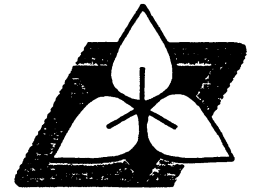


# 4<sup>th</sup> BIENNIAL CONVENTION

## *Working People Working Together*

November 24-28, 1997



OFL/FTO

Document 5

1957-1997  
40 YEARS

## CULTURAL WORK

A Policy on Professional Artists and Cultural Industry Workers

### INTRODUCTION

In 1993, the Ontario Federation of Labour passed a policy on the arts, *Towards a Living Culture*. It dealt with the arts and culture in general terms as they relate to the labour movement.

This policy paper, *Cultural Work*, has been written primarily to address the work of professional artists and cultural workers.

The arts and culture are the fourth largest industry in Ontario. They are also one of the fastest growing sectors of the economy. Yet several occupations remain unorganized or have to operate outside local recognition. It is an industry that is highly volatile, experiencing massive restructuring, downsizing, cutbacks, technological change and intense foreign competition.

The labour movement already includes many workers in the cultural sector. Some are full-time employees; others work on a contractual basis. As self-employed workers, however, professional artists fall outside standard labour legislation in Ontario and as a result cannot legally form a union or undertake collective bargaining except

on a voluntary basis. They are the lowest-paid workforce in the province.

The economic impoverishment and lack of bargaining rights mean that most artists do not have adequate access to basic social benefits such as EI, workers' compensation, pensions and extended health care that are available to other workers. Artists are seldom included in professional development, training and retraining programs.

It should be understood that the economies of professional artists and cultural workers who work in the technical and administrative areas are interlinked. If professional artists are cut back, so are the technical and administrative areas of cultural production. In turn, artists need to help defend the job rights of technical and administrative workers against downsizing, outsourcing and contractual freelancing.

This situation is made worse by the erosion of public support for Canadian culture and the aggressive expansion of corporate cultural enterprises (primarily from the U.S.). This means not only the loss of jobs for Canadian artists but the eventual loss of our unique and diverse

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Canadian cultures and identities. The cutbacks to the CBC, TVOntario, the Ontario Arts Council, Canadian publishers, performance companies, galleries, museums and to individual artists, threaten not only our identity as a people but can erode our political and social independence as a country.

With the increasing penetration of corporate culture into the lives of most people, there needs to be a process where labour and communities develop a better understanding of the role culture plays in society and in the shaping of our opinions and beliefs. At the same time, artists need to learn from the labour movement about collective bargaining and action. They also need to be encouraged by labour to develop a more realistic and positive portrayal of workers and working life in their creations.

Organizing is crucial in the cultural sector. As large enterprises are being cut back and restructured, there is an increasing workforce of freelance workers and small production houses that need to be organized. There are several professional artists' associations that need to attain collective bargaining rights so that they can be encouraged to affiliate. There are also many artists who presently have no representation at all.

## **CUTTING TO THE BONE**

As with other economic sectors, there have been massive and sustained cuts to the arts and cultural industries from all levels of government. Add this to the fact that this is a sector that historically has been underfunded. Unfortunately, the cuts to arts and culture do not receive the attention other sectors receive. Yet the arts are critical to our social and political survival.

The CBC is currently being decimated. Regional production is being closed down, programming is being severely cut back and hundreds are being laid off. The CBC is the only publicly owned

national broadcaster and has not only been a voice of Canadian people but has provided a showcase for the development of Canadian talent and work for Canadian artists and technicians.

TVOntario has been severely cut (\$15 million) and is currently threatened with privatization. It is an essential educational medium that delivers curriculum programming, distance learning initiatives, teacher training and continuing education for learners of every age. It also provides non-commercial viewing for general audiences. It has won numerous awards and has sold programming to 136 countries worldwide. The loss of the only public TV broadcaster in Ontario would be the loss of a crucial resource.

The Ontario Film Development Corporation was cut by 80%. It used to invest directly in film production, but now only operates as a service to film companies. It is estimated that film and television production has dropped by 60 to 80% in Ontario, and this includes U.S. film production.

The Ontario Arts Council, a major funder of artists and arts organizations in the province, has had its funding cut by 28%. This has had a devastating impact on the public and non-profit cultural areas.

Almost every arts and cultural institution and organization in the province has been cut from 25 to 60%, from the Art Gallery of Ontario to the Mayworks Festival. It is estimated that, with the megacity proposal, the not-for-profit arts sector in Toronto could be reduced by 50%. This will mean the closing of many theatres and galleries, and the reduction of programming from those that survive. This will not only affect the jobs and livelihood of artists and cultural workers but will impact dramatically on the tourist trade, affecting jobs in the hospitality and service sectors.

## **Recommendation:**

That the OFL encourage its affiliates to oppose the cutbacks to all arts and cultural organizations from all levels of government, and that it opposes the privatization of any of these organizations including TVOntario.

## **ARTISTS AND CULTURAL WORKERS**

Professional artists and cultural workers add value to the lives of all of us, and contribute professional work to the various communities in which we live.

Professional arts workers are artists who create work in a professional context and/or are recognized by their peers as professionals and whose objective is to earn a living by such work.

Cultural workers are those who provide technical skills support for cultural production, or who work in the administration of cultural production, programming and services.

Professional artists and cultural workers work in the commercial and the not-for-profit sectors. A few also work in the community arts sector. Artists create their work alone or in a group.

Artists who work most often in a group include:

- a) stage actors, stage managers, stage directors, stage designers, playwrights, dancers, choreographers, etc., who produce theatre, opera and dance in a theatre;
- b) musicians, conductors, composers, etc., who produce music in various venues from bars to concert halls to recording studios;
- c) film actors, directors, cinematographers, designers, etc., who do their work on a film set;

- d) models, designers, photographers, etc., who produce their work in any number of places on a photographic shoot.

Artists who work often alone include:

- a) painters, sculptors, printmakers, potters, photographers, graphic artists, designers, etc.;
- b) poets, novelists, freelance journalists, playwrights, etc.;
- c) composers, instrument makers, self-accompanied entertainers, etc.

Cultural workers include:

- a) sound, lighting, camera and broadcast technicians; stage, concert and film crews; costume, prop and set makers; exhibition installers; projectionists and drivers;
- b) administrative office staff, curators, programmers, designers, publicists, security and maintenance staff.

It must be understood that, in the creation of their art, artists can work in both ways. An artist could create a work in solitude, work with interpretive artists in producing the work, and then receive royalties as an individual when it is distributed.

Most artists are represented by professional associations or unions, some of which negotiate voluntary collective agreements with set minimum fees. Most cultural workers are members of unions. There are many artists who lack any representation.

## **THE ECONOMIES OF ART AND CULTURE**

The arts and cultural industries are highly labour intensive. Furthermore, culture is a "green" industry. In 1992, revenues generated by

periodical publishing, film and video production, and sound recordings reached \$5 billion in Canada. Other arts and cultural revenues added more than \$5 billion, a total in excess of \$10 billion. The contribution to the GNP was \$824 million.

In our society, the arts economy is centred around the production of discrete products whether they are books, paintings, films, plays, performances, records or concerts. Artists are hired or paid on a product-by-product basis. Technical and administrative cultural workers are usually full-time employees but the terms of employment and levels of wages vary widely. The market for arts products is dependent on arts patrons, whether they be art collectors, theatre, film and record producers or publishers. Patrons exercise almost absolute control over what gets financed. While public institutions have boards of directors, these boards are often drawn from these same patrons and the institutions operate mostly as a compliment to the market. This often means that experimental, community and, to a large degree, Canadian work receives relatively little support. For these artists, financial support is received primarily through public funding and publicly-funded arts organizations.

It should be mentioned that there are other possible models for an arts economy. Generally speaking, these models would see art defined more as a community-based service rather than as the production of commodities for a market. Unionization of artists can be seen as one step in this direction.

The arts and culture are the fourth largest industries in Canada, yet financial support is concentrated in commercial mass media and the traditional arts infrastructure (museums, theatre buildings and concert halls). While a very few artists manage a decent income, most professional artists earn a living from their art well below the poverty line. Most technical and administrative

cultural workers fare better as they are able to collectively bargain with a single employer.

The following are typical conditions under which professional artists work:

1. They are the lowest paid workforce in Canada. This is largely due to the sporadic nature of employment, and the lack of income opportunities in the arts.
2. Artists lack income security, earning a small amount for a short period of time, and many artists leave the profession for lack of support.
3. Younger and older artists are more economically vulnerable as their incomes are even more limited while the former becomes established in their careers, and the latter often see their careers on the wane.
4. As in many professions, many artists of colour and women artists often find it more difficult to get their careers going.
5. Visual artists, for example, average \$5,000 annually from their art. Most visual artists have a second job, which brings their average annual income up to \$21,000. Actors, for example, make on average \$11,000 from stage work, but may supplement this with further work in film, television, radio, or teaching.
6. Income for many artists working in the not-for-profit sector is derived from:
  - arts grants awarded by various levels of government;
  - public lending rights from institutions, etc.;
  - artists' exhibition fees, royalties, reprographic collectives.

These are governed by various laws and are monitored or administrated by artists' professional associations' fees only.

7. Most artists work an average of 80 hours a week including secondary employment.
8. Some professional associations have provisions for accident and sickness insurance, and pension benefits built into their collective agreements. Other professional associations, particularly those which represent artists who work on their own, are devoid of any benefits for their members, due almost entirely to affordability.
9. Self-employed artists are covered only by limited provisions under the Occupational Health and Safety Act. Further, since WCB premiums are not paid on behalf of self-employed artists, they must apply for voluntary coverage as independent contractors if they want access to benefits. Because of this artists' associations often negotiate alternate accident/medical plans on behalf of their members.
10. Self-employed artists do not generally contribute to CPP or EI. They do not benefit from such plans, nor do they benefit from professional development funded through revenue from such programmes.
11. Artists' associations recommend minimum standards for fees, but compliance is often voluntary. Sales of artworks are covered by commercial law only.
12. For taxation purposes, artists are usually considered to be running their own businesses, but they are often in conflict with tax auditors who do not understand the work-related expenses necessary to run these businesses.

13. Because of the scarcity of resources, artists tend to concentrate in major centres such as Toronto.

As for cultural industries workers, income from work done for the cultural industries, i.e., film, television, sound recording, commercial theatre, book and magazine publishing, tends to be greater than income earned from working in the not-for-profit sector.

#### **Recommendation:**

That the OFL encourage its affiliates to support the establishment of income security and access to standard benefits for all artists. Also, that the trade union movement support in principle benefit programs already established in artists' collective agreements.

#### **CANADIAN CONTENT**

English-Canadian cultures live in the shadow of the United States. In Canada we have strived for a multicultural society, recognizing that strength grows from diversity. Our tolerance and encouragement of various cultures within the whole is a cornerstone of a distinct Canadian philosophy rooted in the fact that our nation was built by many peoples - first by the aboriginal peoples, then the English and the French and the waves of immigrant people from all over the world. This is in distinction to the American "melting pot" which merges all cultures into a homogeneous whole of the entertainment industries, calling all else "folklore".

The largest obstacle to Canadian artistic works being able to compete is the withdrawal of public funding, on which Canadian artists are largely dependent. Without a healthy Canadian not-for-profit sector, the commercial sector will soon lose the Canadian talent necessary to produce Canadian commercial culture.

In theatre, most of the commercial ventures are written and composed by foreign artists. Without public funding, opportunities for writers, composers, and choreographers to develop their talents are limited, if not impossible. Canadian actors, singers, dancers, and directors will increasingly be called upon to perform work which is lacking a Canadian voice, perception or spirit.

In publishing, U.S. magazines are now allowed to run split editions. Eighty % of the periodicals sold in Canada, are foreign, primarily American. Canadian films only get 4% of theatre screen time. U.S. films get 95% of film revenues in Canada. These revenues go south. Sixty % of the books sold are written by non-Canadians and 60% of the television we watch is American.

Federal Canadian content regulations in the traditional electronic media areas must be maintained and expanded into the new computer-driven media areas if Canadian artists are to survive in the international marketplace.

Canadian publishing has seen a dramatic increase in American ownership of major presses. Combined with the diminishing public funds available to small Canadian publishers, there is a serious possibility of the almost complete loss of Canadian ownership in the industry.

In the visual arts (including independent film and video) as well as for composers and choreographers, private support is minimal and is unlikely to increase substantially given the historic record. The withdrawal of public funding will force many artists out of work. Those who do survive will have to look to the "international" marketplace for support, modifying the Canadian aspects of their work in the process.

While publicly-funded cultural institutions feature Canadian art, it is not often their priority. This is

particularly true for contemporary Canadian art (the exceptions are the artist-run centres).

### **Recommendations:**

That the OFL encourage its affiliates to support Canadian majority ownership of Canadian cultural enterprises, to support aboriginal majority ownership of aboriginal cultural enterprises and to support cultural self-determination of specific cultural communities.

That the OFL encourage its affiliates to support the public funding of the arts and culture at a level that maintains a fully active and diverse Canadian and aboriginal cultural presence, that is regionally equitable and proactively supports cultural diversity and self-determination, and that public institutions prominently feature diverse contemporary Canadian and aboriginal artists.

### **STATUS OF THE ARTIST**

Status of the Artist is legislation that would recognize artists as workers and legalize collective bargaining rights. Many trade unionists have a difficult time understanding the need and purpose of special legislation for artists. Special legislation is needed, at root, because artists' creations belong to the artists. Companies do not employ artists or own their creations; instead, they contract their services (e.g., performing, directing, etc.) or contract the rights to a product (e.g., a novel, a photograph, etc.) for a specific period of time or number of uses. Only occasionally are artists' creations bought outright. Essentially, artists work as individuals within a collective industry. Artists produce/perform individual "products/services" that then enter a collective marketplace. The legislation, therefore, must account for the needs of the individual worker as well as their collective rights. The legislation is not intended to privilege artistic work but to acknowledge the work as different in kind. Nor is it intended to create a precedent for other types of

work. Separate legislation is needed so that the different needs of artists do not compromise existing labour legislation for workers in other sectors of the economy.

Artists are one of the last groups to be recognized as workers. Status of the Artist legislation is intended to recognize the different nature of artistic work, and would include:

- a) That artists are independent contractors who most often have multiple engagers.
- b) That, for many artists, the nature of their work and their workplace do not fall within established labour standards and provisions.
- c) That artists need a tribunal such as CAPPRT (Canadian Artists' and Producers' Professional Relations Tribunal) independent of the Canada or provincial Labour Relations Boards that understands the unique working arrangements of artists.

Status of the Artist legislation exists federally and in Quebec. At the moment, only a committee report has been drafted in Ontario.

**Recommendation:**

That the OFL encourage its affiliates to push for Status of the Artist legislation to be passed and implemented in Ontario and, through the CLC, in other provinces.

**COPYRIGHT**

Most self-employed artists, such as writers and visual artists, are copyright holders, and the ability to license the use of their work in exchange for payment is central to their ability to earn a living. With the advent of new technologies and corporate concentration, many large companies are either publishing artists' work on-line without

their permission, or using their monopolistic clout to force artists to sign away their rights.

**Recommendation:**

That the OFL encourage its affiliates to support the principle that self-employed artists have the right to retain copyright to their works, and the right to control and to be paid for secondary uses of their works, particularly electronic uses.

**PROFESSIONAL DEVELOPMENT**

While artists are among the most highly educated workers in Canada, they have little access to training once their initial education is complete.

There are few professional training programmes which are supported by government funding, as compared to programmes for employees. A few professional associations include professional development as a priority, but it is often secondary to other objectives. As a result, artists have to foot the bill for their own professional development. The training offered is usually of a traditional nature, and rarely helps an artist deal with new techniques and technology.

The notable exception to this is the Cultural Human Resources Council, which will receive funding only until 1998. It is quite possible that it may not exist after that date.

**Recommendation:**

That the OFL encourage its affiliates to support the inclusion and maintenance of diverse professional artists in existing and future training and retraining programmes.

**EDUCATION**

While most people spend a lot of time listening to music, watching films, videos and TV, and reading magazines and books, they have little

knowledge of Canadian cultures and what is involved in their production.

1. Many people assume that what they know about U.S. culture applies to Canada.
2. Many people have little knowledge of their own cultural heritage.
3. Many people have lost their ties to culture that is a part of their own communities, including that of the trade union movement.
4. Many people feel alienated by the arts. With the increasing penetration of corporate culture into the lives of most people, there needs to be a process where labour and communities develop a better understanding of the role culture plays in society and in the shaping of our opinions and beliefs. The labour movement needs to establish courses and projects that develop a better understanding of the arts and culture.

Joint projects could be developed that encourage the trade union movement to take part in Canadian cultural events, such as discounted tickets being offered to union members, or publishers' discounts offered through unions.

At the same time, artists need to learn from the labour movement about collective bargaining and action. They also need to be encouraged by labour to develop a more realistic and positive portrayal of workers and working life in their creations.

#### **Recommendations:**

That the OFL encourage its affiliates to establish courses or projects as part of their educational mandate, to teach cultural, arts and heritage literacy, and advocacy. (Note: These could include professional artists as both instructors and as visiting speakers).

That the OFL encourage its affiliates to encourage professional artists and the cultural industries to produce more worker and union-positive work, that reflects the diversity of working people.

That the Ontario Federation of Labour will investigate, and advertise through its affiliates, special member discounts for Canadian artistic events and presentations.

## **ORGANIZING**

Organizing is crucial in the cultural sector, particularly given the massive cutbacks and restructuring in the public and not-for-profit cultural areas.

A majority of the technical and administrative workers in larger public and commercial cultural enterprises are organized in unions such as the CEP, IATSE, OPSEU and CUPE. However, as larger cultural enterprises are being cut back and restructured, there is an increasing workforce of younger workers and former union members who are now forced to work for much lower pay as freelancers or for small production houses that are not organized.

New technology is an important factor in the restructuring of work. The recent IATSE projectionists' strike is a chilling example, but it also opens up new issues and areas for organizing. The CEP just organized Web Networks, the first Internet service provider to be unionized.

There are relatively few unions for professional artists; most artists belong to professional associations or arts service organizations. Some of these have collective agreements that are effective to varying degrees; other organizations provide important professional services. Status of the Artist legislation is crucial to organizing in this area as presently all agreements are voluntary. Given the shifting nature of employment, not only in the cultural industries but in other economic

sectors to freelance and contractual work, it is becoming an important area for organizing. While there are many occupations that need to be organized (e.g., graphic artists and photographers), labour should also encourage the development of existing professional artists' associations and their involvement in the labour movement.

**Recommendations:**

That the OFL encourage its affiliates to organize those areas of the arts and cultural sectors that are not organized, and to encourage the professional artists' associations to attain collective bargaining rights so that they can affiliate to the labour movement, recognizing the special needs and status of those members.

That the OFL encourage its affiliates to recognize the uniqueness of unions in the arts, and continue to boycott non-union shows, and further work with those unions to educate the public in the need to do so.

That preparation for the Third Arts and Labour Symposium include a Roundtable of all professional artists' associations and cultural industry unions to develop better communication, and ways to effect political initiatives.

# SUMMARY

The arts and cultural industries are the fourth largest industry in Ontario. They are also one of the fastest growing sectors of the economy. It is an industry that is highly volatile, experiencing massive restructuring, downsizing, cutbacks, technological change and intense foreign competition. Artists are the lowest paid workforce in the province and do not have adequate access to basic social benefits.

This situation is made worse by the erosion of public support for Canadian culture and the aggressive expansion of corporate cultural enterprises (primarily from the U.S.). This means not only a loss of jobs for Canadian artists and cultural workers but the eventual loss of our unique and diverse Canadian cultures and identities. The cutbacks to the CBC, TVOntario, the Ontario Arts Council and virtually every arts organization in the province, threatens not only our identity as a people but can erode our political and social independence as a country.

The labour movement already includes many workers in the cultural sector. Some are full-time employees; others work on a contractual basis. As self-employed workers, however, artists fall outside standard labour legislation in Ontario and need Status of the Artist legislation to recognize the different nature of their work.

Artists' copyright needs to incorporate the new technologies, and artists and cultural workers need to be included in publicly-funded professional development, training and retraining programs.

With the increasing penetration of corporate culture into the lives of most people, there needs to be a process where labour and communities develop a better understanding of the role culture plays in society and in the shaping of our opinions and beliefs. At the same time, artists need to learn from the labour movement about collective

bargaining and action. They also need to be encouraged by labour to develop a more realistic and positive portrayal of work and working life in their creations.

Organizing is crucial in the cultural sector. As large enterprises are being cut back and restructured, there is an increasing workforce of freelance workers and small production houses that need to be organized. There are several professional artists' associations that need to attain collective bargaining rights so that they can be encouraged to affiliate. There are also many artists who presently have no representation at all.

## Recommendations:

1. That the OFL encourage its affiliates to oppose the cutbacks to all arts and cultural organizations from all levels of government, and that it opposes the privatization of any of these organizations including TVOntario.
2. That the OFL encourage its affiliates to support the establishment of income security and access to standard benefits for all artists. Also, that the trade union movement support, in principle, benefit programs already established in artists' collective agreements.
3. That the OFL encourage its affiliates to support Canadian majority ownership of Canadian cultural enterprises, to support aboriginal majority ownership of aboriginal cultural enterprises and to support cultural self-determination of specific cultural communities.
4. That the OFL encourage its affiliates to support the public funding of the arts and culture at a level that maintains a fully active and diverse Canadian and aboriginal cultural presence, that is regionally equitable

and proactively supports cultural diversity and self-determination, and that public institutions prominently feature diverse contemporary Canadian and aboriginal artists.

5. That the OFL encourage its affiliates to push for Status of the Artist legislation to be passed and implemented in Ontario and, through the CLC, in other provinces.
6. That the OFL encourage its affiliates to support the principle that self-employed artists have the right to retain copyright to their works, and the right to control and to be paid for secondary uses of their works, particularly electronic uses.
7. That the OFL encourage its affiliates to support the inclusion and maintenance of diverse professional artists in existing and future training and retraining programmes.
8. That the OFL encourage its affiliates to establish courses or projects as part of their educational mandate, to teach cultural, arts and heritage literacy, and advocacy. (Note: these could include professional artists as both instructors and as visiting speakers).
9. That the OFL encourage its affiliates to encourage professional artists and the cultural industries to produce more worker and union-positive work, that reflects the diversity of working people.
10. That the OFL will investigate, and advertise through its affiliates, special member discounts for Canadian artistic events and presentations.
11. That the OFL encourage its affiliates to organize those areas of the arts and cultural sectors that are not organized, and to encourage professional artists' associations

to attain collective bargaining rights so that they can affiliate to the labour movement, recognizing the special needs and status of those members.

12. That the OFL encourage its affiliates to recognize the uniqueness of unions in the arts, and continue to boycott non-union shows, and further work with those unions to educate the public in the need to do so.
13. That preparation for the Third Arts and Labour Symposium include a Roundtable of all professional artists' associations and cultural industry unions to develop better communication, and ways to effect political initiatives.

