

Presentation

To The

**Standing Committee on
Social Policy**

On Bill 152 – the Poverty Reduction Act

Queen's Park, Toronto, Ontario

Presented by the
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Injured Workers' Support Group
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We would like to take this opportunity to thank the Honourable Members of this Committee in allowing us to appear before you today. As citizens of Ontario we have a very real interest in the future directions of the Liberal Government and the 2009 Poverty Reduction Strategy.

About our Organization

Our group, The Thunder Bay & District Injured Workers Support Group, was founded in 1984 in response to the then pending legislation, Bill 101. The geographic area that the Thunder Bay & District Injured Workers' Support Group membership resides in is approximately one-quarter of a million square miles.

We are a group of workers (and family members) who have been injured or made sick on the job. We have first hand experience of the WCB/WSIB system and know it needs improvement!

The Thunder Bay & District Injured Workers' Support Group's (TB&DIWSG) mission is to help create Dignity, Respect and Justice for Injured and Disabled Workers in the Workers' Compensation System by assisting and educating workers, injured workers, the general public, our elected representatives and WSIB staff.

The organization has four main goals:

1. Provide information and support to injured workers;
2. Provide analysis of legislation and make recommendations for improvements and reform;
3. Educate each other and the general public; and
4. Lobby government and the WSIB to establish Justice for Injured and Disabled Workers.

The TB&DIWSG is a democratically governed group with a Board of Directors elected at the annual general meeting (AGM). Our members are injured workers, family members and other individuals who support injured workers and their issues.

Initial Thoughts on Bill 152

Overall Bill 152 looks to be a positive step forward. We support the stated intentions, the purpose and the principles. We are concerned though that injured workers may not be included in the Act. We have sought to be included in Minister Mathews' (and the government's) Poverty Reduction Strategy

without any apparent success. Now we fear that we will not benefit from the positive approach taken in Bill 152.

The Act requires government to establish poverty reduction targets. This is good. We ask that the government's agencies, boards and commissions must do the same. Government bodies must also have a means of measuring their performance in this area so we can know if they are meeting their goals.

Along these lines, for many years we have asked the Ministry of Labour and the management of the WSIB - and previously the WCB - to track the outcomes of the people they serve, particularly those injured workers who end up with a permanent, life long disability. As recently as January of this year, we have submitted (resubmitted) a proposal to the Minister of Labour to amend the Memorandum of Understanding between the MOL and WSIB to require tracking outcomes (employment, wage loss and health status) of workers with a permanent disability.

No action is being taken. This again reinforces our concern that injured workers are not included in this legislation or the poverty reduction strategy. We feel like we are invisible. A recent study (2006) done by Street Health in Toronto on Homelessness found the 57% of the homeless people interviewed were hurt at work.

No one bothers to keep track of our loss and suffering and people believe injured workers get "cash for life". This may be a common understanding but not reflected in our experience. We are attaching a survey we did of workers with a permanent disability in Thunder Bay last year. A few of the findings:

- 71% are living under the poverty line
- 42% are receiving welfare (OW or ODSP)
- 18% are receiving WSIB benefits
- 15% are working
- 63% are depressed
- 15% contemplated suicide

Last Thursday I received the following email:

I have been injured since 1997 with two back surgeries , lower. I am going bankrupt soon. severe depression and stress. All related to my back pain. Injury has moved up to my upper back and neck. I can barely do normal everyday activities. I have been in treatment for self medicating my self. ie alcohol and drugs. i have two children five and 7 months old that suffer for me. me and my wife are at each others throat. I would love to tell my whole story to you. please please contact me i don't know what to do. cant take the stress no more

We also believe that the failures of the workers' compensation system end up negatively affecting the bottom line of our provincial and local governments. They are being billed to assist Ontario citizens who become hurt or are made ill at work and end up unemployed, living in poverty and causing pain and suffering in their families and our communities.

Why are we being ignored?

Our Experiences as Injured and Disabled Workers

It is common for people to understand the world through their own experiences. We as injured and disabled workers have a particular experience to share.

We have seen costs to employers for Workers Compensation reduced by over 30% in the last ten years. Ninety percent of these savings have gone to large employers making up only 10% of all employers in the province. That means a savings to these largest employers of over \$500,000,000 in 2008. While at the same time, workers who become injured and disabled are falling further into poverty. Injured Workers have seen their benefits cut by Bill 162 in 1990, by Bill 165 in 1995 and by Bill 99 in 1998.

While benefits for injured and disabled workers were cut, wages for top management at the WCB/WSIB more than doubled so the CEO now makes more than \$400,000 per year and the number of staff earning over \$100,000 is growing rapidly.

It is believed that by knowing one's history, we, as a society, can learn from our achievements and mistakes. We encourage you all to understand our collective history with the Workers' Compensation Act and the agency that delivers it to Ontario's Injured Workers.

The Workers' Compensation System was created in Canada in 1914-15 following an Ontario Royal Commission led by Chief Justice William Meredith. He called it a "Historic Compromise" and laid out the following principles:

- Employers: would not get sued leading to social stability that would be the result;
- Workers: no fault system=no delays; non-adversarial, no harassment; an impartial, independent public board;
- Inquiry system: help the worker, give them the benefit of the doubt;
- Employers to pay (as they are protected from lawsuits): the burden was not to fall on the injured worker, their family, or society in general.
- Payment was to occur for as long as the disability lasts;
- Payment was to be based on the concept of lost wages.

To limit the period during which compensation is to be paid regardless of the duration of the disability . . . is in my opinion, not only inconsistent with the principle upon which a true compensation law is based, but (also) unjust to the injured workman for . . . he will be left without earning power at a time when his need of an income will presumably be greater than (before) he was injured.

Meredith, 1915

. . . it would be the gravest mistake if questions as to the scope of the proposed legislation was to be determined, not by consideration of what is just to the working man, but of what he can be least put off with or if the legislature were to be deterred from passing a law designed to do full justice, owing to

groundless fears that disaster to the industries of the province would follow from the enactment of it.

Meredith, Final Report, 1915

In 1985, Bill 81 was introduced and passed in this provincial Parliament. One of the provisions of this Bill was meant to protect disabled workers from the negative effects that inflation had on their permanent pension. Full indexing of benefits to the Consumer Price Index was supported by all parties and passed into legislation. For the years previous to Bill 81, the Legislature had increased pensions on an annual basis in response to the crying need of these disabled workers falling further into poverty. This had been one of the four main demands of the Injured Worker Movement in Ontario.

Thousands of injured workers had seen their meagre pensions reduced each year because of inflation. Steve Mantis, our past President, recalls one example of this. "In 1978 when I lost my arm, I met another injured worker with the same level of amputation at the Downsview Hospital. He had been hurt 30 years earlier at Massey Ferguson making good wages. When we compared our monthly pension cheques, he was making only 10 % of what I received." This was due to the effects of inflation and the ceiling on insured earnings at the time of his injury.

On June 20, 1988, Greg Sorbara, then Minister of Labour introduced Bill 162 and in his opening remarks stated:

" The Bill(162) will provide fairer compensation for workers who suffer from permanent disability as a result of a work-related injury or illness. It will emphasize the goal of helping injured workers return to the work-force earlier and more successfully. It will oblige employers to reinstate injured workers in their jobs.

It will impose new obligations on the Workers' Compensation Board to provide injured workers with timely access to Vocational Rehabilitation services.

As it now stands, the system of Workers' Compensation in this province is not keeping up with a major purpose for which it was originally established -- to restore the financial position of injured workers as close as possible to that which existed prior to their injury. For too many Injured Workers, the level of pension benefits has been inadequate to cover lost income.

The time has come to ensure fairness in Workers' Compensation. The time has come to provide opportunity for Injured Workers to return to active employment. The time has come to act."

Who could argue with such principles? The immediate reaction was quite positive and hopeful. These were the exact things that Injured Workers have been seeking for years.

Bill 162 was passed and came into effect January 2, 1990, bringing in the "wage loss system" in Ontario. Now 19 years later, the problems still exist. Recent statistics from the WCB show that as of Jan. 1, 2008, 220,141 workers have received recognition for a permanent disability since 1990. Of those

permanently disabled workers, 23,460 receive a Future Economic Loss monthly wage loss payment until they reach the age of 65. That's a little over 10%.

Research in this area is lacking but studies done in Ontario report that between 50% and 78% of the workers who become permanently disabled are unemployed. As you can see, with only a small fraction of disabled workers receiving benefits, the majority of disabled workers in need are not being served by this "new and improved system".

These are the people who have been hurt even worse by the changes to the Workers' Compensation Act that remove the protection against inflation. Amendments to the Compensation Act in 1998 took away the inflation protection passed in 1985 with the introduction of the modified Freidland Formula. Each year, workers with permanent disabilities will receive less and less income, and 50 - 78 % of these men and women are unemployed.

Another effect of the present system is the shifting of costs away from the WCB/WSIB system on to other public programs. Research being done in Ontario is showing considerable costs being billed to OHIP that should be covered by employers' contribution to the Accident Fund. When disabled workers can't access benefits from WCB/WSIB, they may turn to Ontario Works and ODSP, both public programs. We have even heard of Aboriginal Canadians told by WCB to go to Indian Affairs for assistance.

As we understand the Workers Compensation System more fully than the full range of provincial programs and services, we hope that our experience with the WCB/WSIB are useful in your deliberations about the future of Ontario. We ask for your support to create an Ontario we can all be proud of.

Related Issues

Support to community groups

Bill 152 lays out in the principles that people living in poverty need to be involved and consulted; and that the "strategy must recognize the heightened risk among such groups as immigrants, single mothers, people with disabilities, aboriginal peoples and racialized groups."

In order to accomplish this, democratic organizations controlled by these target groups that bring them together to discuss their issues and concerns and represent them in dealings with the government are vitally important. That's if the government wants real involvement and consultation. And as it has been pointed

out in numerous studies, government must support such community groups financially so that they have a viable voice.

In our case, the Harris Tories cancelled the funding for our local group and our provincial umbrella organization, the Ontario Network of Injured Workers' Groups, because we wouldn't keep quiet. Obviously they were not interested in truly involving us in the process.

Paralegal regulation

A couple of years ago, the Ontario government passed Bill 14, an Act to regulate paralegals and gave authority to the Law Society of Upper Canada to develop regulations and enforce the law. This has had unintended consequences. It is now prohibited to provide "legal services" without a license. Legal services has a very broad definition and could include helping a person with poor language skills to understand a letter from a provincial bureaucracy.

Our group has direct experience with this new system. We are encountering many problems as we attempt to help (free of charge) our fellow injured workers find their way through a highly technical and bureaucratic system. If the government truly wants people in poverty to be involved in finding the solutions, this paralegal regulation must be amended.

Research

After many years of asking government officials to look into the poverty of injured workers, we formed a Community - University Research Alliance (CURA) to do just that. In 2005, we formed the Research Action Alliance on the Consequences of Work Injury (RAACWI) and are now actively researching these issues. You can find out more at our website www.consequencesofworkinjury.ca

Recommendations

1. That Bill 152 be amended to include the requirement that the WSIB/WCB be required to fulfill the provisions of the Act.
2. That Bill 152 be amended to require government departments and agencies to do ongoing research to understand the experiences of those living in poverty, documenting their employment, income and health status.

3. That the Ontario government provide core funding to community groups of immigrants, single mothers, people with disabilities, aboriginal peoples and racialized groups to ensure their voice is heard.
4. That the Ontario government amend Bill 14 - the paralegal regulation - to allow non-profit community groups to provide free assistance to their members with their dealing with government agencies.

We are attaching the following appendices for further information.

- A. Poverty in Motion - The Rippling Effects - February 2008
- B. Short Summary of research findings on Workers Compensation and Return to Work (RTW) in Ontario
- C. Websites for more information:
 - www.consequencesofworkinjury.ca
 - www.injuredworkersonline.org