozen at the 1993 level. In 1997 the OFL opposed *The Social Assistance Reform Act, 1997* (Bill 142), with its provision for mandatory workfare which was an important tenet of the Harris Conservative agenda.

In 1998 *The Prevention of Unionization (Ontario Works) Act* (Bill 22) was passed to ensure that workfare participants would be treated as second class citizens by denying them their rights as residents of Ontario. This particular legislation was condemned by many in Ontario, across Canada and internationally, as a violation of accepted standards for human rights.

In 1999 the OFL made the case internationally against these unjust laws by lobbying at the hearings of the International Covenant on Civil and Political Rights (which Canada has signed) at the United Nations in New York City.

The *Social Assistance Reform Act*, *1997*, created two separate statutes: The *Ontario Works Act* (OWA) 1997, and The *Ontario Disability Support Program Act* (ODSP), 1997. It replaced The *General Welfare Assistance Act* first established in 1958 and *The Family Benefits Act* first established in 1967.

The OWA was proclaimed May 1, 1998. The purpose of this *Act* is to provide financial and employment assistance to single people, couples with and without children and sole- support parents. The government's belief is that mandatory participation in Ontario Works (OW) activities will assist people in moving as quickly as possible to a job. Sole-support parents under the *Family Benefits Act* were transferred to Ontario Works.

The ODSP was proclaimed June 1, 1998. The purpose of this *Act* is to provide income support for people with disabilities and employment supports for people with disabilities who are seeking to work. People with disabilities and permanently unemployable people under the former *Family Benefits Act* were transferred to the ODSP on June 1, 1998.

Since the 1995 cut/freeze by the Harris Conservatives, social assistance rates have been eroded by roughly 46%. When inflation is taken into account, social assistance rates today are lower than when the Liberals took power in 2003. Since coming to power in 2003, the Liberals have raised rates by 3 per cent in 2005 and 2 per cent in November 2006. The March 2007 Ontario Budget included a number of measures (such as a 2 per cent increase in rates) which are only steps towards what is needed.

A single person on OW receives $548 per month. A single mother with one child on OW receives $1,008 per month. A single disabled person receives $979 per month. A single disabled person with one child receives $1,498 per month.

It is necessary and possible to create a model for income security that reflects the needs of Ontarians and their communities. A starting point would be to accept the fact that all Ontarians, particularly those who use and provide needed services, must be involved in the process of developing and implementing the model.

In the November 2006 publication *Ontario Poverty – Yours to Discover* with the subtitle *a report card of government inaction and broken promises on poverty* calls for at a minimum:

- Setting OW and ODSP rates according to the Market Basket Measure (MBM).
- Using MBM, a single mother with one child on OW would receive $1,604. A single person on ODSP would receive $1,145.
- Annually adjusting OW and ODSP rates to the cost of living.

A number of provincial governments, such as Newfoundland and Quebec, are already doing this at present.

Ontario Poverty was prepared by the Ontario Coalition for Social Justice with contributions from a variety of other community and anti-poverty organizations.

In July 1998 the federal government introduced *The National Child Benefit Supplement* (NCBS) which is paid to low income families with children. It is a supplement since it is an addition to the existing Canada Child Tax Benefit – available to approximately 80% of Canadian families with children. The supplement is paid whether the family participates in the workforce or receives social assistance. The provincial government may then reduce the amount they provide in special assistance to these families up to the amount of the federal increase, leaving them in an unchanged financial situation. The provincial government may spend the funds in provincial programs aimed at child benefits and earned income supplements, child daycare initiatives, services for early childhood and children-at-risk, supplementary health benefits and other services.

During the 2003 provincial election McGuinty acknowledged that clawing back the NCBS was wrong and he promised to end it by the end of his first term. In 2004 the Liberals announced that they would allow families on social assistance to keep any increases to the NCBS. As of November 2006, the Liberal government was clawing back approximately $120 from every child on social assistance. There were 170,729 children affected.

The publication *Ontario Poverty – Yours to Discover* calls for:

- an end to the claw back of the National Child Benefit Supplement immediately so that families on social assistance can keep the full amount;

- using general revenues to continue funding programs for low-income families that are currently being funded with claw back dollars.

In the March 22, 2007 Ontario Budget an *Ontario Child Benefit* (OCB) was announced. It will be phased in and not fully implemented until 2011. Eligible families will receive a one-time payment of up to $250 for each child under 18 if their family income in 2005 was under $20,000. This payment will not be treated as income or clawed back from families on social assistance. In July 2008 a monthly OCB benefit of up to $50 per month for every child under 18 will start to flow to eligible families.

Social assistance rates for families with children will begin to be restructured. From July 2009 to July 2011 the maximum OCB will gradually increase from $50 per month per child to $92. During this period social assistance rates for families with children will continue to be restructured so that, by July 2011, the overall increase in monthly income for a single parent with one child will increase to around $50 per month.

Social Services

At the founding convention of the OFL in 1957, one of the resolutions passed called on the Ontario government to bring about a program of public welfare that would provide standards of health and respectability.

In a 1969 convention statement entitled G*eneral State of Labour*, the OFL called for all workers to have the right to bargain collectively. The statement called for improvements in social welfare legislation, the educational system, and called on working with others in the community to improve housing, day care centres and homes for the aged. The 1993 convention statement *Social Services* correctly saw any discussion of social services as part of the wider question of what kind of society and economy we wanted in Ontario.

From the founding convention there has always been the realization that Ontarians need an array of quality services which should be available in their community. These services should be provided by other Ontarians (our members) in the same community. It has also been our standing policy to call upon governments to develop, implement and refine services to address the needs of Ontarians. Our long standing support for the United Way is based on the premise that services and agencies receiving United Way funds, provide a supplement, not a replacement to government-financed and publicly-delivered programs. In many of these agencies the programs are delivered by our members.

Governments have often sought to abandon their responsibility to provide needed services by directing funds to the non-profit community sector to deliver these services. This sector in Ontario is the largest in Canada. One in 11 Ontarians work in a non-profit organization and 7.8 million people volunteer for a non-profit organization.

Using funding as both a carrot and a stick, governments are often able to "influence" the activities of agencies. Cynically, they (government) know that the staff of these agencies (a majority of whom are women) are both qualified and dedicated. They also know that dedicated staff will often put the needs of their clients ahead of their own. Agencies and staff will cope as best as they can.

Inadequate resources and working conditions become the norm as agencies are often reluctant to publicize the situation out of fear of losing their funding from government. Staff are exposed to unacceptable working conditions and often, although dedicated and qualified, leave the sector. Collective bargaining becomes a frustrating experience for workers and their unions because it is the agency not the government who sits as the employer. The time and resources are not available to assist the clients who are Ontarians in need.

The government should talk and listen to the workers, their unions, agencies and Ontarians, who need and use the services provided by the non-profit sector. There are a number of key elements that the government should begin to implement:

- Return to core, stable and fair funding and shift away from project funding and short-term contracts which will allow agencies to plan better and for the longer term.
- Fair wages and benefits to attract and retain qualified staff which is vital for programs and services.
- Integrate cost-of-living increases in funding programs.
- Invest in community service infrastructure.

These are obvious points which have recently been articulated again by the "coming-together" of labour and community agencies in Toronto.

In 1985, the Liberal/NDP Accord resulted in the creation of the Community and Neighbourhood Support Services Program (CNSSP), which provided stable, core funding to non-profit agencies to cover overhead and administrative costs; and to build organizational capacity and deliver programs and services to the community. In 1995 the Conservative government of Mike Harris eliminated this program which has not been replaced.

Health Care

Ontarians need access to quality health care throughout their lives. The goal for a health care system should be to encourage the prevention of illness. Important determinants of good health are a safe and secure job, a decent income, good housing, quality education, and a healthy environment. Since our founding convention in 1957, the Ontario Federation of Labour has consistently advocated for our vision of a universally–accessible more comprehensive health care system for all Ontarians.

In 1962 the OFL Convention passed a comprehensive statement on Medicare advocating that:

- the health needs of the people can best be looked after by a public health care program;
- such a program shall be comprehensive in scope and provide health care in full;
- services should include prevention, diagnosis, treatment of illness, rehabilitation of those disabled by illness or accident and the provision of drugs and appliances;
- the program should be universally available without regard to means;
- provide health care of the highest quality;
- provide equitable financing and free from any co-insurance deductible or other financial deterrents against full use;
- provide optimum distribution and coordination of various health services, agencies and personnel.

By 1971 the OFL was calling for extending coverage to include drugs, appliances, dental care, nursing, physiotherapy, eye glasses and hearing aids.

The 1965 OFL convention endorsed the recommendations of Justice Emmet Hall's 1964 *Royal Commission on Health Services* and called on the provincial government to abandon their proposed plan in favour of the National Plan.

In 2002 the OFL was in support of Roy Romanow’s *Report on the Future of Health Care in Canada.*

More recently, in 2005, the OFL working with affiliates and their health care members, embarked on a campaign to address the systematic and serious issues flowing from the persistence of understaffing in all health care sectors. A total of 17 meetings were held across Ontario bringing together health care workers from all sectors and from all affiliated unions. The report entitled *Understaffed and Under Pressure – A*

reality check by Ontario health care workers continues to be used to pressure the provincial government to address the issue of understaffing. The report called for:

- an immediate moratorium of layoffs in hospitals;
- in nursing homes and homes for the aged a required minimum standard of 3.5 hours per day of nursing and personal care for residents; (In 1996 the Conservative government had repealed an earlier standard of 2.25 hours);
- a required minimum standard for staffing with appropriate complement of full-time workers in all health care sectors.

As already noted, the 1962 OFL statement spoke of "optimum distribution and coordination of various health services, agencies and personnel." The OFL has always believed that Ontarians need an array of services available in their community. Needed and quality services can be provided in the community by our members in a not-for-profit manner.

The Liberal government has had little apparent difficulty in supporting and accepting some key Conservative policies implemented during their period in office (1995-2003) – policies which the Liberals had spoken against while in opposition.

The most obvious of these are the public-private-partnerships (P3s) form of privatization which the Conservative government had begun to implement for hospitals in Brampton and Ottawa. To quote Dalton McGuinty on September 26, 2003: *"I'm calling on Mr. Eves to halt any contract signings when it comes to P3s. I stand against the Americanization of our hospitals."* A month after the October 2003 election, the Liberal government signed P3 hospital deals in Brampton and Ottawa. Years later, after a long struggle, the Ontario Health Coalition and OFL affiliates in health care obtained and released figures (May 2007) that the William Osler Health Centre (Brampton) project could possibly cost $300 million more under the P3 scheme than if it were funded through the public system. The new hospital will also open with 350 instead of the announced 608 beds.

In June 2007 OPSEU, Local 479, released their report *Risky Business* exposing the bizarre operating procedures at the Royal Ottawa Hospital which was the first P3 hospital to come on line in Ontario. The report should be a must read for every Ontarian.

The P3 model – while mostly developed in health care – can be imposed on any sector of Ontario society. Rather than abandon the P3 model, the Liberals embraced the idea and gave it a new name. Their Minister of Public Infrastructure, David Caplan, calls it "Alternative Financing and Procurement (AFP)."

In May 2005 Mr. Caplan released *ReNew Ontario 2005-2010* – the Liberal five-year privatization plan with the extensive use of the P3 model. The plan called for 66 projects of which 30-35 per cent (approximately 23) were "large and complex." After his announcement, it is not surprising that the Conservatives congratulated the Liberal government for continuing their (Conservative) agenda of privatization of the public sector by continuing the P3 program.

The McGuinty Liberals faced spirited opposition in community after community as they tried to impose the P3 model – rather than the publicly-financed and publicly-operated model for hospitals – to serve the needs of Ontario communities. The labour movement, especially OFL affiliates from the health care sector, played a key role in building this community opposition to P3s.

The widespread community opposition across Ontario to P3 projects, and the body of work documenting the failure of this model in a variety of jurisdictions, should have convinced the Liberals of the folly of their ways. By the end of 2006 the McGuinty government did order the hospitals not to privatize housekeeping and patient dietary services in P3 projects, reducing the number of services to be privatized. While this is not an abandonment of the P3 model, it is at least a positive response to the level of community opposition to this particular model.

The P3 approach (via the Conservatives) was not the only initiative the Liberals copied from the Tony Blair government (1997-2007) in Britain. Another was the "*accountability agreements*" found in the 2004 *The Commitment to the Future of Medicare Act* (Bill 8).

The hospitals are expected to provide certain services but they are also expected to balance their budgets. Services cut or not offered in public hospitals may still be available in the community to Ontarians who need these services. Some clinical services may go to not-for-profit agencies while non-clinical services are contracted to for-profit providers. There does not seem to be an understanding of the fact that diagnostic staff are an integral part of the health care system.

Much of the diagnoses by physicians in hospitals are dependent on lab tests. Staff shortages must be addressed by the government ensuring that there are enough training facilities/openings to train sufficient numbers to replace retiring workers.

The government must address the recruiting and retaining issue that the stressful working conditions do not make this important work appealing for those doing the work now and those thinking about doing it as a career. These new ideas from Britain are attempts to repackage old, flawed Ontario government policies (under both Conservative and Liberal regimes) to privatize needed services such as those provided by public laboratories. Policies based on ideology rather than on addressing the needs of Ontarians. These policies disguise their true intent with the talk of "accountability" or "efficiencies".

In the summer of 2004, the Liberal Cabinet approved a plan to implement fourteen "Local Health Integration Networks" (LHINs). The whole LHINs initiative was marked by a lack of meaningful public input into their mandate, mission and structure. The process of choosing the local LHINs Chairs and Board of Directors was both flawed and anti-democratic and does not reflect the diversity of Ontarians. The LHINs are not local, nor based on existing communities or even communities of shared interest.

The purpose of the LHINs model, according to the government, is to plan, coordinate and fund the delivery of health services in a particular region. The LHINs structure will insulate the provincial government from the political fallout from Ontarians as they realize the changes to their local health care system. Local support, clinical services and the local jobs providing these services will be threatened by the

centralization and integration implemented by the local LHINs.

The LHINs structure is a split between the purchaser and the provider of services. This model has been tried and failed in home care. T*he Local Health Systems Integration Act, 2006* gives powers to the Ministry of Health and Long-Term Care and to the LHINs to find integration opportunities. Where previously agencies and hospitals would determine the services they would provide, now the LHINs can determine what and the nature of services that can be provided.

Labour and community activists must be vigilant to ensure that any such initiatives are based on providing more and better services to the community (in the spirit of the previously-mentioned 1962 OFL Medicare statement) and not as a kind of code word for the privatization of services.

In the spring of 2003, 375 people in Ontario were infected with Severe Acute Respiratory Syndrome (SARS). The greatest numbers of victims were health care workers. 72% of the victims were infected in a health care facility. SARS killed 44 people including two nurses and a doctor.

In June 2003, the Ontario government appointed a Commission headed by Justice Archie Campbell to examine the experience with SARS. *Spring of Fear,* the final report by the SARS Commission, was released in January 2007 shortly before the death of Justice Campbell. The interim reports and the final report provide a detailed picture of what happened and what needs to be done to improve the situation. Campbell describes hospitals as "dangerous places, as dangerous as mines and factories but without the protection that have come to be expected in the mines and factories." He goes on to say:

> *The only thing that saved us from a worse disaster was the courage and sacrifice and personal initiative of those who stepped up – the nurses, the doctors, the paramedics and all the others – sometimes at great personal risk, to get us through a crisis that never should have happened.*
>
> *Perhaps the most important lesson of SARS is the importance of the precautionary principle. SARS demonstrated over and over the importance of the principle that we cannot wait for scientific certainty before we take reasonable steps to reduce risk. This principle should be adopted as a guiding principle throughout Ontario's health, public health and worker safety systems.*

The McGuinty Liberals have been slow to act on the recommendations of Justice Campbell. They have incorporated the "precautionary principle" as an amendment in the *Health Protection and Promotion Act* (Bill 171) and included some health and safety considerations into the new Public Health Agency. In August 2007 the McGuinty government announced that they would begin to stockpile an estimated 55 million N95 masks to meet the demand in a four-week period during a pandemic. Funding for this initiative will continue through 2010.

Workers in health care need a regulation that would protect them from violence and harassment in their workplace. This is an important issue for workers, their unions and for the OFL.

Another issue that they have been very slow to act on is the need for Needlestick and Sharps Regulation to protect Ontario health care workers. Such regulations are already in place in numerous Canadian and American

jurisdictions and they are effective. The OFL has joined with affiliates from the health care sector on a number of occasions to lobby the government.

New Democratic Party MPP, Shelley Martel, has put in two Private Member's Bills on this issue. The last time she introduced her Bill, in the fall of 2006, it received "all party" agreement to go on to hearings. Her bill died on the Order paper when the house was adjourned. In August 2007 the McGuinty government announced a regulation concerning safety engineered needles and needle-less systems in hospitals by September 2008. After consultations, the government will expand this to cover long-term care homes, psychiatric facilities, laboratories and specimen collection centres and by 2010 for other health care workplaces.

Understaffing, SARS, protection of workers from violence and harassment at work and a Needlestick Regulation are all important issues in Ontario's health care system. They all have solutions which are known to the government. Positive action is needed on them. Positive action which would improve health services for Ontarians.

Our public health system must have the following components:

- fair treatment for all health care workers;

- no privatization in our health care system;

- improvements to the capacity and resources of our public system in order to deal with such issues as low staff levels, workloads and wait times;

- to recognize and positively address the broad determinants of health;

- to improve our capacity to evolve the public system to incorporate programs and services such as home care, pharmacies, chiropractic, physiotherapy, dental and vision care programs;

- building a health care system firmly rooted in democratic principles where the decision-making process is open and transparent and fully involves and addresses the needs of communities, patients/residents and health care workers;

- a healthy and safe work environment for all of the workers who provide the array of needed services for other Ontarians.

Under the umbrella of health care are sub-sections such as home care, long term care and mental health. In each of these sections there are challenges to the provision of needed public services to Ontarians.

Home Care

As early as 1973 the OFL was talking about the need for home treatment that would be covered by a comprehensive health care plan.

The Conservatives first imposed competitive bidding in home care in 1996. The system forced providers to bid low in order to win the contract from the Community Care Access Centre (CCAC). The instability in the workforce and the continuum of care for patients is a direct consequence of the competitive bidding process. When contracts are lost, some workers are rehired by the new employer at lower wages, fewer benefits, loss of seniority and without their collective agreements or union representation.

The provision of home care has always been provided in the community by a variety of agencies. The competitive bidding process has altered the mix of these agencies. For example, the for-profit share has increased from 18 per cent in 1995 to over 50 per cent today as long-established not-for-profit agencies lose contracts to for-profit agencies.
The Conservative funding freeze in May 2001 resulted in the reduction of 115,000 clients served between April 1, 2001-April 1, 2003 and a service cut of six million hours (a 30 per cent drop).

Before the 2003 Provincial Election the OFL asked the political leaders a number of questions including: "*Will your party stop the move to for-profit home care?*" Dalton McGuinty answered, as follows:

> *Our commitment to home care centres on ensuring that our frail and elderly have access to the services they need to keep them independent and healthy.* ***The current system is not working and we need to change it.*** *We will work to create a system that is patient-centered and flexible. (Emphasis added.)*

A year later, as Premier, he appointed Elinor Caplan with a mandate to conduct a *Review of Home Care Competitive Bidding Process.* When she reported back in June 2005, the OFL and its affiliated unions saw her report as simply tinkering with a flawed system because she did not or could not call for the elimination of competitive bidding.

The Provincial government should begin to implement immediately:

- a stop to the competitive bidding process in home care. A process which has created massive and regular disruption of job security and working conditions for workers and in the continuity of services for Ontarians in need;

- to move to establishing a public system of home care drawing on the successful working models found in Manitoba and Saskatchewan; (In such a public system a continuum of care is provided on a universal and equitable basis, without the presumption of unpaid care giving by family and based on enforceable standards) and;

- a system that ensures that services reflecting the diversity of our province are accessible to Ontarians where and when they are needed.

Long-Term Care

The needs of senior Ontarians have been addressed over the years by the OFL. In 1973 a convention statement dealt with assistance for seniors in such areas as income, health insurance, housing and community services.

In their February 2007 report *Dignity Denied Long–Term Care and Canada's Elderly* the National Union of Public and General Employees (NUPGE) made the following observations:

- People aged 80 and over are the fastest growing age group in the country;

- In 2002, there were 157,500 beds in Long–Term Care (LTC) facilities across Canada. Estimates are that between 560,000 and 740,000 seniors will need a LTC facility by the year 2031;

- Income from Old Age Security (OAS) and the Guaranteed Income Supplement (GIS) totals $1,079 per month;

- Charges for basic accommodation in publicly supported LTC institutions range from $540 to $3,960 a month. For private accommodation it is much higher;

- In 2003, 17.7 per cent of unattached seniors and 18.9 per cent of unattached female seniors had incomes barely above the cut-off for these seniors; existing LTC facilities present a costly and often inaccessible option.

In 1969 the OFL called on the provincial government to assume the responsibility for adequate standards of all homes for the aged. The next year (1970) the call was for nursing home care to become part of general welfare and that the cost should be borne from the consolidated revenue and also to establish a standard of regulations to ensure adequate care and supervision of residents in homes for the aged. Also in 1970, the provincial government was called on to establish standard regulations with a minimum employment age of 18 to work in homes for the aged to ensure adequate care and supervision of residents, and also that no employees be permitted to work alone in senile and special care wards. Concerns were also raised about the working conditions for our members in these facilities.

Over the years these issues continued to be addressed by the OFL and its affiliates with membership in this sector. The sector is a growing industry, predominately owned and operated by for-profit multinationals. This is a dramatic shift in Ontario to for-profit long-term-care beds. Ontario has more for-profit beds – more than half – than any other province. For example, British Columbia has about 30 per cent.

There are studies that show for-profits provide less staffing and subsequently poor health outcomes. This shift reflects a deliberate government policy.

In 1998, the then Conservative government announced 20,000 new long-term beds over the next eight years. Two-thirds of these beds were awarded to for-profit corporations.

In 1996 the Conservative government repealed a staffing standard of 2.25 hours per day of nursing and personal care for residents.

Before the 2003 provincial election the OFL asked all political parties the question: "*Will your party stop awarding long-term care beds to private for-profit companies?"* Dalton McGuinty answered:

> *We have a comprehensive plan to improve the quality of life for residents of long-term care facilities. Our plan includes restoring standards and providing the necessary funding to increase the level of nursing care that long-term care residents receive…*

In May 2004, the Liberal government released *Commitment to Care: A Plan for Long-Term Care in Ontario* prepared by Monique Smith, the Parliamentary Secretary to the Minister of Health and Long-Term Care. A shortcoming of the report was that it overlooked the need for minimum staffing standards.

The Liberal government did introduce their long awaited *Long-Term Care Act (Bill 140)* in the fall of 2006. There were many concerns raised about this proposed legislation especially regarding the lack of staffing standards for care.

The lack of a staffing standard has been a major concern of the OFL and affiliates from the health care sector. Before it was repealed by the Conservatives, the staffing standard for long-term care was the only standard in health care. One of the demands of the OFL understaffing campaign was to bring back a staffing standard to long-term care and establish a staffing standard in all sectors of health care. In a pre-election move, the McGuinty government announced the appointment of Shirlee Sharkey for another round of consultations that was seen as a ploy to postpone actions on staffing standards.

Another aspect of care that surfaced during the understaffing campaign was the issue of incontinence care ″diaper use″ for residents of long-term care facilities. The employer practice of "75 percent full before changing" was revealed, and the OFL worked with affiliates and a Toronto legal firm to further publicize and change this practice.

In another pre-election move in July 2007, the McGuinty government announced that the raw food allowance for residents in long-term care facilities would be increased to $7.00 per day on September 1. Another government announcement was a 10-year plan to upgrade 35,000 older long-term care beds.

The 2005 OFL convention policy paper *Rebuilding Health Care* outlined a number of needed components for senior care:

- A required minimum standard of 3.5 hours per day of nursing and personal care for residents;
- Staffing levels that reflect not only the numbers of staff but also the appropriate classifications and qualifications of staff to ensure that residents receive the care that is appropriate to their needs;
- Soliciting ongoing input into long-term care policies by workers through their union, residents and families;
- Increasing the capacity of workers to have a say in what happens in their facilities by instituting regular, unannounced inspections and mandate inspectors to speak with residents, families and workers about conditions; implement whistleblower protection for workers who complain about conditions and for the protection of residents;
- Mandatory reporting and monitoring of staff levels instead of the Liberal's "voluntary" compliance. This will ensure that there is the proper use of government monies.

Another aspect of senior care in Ontario is the retirement home sector which is a run-for-profit industry that is controlled by a small number of large corporations. The original intent of retirement homes was to provide a minimum level of support for Ontarians who could and wished to continue to live independently but who needed some light housekeeping, meals and low levels of personal care. Many retirement homes have mutated from their original intent and have become more and more like nursing homes.

What is needed:

- A Retirement Homes Act, which would establish the appropriate legislative and regulatory framework for the operation of retirement homes in Ontario. This would be similar to the situation found in other kinds of residential care facilities;
- Regular inspections of retirement homes;
- Developing a clearly understood and simple process for residents and/or their families to complain about the operations of retirement homes.

Mental Health

The first focus of concern on mental health issues was the needs of children who could not be accommodated in public schools. The 1957 OFL convention called for the building and maintaining of a residence school. In 1962 there was a call on the Department of Health to greatly expand the accommodation for children.

The 1971 convention demanded the establishment of a competent, independent commission comprised of representatives of interested groups, including organized labour, to examine the adequacy of existing mental health facilities, the ratio of staff to patients and the applications of remedies for treatments of mental illness. The same convention called for long-term planning as needed to develop a wide range of mental health services on a community basis integrated as far as possible with an improved health care system.

Over time there was little improvement and the 1984 convention condemned the provincial government for its lack of concern for the mentally ill as evidenced in below poverty level incomes, inadequate housing, understaffed psychiatric hospitals, lack of community-based outreach programs, and reduction of psychiatric hospital beds.

Between 1983 and 2003 there were at least a dozen reports on mental health in Ontario. These reports and the election of the McGuinty Liberals in 2003 did little to improve the situation. They continued the policy direction of their predecessor of divesting by having mental health services from psychiatric hospitals become part of the services offered at existing hospitals in select communities.

What is needed:

- Putting a stop to further divestment and bed closures until full assessment of provincial needs is completed;

- Undertaking a full assessment of needs in order to develop policies and to allocate resources to offer a continuum of needed services to Ontarians. This must be done with those affiliates in mental health services and users of these services in the broader community;

- Providing needed services in the not-for-profit public sector across Ontario.

Conclusion

The membership of the Ontario Federation of Labour reflects the diversity of Ontario's population. As such, public services support every aspect of their daily activities and at all stages of their lives. The needs of Ontarians may change over time, but there is no reason why we, as a society, cannot work together to address these needs. Public services address immediate needs but they are also an investment in the future of Ontarians and in our province. It is for these reasons that, since March 1957, the Ontario Federation of Labour has always spoken out and acted for public services in our province.

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Rights

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EXECUTIVE SUMMARY

Since the founding convention in March 1957, one of the Ontario Federation of Labour's (OFL) primary mandates has been to assist workers in strengthening their capacity to represent, organize and protect all Ontarians at work, in the union and in society at large.

The OFL has a long history of fighting for workers' rights. Yet, workers continue to fight for justice around issues concerning labour relations, health and safety, employment and pay equity and discrimination based on gender, age, race, sexual orientation, disability and other factors related to their work. The OFL has active and engaged standing committees whose members are appointed by the affiliates. These committees collectively address all issues concerning the rights of workers.

The Rights policy paper emphasizes the many facts that as trade unionists, we must never take for granted the fact that the very foundation of so many of our rights and workplace laws were hard fought by those who went before us.

Human rights and pay equity legislation, paid holidays, workplace safety laws, Workplace Safety & Insurance Board [WSIB) advances, health care, unemployment insurance, union wages and even "the weekend" cannot be taken for granted. The Rights policy paper acknowledges the thousands of unsung heroes and heroines who fought so hard to ensure that workers' rights are not overlooked.

The purpose of this policy paper is to highlight and examine the struggles and wins that have affected workers and their rights throughout the OFL's 50 years of existence. This policy paper will also address the challenges that the labour movement will continue to face when fighting for workers rights to be addressed in an equitable way with positive results. This policy paper's recommendations will be followed by an intense action plan that will include labour's agenda to advocate for improvements to all workers' rights and changes to public policy to benefit our members and their communities.

The Rights policy paper will cover the following issues:

- Human rights
- Women's rights
- Lesbians, Gay Men, Bisexuals and Trans-Identified people's (LGBT) rights
- Aboriginal peoples' rights
- Racialized people's rights
- Persons with disabilities rights
- Workers under 30 rights
- Health and safety rights
- Labour relations and employment standards
- Workers' compensation

Rights

Preamble

Since the founding Convention in March 1957, the major role of the Ontario Federation of Labour (OFL) has been to speak out for and to act on behalf of all the working people, their families and community partners in Ontario.

In the past, present and future, the OFL's first constituency is the 750,000 Ontario unionized workers whose organizations are affiliated to the OFL. The labour movement's vision is that every Ontarian has a democratic right to:

- access to Workplace Safety & Insurance Board (WSIB) legislation that entails full coverage;
- a fully democratic and inclusive workplace, society and community;
- a fair, fully accessible workplace and society free from harassment, discrimination, racism and violence against women;
- enforceable health and safety in their workplace and community;
- an environmentally sensitive workplace and society;
- a workplace where employment standards are upgraded and fully enforced by the provincial government;
- universal child care;
- access to free, publicly funded education and training;
- universally accessible, portable and publicly funded health care;
- join a union, free from employer interference and repercussions;
- affordable housing;
- access to public, not privatized utilities, i.e. water and electricity.

Above all, women in Ontario have the right to achieve pay equity in their workplace.

Moreover, equity seeking groups have the inherent right to employment equity measures enforced by adequate legislation to remedy systemic discrimination.

The population in Ontario is comprised of every nationality, race, creed and colour. Some have escaped religious persecution, some racial discrimination and others poverty and oppression – but all have cherished the dream of a land where equality and opportunity are valued.

Human rights are workers' rights. However, human rights issues from the past are still with us. The rights of Aboriginal peoples, women, racialized people, lesbians, gay men, bisexuals, trans-identified people, francophone people and the rights of persons with disabilities, along with other equity seeking groups are being violated or disregarded on a regular basis in the workplace and society as a whole.

Rights and human dignity have not been achieved fully even when we have supportive legislation. Constructive change is achieved by unyielding activism for social change. It is a question of giving substantive meaning to words by taking positive, proactive action. It's time for the labour movement to recognize and acknowledge our past and present achievements then plan concrete future actions. The OFL and its affiliates need to act and act decisively.

From the hindsight of history, one lesson is very clear – so long as the rights of even one person are abused, reduced or absconded – then the freedom of all is in peril.

Human Rights

Trade Unions: Fighting Racism and Discrimination

As early as 1935, trade unionists in Ontario were organizing against racism and discrimination. Among some of the earliest activists were Sid Blum, Donna Hill, Kalman Kaplansky of the Jewish Labour Committee and Harry Gairey and Stan Grizzle from the Brotherhood of Sleeping Car Porters.

The labour movement continued to lobby and advocate for better laws and was instrumental in the establishment of the Ontario Human Rights Commission in the 1960s. The *Ontario Human Rights Code* (the "*Code*") is for everyone.

It is a provincial law that gives everybody equal rights and opportunities without discrimination in specific areas such as jobs, housing and services.

The *Code*'s goal is to prevent discrimination and harassment because of race, colour, sex, handicap and age, to name some of the sixteen grounds.

The *Code* was one of the first laws of its kind in Canada. Before 1962, various laws dealt with different kinds of discrimination. The *Code* brought them together into one law and added some new protections. The Ontario Human Rights Commission (the "Commission") administers and enforces the *Code*. However, an independent body separate from the Commission, called a Board of Inquiry, makes the ultimate decision in a complaint.

Since the 1980s, the OFL has been responsible for the following initiatives:

1981 Anti-Racism Campaign which developed information materials and educational tools for labour activists

1981 Statement on Racism Hurts Everyone
Statement of the Disabled

1982 Statement on Women and Affirmative Action

1983 Second phase Anti-Racism Campaign to help affiliates and labour councils to organize effective campaigns around eliminating racism

1983 Making Up the Difference Campaign which focused on awareness building around the problem of discrimination against women in the workforce

1985 Statement on Equal Pay for Work of Equal Value

1985 Third Phase Anti-Racism Campaign to assist affiliates in forming human rights committees

1985 Pay Equity Campaign where draft legislation and briefs were presented and lobbied the government for one piece of legislation to cover both the private and public sectors

1986 Statement on Racism and Discrimination

1987 Statement on Equal Action in Employment

1987 Kids not Cash Child Care Campaign

1989 Statement on Still a Long Way from Equality

1989 One Million Denied Pay Equity Campaign

1989 The Launch of the video "No Foot in the Door" at the OFL Convention along with an educator's kit

In 1982, the OFL designated five affirmative action seats on the OFL Executive Board followed in 1987 by expanding Board seats by two and one of those positions was to be held by a racialized person. After 30 years in existence, a woman was elected as one of the top three full-time Officers in 1986.

In 1990, the OFL designated six equity seats to the Board: two racialized vice-presidents, an Aboriginal vice-president, LGBT vice-president, a vice-president representing persons with disabilities and a vice-president representing workers under 30.

In 1995, the OFL and its affiliates were instrumental in bringing employment equity legislation to Ontario.

In 2000, the OFL held an Anti-Racism/Human Rights Conference. The Conference highlighted the erosion of human rights in Ontario and the inadequacy of existing remedies against discriminations. Strategies to lobby the provincial government will be developed.

The OFL continues to initiate campaigns and lobby on behalf of working people for equity and justice in the workplace and society.

Racism: Is it a reality in 2007?

According to Statistics Canada, by the time Canada celebrates its 150th anniversary in 2017, more than half of Torontonians and Vancouverites will likely be racialized people.

Across Canada, one out of every five people or between 6.3 million and 8.5 million could be a racialized person.

Changing conditions of working life are having a profound impact on unions. Restructuring of the workforce is leading to rapid changes in the age, gender, cultural and social profile of union members. Tensions around diversity and equality are becoming central concerns in both workplace and union life, with vast implications for both formal and informal elements of union-based education.

> *Unions have failed to strategically promote and market their anti-racism and human rights courses and workshops. Aboriginal members and members of colour interpret this situation as yet another sign that unions are not placing a high enough priority on their issues…there is a need for union educational materials to reflect anti-racism principles...our educational materials have been written with a Euro-centric analysis, which ignores the diversity within union memberships.*
>
> *Canadian Labour Congress (1997:12)*

If we are serious about addressing racism, we must be compelled to act on the injustice and indignity of discrimination, as well as to look to our own everyday experiences, and be ready to admit that racism exists in our society.

The myth that Canada is a land where people's human rights have always been protected and respected is so deeply ingrained in the minds of Canadians that there is often a refusal to acknowledge that Canada has a racist history. Racism feeds on beliefs that promote one group of people to the detriment of other groups on the basis of false assumptions that are unacceptable. Racism divides workers and weakens our unions to the detriment of all workers.

We can begin with the First Nations people. The *Indian Act* of 1876, as well as subsequent legislation and treaties, introduced institutionalized racism that continues to flourish to this day. Aboriginal peoples have been segregated into reserves, forced to relocate, sent to residential schools and denied the right to vote. Their children have been taken away from them, their governments, traditions, beliefs and ceremonies have been regulated and banned and above all Aboriginal peoples were prohibited from purchasing land and denied their inherent land claims repeatedly as we see in the current land claim crisis in Caledonia.

There are many stories of the genocide of Aboriginal peoples. In April 2007, **for the first time in history, the Canadian government has been publicly forced to acknowledge the deaths of children in Indian residential schools**. This is a great breakthrough and a vindication of the years of effort by our Truth Commission into genocide in Canada. Regardless of the outcome, we must maintain pressure on the government and the churches for a full disclosure of the crimes that caused these deaths, and for a repatriation of the remains of the children who died in Indian residential schools and hospitals across Canada.

There were many other immigrant groups who faced discrimination including white European immigrants. Signs saying "No Irish need apply" were common before the First World War.

Black Canadians have been subjected to racist policies since their arrival in Canada. Until recently, White Canadians used to glamourize slavery in Ontario by acknowledging that their ancestors were allies to fugitives escaping slavery from the United States. In our everyday lives, we invoke the metaphors of slavery.

For example, if you feel you are being exploited, you might say "I am being treated like a slave." Yet few people actually know about the slavery that they constantly refer to – the trans-atlantic trade in enslaved Africans. There is still a real silence around the topic. When the issue of the slave trade surfaces, people suddenly become

uncomfortable. One is often asked to "forget the past" or "not to bring up that ancient history" or "stop playing the race card." The slave trade and slavery in western society is still by and large an invisible history. Canada, itself, was part of the wider phenomenon of the Atlantic slave trade and slavery.

First, Canada was a colony of France and Britain, the two largest slave traffickers.

Second, because the Atlantic slave trading activities connected diverse economies, for much of the slavery period there was a brisk trade between the capitalists of eastern Canada and the slaveholders of the Caribbean. West Indian slaves were also bought by Canadian slaveholders and merchants.

Third, recent research has discovered that at least 60 of the slave ships used in the British slave trade were built in Canada.

Most importantly, enslavement of Africans itself was institutionalized in Canada. The enslavement of black people existed from at least 1628 to 1834 when it was abolished by imperial fiat.

The OFL and its affiliates will be working closely with this government to ensure that the commemoration of the Bicentenary of the Abolition of the Slave Trade will give all Ontarians an opportunity to better appreciate the horrific legacy of slavery in Ontario, to honour those who suffered and died as a result of slavery and the heroes who fought for its abolition. This project will shed light on a shameful part of our history.

The challenge for trade unionists is to sustain our efforts and develop a common approach to combat racism and discrimination.

By encouraging dialogue on these issues in our unions, we can identify specific issues and develop collective strategies and concrete actions to overcome them not only in our workplaces but also in our unions and communities.

Silence is complicity. The labour movement needs to move out of the box and begin to think critically in a local, regional, national and global context about how racism and discrimination affect workers economically and socially.

The labour movement not only has to **talk** about advocating for the rights of workers but also not to hesitate to "**walk the walk**" against racism and discrimination.

The Right to be Who We Are – Lesbian, Gay, Bisexual and Trans-Identified (LGBT) Communities

The OFL is proud of the role we have played in furthering the struggle for equality rights for lesbians, gay men, bisexuals and trans-identified (LGBT) people and their families. The labour movement has clearly shown that we will fight for the rights of our members who are part of these communities at the bargaining table, in the courts and in the legislature.

In 1969 the Federation, along with the Canadian Labour Congress (CLC), supported the decriminalization of homosexuality in Canada. Prior to this legislative change, lesbians and gay men were charged and sometimes sentenced to jail for loving a person of the same gender.

Throughout the 1980s we stood with the LGBT community demanding that sexual orientation be added as a prohibited ground under the *Ontario Human Rights Code* and the *Canadian Human Rights Act*. In the years before 1986, lesbians and gays could legally be refused housing, services and employment.

The labour movement laid the foundation for basic rights at the bargaining table by winning contract language in the areas of anti-harassment and benefits. Our affiliates built upon that foundation through court challenges that won the rights for benefits and pensions. Working with community coalitions, we added to our list of victories with the passage of provincial and federal legislation that provides for legal recognition of same sex relationships, and the inclusion of lesbians and gay men in federal hate crimes legislation and marriage rights.

Delegates at the Federation's 1997 Convention took historic action with a constitutional change creating an equity vice-president position representing gay, lesbian and bisexual members. In September of 1999, the Federation sponsored its first conference on lesbian and gay issues with over 250 participants. The Federation's Positive Space Campaign is an overwhelming success with requests for material received regularly. Each year, in communities across Ontario, labour plays an increasing role in Pride Day events. We are seeing the growth of lesbian, gay and bisexual committees throughout the labour movement.

Over the past decades the lesbian, gay and bisexual communities won major victories concerning individual rights and relationship recognition. These have been enshrined in laws and judgments affirming the right to full equality.

However, the struggle for equality for people who identify as transgender, transsexual or intersex still remains. The OFL will continue to stand with these communities in demanding the inclusion of gender identity and gender expression as a prohibited ground under both the *Ontario Human Rights Code* and the *Canadian Human Rights Act*.

In Ontario, the OFL will continue our strong opposition to the delisting of sex reassignment surgery and support human rights complainants in their struggle for justice to have the cost covered by OHIP. We are committed to continue our work with the CLC to lobby for inclusion of transgender in the federal Hate Crimes legislation. Our affiliates are beginning to win bargaining language that includes accommodation and benefits for trans-identified workers.

Despite the legal gains made in the past several years, prejudice still exists in the day-to-day lives of many lesbians, gay men, bisexuals, and trans-identified people and their families. Homophobic behaviour is any expression of a negative attitude towards lesbian, gay or bisexual people. Transphobic behaviour is directed at trans-identified people. Governments, at both the provincial and federal levels, must launch an ongoing public education campaign about human rights, focusing on anti-harassment, anti-violence and anti-discrimination. Police forces must work with the LGBT communities to reach mutual understanding and support. They must provide training and education to assist police officers to do this work.

Lesbian, gay, bisexual and trans-identified youth are among the most vulnerable members of our communities. They face hostility, rejection and violence. Their suicide rate is 14 times higher than other youths. Their experience in schools and society can have a profound negative impact on their well-being. LGBT youth need and deserve an end to homophobia, gay bashing, physical and emotional assault, prejudice and bigotry. School boards must be proactive in their responsibility to ensure the safety and well-being of LGBT youth and children of LGBT parents. Our school curricula must include information about the LGBT community.

There are many LGBT senior citizens in Ontario. Quality elder care is an integral part of equality for lesbians, gay men, bisexuals and trans-identified people. Respect and acknowledgment of those who have suffered through years of oppression and bigotry, and whose struggles for liberation meant the difference between living in the closet and living in freedom is an essential part of equality.

Accessing Rights

In its first year as government, the Harper Tories have implemented measures to limit our ability to access our rights. One of Harper's actions was to eliminate the federal Court Challenges Program.

The Court Challenges Program of Canada (CCP) provided access to justice in language and equality rights constitutional test cases.

The Canadian Constitution establishes important constitutional rights. These include the rights of official language, the rights of minority groups to education and government services in their primary language, the rights of everyone to equality before and under the law, and to equal protection and equal benefit of the law without discrimination. However, these rights are only paper guarantees unless the individuals and groups they are designed to protect have the means to access the courts in order to enforce their rights. Without this key program, Canada's constitutional rights are real only for the wealthy.

To be meaningful, rights have to be exercised. But many individuals and groups cannot access the courts without financial assistance. Without the CCP in place to provide this assistance, the interpretation and application of constitutional rights will only be available to those with deep pockets. Unequal access to constitutional rights adjudication must be a concern for all.

Canadian courts have long recognized that it would be practically "perverse" to expect governments to simultaneously enforce and challenge legislation. As a result, our justice system has recognized and accommodated public interest litigation to fill this void. The CCP played an important role in facilitating public interest litigation.

Since its inception, the CCP has funded parties or interveners in many significant cases. In some cases, there were victories for official language minorities or for disadvantaged groups. In all cases, groups and individuals, funded by the CCP made a significant contribution to the understanding and further clarification of rights in Canada, bringing voices into Canadian court rooms that would not otherwise be heard.

In a constitutional democracy like Canada, constitutional rights litigation is an essential part of democratic dialogue and the exercise of citizenship.

Constitutional test cases examine the meaning of rights and their limits. As a society, we suffer when constitutional wrongs go unchecked. The Ontario Federation of Labour will continue its work with the Canadian Labour Congress and equality seeking groups to demand that this critical program be reinstated.

Racial Profiling

Racial profiling has been a major concern for members of racialized communities. There has been an ongoing public debate on whether racial profiling exists in Ontario, who engages in it, who is targeted, whether it is a legitimate practice, what can be done to prevent it and the effect that racial profiling has on those directly impacted and on Ontario society as a whole.

Racial profiling is defined as **any action** undertaken for reasons of **safety, security or public protection** that relies on **stereotypes** about race, colour, ethnicity, ancestry, religion, or place of origin rather than on reasonable suspicion, to single out an individual for greater scrutiny or different treatment. Racial profiling can occur because of a combination of the above factors and that age and/or gender can influence the experience of profiling. Racial profiling is primarily a **mindset**. At its heart, profiling is about stereotyping people based on preconceived ideas about a person's character. Its practice is not limited to any one group of people or particular institution. Profiling can occur in many contexts involving safety, security and public protection issues. A few examples of profiling are:

- a law enforcement official assumes someone is more likely to have committed a crime because he/she is an African Canadian;

- school personnel treat a Latino child's behaviour as an infraction of its zero tolerance policy while the same action by another child might be seen as normal "kid's play";

- an employer wants a stricter security clearance for a Muslim employee after September 11;

- a bar refuses to serve Aboriginal patrons because of an assumption that they will get drunk and rowdy;

- a criminal justice system official refuses bail to a Latin American person because of a belief that people from his/her country are violent; and

- a landlord asks a Chinese student to move out because he/she believes that the tenant will expose him/her to Severe Acute Respiratory Syndrome (SARS) even though the tenant has not been to any hospitals, facilities or countries associated with a high risk of SARS.

Although anyone can experience profiling, racialized people are primarily affected. Stereotyping can be described as a process by which people use social categories (e.g. race, ethnic origin, place of origin, religion) in acquiring, processing and recalling information about others. In some cases, it may be natural for people to engage in stereotyping. It is nevertheless wrong.

Moreover, it is a significant concern when people act on their stereotypical views in a way that affects others. This is what leads to profiling.

In the absence of proactive measures to ensure that profiling does not take place in Ontario, there is no reasonable basis to assume that we are immune to the problem.

Stephen Lewis' 1992 *Report to the Premier on Racism in Ontario* on the issue of police/racialized people relations concluded that racialized people, particularly African Canadians, experienced discrimination in policing and the criminal justice system. Stephen Lewis recommended that the Task Force on Race Relations and Policing be reconstituted owing to perceived inadequacies with the implementation of the 57 recommendations in its 1989 report. A second report of the Task Force was published in November 1992 which examined the status of the implementation of the recommendations from the 1989 report and offered additional recommendations.

In 1992, the Ontario government also established the Commission on Systemic Racism in the Ontario criminal justice system. This Commission studied all facets of criminal justice and in December 1995 issued a 450 page report with recommendations.

To date, this is the most comprehensive report on the issue of systemic racism in the Ontario criminal justice system. The review confirmed the perception of racialized groups that they are not treated equally by criminal justice institutions. Moreover, the findings also showed that the concern was not limited to police.

In addition to the various task forces, social scientists, criminologists and other academics have studied racial profiling using different social science research methods. Some have used qualitative research techniques and field observations while others have employed quantitative research and examined official records. Regardless of the method used, these studies have consistently showed that law enforcement agents profiled racialized people.

To those who have not experienced racial profiling or do not know someone who has, it may seem to be nothing more than a mere inconvenience. However, racial profiling is much more than a hassle or an annoyance. It has real and direct consequences. Those who experience profiling pay the price emotionally, psychologically, mentally and in some cases even financially and physically.

The future well-being and prosperity of all Ontarians depends on our children and youth. The Ontario Human Rights Commission's racial profiling inquiry learned that one of the most significant and potentially long-lasting impacts of racial profiling is its effect on children and youth.

Zero tolerance policies were cited as being of significant concern to racialized communities. There is a strong perception that the *Safe Schools Act* and school board policies applying the *Act* are having a disproportionate impact on racialized students. The *Safe Schools Act* and zero tolerance policies made by school boards appear to be having a broad negative impact not only on students, but also on their families, communities and society at large. The most commonly identified impacts are:

- loss of education and educational opportunities;
- negative psychological impact;
- increased criminalization of children often for conduct that does not threaten the safety of others; and
- promotion of anti-social behaviours.

THE IMPACT

Members of racialized communities in Ontario are living in a state of crisis due to the effects of racism.

As illustrated in this report, racial profiling, among other things, compromises our future through its impact on our children and youth. It creates mistrust in our institutions, impacts our communities' sense of belonging and level of civic participation and impacts on human dignity. Therefore, social inclusion is no doubt undermined by racial profiling at a high economic cost to Ontario society.

Aboriginal peoples have a long history of documented economic, social and historical disadvantage in Canada. Approximately 20% of Canada's Aboriginal population is located in Ontario and the majority of these individuals live off reserve in urban areas. Human rights issues affecting Aboriginal peoples are, therefore, real and present in Ontario and fall within provincial jurisdiction.

In 1996, the Royal Commission on Aboriginal Peoples released its final report. It contains a comprehensive history of disadvantage and systemic bias that has been generally recognized for many years. Many of these issues are evident both on and off reserve. Aboriginal peoples in urban areas suffer from the cumulative and aggravated effects of poverty, lower education level and discrimination.

For members of the Aboriginal community, the experience of racial profiling has many significant differences from that of any other racialized communities. Aboriginal peoples have their origins in North America. They have no other home. Many of the issues they face result from centuries of colonialism, much of which continues to the present.

As a result, all too frequently, the impact of racial profiling further blocks them from full participation in the many benefits of Canada and Ontario. Furthermore, Aboriginal peoples find themselves at an intersection of racial, cultural, economic, educational and social disadvantage. That makes the experience entirely unique to them.

The OFL and its affiliates have a role to play in ending racial profiling. The time has come to act, the human cost of racial profiling is too great – our society is paying the price.

Pay Equity

In the early 1950s, delegates at the then Ontario Provincial Federation of Labour called on the Ontario government to implement "equal pay for equal work" legislation. This would prohibit the practice of paying different wages to men and women who were performing the same or substantially similar work. Legislation was enacted in 1952.

In the early 1970s, women's groups began to mobilize for economic equality based on the value of women’s work and began to lobby for legislation that would also allow redress where the work was not substantially the same, but where the woman's job was of "equal value" to the man's job (equal pay for work of equal value). Our affiliated unions began to address this issue at the bargaining table.

In 1988, Ontario enacted the most far-reaching pay equity laws in North America. This critical equality step was won after a decade of public education, government lobbying, collective bargaining and political action by the labour movement and the Ontario Equal Pay Coalition. The legislation came about due to the NDP in their Accord with the Liberal government of the day. In unionized workplaces, the union must be involved in the pay equity process.

Unlike federal measures, Ontario activists were able to win proactive legislation that has the explicit purpose "to redress systemic discrimination in compensation." The *Act* covers all non-federal public sector employers in Ontario and all private sector employers with 10 or more workers.

Unions developed a strategic plan to ensure that the first cases before the Pay Equity Tribunal established strong pro-active equity principles. An example of which was the Haldimand−Norfolk decision on definition of employer brought forward by the Ontario Nurses' Association which expanded the definition of employer beyond the traditional labour relations model.

In 1993, the NDP government amended the *Act* to provide a "proxy method" of comparison which extended the legislation to cover an additional 100,000 workers in mostly female workplaces.

The NDP government also recognized the inability of community-based programs such as child care and women's shelters to fund pay equity adjustments, and introduced government funding to assist programs to meet their pay equity obligations. Funding was provided for an initial wage increase of 3% of payroll, and an additional 1% of payroll each year after that until pay equity is achieved.

In 1995, the Harris Tory government was elected in Ontario. They immediately capped public sector pay equity funding and ended it altogether in 1999.

In 1996, the Harris Tory government abolished the proxy pay equity method and eliminated the obligation for proxy employers to pay beyond the initial 3% of payroll. The Service Employees International Union (SEIU) launched a Charter of Rights challenge and won reinstatement of proxy in the *Act*.

In 1998, the Harris government refused to continue to fund public service agencies for proxy pay equity increases. After paying about one-third of what was due ($250 million), the Harris government announced that proxy pay equity funding would be the individual employer's responsibility and not the government's. Five unions launched a Charter challenge to overturn the government's decision: the Canadian Union of Public Employees, the Ontario Nurses' Association, the Ontario Public Service Employees Union, the Service Employees International Union and the United Steelworkers.

In 2003, a landmark pay equity settlement was announced, amounting to $414 million and affecting 100,000 women in predominantly female, public sector workplaces. The settlement – although a victory – did not cover the full cost of proxy pay equity adjustments. Payouts of the settlement were completed in December 2006. The McGuinty Liberal government refuses to provide any additional pay equity monies. The Federation, our affiliates and the Equal Pay Coalition continue our work to obtain government funding in this sector.

No other single law in Canada has resulted in such concrete results for so many working women right where it counts, in their pay cheques, and later in their pensions. Women who received these adjustments were able to better support themselves, their families and the communities in which they live. Recognition of the value of their work contributed to empowering women and increasing their self-esteem.

Ontario's pay equity law continues to be internationally recognized as one of the world's most effective laws in redressing the wage gap. This is because of the comprehensiveness of its model which combines legislative, collective bargaining, adjudicative and enforcement mechanisms to arrive at an effective equity result.

Unions achieved the greatest successes in redressing the wage gap for women's work under the *Act* in terms of real dollars. This is because the *Act* required employers to negotiate pay equity plans with any bargaining agent; whereas non-organized employers were left on their own to redress the wage gap without any outside control unless an employee complaint was filed. Unions played a particularly important role in negotiating plans to provide for pay equity in the traditionally low-paying female ghettoized service occupations such as hospitals, nursing homes, community services, shelters and home support services.

This is not to say that Ontario's law, its enforcement, and pay equity adjustments funding process does not have weaknesses.

Pay equity has been achieved for some but not nearly for all women in Ontario. Women workers in the proxy sector – such as child care workers – have not achieved pay equity. These women are still waiting for their full pay equity adjustments to be paid out. Adjustments are limited to 1% of annual payroll which can take another 20 or more years.

It is critical to the future successful implementation of pay equity in Ontario to address the needs of non-unionized women. Often disadvantaged not only by gender, but also by race, ethnicity and disability, non-organized women have, for the most part, been unable to effectively access the benefits of the legislation. Supports must be given to non-organized women, such as funding for pay equity legal clinics.

We know that legislative rights are important but equally important is the enforcement of rights. An expert commission and hearings tribunal is essential to effective enforcement. Pay Equity Commission staff provide valuable advice to employers, unions and non-organized employees in ways that helped avoid unnecessary costs, reduce time and promote consistency. The Harris years saw major cuts to the Pay Equity Commission. The McGuinty government has continued the under-funding and under-staffing.

Pay equity is not a privilege or a frill. It is the law. The right of those doing “women's work” to be paid on the same as the value of those doing “men's work” is a fundamental human right of Ontario women which is guaranteed by provincial human rights laws and by international commitments made by Canada to ensure women's equality in employment. We need the legislation expanded to ensure the elimination of wage discrimination based on race, ethnicity and disability. We also need a Pay Equity Commission and Tribunal that has the resources to ensure pay equity is achieved for all women workers in Ontario. We must continue the fight for proxy funding through legal and political action.

The Federal Experience

In 1977 – over 30 years ago – Section II of the *Canadian Human Rights Act* came into effect. This legislation prohibits wage discrimination between male and female workers employed in the same establishment and performing work of equal value. The law applies to employees in the federal public sector and businesses under the federal jurisdiction, such as banks, CN Rail, Bell Canada and Canada Post. The *Act* relies on a complaint-based enforcement system.

The federal pay equity law does not work. It is only activated if someone complains. Proactive laws require the employer to take action to ensure that all employees receive equal pay for work of equal value.

Currently, to win equal pay an employee must bring forward a pay equity complaint to the Canadian Human Rights Commission (CHRC). The Commission investigates and if it cannot solve the problem, decides whether or not to refer the file to the Canadian Human Rights Tribunal for adjudication.

This process takes an enormous amount of time and resources which individual women do not have. The entire process is too long, too costly and extremely frustrating, especially for non-unionized women. Unions have tried to use this process to win pay equity and have faced employers who are prepared to spend years in court fighting about unclear terms in the legislation, such as establishment or occupational group rather than focusing on the merits of the case.

One of the many examples of the shortfalls of the pay equity system is the case of unionized clerical workers at Canada Post. These employees have now waited over 21 years to have their complaint settled by the Canadian Human Rights Tribunal. The Public Service Alliance of Canada (PSAC) fought for 15 years to win pay equity for their members in the federal civil service. The Canadian Energy and Paperworkers (CEP) also fought Bell Canada for 14 years before reaching a pay equity settlement for their members who worked as telephone operators.

The responsibility to make pay equity work effectively is unfairly placed on the shoulders of the more vulnerable party – individual women workers – rather than on employers or independent agencies.

The current legislation is not clear about the nature of employers' obligations and consequences of non-compliance with the pay equity obligations. It does not provide enough guidance on acceptable standards and methods for achieving pay equity. Instead, vague legislation encourages and prolongs costly litigation which women, especially non-unionized women, women of colour and poor women simply cannot afford. Consequently, the model fails to ensure that the average woman worker will see her pay equity complaint resolved and actually be paid equal pay for work of equal value.

In fact, our current national pay equity system is so weak that the United Nations Committee on the Elimination of Discrimination Against Women has called on the Canadian government to take appropriate action and accelerate the implementation of equal pay for work of equal value.

Women's groups and trade unions have pushed for years for the government to improve the federal pay equity system. The Canadian Women's March 2000, led by 23 national women's organizations demanded that the federal government adopt proactive pay

equity legislation as part of a comprehensive strategy to end poverty and violence against women.

The federal government finally recognized the need to take action. In June 2001, the Task Force on Pay Equity, under the direction of the Minister of Justice and the Minister of Labour, was appointed. The Task Force was to review the current pay equity framework and make recommendations to improve the system. The Task Force consulted stakeholders including employees, employers, trade unions, researchers and pay equity experts. Extensive consultations took place across the country to collect information about what pay equity initiatives were needed and to identify new approaches.

In a thorough report, the Task Force presented the government with over 100 recommendations to improve pay equity. Many of the recommendations are modeled on Ontario's proactive *Pay Equity Act* and are supported by women's groups and labour organizations.

Prime Minister Harper refuses to have his government address economic equality for women. He has refused to make any moves to introduce proactive pay equity legislation contrary to the recommendations of the Federal Task Force in 2004.

Effective pay equity laws are a critical tool in advancing equality rights for all women and other historically disadvantaged groups. Along with anti-discrimination and employment equity laws, increased minimum wages and community advocacy, pay equity can help achieve real equality for all women in Canada.

The OFL will continue our work with the CLC, the national Pay Equity Network and our affiliates to pressure the federal government to act now to implement the Pay Equity Task Force's recommendations. The government must take positive action to eliminate the wage inequities that women, workers of colour, Aboriginal workers and workers with a disability experience in federally regulated workplaces.

Employment Equity

Employment Equity History

Issues surrounding employment equity became prominent in Canadian public policy discussions during the late 1970s and early 1980s. In 1983, Canada's official response was the establishment of the Royal Commission on Equality in Employment, with Judge Rosalie Abella as Commissioner. The Abella Report was released in 1984 and it is the definitive statement on the principles and practice of employment equity.

This report resulted from a major research initiative carried out in 1983. The Commissioner sent letters to nearly 3,000 individuals and organizations, and received 274 written submissions in response. She held 137 meetings attended by more than 1,000 people, including 92 meetings in 17 cities across Canada, as well as meetings with designated group members, government officials, union and business representatives, and employees and officials from 11 Crown corporations. 39 substantial research reports were commissioned on topics including education, child care, racism and pay equity.

The Abella Report has influenced subsequent legislation and practice profoundly. It defines equality as "...at the very least, freedom from adverse

discrimination" and sets the goal of equality as ensuring that "the vestiges of … arbitrary restrictive assumptions do not continue to play a role in our society" (Abella 1984:1). "It is based on discriminatory practices or attitudes that have, whether by design or impact, the effect of limiting an individual's or a group's right to the opportunities generally available because of attributed rather than actual characteristics" (Abella 1984:2). Employment inequity, therefore, is based on history.

The Ontario government's *Act* to provide employment equity for Aboriginal peoples, persons with disabilities, racialized people and women passed third reading in December 1993 in a provincial legislature governed by a majority New Democratic Party (NDP). It became law in early 1994. This legislation was debated extensively between supporters and opponents of employment equity.

Though the *Act* suffered an early death after less than two years on the books, the formal process leading up to its enactment began in November 1990. In its first Speech from the Throne, the newly elected NDP government identified employment equity as a provincial priority.

Alternatively, the Ontario Tories under Mike Harris came to Queen's Park committed to a "common sense revolution" with a leadership particularly intent on removing employment equity legislation. Alternatively, the *Act* repealing the employment equity legislation was grounded in the position that equity demanded an end to such special measures. It was argued that where there were cases of discrimination, the *Ontario Human Rights Code* operated as a protection and, therefore, employment equity law was not only unnecessary but also inappropriate and unfair.

What is Employment Equity?

Employment equity is a process that cuts across all levels and departments of an organization both at the provincial and federal levels. Over time it will involve significant quantitative and qualitative changes to the workplace.

Quantitative because employment equity is about ensuring the full representation of designated groups: women, racialized people, Aboriginal peoples and persons with disabilities in the workplace: a workplace as a whole, in different occupations, and at different levels in the organization. It may involve opening doors to skilled people who have never worked.

Qualitative because employment equity is also about changing the workplace so that:

- it is free of discriminatory barriers;
- through supportive, positive and accommodation measures, designated groups members can participate equitably;
- all workers are treated fairly;
- employment equity will ultimately affect every employment decision, including how employees are recruited and trained.

To accomplish all of these the labour movement needs to examine its assumptions and values. They need to reassess traditional practices, i.e. the way things have been done or standard procedures and change some long standing practices.

Employment equity is all about fairer approaches, removing barriers, communicating openly and integrating new people into different kinds of jobs. It means establishing new policies and practices to meet the demands of a diverse workforce.

Labour's Role

The OFL has championed the cause of equity since the earliest days of its mandate.

In the early 1960s, delegates at Convention passed a resolution calling for legislation to address barriers to employment. In 1983 the OFL Constitution was amended at Convention to establish six affirmative action seats for women on the OFL Executive Board. Further Constitutional updates established seats for Aboriginal peoples, persons with disabilities, lesbians, gay men, bisexuals and trans-identified people, racialized people and workers under 30.

In 2005, statistics consistently show that women, racialized people, persons with disabilities and Aboriginals are entering the workforce in larger numbers than ever before, and studies continue to show that they experience discrimination in employment opportunities.

The goal of employment equity means unions must strive for a representative workforce that reflects society. Employment equity initiatives must identify and eliminate existing discrimination and remove the barriers faced by equity groups.

Federal and provincial employment equity legislation must be strengthened in order to achieve its objective – equity in employment – and unions must have the ability to participate fully in the development and monitoring of employment equity plans even if there is no provincial legislation.

Inside our own unions, we must convince our members that strong, enforceable legislation is needed to remedy the discrimination that exists. We must debunk the myth that equity groups will have access to jobs and promotions that they are not qualified for and that equity in the workplace will undermine collective agreements and seniority. Whenever systemic action is being taken against sexism, racism, and ableism, action against heterosexism and homophobia must be added.

Workers and their unions must join in solidarity, alongside our Aboriginal brothers and sisters and restore humanity, hope, opportunity, dignity and respect for the people who made up 100 percent of our population just 600 years ago.

Persons with Disabilities

Statistics Canada reports that there are approximately 1.5 million Ontarians with a disability. Many Ontarians with disabilities are suffering in lives of poverty because they have not had the opportunity to enter and stay in the paid labour market.

The cost of accommodating workers with disabilities is quite reasonable. A recent estimate by the Canadian Abilities Foundation puts the cost at under $1,500 for almost all workers with disabilities. Cost has often been used by employers as the reason for not hiring workers with disabilities. The barriers which challenge these workers are systemic and attitudinal more than physical.

It is clear that changing demographics should be of critical importance to the labour movement. Persons with disabilities also frame "access to work" around the assistance they need to get to work, i.e. transportation, personal attendants, etc.

Unions bring unprecedented experience and expertise in workplace issues as well as important insights and longstanding commitment to equity issues. The OFL and its affiliated unions will continue to educate, inform, lobby, negotiate, and lead by example – never losing sight of the goal of equity in employment. They will continue to develop mentoring programs within affiliates, their locals and equity groups. They will make a concerted effort to develop employment equity programs that will include the inclusion of equity groups on staff that reflect the membership. The OFL and its affiliates will lobby the McGuinty government to reintroduce employment equity legislation to ensure equality in the workplace.

Racialized People

Racialized people's availability in the workforce is one of the lowest levels of representation of all the designated groups. In 1998, they represented 5.1% of the public service compared to 10.4% of the workforce (PSAC 1998). This figure is explained only partially by the fact that because of immigration patterns, the proportion of racialized people in Canadian society has increased significantly over the last decade, while that of the other designated groups has remained relatively constant. If current immigration trends continue, racialized people's proportion of the Canadian population will continue to rise, while their proportion of the workforce will rise at a somewhat higher rate as the population ages and larger numbers enter the workforce. Racialized people work in sectors like agriculture and garment work where jobs are low wage and temporary in many instances.

Racialized women fall slightly below men in representation (5.0% vs. 5.3%). Racialized people are also disadvantaged in terms of their public service distribution, strongly under-represented in the executive category (2.8%), somewhat over-represented in administrative support (5.3%) and operational (5.1%) categories, and strongly over-represented in the scientific and professional category (10.1%). The latter situation resulted in a recent Canadian Human Rights Commission Tribunal finding that racialized people at Health Canada are not being promoted at a rate that is commensurate with qualifications and experience.

A fact that stands out clearly in all jurisdictions, however, is that racialized members have the lowest proportional representation compared to work force availability, especially in British Columbia, Manitoba, Ontario and Quebec, all of which show representation at less than 50 percent of availability.

Aboriginal Peoples and Employment Equity

Over the past several years, the labour movement has grappled with the complex set of equity issues relating to Aboriginal peoples. Patiently and persistently, it has addressed the barriers to Aboriginal employment and recommended solutions to facilitate the development of a workforce representative of the Aboriginal population in this country. The OFL and its affiliates have continued their efforts to ensure that the Aboriginal equality issues are addressed at every level of the union. The fundamental premise behind building a strong and positive relationship between Aboriginal

peoples, including their own representative organizations and the labour moment, would be best served by an enhanced collective understanding.

The labour movement has long realized that Canadian society as a whole should make accommodations for the special needs of Aboriginal peoples. Labour leadership has consciously and effectively worked with the Aboriginal community to create a representative workforce.

In keeping with the profound demographic and economic changes that are reshaping this country, the labour movement also realizes while both organized labour and Aboriginal peoples have had their differences in the past, the negative impact of economic and global restructuring on both of their members will be very profound. Moreover, many of the social and economic policy interests of both groups are common ones and working in cooperation with each other would comprise a formidable political force.

Change has come because the strong, influential voices of Aboriginal labour and community activists have talked about fairness, justice and inclusion for their people. Labour has followed suit by demanding for Aboriginal inclusion in the mainstream workforce. Compensatory interventions to overcome labour force barriers, such as special employment subsidies or employment equity programs have been lobbied for by some unions at different levels of government.

For unions as a social justice movement, there is reason for us to push employment equity. Unions have begun to develop much needed initiatives designed to achieve a representative workforce by developing employment equity plans specific for the Aboriginal population. They are also developing special language and provisions in the collective bargaining process to enhance Aboriginal accessibility to the workforce.

By improving wages and working conditions for workers generally, organized labour has improved the wages and working conditions of a small percentage of Aboriginal workers employed in the mainstream market. It has not only been a positive force for the urban Aboriginals but for some Aboriginal peoples living in rural, remote and isolated areas as well.

In 1998, the partnership agreement between the Canadian Labour Congress and the Congress of Aboriginal Peoples outlines labour's commitment to support Aboriginal rights and work with affiliates to address workplace systemic barriers and the under representation of Aboriginal peoples through the collective bargaining process in order to address high unemployment, poverty, racism and racial profiling, accessibility and the impact of technological change. For solidarity to occur, it is necessary for the non-Aboriginal population to discover their own reasons for fighting capitalism and oppression and reshaping Canadian society in ways that would also benefit Aboriginal peoples. No single group in society can alter the right wing agenda by acting as a silo.

Unions have a great deal of work to accomplish around equity. The OFL has to participate in campaigns and actions in partnership with Aboriginal organizations that represent the views of the Aboriginal peoples. The OFL needs to lobby for greater Aboriginal labour representation and participation in the face of fairly consistent resistance and systemic barriers. Aboriginal workers are the fastest growing segment of the workforce. The Aboriginal population is young and

growing at a rate almost twice that of the Canadian population.

An example of building partnerships between the labour moment and Aboriginal peoples was at a joint historic conference in 2002 organized by the unions representing the forestry industry and First Nations. At this conference the union and the First Nations people had the opportunity to have open discussions in order to better understand each other's diverse culture, histories and relationships to Canada's forestry industry. We need to push for this kind of dialogue in other unions in order to educate and dispel myths and build on common goals.

Lesbians, Gay Men, Bisexuals and Trans-Identified Workers

The inclusion of lesbians, gay men, bisexuals and trans-identified people (LGBT) as a 5th designated group under employment equity is strongly supported by labour and equity advocates.

Harassment or the threat of harassment is a day-to-day reality for many LGBT workers. To be openly LGBT at work can be unsafe, thus the employment equity requirement of numerical representation, at present, is not a demand of this group.

However, it is strongly supported that lesbians, gay men, bisexuals and trans-identified people be counted as a designated group for the purpose of workplace environment measures. Whenever systemic action is being taken against sexism, racism, and ableism, action against heterosexism and homophobia must be included.

Women

The past two decades have witnessed dramatic growth in the participation of women in the labour force. In 2003, 58% of women worked – up from 42% in 1976. Despite this dramatic increase, the road to equality remains full of obstacles for all women. After over two decades of voluntary workplace equity programs the barriers of workplace harassment, violence, lack of training, promotions and lack of affordable quality child care are still very real.

Studies continue to show that the employment gap is wider for a worker who is a woman, a person of colour, or is under 30. Most women with disabilities and Aboriginal women cannot even get in the workplace door. Harassment and discrimination remain a day-to-day reality for many working women.

The wage gap has been slowly closing, in part because of pay equity legislation, and in part because of falling wages for many men. However, women working full-time earn on average 71% of what a man working full-time earns. The pay gap is much wider for Aboriginal women (46%) and women of colour (64%).

The characteristics of women's work have not changed significantly. Women still experience widespread employment inequality in the labour market. The majority of employed women continue to work in occupations in which women have traditionally been concentrated. In 2003, 70% of employed women were working in education, health occupations, clerical or other administrative positions, or sales and service occupations. This represents a very small decline (4%) from 1987 where 74% of women worked in these sectors.

There has been very little movement in women employed in non-traditional sectors. In 2003, 29% of workers in manufacturing were women. Women made up just 7% of workers in transportation, trades and construction work.

Many working women have experienced loss of employment mobility after a decade of job cuts, pay freezes or roll-backs of many of the relatively "good jobs" for working women in government, health, education and social services.

Also in the 1990s, the process of women in the labour force has also been thrown into reverse by the massive "casualization" of private sector service employment. Pay in most of these jobs has been flat or falling and insecurity of hours and work has been increasing.

In Ontario, there are two key pieces of legislation to redress workplace discrimination – the *Ontario Human Rights Code* and the *Ontario Pay Equity Act*. However, a decade of severe budgetary restrictions and limited governmental support have been experienced by both the Human Rights and Pay Equity Commissions. In particular, equity advocates express frustration with the ability of the Human Rights Commission to adequately pursue and support measures of redress. This is a result of both declining infrastructural support and the complaints-driven and individualized process that underlies the mandate of the *Ontario Human Rights Code* and its Commission.

Since the repeal of Ontario's *Employment Equity Act*, women have not made employment equity gains throughout the labour force. The majority of employed women continue to work in occupations in which women have traditionally been concentrated. Both public and private sector employers' movement to downsize, privatize and casualize jobs have had a profound impact on women workers.

In all of the studies on women and work over the past two decades there is **one** area of positive outcome – unionization. Women's unionization rate has increased to 30% in 2004 from 10% in 1977. For the first time in our history, women's rate of unionization was higher than men's.

This is no accident. Unions have been in the forefront of the struggle for women's equality. We have supported equality in the workplace, at the bargaining table, in government policies and legislation. We have engaged – with community partners – in campaigns to protect public services and the creation of other new services.

A 2004 Statistics Canada report shows that unionized women earn on average 92% of male income. For non-unionized women the gap is 80%. Unionized women have more access to paid family leave, pensions, better benefits, training, better vacation leaves, protection from harassment and greater protection from job cuts or cut backs than non-unionized women.

If the labour movement is to continue to grow we must tap into the need for working women to unionize. We must continue to support working women's rights to employment free from discrimination, and barrier free workplaces.

Violence Against Women

Women’s Right to be Safe in Our Lives

Violence is an issue that is central to women's equality and well-being. It affects everyone who has been a direct victim of violence, their families, friends, neighbours, co-workers and society as a whole.

Ontario saw the founding of the first rape crisis centres and shelters for battered women in the early 1970s. By the end of the decade, union women were raising the issues of rape, domestic violence and workplace harassment and violence through convention resolutions. In their unions, women developed demands for collective bargaining language and the need for union education. Unions began working with the community coalitions lobbing for government actions to end violence against women, and government support for resources for women and children escaping violent situations.

In 1984, the federal legislature erupted in laughter when NDP, MP Margaret Mitchell, raised the issue of wife battering in the House of Commons. Women and labour organizations mobilized to express outrage to this response and worked within our communities to educate and lobby for actions.

On December 6, 1989, 14 young women were murdered at the École Polytechnique in Montreal because of their gender. These brutal murders jolted Canadians into acknowledging that physical, psychological and emotional violence is a daily reality for women and children. The federal NDP tabled a Private Member’s Bill (which was passed) to recognize December 6 as a National Day of Remembrance and Action on Violence Against Women. Each year leading to December 6, labour and community groups organize and mobilize to remember women and children who have died because of violence and to call for government action to end the violence.

In October 2004, Amnesty International released its report *Stolen Sisters: A Human Rights Response to Discrimination and Violence Against Indigenous Women in Canada (2004).* The report states that over 500 Aboriginal women were missing across Canada, many believed murdered with little action by governments. According to Canadian government statistics, young Indigenous women in Canada are at least five times more likely than all other women to die as a result of violence. The report questions the role of non-action by the police and governments.

In April 2007, the OFL supported the work of the Media Violence Coalition to add protection of women and girls in the criminal law under hate crimes.

The OFL and its affiliated unions work in coalition with the Ontario's women's equality-seeking groups, shelters, rape crisis centres, unions, anti-poverty groups and community groups to pressure all levels of government for concrete actions to reduce and ultimately end violence against women.

In November 2006, the OFL and women's groups launched the **Step It Up** campaign. The campaign outlines ten immediate steps all levels of governments can take to end violence against women and children. The campaign involved lobbying government, raising issues during election campaigns and public education. A campaign website was

launched to provide information and actions on the ten steps www.stepitupontario.ca.

There is a direct link between violence against women in the home and when that violence follows her into the workplace. An abused woman is often a working woman. Not surprisingly, women experiencing violence at home from their male partner often carry the impact of the violence with them into the workplace. Domestic violence can interfere with a woman's ability to get, perform or keep a job.

In June 2000, Gillian Hadley was murdered in her home by her husband (from whom she was separated). The inquest that followed her murder heard from the OFL and other groups on the impact domestic violence can have on a woman in her workplace.

In 2002, the inquest report was released. It was the first time an inquest of this kind addressed the issue of domestic violence pursuing women outside their homes and into their jobs. The report stated:

> *We recommend that all employment related legislation, including the Employment Standards Act, the Human Rights Code, the Occupational Health and Safety Act and the Workplace Safety and Insurance Act be reviewed and amended to ensure that: violence is defined to include harassment, stalking and threats of violence; women experiencing violence in an intimate or personal relationship may take a leave of absence sufficient to address the violence in the relationship and establish themselves and their children in a safe place without fear of losing their employment or fear of experiencing some other employment related reprisal.*

The Federation continues its work with the Ontario Association of Interval and Transition Houses (OAITH) to press for the implementation of the report.

No woman should have to choose between her personal safety and her job. Many women who have left abusive men are especially vulnerable at work. Work is somewhere the abuser knows he can find his victim. It is all too common for women to be stalked and harassed, and in the most extreme cases, physically injured or killed at work, whether or not their abuser is employed in the same place. Unions are winning supportive bargaining language. However, unorganized working women experiencing or escaping domestic violence must have protection under the *Employment Standards Act* to ensure no loss of job or discipline, and, when needed, accommodation to work schedule or location when being stalked by an abusive partner.

Unions have bargained collective agreement language that recognizes supports needed by working women escaping domestic violence, such as legal plans; leaves to go to court; help to find new housing; child care and help to heal without fear of being disciplined; the right to alternative work; to be accommodated if stalked by a violent partner; workplace women's safety audits and Employee Assistance Programs. Many union brothers participate and support groups such as Men Against Male Violence.

We must build on our work by continuing to bargain and strengthen collective agreements, increasing workers' education and continuing to work in coalition with women's equality-seeking groups for effective government action to end domestic violence.

Violence is not part of the job. Overt violence against women in the workplace takes two main forms: harassment and front-line violence.

In 1980, Bonnie Robichaud, a PSAC member in North Bay, filed a complaint of sexual harassment against her supervisor and her employer (the Department of National Defence). Sister Robichaud received strong support from her union, the broader labour movement and women's organizations. Victory for Sister Robichaud came after seven years of appeals. In 1987 the Supreme Court of Canada ruled that "an employer is responsible for the unauthorized discriminatory acts of its employees in the course of their employment under the *Canadian Human Rights Act*."

This decision was an important equality step for all working women. The decision's message is very clear – workplace harassment and sexist discrimination are not tolerated. This decision served as a foundation to define and address harassment within our workplaces and our unions.

The harassment women experience is not limited to sexual harassment. Women of colour, Aboriginal women, lesbians, women with disabilities and trans-identified women are subjected – everyday – to prejudiced actions, words and attitudes which cannot easily be separated from the oppression which they experience.

Harassment on the basis of race, sexual orientation, disability, gender identity/expression and various other forms of personal harassment, compounded with harassment due to their gender, can make the workplace, and indeed society, more dangerous and even lethal for women.

On June 2, 1996, Theresa Vince, was shot to death by her harasser in the Chatham Sears store where she had worked for the last 25 years. On November 12, 2005, Lori Dupont, a nurse at Hôtel-Dieu Grace Hospital in Windsor, was murdered at work by her ex-boyfriend who worked as a doctor in the same hospital. Women's organizations and the labour movement mobilized support for the Vince and Dupont families and their demands for an inquest.

Front-line violence has many causes. Government cuts to funding, services and downsizing, together with corporate greed for maximum profits, creates workplaces where workers are over-stressed and the public, trying to access services, get frustrated and angry. Women are often more at risk due to their location in the workforce − social workers, service providers, receptionists, nurses and teachers.

Clearly, if we are to address the issue of workplace violence, Ontario must introduce Violence in the Workplace Regulations under the *Occupational Health and Safety Act*. The McGuinty government must fully support and pass NDP/MPP Andrea Horwath's Private Member's Bill that would give all Ontario workers on-the-job protection by making workplace harassment an offence under the *Occupational Health and Safety Act*. The Bill would make harassment count as a workplace hazard.

Studies show the impacts harassment, stress and violence have on the physical and psychological health of women workers. The *Ontario Workplace Safety and Insurance Act* must be amended to provide coverage of these health hazards.

Unions have faced the challenge to end violence against women both inside and outside the workplace. The work we do

and the struggles we engage in are never easy. In working with our community partners we also have to review our own structures, views and priorities. We deepen our analysis of the intersections with gender violence with racism, ableism, homophobia and poverty and how these oppressions layer the barriers to escape and marginalize women.
Our vision of equality must lead to a world in which girls and women are safe in homes, schools, on streets and in their workplaces. It is a world we can create.

Employment Standards

Over the last 50 years, the OFL and its affiliated unions have spoken out, lobbied, demonstrated and campaigned with and on behalf of working people in Ontario for the right to decent work. That is work with benefits, working conditions and compensation levels that help ensure their basic rights and quality of life. The following outlines some of these rights as captured in legislation concerning employment standards and labour relations.

The premise we start out with in discussing employment standards is that all workers should be entitled to a basic standard of rights concerning income levels, hours of work, working conditions and many other provisions. This is not the case today as thousands of workers enjoy some of the provisions found in the *Employment Standards Act (ESA)* while others are completely covered and still others are not covered at all, but rather excluded from the *Act* and thereby some of the rights contained in it.

In our view, all workers should have the right to be covered by all basic employment standards and to have such enforced. For those of us that are unionized, the *ESA* constitutes the floor of rights from which we bargain superior provisions such as increased wages, vacations and holidays.

Yet most of us have family members and friends who are without union coverage and in many cases the provisions of the *ESA* or at least the provisions that cover their job, not only constitute a floor or partial floor of rights, but also the ceiling – that is, they never get wages or benefits or any other provisions, that are above those specified in the *ESA*.

The provisions of the *ESA* are therefore important to all workers, unionized and un-unionized. The provisions covered under the *ESA* include:

- Minimum wage: The general minimum wage is currently $8.00 per hour, there is also a student minimum wage for those under 18 years of $7.50, a liquor server's minimum wage of $6.95 and a home worker's minimum of 110% of the general minimum wage. In Ontario today about one in four workers earn less than $10.00 per day. Almost half of this number are immigrants and 61% of minimum wage earners are women. Following a public campaign by trade unions and community groups, the McGuinty government promised and extended into regulation the raising of the minimum wage to $10.25 in 2010.

- Eating periods and breaks: Currently an employee has to work for more than five hours in a row in order to receive a 30 minute unpaid meal break. There is no provision in the *Act* – but there should be – requiring an employer to provide coffee or nutritional breaks or other kinds of breaks.

- Overtime hours: There are more employees working excessive overtime today than in the past. The Liberal government's Bill 63 required employers to obtain employees' agreement in writing to work beyond the 48-hour work week. Many employees feel compelled to sign such "Agreements" in order to get hired and then find it difficult or impossible to revoke. Therefore many employees find themselves working excessive overtime or in retail working on Sundays for years without any opportunity to get out of such arrangements.

- Overtime pay: Under the *Act* this is to be paid after 44 hours in a week at the rate of 1.5 times the regular hourly wage. If an employer wants an employee to work beyond 48 hours he needs a letter from the employee stating their willingness to work such hours and Ministry of Labour approval.

  Paid time off instead of overtime pay needs written agreement. The averaging of overtime hours so as to save employers from paying time-and-a-half is still permitted with written agreement. Employers have even more "flexibility" as many occupations are exempt from this provision.

- Vacation period and pay: The *ESA* provides for only a two week vacation period and pay to cover it (4%) after 12 months employment. These two weeks can be taken in a block or spread out and taken one day at a time. This can be compared to most European jurisdictions wherein workers are entitled by law to four or five weeks vacation per annum.

- Public or statutory holidays: Currently in Ontario workers are entitled to eight statutory holidays. An employee can agree to work a public holiday and be paid holiday pay and premium pay (1.5 times) or agree to work at your regular pay and take another day off.
- Pregnancy and parental leave: These are relatively recent improvements in the *ESA*. Pregnant employees have the right to take pregnancy leave of up to 17 weeks. Both new parents have the right to parental leave for up to 35 weeks. These are two distinct provisions. Employees are entitled to such leaves regardless of their employment relationship – full-time, part-time, and permanent or on contract. Both of these provisions are unpaid.

- Leaves of absence: There are several leaves of absence under the provisions of the *ESA* including an emergency leave provision providing employees with the right to take up to ten days of unpaid time off work every calendar year due to illness, injury, medical emergencies or an urgent matter of certain family members. There is also a medical leave provision in the *Act* providing for a 26 week period of family medical leave to care for or support certain family members who have a serious illness with a significant risk of dying within a 26 week period.

- Termination pay: Where an employer terminates a worker or closes down and the employee has worked more than three months, he or she must be given written notice. In the absence of written notice the employee must be paid termination pay for the number of weeks or notice they are entitled to. The amount of termination pay depends on the number of weeks, months and/or years one has worked.

- Severance pay: Severance pay is separate from termination pay. To receive severance pay one must have worked for the same employer for at least five years. The employer must have an annual payroll of more than $2.5 million or more or the employee is one of 50 or more employees terminated in the last 6 months. Under the severance pay provision an employee has a right to one week pay for every year of employment up to a maximum of 26 weeks.

- Equal pay for equal work: This provision provides for equal pay for equal work (not for work of equal value). It came into the *ESA* from the Human Rights Commission in 1968.

Outlined above are ten key provisions of the *ESA*. There are more provisions, but the point here is not to detail each and every provision in the *Act*, but rather to note that even in those occupations where all the provisions of the *Act* are applicable, they are either inadequate, un-enforced or both. They should be basic work rights for everyone.

Take, for example, the minimum wage provision which applies to many occupations, but not all. Following a massive campaign by unions, labour councils, the OFL, community groups and coalitions, the Toronto Star newspaper and the New Democratic Party (NDP), the McGuinty Liberals bowed to popular pressure and promised to raise the minimum wage up to $10.25 over three years.

Ten dollars is the amount it takes to reach the poverty line as established by Statistics Canada's Low Income Cut Off today in 2007. The Provincial government intends to have it paid out in the year 2010. This is to take place only if they keep their promise or are re-elected or if some other government agrees following an election between now and then. But shouldn't a legal minimum wage be above the poverty line as a right? Shouldn't it be indexed so poor workers don't fall beneath the poverty line again and then again? We believe that improved vacations, paid leaves of absence, equal pay for work of equal value (rather than just equal work), overtime pay at least after 40 hours rather than 44, no averaging of overtime hours over weeks so that an employer can try to get out of paying time-and-a-half and more, should constitute fundamental rights for all workers.

Precarious Work

Not covered in the legislative provisions of the *ESA* is clear and specific language concerning the dramatic rise of non-standard or precarious employment. Precarious employment includes: part-time work, contract work, various forms of temporary work, self employment, seasonal employment and casual labour. Full-time permanent employment across Canada, which up until this point has been known as standard employment, has now dropped from 67% in 1989 to 64% in 1994 and 63% in 2003. At the same time precarious employment has dramatically risen: It grew from 32% of the work force in 1989 to 36% in 2003.

Viewed another way, alongside of what is termed "just in time" or JIT production we see the rise of a "just in time" workforce largely engaged in various types of precarious work such as contract work or what Statistics Canada terms self employment "own account" (meaning self-employed with no employees). Closely associated with the latter is the rise of temp agencies. According to the Directory of Recruiters there are now 3,299 temp agencies across Canada today. This total is higher than the number of Tim Horton's outlets across the country. In Kitchener alone the number of temp agencies has exploded to 79.

Other cities and towns across the province are experiencing similar growth in the number of temp agencies. Thousands of young people are going to temp agencies in the hope that it is the route to full-time employment, yet this prospect is most often thwarted as contracts between employees, client companies and the temp agencies either contain language preventing a temp agency employee working full-time for client companies or contain financial penalties should the client company hire the employee outside the agency contract.

The issue of self-employed "own account" or what is termed an "independent contractor" needs further study as many workers find themselves in this situation following layoffs and closures. Often a company finds it preferable to hire a worker as an independent contractor rather than hire them as a full-time or part-time employee. At first, a number of workers see this arrangement as beneficial as they don't have to pay what are termed "payroll taxes."

All too often it is only later that they discover they need workers' compensation coverage, a dental plan, a good pension and that such benefits are worth much more than they at first thought. It is also to be hoped that they discover that companies bring in temp agency workers to save themselves administration costs and labour costs (temp agency workers earn abut 40% of what permanent employees receive). It is also true that many workers who believe they are independent contractors are legal employees: An independent contractor is someone who runs their own business or has full control over their own work; you are an employee if you work for someone who has control or direction over your work.

The situation facing the self-employed or independent contractors is poorly legislated, confusing and what positive provisions exist are rarely enforced. We need clear, strong language in the *ESA* regulating all forms of precarious work, including the self-employed. Temp agencies themselves should be governed under the *ESA* to ensure fairness and basic worker rights.

Labour Relations

The *Ontario Labour Relations Act (OLRA)* concerns the statutory rights and regulations concerning the unionized workforce. It is our position that all workers should have the right to join a union without fear of repercussions in order to realize their needs and aspirations. Put another way, the OFL believes that freedom of association, inclusive of the right to join a union, is a fundamental right of people in a democratic society. Such rights are usually codified in constitutions, charters and world bodies such as the International Labour Organization (ILO) of the United Nations. Convention #87 of the ILO, to which Canada signed in 1948, endorses freedom of association and protection of the right to organize.

More recent (1998) is the ILO's Declaration on Fundamental Principles and Rights at Work which requires all member states, including Canada, "to respect, to promote and to realize in good faith and in accordance with the constitution, the principles concerning the fundamental rights which are the subject of those conventions, namely: freedom of association and the effective recognition of the right to collective bargaining…."

Despite signing such internationally recognized conventions, there are major groups in Canada and Ontario that remain excluded from the right to join a union and collectively bargain. One such group is agricultural workers. There are over 100,000 agricultural workers in Ontario including some 17,000 migrant workers from such places as the Caribbean and Mexico.

Another group of workers that have always been excluded from the *OLRA* are part-time instructors in community colleges. The *Colleges Collective Bargaining Act* excludes them and they currently cannot be organized under the *OLRA*. The union in the colleges, OPSEU, has tried in the past to organize these workers and is in the process of trying again. The legislation needs to be changed. Part-time employees in universities, high schools and public schools have the right to organize; there is no justification for treating community college part-timers differently.

Key rights in this legislation include:

- Certification: There are jurisdictions in the world wherein workers don't have to go through the hoops of certification procedures. Ontario's certification process was based on a card-based system to ensure a majority of workers wanted to unionize. This was established over 40 years ago, not long after the founding of the OFL, and was in effect for decades under Conservative, Liberal and NDP governments.

  Then under the Harris/Eves Conservative government in Ontario, and with no independent study as to the facts and no meaningful consultation, this cornerstone of the labour relations system was abolished. No matter how high the percentage of workers in a work place signed a union card it became mandatory to hold a vote. Such mandatory representation votes give employers significant opportunities to frustrate and interfere with the democratic decisions taken by workers to unionize.

  The McGuinty Liberals only restored card certification for building trades unions, not for the vast majority of unions and members who are in the public and broader public sector unions and in the industrial unions. Thus despite Canada signing ILO conventions concerning the right to collectively bargain and join a union, this situation leaves Ontario workers wishing to unionize with more fear and facing more employer interference. This results in thwarting their right to join the union.

- Anti-Scab Provision: Under the former Ontario NDP government's extensive labour law reforms, a key provision made it illegal for an employer to bring in scabs or replacement workers under most circumstances during a legal strike. Again, this provision was abolished under the Harris/Eves Conservative government.

Yet, in our view, it should be a basic right of workers when exercising their right to strike in a democratic society that they also not be confronted with an employer bringing in other workers to do their jobs.

- Successor Rights for the Contract Service Sector: Contract employment, as noted above, is a growing reality confronting more and more working people across the province. The lack of fairness in this form of work had historically initiated a number of submissions from the OFL and affiliated unions calling for needed reforms and eventually motivated a short-lived provision in the *Act* that served to protect employees' successor rights where the service contract changed from one company to another. Once again, this provision was repealed under the Harris/Eves Conservative government.

  Currently, where a company provides such contract services as cleaning, security guards and food services and then the client company contracts with another service provider, there are no successor rights as formally there has been no "sale of a business." The result is that the current *Act* provides no protection for those employees that have chosen to be represented by a union. The employees are left without a union, without a collective agreement and thus lose their compensation levels, employment security, seniority, benefits and vacation package. It is our view that workers in such circumstances should not lose their hard won contractual rights merely because a third party had decided to change contractors. Successor rights should be restored to these employees and considered as a fundamental right.

- Certification Bars: As a result of amendments made in 2000, the *OLRA* now contains an automatic bar prohibiting all trade unions from applying for certification for a period of one year where a union withdraws its application for certification after a representation vote, or where a union's application is dismissed by the Labour Relations Board after a vote. Where a trade union withdraws its application before a representation vote is taken, the union is barred for a minimum of six months and a maximum of one year. To strengthen the right of all working people to join a trade union of their choice all bars should be eliminated.

The provisions above are examples of key sections of the *Ontario Labour Relations Act* that need to be amended in order to firmly ground worker rights. There are many other provisions such as interim orders, unfair labour practices, partial rights while waiting for a first collective agreement and expedited hearings. A few provisions of the *Act* have been fully or partially restored since the Harris/Eves Conservative government, but the vast majority need substantive amendment if working people across Ontario are to enjoy their full rights.

Workers' Compensation

APPRECIATING OUR PAST

Definition of Accident

In 1963, the definition of accident was expanded to include "disablement arising out of and in the course of employment". The amendment provided recognition of compensation for injuries or illnesses that arose gradually over time. The legal

wrangling regarding whether these types of conditions were legally covered under the definition of accident was effectively terminated.

Waiting Period

A waiting period for compensation was eliminated in 1985 and provided that the employer was responsible for any lost earnings on the day of accident and that compensation benefits commenced the following day.

Workers' Compensation Appeals Tribunal (WCAT)

The WCAT was created in 1985 as an independent tribunal responsible for the final level of appeal within the system. Injured workers had campaigned for years to change the appeal system that was entirely internal and provided no means of ensuring accountability of the Workers' Compensation Board's (WCB) decision making practices. In his 1980 paper titled "*Reshaping Workers' Compensation for Ontario*", Professor Paul C. Weiler stated that in order that injured workers could have a sense of confidence and some finality, the appeal system must not only be fair and impartial but it must have the appearance of being fair and impartial.

Industrial Disease Standards Panel (IDSP)

The IDSP was created in 1985 as a multi-stakeholder body responsible for researching the work-related causes of disease. Their work and resulting research papers were responsible for significant changes in the adjudication of occupational disease claims and inclusions into the disease schedules.

Full Indexing

Prior to 1985 it was a responsibility of the WCB Board of Directors to establish the annual indexation of compensation benefits. Bill 101 mandated that compensation benefits would increase each year proportionate to the rise in the consumer price index.

Schedule 4

A new disease schedule was created that provided a non-rebuttable presumption of work-relatedness should a worker suffer a disease and have worked in the corresponding industry.

The Office of the Worker Adviser (OWA)

The creation of the OWA in 1985 gave injured workers access to professional representation with no fee for service. The growing complexity of the compensation system resulted in a growing epidemic of appeals.

Chronic Pain

A successful appeal at the WCAT prompted the development of a formal policy that recognized and compensated for chronic pain disability.

Re-Employment Obligation

On January 2, 1990 an employer's obligation to re-employ their injured employees became effective. Although threshold criteria for eligibility and the obligation duration were problematic, it was a significant step in the right direction.

Employment Benefits

Bill 162 provided that an employer continue contributions to an injured worker's pension plan, health care premiums and life insurance coverage for one year after the accident.

Bipartite Board of Directors

The inception of bi-artism at the WCB Board of Directors gave employers and workers an equal voice in regards to many systemic changes including the approval of Board policies.

Bi-partism recognized that workers should be considered as an integral part of the compensation system and be considered as a valuable stakeholder and not just a client of the system. One of the first things the Harris government did when elected was to dismantle the bipartite Board and replace it with a corporate Board.

OFL/WCB Training Project

In 1990, a small grant was directed to the OFL to establish and facilitate the training of injured worker representatives. The project grew over subsequent years developing many more courses and advanced workshops that provided up-to-date and comprehensive education aimed at the representation of injured workers. The project expanded access to its training and has provided training to over 10,000 workers. Over the past 17 years, it has survived through three different governments and the training project has established its value and impact on the entire compensation system.

Addition of Schedule 4 Diseases

On May 28, 1992 asbestosis and mesothelioma became the first diseases added to Schedule 4. The presumption applied to workers who were employed in a process involving the generation of airborne asbestos fibres. In December of 1993 primary cancer of the nasal cavities were also added.

Benefits for Spouses who Re-marry

For many years the compensation legislation had disadvantaged those surviving spouses of workers who had died of work-related causes. The practice of terminating their benefits if they re-married was deemed to be discriminatory, thus ending the practice and providing retroactive payments to the many affected.

Early and Safe Return to Work

In 1998, the legislation was amended to introduce a new obligation on employers to determine and offer suitable work for their injured employees who had not yet fully recovered from the impact of their work injury. The obligation was independent of the re-employment obligation and did have threshold eligibility criteria or a maximum duration on the obligation.

Fair Practices Commission (FPC)

The creation of the FPC provided an effective mechanism of ensuring internal accountability at the WCB. Workers were afforded easy access to a body who could investigate complaints of unfair practices at an individual or systemic level.

Systemic Changes

Through the efforts of injured workers and other worker organizations, many positive systemic changes have occurred over the past 50 years. Consider that in the mid 1980s workers were not allowed access to the many documents and memorandums contained in their Board claim files. Workers were allowed only to view and read the files (by appointment) and make personal notes regarding the content. If they chose to appeal a decision, they were provided only a summary of documents and evidence contained in their file.

The administration of the Board and its practices has been forced to become transparent and they are no longer able to subdue or conceal documents or "hidden" adjudication guidelines.

Workers now have total access to their claim files and the Board's policies have been published on their web site.

This has not only improved the quality of fairness to workers but has made the entire appeals regime more effective and accountable.

Independent Living Allowance (ILA)

More recently an aggressive appeal strategy by a number of worker and union organizations resulted in the development of an Independent Living Allowance (ILA). This yearly benefit is intended to provide significantly impaired injured workers with a yearly allowance in order to pay for the many tasks and chores (e.g. lawn cutting, snow shovelling) that their compensable injuries prevent them from doing on their own.

Maintenance Therapy

Similar to the ILA, the result of many successful appeals was a concession by the Board through policy to pay for maintenance type therapy. Previously the Board had only paid for health care treatment that was to improve the worker's medical condition. Maintenance treatment allows workers to maintain their levelling of functioning and prevents exacerbations resulting in further lost time from work.

Firefighters Presumptive Clause

As a result of compelling research from the Occupational Disease Panel (ODP), a Private Member's Bill (NDP Andrea Horwath) and the efforts of the Ontario Professional Fire Fighters Association (OPFFA), the government recently passed amendments that created a presumption of work relatedness for many diseases including heart conditions for those employed as firefighters or inspectors.

MAPPING OUR FUTURE

COLA

Employers have received a windfall benefit in the form of a 24.7% rollback in their costs for workers' compensation coverage over the past 10 years, while injured workers are forced to live in poverty because their compensation is not adjusted for inflation. Injured workers have seen their benefits reduced 24.7% due to inflation over the past 10 years. In a letter to the OFL dated April 4, 2003 Dalton McGuinty stated: "Injured workers and their dependants should not have to rely on their pensions being topped up by welfare payments. We would want to ensure that injured workers only have to receive one payment. We are also studying an approach to introduce a fair inflation factor to protect worker benefits from inflation." They waited over three years and finally introduced legislation that would see injured workers receive a 2.5% increase on July 1, 2007 and another 2.5% on January 1, 2008 and January 1, 2009. Injured workers deserve full inflation protection now.

Coverage

In a report prepared for the Workplace Safety & Insurance Board (WSIB) it was reported that 35% of workers in the province of Ontario are not covered by the workers' compensation system. While the report recommended full coverage for all workers the government has refused to implement its recommendations. Adding independent operators and the service sector, including banks and insurance companies, would provide the system with a steady income when the

economy fluctuates. All workers, regardless of where they work or how they earn a living, should be covered by the *Workplace Safety & Insurance Act (WSIA)*.

Deeming

Section 43 of the *WSIA* 1997 allows the Board to deem a worker to have earnings related to a suitable employment or business and to set the worker's loss of earnings benefits based on such deemed earnings regardless of whether the worker has actually secured employment after suffering a workplace injury.

Although deeming was introduced to the system by the 1989 amendments to the *Workers' Compensation Act (WCA)*, the current system allows for a level of deeming that disentitles a far greater number of workers than under the previous system. This is especially so for permanently impaired workers. Deeming in effect transfers the cost of many workplace injuries to other provincial and federal social programs and thus to the taxpayers of Ontario and Canada. The *Act* should be amended to eliminate deeming to ensure that the basis for wage loss is calculated on the actual wage loss incurred after an injury.

Increase Average Earnings Amount from 85% to 90% of Net Average Earnings

Another important way in which injured workers' benefits were affected by the *WSIA* is the reduction from 90% to 85% of net average earnings as the basis for wage loss benefits.

This is a reduction which significantly impacts injured workers ability to maintain their pre-injury standard of living, especially for workers affected by the COLA provisions discussed above and the cap on benefits discussed below. The average earnings amount should be restored to 90% of net average earnings.

Remove Cap on Compensation Benefits

For workers with relatively high incomes at the time of injury, the requirement that wage loss benefits be capped at a maximum on 175% of the average industrial wage can have a significant negative impact to an injured worker and his or her family. The legislation must be amended to remove the cap on wage loss benefits.

Remove the Age Cut-Off for Future Economic Loss (FEL) and Loss of Earnings (LOE) Benefits

The Ontario government has introduced legislation to end mandatory retirement and the discrimination it entailed for workers over age 65. However, it has allowed the provisions of the *WCA and WSIA* that allow wage loss benefits to be cut off based on a worker's age to remain in place. The age cut-off for FEL and LOE benefits allows for older workers who become permanently disabled due to a workplace injury to be discriminated against on the basis of their age. The legislation must be amended to remove the age cut-offs in the *Act*.

Loss of Retirement Income (LRI)

Yet another reduction in the amount of benefits for workers brought in by the *WSIA* is the reduction in the amount put aside from a worker's LOE benefits to make up for the LRI. For workers injured between 1990 and 1998, an additional 10% of the worker's FEL benefits is automatically put aside until age 65. For workers injured after 1998 (i.e. those whose benefits are determined under the *WSIA*), only 5% is put aside unless the worker opts to contribute an additional 5% out of their

own benefit payments. If a wage loss system is continued, restore LRI amount to 10%.

Non-Economic Loss (NEL)

The monetary awards allowed for under the NEL provisions are meant to compensate injured workers for the pain and suffering caused by their workplace injuries. However, the amounts awarded are very small compared to the pain and suffering endured by injured workers who become permanently impaired as a result of a workplace accident. These small awards are often interpreted by injured workers as an affront to their dignity and sense of self worth and are thought by many to "add insult to injury". If the dual award system is retained, the base amounts for NEL awards should be substantially increased.

Employment Benefits

Injured workers who have an employee benefits plan when working only continue to receive those benefits for a maximum of one year post-injury. The employer's responsibility ends at that point. The Board takes no account of the impact of the loss of benefits, nor does it provide compensation or any alternative benefit plans. This adversely affects all injured workers and their families. Obviously the more severely injured a worker is, the greater the adverse impact. The *Act* should be amended to include a Board sponsored benefits plan for all injured workers and their families.

Restriction on Entitlement for Mental Stress

The *WSIA* restriction on entitlement for mental stress is one of the ways that some workers with work-related disabilities are kept entirely out of the system. This is arguably a violation of the equality provisions of the *Charter* and the *Human Rights Code* in that it discriminates against mentally disabled workers based on the nature of their disability. As yet this provision has not been successfully challenged, but it is most definitely open to challenge and while it remains in effect, it discriminates against an extremely vulnerable group of mentally disabled workers. The *Act* should be amended to remove the restriction on mental stress.

Time Limits

The introduction of time limits in the system in 1998 has had a profound and negative impact on the system as a whole. Time limits are especially problematic for the most vulnerable in the system and those with the most to lose: permanently injured workers who face barriers in addition to their compensable injuries (i.e. language, literacy, physical and mental disability).

Time limits add complexity to the system by generating more appeals and more bureaucratic rules. They have made the system more formal and legalistic and therefore less accessible to injured workers. Time limits have arguably added administrative costs related to the greater number of appeals and the procedures created to administer the system in the context of time limits. In 2005 close to 10% of Workplace Safety & Insurance Appeals Tribunal's (WSIAT) decisions were time limits decisions (287 out of a total of 2,969 for 2005).

For all agencies in the system it diverts resources away from the main reason they exist, which is to ensure that injured workers receive the benefits and services they are entitled to after suffering a workplace injury or disease.

To the extent that the introduction of time limits has saved the system money, it is at the expense of injured workers who have been cut out of the system for missing a time limit to establish a claim or to appeal a negative decision. The legislation must be amended to remove time limits for workers claims and appeals from the system entirely.

Appeals Tribunal

There were a number of significant changes brought in by the *WSIA* that affect the independence, accessibility and fairness of the Appeals Tribunal. These are set out with recommendations below.

<u>Independence of the Appeals Tribunal ("Policy Binding" Provision)</u>

A significant restriction on the Tribunal's jurisdiction and independence was introduced in 1998 in what has been referred to as the "policy binding" provision: s. 126 of the *WSIA*. This provision requires the Tribunal to apply Board policy in its decision making and only allows it to deviate from Board policy under limited circumstances. This provision undermines the independence of the Tribunal, further complicates the system, and leaves this aspect of the legislation and at least some Tribunal decisions open to challenge in the courts. The *Act* must be amended to remove the "policy binding" provision and restore the independence of the Tribunal.

<u>Preference for Single Vice-Chairs</u>

The *WSIA* also significantly affected the tripartite nature of the Tribunal by creating a preference for single vice-chairs sitting alone. This dilutes the quality of decision making at the Tribunal, by leaving it up to one decision maker alone without the benefit of the experienced worker and employer side-members contributions. The tripartite mandate to the Appeals Tribunal must be returned and funded accordingly.

Bipartite Board of Directors

A bipartite Board of Directors must be established with half the members selected by organized workers and half selected by employers. The bipartite board selects the Boards Chairperson and would hire the Chief Administrative Officer. Both positions must be responsible to the workplace parties.

Occupational Disease Panel (ODP)

In the area of occupational disease research and the creation of adjudication support material for occupational disease claims, the system suffered a significant loss when the ODP was eliminated. The *Act* must be amended to re-establish and properly fund the ODP.

Scheduling Diseases

Though the Occupational Disease Advisory Panel (ODAP) Report did a good job of outlining the legal principles that must be applied in adjudicating occupational disease claims, it would be significantly more helpful to workers and their survivors if more occupational diseases were included in the Schedules. The *Act* must be amended to require regular review and updating of Schedule 3 and Schedule 4.

Name of the Board

It is an important symbolic issue for the worker community that the name of the *Act*, Board and Tribunal be restored to their previous forms, i.e. *Workers' Compensation Act*, Workers' Compensation Board, Workers' Compensation Appeals Tribunal. This would recognize one of the key

purposes of the system, which is to provide compensation to workers who are injured or made ill by their work. It would also signify the government's commitment to the founding principle of providing fair compensation. The legislation must be amended to change the name of the *Act*, Board and Tribunal back to the *Workers' Compensation Act*, Workers' Compensation Board, Workers' Compensation Appeals Tribunal, respectively.

Labour Market Re-Entry (LMR)

There are a number of significant problems with the current LMR system. This part of the system primarily affects permanently impaired workers and is in critical need of reform. LMR in its current form is designed to get workers in and out of the system as quickly and cheaply as possible, with little regard to what happens to them when they complete LMR.

The most significant problem relates to the fact that the goal of LMR is only to get workers back into the general labour market and not to ensure that they actually manage to secure employment when they have completed LMR. In addition, workers are simply "deemed" to have the wages related to the suitable employment or business (SEB) chosen during the LMR process, regardless of what their actual post-LMR earnings are. This is true even where a permanently impaired worker is never able to work again.

Further, in choosing a SEB for the worker, there is no requirement that the worker's personal and vocational characteristics be taken into consideration. There is also no provision allowing a worker time to do a job search before their benefits will be cut off.

Finally, there are significant problems related to the quality of the for-profit primary and secondary service providers, many of which have arisen since the privatization of LMR (previously vocational rehabilitation) function. The responsibility for the "vocational rehabilitation" (VR) of injured workers should be returned to the Board. Clear rules need to be set out in the legislation that requires a worker's personal and vocational characteristics and job availability be taken into consideration in determining appropriate VR services. The *Act* should also be amended to allow the Board to provide assistance and payment of benefits for job search.

Secondary Victims

In addition to the many workers who develop occupational diseases due to exposures to hazardous substances at work, there are the secondary victims (family members and those in close association to these workers) who develop the same or related diseases due to their exposures from the worker or the workers clothing.

A particularly poignant and devastating example of such a secondary victim is when the child of a worker develops mesothelioma from being exposed to asbestos from his or her parent's clothes. The *Act* should be amended to allow for compensation benefits and services to be provided to secondary victims who contract an occupationally related disease due to exposure to hazardous substances brought about by close contact with an exposed worker. In 2000, NDP MPP Peter Kormos introduced a Private Member's Bill titled Lynn Henderson's Law that would provide compensation to secondary victims.

Valuing the Lives of Workers without Dependants

Currently, survivor benefits are tied to economic dependency. Family members who were not financially dependent on their loved one who died as a result of a workplace injury are left feeling that the worker's life is not valued by the compensation system or society. This is frequently the case when a young injured worker losses his or her life. There is an extremely poignant sense of loss when a young worker dies, but the emotional dependency of the family members is not recognized or valued. The *Act* should be amended to allow, in the cases where there is no relative who was financially dependent upon the injured worker, for one lump sum payment to one from a list of specified relatives (i.e. parents, sibling or grandparents).

Return to Work (RTW)

The re-employment obligation and Early and Safe Return to Work (ESRTW) provisions were two important steps in recognition of returning injured workers to safe, suitable and productive employment. The historical practice of shifting injured workers and managing their claim costs has not improved RTW outcomes. To affect significant changes and improve outcomes, the Board must promote Disability Prevention principles. The focus of effective return to work should be removing barriers that cause functional limitation by providing assistive devices and the re-organization of work tasks and environment using proven ergonomic strategies and therapeutic methods.

Joint RTW committees need to be legislated in all workplaces. The union must be formally recognized as a workplace party by the Board and the employer. Minimum training needs to be mandated by the *Act*. Workplaces must be provided comprehensive and inexpensive training regarding RTW strategies and principles.

<u>Return to Work Training Agency</u>

Funding needs to be provided to the central labour body to develop and deliver comprehensive training regarding disability prevention principles and therapeutic RTW practices. The OFL's Occupational Disability Response Team has a proven track record in this area. The funding agreement must include a long term commitment and not be subject to political whims. Funding should be provided under S. 7 of the *Act* so that the Agency is a designated entity.

Eliminate Experience Rating

Experience rating for Schedule 1 employers has been voluntary since 1953 and mandatory since 1995. Yet there is no empirical evidence that experience rating promotes investment in prevention or RTW strategies. In fact experience rating promotes bad practices as strategic and dubious practices lead an employer to financial rewards faster than with proper commitment and investment in health & safety and accommodation. The labour movement has called for the elimination of experience rating for years.

Eliminate Apportionment

The *Act* provides that where an injury or disease has been contributed to by more than one workplace, the costs of workers' compensation benefits can be apportioned between responsible employers. The legislation does not give express or implicit authority to apportion worker entitlement. Apportionment practices contradict common law principles. Yet the Board and the Tribunal continue to apply these practices on a case-by-case basis

or systematically by policy. The practice of apportioning benefits is unlawful and must be eliminated.

Improve Occupational Disease Adjudication

Victims of occupational disease are stricken with the impact (functionally and psychologically) of the disease and then are forced to endure ridiculously long period of adjudication. There is no justifiable excuse why workers and their families have to wait as long as two years for an initial decision from the Board. The Board must develop the capacity to expedite complicated entitlement issues in a timely manner. The Board must adopt formal adjudicative practices that are consistent with the legal principles of causation. Imported criteria cannot be used to suppress entitlement. Much of the exposure criteria contained in current policy is arbitrary and not scientifically supported.

For example, the Noise Induced Hearing Policy requires five years exposure at 90dB over an eight-hour period or the equivalent. Yet it is well recognized that hearing can be damaged by prolonged noise exposure at much lower levels. Most other jurisdictions in Canada have the exposure criteria at 85dB and the World Health Organization states that hearing damage can occur in individuals with as little as 70dB exposure.

Significant resources must be dedicated in the research of work exposures and their contribution to disease. More diseases must be scheduled.

Presumptive legislation for the construction trades is the next logical progression. In the future most occupations should be covered under presumptive legislation. This would eliminate much of the time associated with gathering and determining historical exposure profiles.

Prevent Privatization

The current strategy of the Board is to eliminate the unfunded liability by the year 2014. Once the unfunded liability is eliminated, the compensation system will be attractive to private insurance companies. The government has made no secret of their desire to sell off portions or even the entire compensation system. We must begin mobilization now to defend the privatization of our system. It must remain publicly delivered and accountable to the citizens of this province.

Occupational Health, Safety and Environment

When the OFL came into existence, workers had no legal right to refuse work, to know about hazards in the workplace or participate in the workplace on issues that impacted their health or safety. After a long struggle, workers gained these rights in law but continue to fight to get them respected by employers. Labour continues to fight for meaningful protection from reprisals for exercising those rights.

The precautionary principle is recognized as a means to advance worker rights to safe and healthy workplaces and by extension of healthier communities. Most recently it was recognized by the SARS Commission and was listed in the first three recommendations. This principle provides for more meaningful involvement of workers in decisions which affect their health and safety. It shifts the burden so that emerging hazards such as nanomaterials would have to be addressed before they are introduced into the workplace, worker's bodies and the air we breathe, water we

drink and food we eat. It would require a greater respect for worker's health and their role in the workplace and community. Issues of harassment, violence and ergonomics would have to be addressed.

Labour understands that workplaces are not disconnected from the community. Domestic violence is too often brought into the workplace; toxic substances and emissions cross property and political boundaries; stress travels with the worker from work to home and back again. Advancing worker health and environmental health go hand in hand. If workers are not healthy then it is a sign that the community is not healthy. Labour's vision for a healthy environment has been founded on sustainability. By this we mean a sustainable economy, sustainable employment, sustainable production and the public services that support a sustainable society.

Sustainability involves reducing our reliance on toxic substances in the workplace through toxic use reduction, substitution strategies and extended producer responsibility requirements. Labour understands that some jobs will be lost in a move towards sustainable work. A meaningful Just Transition program for workers and communities affected must be a legal right if workers and communities are to be spared the devastation that comes with the loss of good paying union jobs.

Just as workers have a right to know about workplace hazards, so do the members of a community have a right to know about the hazards they may face from the workplaces in their community. Community right to know legislation would also help to drive toxic use reduction. What we wish for our members, we wish for their neighbours.

Action points:

- Lobby for the implementation of the SARS Commission recommendations.
- Lobby for toxic use reduction, substitution and extended producer responsibility legislation.
- Lobby for meaningful Just Transition programs.
- Lobby for community right to know.

Scent-free Workplaces

Increasingly, workers are becoming sensitized to chemicals in the environment. Synthetic compounds used to manufacture perfumes and other scented products are a chemical soup of toxic industrial substances. Many are listed on the Registry of Toxic Effects of Chemical Substances with the Center for Disease Control in the U.S. as toxic substances. Some substances used in perfumes are known irritants or sensitizers.

Substances that are sensitizers can cause a person to become allergic to the chemical as a result of repeated exposures or even from one large exposure such as a chemical spill. Once sensitized, an individual only needs to be exposed to a very small amount to have a serious reaction. These reactions can range from eye and respiratory irritation to nausea and dizziness up to serious breathing difficulties.

Few chemicals used in perfumes have had any testing as to the long term health consequences for the user. Consequences for those who are sensitized to the chemicals in perfumes are known. Organizations are beginning to recognize that a scent-free working environment is needed to help protect the health of sensitized individuals.

Conclusion

Some bad bosses here in Ontario would like to forget all about unions, workplace rights and laws that protect working people and their communities. It is our job as a labour movement to put in place and keep in place labour laws that serve all workers in every job and every sector. The OFL must continue to fight for the protection of all workers no matter where they work.

Governments come and go. Working people have to fight to hold on to our basic workplace rights over and over again. The OFL must continue to rebuild Ontario after the destruction of the Conservative and Liberal governments' years in power. It is a big job. There is a lot to be done. Labour laws, successor rights, occupational health and safety, union organizing and human rights legislation all need attention and major change.

Unions affiliated to the OFL and labour councils across Ontario, along with our activists and community partners, have been working steadily to improve workplace laws. The work is never done but thousands of working people are continuing the fight like their parents and grandparents did in the past – building, protecting, standing up for their rights and the rights of others.

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