



JUSTICE FOR WORKERS MEANS

RACIAL JUSTICE

2022 PRIMER

WHY DECENT WORK IS ESSENTIAL FOR RACIAL JUSTICE

Let's be blunt: racism in the labour market means Indigenous, Black, migrant and other workers of colour are forced into the worst jobs, with the least protections, lowest wages, and highest precarity.

Racism determines how you get hired, whether you can speak up and what happens when you do.

That's what we knew before the COVID-19 pandemic hit.

When COVID hit, essential workers kept the economy going: from growing food, to transporting, delivering, stocking and preparing it; from caring for people at home and in hospitals to cleaning our buildings and public spaces; from looking after kids at home to educating them in the classrooms (virtual and real). Black, migrant, Indigenous, and workers of colour - disproportionately women - bear the burdens of frontline work.

This reality explains why, just one year into the pandemic, Toronto's Chief Medical Officer of Health Dr. Eileen de Villa sounded the alarm that 80% of COVID infections were racialized persons. Dr. de Villa noted racialized communities are more likely to work on the frontlines, putting them at more risk of getting infected:

Many workers and lower wage frontline jobs do not get paid if they call in sick. This is a significant barrier to our pandemic management efforts and reinforces the need for effective income supports for working people suffering from COVID-19, in particular paid sick days.¹

The COVID-19 pandemic exposed what many of us know from our own lived experience: low wages, unsafe work, part-time hours, no benefits or paid sick days, not being able to speak out for fear of losing work or getting deported is harmful and life threatening. But COVID has made it even more deadly.

That's why the decent work agenda is not only urgent and essential -- it is fundamentally a matter of racial and gender justice. It has never been more urgent to ensure that every single one of us has decent work and wages and dignity on the job. None of us are safe unless all of us are safe.



¹ Wilson, Kerrisa. "Nearly 80% of COVID-19 Cases in Toronto Were among Racialized Groups in November." CTV News, 21 Jan. 2021, <<https://toronto.ctvnews.ca/nearly-80-of-covid-19-cases-in-toronto-were-among-racialized-groups-in-november-1.5276918>>. Accessed 24 Feb. 2022.

DECENT WAGES

The racial and gendered wage divide is one of the most persistent features of the labour market. We can see it from the statistics: men of colour earned just 76 cents for every dollar earned by white men. Racialized women earned just 58 cents for every dollar earned by white men.² That's why we need to raise the floor of wages by raising the minimum wage to at least \$20 per hour and index it to keep up with rising prices.

We must also end sub-minimum wage rates and remove all exemptions from the general minimum wage for students and farmworkers. Today, farmworkers are excluded from minimum wage rules and often earn far less, harming Black, Latinx and other racialized workers who are drawn into this work, often by virtue of their more precarious status.

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² Sheila Block and Grace-Edward Galabuzi, Persistent Inequality: Ontario's Colour-coded Labour Market, Canadian Centre for Policy Alternatives. December 2018

EQUAL PAY FOR EQUAL WORK

Black, recent immigrants and other workers of colour are more likely to be in involuntary part-time, temporary and contract employment. At the same time, women workers are often compelled to choose part-time employment because they continue to shoulder the majority of family caring responsibilities for children, elderly parents, and other loved-ones. For women of colour facing discrimination in the labour market, this means getting the worst of the part-time jobs, through temp agencies, gig work, and other unstable casual contracts.

These jobs have lower wages, fewer benefits and are least likely to be unionised. The evidence shows that in 2021, part-time workers earned a median hourly wage of \$17, while their full-time counterparts earned \$26.³ This puts women and workers of colour at a permanent, structural disadvantage in every aspect of their lives.

At present, there is no legal requirement for employers to pay part time, temporary and contract workers the same rates as their full-time, directly-hired coworkers doing the same job. Perversely, this creates a financial incentive for employers to create bad jobs – afterall, why hire one full-time worker when you can get two for so much less?

This is how our employment laws structure – and perpetuate – the gendered and racialized pay gap that runs right through the entire labour market, regardless of education.

³ Statistics Canada, Employee Wages by Occupation, Table: 14-10-0340-01, January 7, 2022

We can change things – but only if we organize

By organizing together, we briefly won legislation that made it illegal for employers to pay temp-agency, contract, or part-time workers less than their directly-hired or full-time coworkers. The positive impact was dramatic.

In the college sector, part-time faculty, who were more likely to be educators of colour and women, began to see their wages improve relative to full-timers. Because it was no longer cheaper for employers to use temp agency workers, thousands of temp agency workers - racialized and newcomers - began to be hired directly and permanently. This even had the effect of increasing access to unions since so many temp agency workers and part-timers are excluded from union contracts.

Unfortunately, after winning the election, the Conservative government of Doug Ford moved quickly to repeal the equal pay for equal work protections we won. So although some progress was made, many contract educators still lag behind. And sadly, many other employers have gone back to their old practices of using temp

agency workers as cheap and disposable labour because Premier Ford and his cabinet gave them the green light to do so.

Reinstating equal pay for equal work is fundamental to racial and gender justice.

Equal pay protections are key steps addressing the gaps in legislation that enable discrimination in pay among workers – particularly for women, indigenous, and racialized and undocumented / non-status workers.

Crucially, to make equal pay for equal work effective, we must also have pay transparency in our workplaces. This means forcing employers to make the pay scale public for every job. Pay secrecy enables employers to flout human rights and equity laws.

Equal pay for equal work regardless of form of work, the nature of our employment contract, or gender, race and immigration status, coupled with pay transparency requirements, will provide workers with a more accessible way to address racism and sexism in the workplace



PAID SICK DAYS

During COVID-19, we were all told to “stay home if you’re sick.” But 58% of workers in Canada do not have paid sick days. That proportion rises to a staggering 70% for workers earning less than \$25,000.

As a result, workplaces with low-wage, precarious jobs became hotspots for COVID-19, including long-term care homes, farms, meat-processing plants, nail salons, and grocery stores. These are workplaces disproportionately staffed by workers of colour and in the case of care homes and nail salons, women of colour.

The lack of sick leave legislation denies paid sick days to those workers who need them most. During Toronto’s largest surge of infection rates, the City of Toronto’s own data research found: “Black people and other people of colour made up 83 per cent of reported COVID-19 cases.”

Without paid sick days, many of us are forced to go to work sick. This leads to worse health outcomes and a deepening wealth equity gap. As a result of these structural factors that shape our ability to rest and heal, as well as our access to medicine, decent housing, and transportation - racialized people living on low incomes are at much higher risk of acute and chronic illness.

When workers are simply too ill to keep working – as we have seen on a mass scale with the Omicron variant – these lost wages can amount to hundreds of dollars annually and thousands of dollars of lost income over time. This is an important factor that helps explain the lower incomes experienced by people of colour generally

and the persistent, structural wealth gap between white people and persons of colour over time. These are the consequences of institutionalised racism.

Women - and women of colour in particular - are more typically responsible for child and elder care, and when women must take unpaid time off work to care for children who are sick and or accompany an ageing parent with a medical appointment, they lose pay. Not only does this erode women’s wages in the short term it contributes to the cumulative wealth equity gap. The absence of legislated paid sick days means that women of colour and women in general are more likely to be fired for missing work due to a family emergency.

For all these reasons, legislating adequate, employer-paid sick days is absolutely crucial to any serious agenda for racial and gender justice.

That’s why we fight so hard for legislation that provides at least 10 permanent, employer-paid sick days every year, plus an additional 14 paid days during public health outbreaks like COVID or SARS. We also insist on laws that prevent employers from demanding doctors’ notes when we should be home getting well (and not spreading illness to others).



UNJUST DISMISSALS - FIGHTING FOR A **FAIR** PROCESS

At present, it is legal for employers to fire workers without warning or a reason. Employers are able to fire us for almost any reason or no reason at all. In the context of a labour market rife with systemic racism, Black, Indigenous, and other persons of colour are at far greater risk of unfair termination and discipline than their white co-workers. Indigenous, Black, and other workers of colour know that discrimination may be the reason for demotions, firings, losing hours or being forced out of our job altogether due to a sudden loss of hours that makes the job untenable.

The same is true for other workers who face systemic discrimination, such as workers with disabilities; LGBTQ2S+ workers; Muslim, Sikh, or other workers of faith. But we can all be at risk of unfair firing at any time. Without protection from unjust dismissal, we have less power in the workplace to speak out against unfairness or unsafe working conditions. And the ease at which employers can fire us also makes it harder to form unions in our workplace.

The narrow definition of what qualifies as racial discrimination in human rights processes is inadequate to address the racist terminations in Ontario. Protection from unjust dismissal under the Employment Standards Act will give all workers a more accessible way to fight racial discrimination in our workplaces. This protection,

also known as “just-cause protection,” will make it easier for all of us to speak up about workplace problems without fear of retaliation.

Ontario’s meagre anti-reprisal rules are not up to the task. Workers who are punished after trying to enforce the law have a hard time getting evidence to support their reprisal claim and the majority of such claims fail. This creates a chill in the workplace. Furthermore, unfair and racist firings that are difficult to prove also make it harder for us to access Employment Insurance, since the rules say we are disqualified from benefits if we are fired or we quit. Workers can and do appeal these rules, but the additional hurdles create more barriers for workers facing discrimination to get their entitlements under the law.

Making it easier for people of colour to speak up in our workplaces makes us all safer.

Winning “just-cause” protection will push employers to provide good reasons before terminating workers. Employers would have to give us advance notice of performance problems and a good chance to address them. And, when we are fired, such protections would give us a right to reinstatement (or alternatively, to termination and severance pay and damages) if there isn’t a good reason for dismissal.





ALL WORKERS DESERVE BASIC LABOUR PROTECTION UNDER THE LAW: STOP MISCLASSIFICATION

Platform-based gig work for companies like Uber and Lyft is highly racialized. Lower tips, worse ratings and a higher likelihood of harassment are all part of the job for Black, Indigenous or people of colour in the sector.

Companies like Uber that use platform-based work wrongly classify their employees as “self employed” or “independent contractors.” This practice cheats workers out of decent wages, overtime pay, paid leave, Employment Insurance benefits, the Canada Pension Plan, and all other employment protections. Workers are charged illegal fees and are forced to pay for all types of

business expenses, and take on risks that regular employees would not have to deal with. But this practice of “misclassification” reaches into many other sectors such as trucking, cleaning, construction, and nail salons where we find a majority of workers of colour occupying those precarious jobs. That’s why we fight to end the widespread employer practice of misclassifying workers and ensure all of us are protected by our labour laws. Winning this important reform will make a huge difference for those of us who are racialized and migrant workers and consequently far more likely to be misclassified.

REAL PROTECTIONS FOR TEMP AGENCY WORKERS



Temp agency workers earn 40% less than directly-hired employees. Recent immigrants and racialized workers are more likely to get streamed into temp agency jobs because of structural racism in the labour market.

Many newcomers are denied permanent jobs as a consequence of discriminatory employment criteria, such as by failing to recognize international qualifications, or by insisting on "Canadian experience."

And very often, the only way for newcomers to get their so-called "Canadian experience" is to work through temporary employment agencies, where they earn lower wages and have no benefits or job protection.

In 2018, Ontario briefly had protection in our labour laws that prevented companies from both hiring temp agency workers directly and paying them less than regularly hired workers if they were doing the same work.

In one warehouse with a history of using hundreds of temp agency workers as perma-temps, the company responded to the equal pay requirement by directly hiring 700 temp agency workers. Not only did this result in workers getting permanent jobs with the company, they also became union members.

Reinstating equal pay for equal work would have an immediate positive impact on workers and would increase union density as well.

That's why we fight for equal pay for temp agency workers to ensure they are hired at the same rate of pay as their directly-hired co-workers. We must also end the practice of using temp agency workers as a permanent feature of the workforce. Workers should be hired directly by the client company after three months and this must be accompanied by just cause protection so they cannot be fired prior to the three-month deadline.

Temp agency workers are tasked with the most dangerous work. In Ontario, temp agency workers are twice as likely to get hurt on the job, compared to directly-hired employees. This is due to an ongoing loophole that shields companies from the cost of injuries suffered by the temp agency workers they hire. When workers are hired directly, the employer is obligated to the worker through

the terms outlined under the Workers' Safety and Insurance Act, including WSIB benefits, return to work protocols, accommodations. Most companies are expected to pay WSIB premiums and when there are injuries and deaths in the workplace, those premiums increase. By contrast, when there are low or no injuries, companies receive rebates. This creates a perverse financial incentive to hide workplace injuries and to discourage workers from reporting.

However, when companies use temp agency workers, the official employer of those workers is the temp agency itself, not the temp agency's client company. Consequently, the company is not fully responsible for workplace injuries or deaths. And the WSIB premiums that would normally increase in the event of a workplace injury or death are passed on to the temp agency, which can easily close and reopen under another name to avoid their obligations to the worker and the WSIB.

As a result, companies deliberately give temp agency workers the most dangerous jobs and scrimp on their health and safety training. It is no accident that temp agency workers - a highly racialized workforce - have some of the highest rates of injuries and deaths on the job.

At Fiera Foods* five temp agency workers have been killed at work since 1999 and the most recent two deaths occurred under Premier Doug Ford. Despite this horrendous record, Fiera Foods has received multiple rebates from the WSIB for their "low-injury" rates.

*Fiera Foods is an industrial bakery in Toronto



That's why we must fight to ensure that both the temp agency and the client company are financially responsible for workplace injuries and deaths. And in fact, we fought for and won legislation in 2017 that would do just that. Unfortunately, although the legislation was adopted and given royal assent, it was not enacted by the government of the day and when Doug Ford and the Conservatives won the last election, they too refused to enact this legislation.

As noted earlier, Black, racialized and migrant workers are overrepresented among the temp agency workforce because of racism and discrimination in the labour market. They experience job insecurity, low wages, and fewer benefits. That's why this decent work provision is so crucial to the fight for racial justice.

MIGRANT WORKERS AND STATUS FOR ALL

Hundreds of thousands of migrants live and work in Ontario without permanent resident status. During COVID, migrant workers were on the frontlines growing and distributing our food, working in hospitals and providing personal care and support to people in their homes. The pandemic has exposed the extreme precarity of migrant workers, who not only face low pay and dangerous working conditions, but also the permanent threat of deportation for speaking out.

Migrant workers who work on closed work permits are only allowed to work for the single employer listed on the permit. To leave racist, abusive, or unsafe work environment, migrants have only 90 days to find a new employer who must also be willing to pay a \$1,000 processing fee and file the required paperwork. This is almost impossible.

Migrants on study permits or other work permits have restrictions where and for how many hours they can work. Often the hours do not provide enough income to survive. As a result, migrant workers face extreme exploitation on the job and deportation for minor infractions of the rules, such as working over the allowable number of hours.

Migrants on time-limited permits can work from a few weeks to four years, and during this time families are not allowed to join them or even visit.

Compounding all of this is the fact that when migrants speak out about bad or dangerous working conditions, we not only face reprisals at work, we can also face deportation.

Migrants work in some of the most dangerous and difficult jobs in Ontario yet some of the lowest wages and protections. It's no accident that many of the sectors that are primarily made up of migrant workers are exempted from the Employment Standards Act (ESA). As a result, many migrant workers are denied basic protections under the law, such as minimum wages, hours of work and more.

Precarious immigration status means that many migrant workers do not have full access to Employment Insurance, pensions, healthcare, social assistance, education, or WSIB, despite the fact that migrant workers pay their full share of premiums and taxes.



Farmworkers, for example, are exempted from many provisions of the Employment Standards Act, which explains why LatinX, Black and other racialized migrant farmworkers comprise the vast majority of all farm workers. Farm workers do not have ESA protections such as minimum wage, overtime pay, meal breaks, or even bathroom breaks. Dangerous, crowded working and living conditions on farms explains why farms have been the site of multiple COVID outbreaks where hundreds of workers got sick and many died.

By law, agricultural workers and caregivers are explicitly prevented from forming unions and are not allowed to bargain collectively. When a group of workers is exempted from accessing basic employment standards, other employers want similar exemptions. As this fact sheet is being published, Uber and other app-based corporations are working with Conservative Premier Doug Ford to create a new category of gig worker that will be permanently exempted from ESA protections. It's no coincidence that many migrant and undocumented workers are gig workers who are employed by app-based companies. This is a vivid example of how an injury to one becomes an injury to all.

The pandemic has shown us how critical migrant work is to our society. There has been a 700% increase in temporary work permits since the year 2000 with the majority working class migrants from the Global South. Unfortunately, racist and discriminatory immigration rules have pushed too many people out of status. As a result, there are over 1.6 million migrants with precarious or no immigration status in Canada. When immigration status is temporary or precarious, employers have more power over us than they would if we all had full immigration status and citizenship.

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NO ECONOMIC JUSTICE WITHOUT RACIAL, GENDER, AND DISABILITY JUSTICE

As we have shown, Black workers, Indigenous workers, migrants, newcomers and workers of colour have been systematically excluded from basic but essential protections that threaten their livelihoods, families and communities. This is just as true for women and workers with disabilities. All this must change if we are to tackle the gross inequities and structural racism that are imposed by corporations, poverty wages and unjust labour laws.

Fighting to improve labour and employment law requires a united fight that centres racial, gender

and disability justice as key to winning decent work for all of us. Our movement for justice cannot win unless every one of us can fully and freely participate in our movement. Without this, our movement will be deprived of the knowledge, leadership, and wisdom we urgently need.

Leaving no one behind is not just a slogan - it's the only way we can win.

