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Alberta Bill 47, the *Ensuring Safety and Red Tape Reduction Act 2020*

No to Legalizing the Denial of Workers' Rights!



November 3, 2020. Spruce Grove picket against UPC cuts (Epyke)

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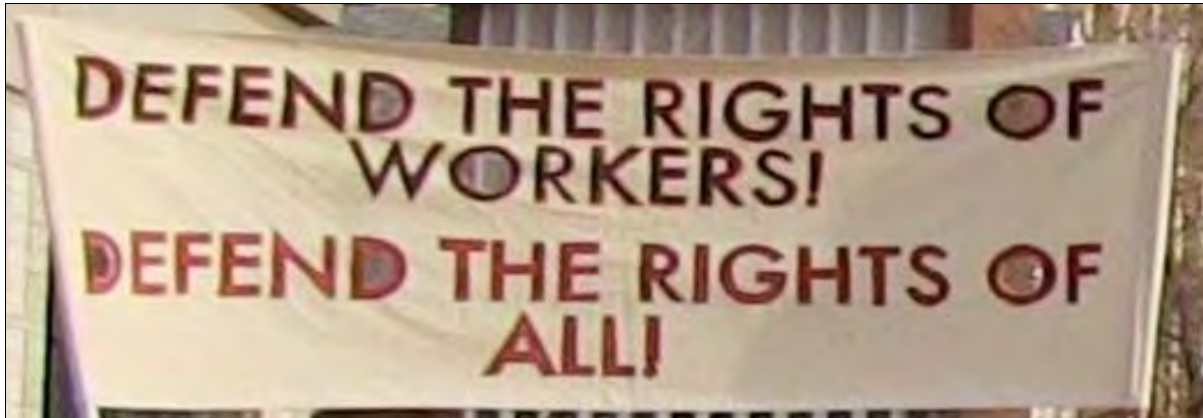
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Alberta Bill 47, the *Ensuring Safety and Red Tape Reduction Act 2020*

No to Legalizing the Denial of Workers' Rights!



"Reducing red tape" and "defending workers' rights" have been the mantra of the neo-liberal forces since the early nineties when they started restructuring state arrangements to step up schemes to pay the rich. The neo-liberal arrangements have been systematically smashing arrangements established in the 20th century which, to a limited extent, recognized workers' collective rights in exchange for labour peace. Any collective right is seen as interfering with the interests of big business to do what they please when they please and now that private interests are directly controlling the state power, they rule with impunity. Everyone knows it and working people *en masse* categorically condemn the arrogance of a government such as the United Conservative Party (UCP) government which does it because it can. How to hold governments to account for their actions has, indeed, become the matter of greatest concern.

The changes the government of Alberta is making to the *Workers' Compensation Act* in Bill 47 are based on the outlook that workers are disposable, and that "business decisions," not the rights of workers, should prevail. The sole aim is to reduce employer premiums and obligations through denying claims, reducing compensation, introducing arbitrary measures to terminate benefits, and making it harder for workers to make claims and appeal unjust decisions.

The government does not even try to hide the fact that the Workers' Compensation Board Board of Governors (WCB - BoG) is a rubber stamp and that it uses dictate to control all "independent" boards and agencies and does so quite openly. The fact sheet issued by the government states that Bill 47 will cut benefits to injured workers by about \$112 million a year plus a further \$240 million through reductions in cost of living adjustment (COLA). The estimated cuts include "savings" from decisions which are the responsibility of the WCB BoG which is said to represent the interests of "workers, employers and the public."

Employer premiums reflect the rate and severity of workplace accidents, and also the degree to which injured workers receive the compensation that is their right in return for an agreement whereby they will not sue their employer. It is the responsibility of any government worthy of the name to uphold the rights of workers to healthy and safe workplaces, and to hold employers accountable. Safe workplaces require the active participation of the workers in decision-making in all aspects of their health and safety in the workplace. But the government is blocking workers from participating in decision-making, depriving workers of compensation when they are injured, and providing employers with premium reductions as one of its pay-the-rich schemes.

This attack comes at a time when 28,000 workers across Canada have filed WCB claims after

getting COVID-19 at work, a number which likely represents only a small fraction of those infected. Furthermore, workers are actively fighting to control the COVID-19 pandemic by demanding safety conditions at their places of work which will control the spread of the disease and protect their own working conditions. To legislate their working conditions based on the most anti-human criteria and refuse to compensate them when they are exhausted or injured or have their family lives turned upside is a totally anti-democratic measure. It is unacceptable to humankind in the 21st century. It shows that the main problem facing the workers' movement in Alberta, as is the case across the country, is what to do when a government such as the UCP government denies what belongs to them by right. Doing so in the midst of the pandemic is all the more heinous. It will seriously aggravate the conditions of impoverishment and suffering into which they have been thrown, increasing the heavy burden of the anti-social offensive on everyone's back.

Prior to introducing Bill 47, the UCP government carried out a phony consultation from July 9 to August 14.[1] The report of the consultation was issued on November 5, the same day that Bill 47 was given first reading in the legislature. The report stated, "Government priorities and input from red tape reduction submissions and workers' compensation system agencies informed a written submission guide." Notably absent is any mention of the right to compensation, or the principles upon which the workers compensation system is based.



The report states that 85 responses were received, including 32 from "invited stakeholders" who were mainly employers, 49 from "other interested Albertans," reported as overwhelmingly representing employers, and four submissions expressing support for another submission. This contrasts with the broad participation in the WCB Review Panel which began in 2016 and issued its report in 2017, acknowledging the "culture of denial" at WCB and the need for substantive change.[2]

The report states that "Stakeholders were most interested in four topics: the maximum insurable earnings cap, the employer obligation to reinstate, presumptive coverage for psychological injuries, and accident fund surpluses", and notes the responses of employers and workers. On each of these four topics, Bill 47 carries out the demands of employers, as well as on other demands.[3]

This issue of *Workers' Forum* reports on Bill 47. *Workers' Forum* congratulates the Alberta working class for resolutely defending the rights of all in the battles it is waging. Their fights reveal above all else that when the aim of defending the rights of all is taken up, the ways and means can and will be found to fulfil that aim.

Notes

1. See "[Alberta Government Intensifies Attacks on Workers' Rights: Join Mobilizations Which Defend the Rights of All!](#)" and "[Fraudulent Review of Workers' Compensation](#)," *Workers' Forum*, August 20, 2020.
2. See "[Justice for Injured Workers: Compensation Is a Right! and Response to Alberta Workers' Compensation Board Review Panel Recommendations](#)," *Workers' Forum*, October 19, 2017.
3. See "[Alberta Government, Workers' Compensation Board \(WCB\) Review, What We Heard](#)," 2017.



Changes to the *Workers' Compensation Act*

BILL 47: INSULT TO INJURY

Kenney and the UCP are now coming after injured Albertans and worker safety. Just SOME of the WCB/OHS changes:

- limiting workers' right to refuse unsafe work
- capping the amount an injured worker can receive
- ending presumptive PTSD coverage for most workers
- closing the Fair Practices Office - where injured workers get the help they need.

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Benefit Cuts

The Workers' Compensation Board (WCB) can establish an earnings cap above which the WCB would not pay benefits. It can decide the level of compensation (now and historically 90 per cent of earnings), and the amount of the cost of living allowance (COLA), if any. COLA is now set at the Alberta inflation rate. The government's fact sheet estimates these changes will reduce payments to workers by about \$112 million a year plus depriving workers of about \$240 millions through COLA reductions. The WCB Board of Governors (BoG), which is said to represent workers, employers and the public, is responsible for setting the COLA and level of compensation. The UCP is confident that the BoG will make whatever changes the government dictates. The UCP makes no bones about the fact that it is dictating what supposedly "independent" boards and authorities can do.

Reduction of COLA will be most harmful to workers with permanent disabilities, who will be left with declining incomes and increasing poverty.

Obligation to Reinstate Workers

The Act no longer requires employers to reinstate workers who are ready to return to work. Workers not reinstated must file a complaint with the Alberta Human Rights Commission that the employer has violated the duty to accommodate, a process which can take years.

Continuation of Health Benefits

Employers are no longer required to continue health, dental and other benefits to workers on WCB. Benefits are part of a worker's earnings, and this violates the basic principle of WCB. WCB only covers the cost of health benefits related to the injury, and only for the injured worker but not their family, who will be left without health benefits.

Presumptive Coverage for Psychological Injuries

Bill 47 eliminates presumptive coverage for psychological injuries for almost all workers with the exception of first responders, defined as firefighters, paramedics, peace officers, police officers, correctional officers and emergency dispatchers. Not even emergency room nurses and workers in long-term care and COVID-19 wards will be covered. Workers other than those designated as first responders would have to prove that their psychological condition was related to their job.

Since the UCP appointed a new BoG to the WCB, a traumatic experience at work has been narrowly defined as: "Specific, sudden, frightening or shocking; and/or an actual or threatened death or serious injury to oneself or other, or threat to one's physical being." The UCP estimates that withdrawing presumptive coverage will reduce claims by \$70 million a year.

Ability to Reduce or Suspend Compensation

The Act introduces a "duty to cooperate" for workers. Compensation can be suspended or reduced if workers fail to cooperate and or be available for vocational or rehabilitation programs. Cooperation and availability are not defined. Workers can also be cut off if they are fired for "egregious conduct" which is also not defined. One can only imagine the arbitrary power this gives both the WCB and employers to deprive workers of what is theirs by right.

Abolishing the Fair Practices Office and Changes to Appeals

The Fair Practices Office is abolished and the WCB will now review its own practices for fairness, putting the fox in charge of the henhouse. Workers are left on their own to figure out how to navigate the WCB system and get their claim accepted. The minimal assistance provided to workers for appeals now reverts to the Appeals Commission. Workers will now have one year to file an appeal, not two.

Benefit of the Doubt

The Act will no longer state that if a difference in medical opinion exists and the evidence is approximately equal, the decision will be resolved in favour of the worker.

Limiting Participation and Reviews

The Occupational Disease and Injury Advisory Committee has been eliminated. This committee included medical experts, and at least one member nominated by a worker(s) organization. Its purpose is to update medical knowledge of workplace diseases, include new medical knowledge, in legislation. Legislative reviews of WCB legislation are now required only every 10 years.

"Surplus" Funds

The UCP also appears to be instructing the WCB to review the funding policies around the "surplus" funds in the Accident fund, likely intended to mandate return of "surpluses" to employers. The WCB Review Panel recommended ending the practice of distributing "surplus" money from the Accident Fund to employers, and was incorporated in the Act in 2018.

(Photo: AFL)



Nova Scotia Federation of Labour Condemns Bill 47

The Nova Scotia Federation of Labour issued a statement on November 27 entitled *NSFL condemns Alberta legislation which puts profit ahead of worker safety*. The full statement is reproduced below:

NSFL President Danny Cavanagh wrote Premier Jason Kenney this week.

When your United Conservative Party (UCP) government recently tabled Bill 47, the so-called Ensuring Safety and Cutting Red Tape, it was very clear this new legislation will lead to more workers getting hurt or killed on the job, and if they do get hurt they will have less access to the support they'll need as injured workers.

This bill is not about red tape reduction, it is really just another example of the UCP putting employer profits ahead of workers' health and safety. This new legislation is another attack on Alberta workers, which will put them at risk in more unsafe workplaces and mean less compensation for those workers hurt or killed on the job.

We are very concerned about amendments to the *Workers Compensation Act*, especially the removal of the legal requirement of employers to reinstate an injured worker and capping the amount an injured worker can receive, ending presumptive coverage for psychological injuries for most workers, and closing down the Fair Practices Office; the only place for most injured workers to receive support with navigating the system.

We also do not understand your approach of replacing the current *Occupational Health and Safety Act*, instead of simply amending it. However, it's clear that the most concerning proposed change is the limiting of a worker's right to refuse unsafe work; which is a crucial lifesaving right, especially true during the COVID-19 pandemic.

The right to refuse has been crucial for workers to ensure a safe workplace during the ongoing COVID-19 pandemic. Attacking a worker's right to refuse unsafe work during the ongoing pandemic is dangerous.



With the tabling of Bill 47, it is clear that you are not on the side of working Albertans. We urge you to rescind this Bill and get behind the workers of your province instead of working against them.

(Photo: Unifor)



Demand for Urgent Action in Alberta to Curb COVID-19
Alberta Federation of Labour Resolution



October 23, 2020. Rally in Red Deer to oppose Kenney government cuts. (AUPE)

The Alberta Federation of Labour (AFL) Executive Council unanimously adopted a resolution on November 19 which sets out a concrete set of actions needed to stop the spread of COVID-19 and support Albertans through the second wave of the pandemic, and calls on the government to implement these measures immediately. The resolution also demands that the government stop its attacks on doctors and health care workers, stop its privatization schemes, and stop actions to undermine the health and safety of Alberta workers.

The resolution calls on the government to immediately:

- Enact a "circuit-breaker" lockdown to break the chains of transmission and slow the spread of the virus, as recommended by hundreds of doctors, health care policy experts and Alberta's largest health care unions.
- Enact a province-wide mask mandate for all indoor public spaces, including all workplaces.
- Re-institute a single-site policy in long-term care facilities (the policy was never really made functional in the first wave, the AFL resolution notes).
- Introduce mandatory paid sick leave so people can actually afford to stay home when they're sick or when they need to isolate.
- Provide provincial income and financial support for Albertans who lose their jobs as a result of a lockdown -- including a provincially-mandated moratorium on evictions and foreclosures.
- Adopt the federal exposure notification app.
- Dramatically increase funding for schools -- so we can hire more staff to cover when other staff are isolating and to shrink class sizes to promote physical distancing.
- Formally recognize the new science on aerosol transmission of COVID-19.
- Invest significant and adequate amounts of provincial money in proper ventilation in schools, health care facilities and workplaces, so we can heed the new scientific evidence on aerosol transmission of COVID-19.

- Update PPE guidance for all workers, especially those in the health care sector, to accord with the new scientific consensus on the aerosol transmission of COVID-19.
- Formally embrace the precautionary principle and acknowledge that it should guide all COVID-19-related health and safety decisions in Alberta workplaces.
- Release full information about outbreaks in private sector workplaces (this was promised in April but has never been acted upon fully, the AFL notes)
- Proactively inspect Alberta workplaces and levy fines on employers who are putting their workers at risk by not following public health guidelines.
- Adopt a zero-COVID, "crush and contain" strategy, similar to the ones adopted by the jurisdictions around the world that have been most successful at dealing with COVID-19 — like New Zealand, Australia and Taiwan (and also the provinces of the "Atlantic Bubble" here in Canada).
- Develop a provincial vaccination plan so that we can move quickly to distribute vaccines when they become available and overcome dangerous misinformation campaigns.

The government must also:

- Stop driving doctors out of the province during a pandemic;
- Stop plans to lay off 11,000 health care workers during a pandemic;
- Stop underfunding our health care and education systems;
- Stop plans to privatize Alberta's public testing and lab facilities, which continue to be such an important part of our pandemic response;
- Stop legislation (Bill 47) aimed at stripping Albertans of their right to refuse dangerous work. This right is always important, but it's shocking that the government is trying to eliminate it during a pandemic and when it is abundantly clear that not all employers are following public health directives, the resolution states.



Quebec Health Workers Oppose Ministerial Decrees

The Profound, Objective Need for New Arrangements

- Pierre Soublière -

For the past few weeks in Quebec, in particular in the face of the second wave of the pandemic and the refusal of the Quebec government to mobilize the people to overcome the problems, the gap between the authority and legitimacy of the government and the conditions created by the modern productive forces of a highly socialized economy is widening.

In the forefront are the health care workers who are more and more expressing their discontent and who keep putting forward the solutions which will allow them to ensure their own protection and security as well as that of patients and residents in their care. The inescapable priority, that of

improving working conditions, is being heard far and wide. These improvements are not vague ideas but are put forward as very precise, concrete measures in terms of staff/patient ratio, stable work schedules, etc. Along with these measures, there is a growing general preoccupation with regards to the fate of our elders, and one of the questions which arises is why it is left up to private interests, whose sole motive is profit, to care for our loved ones. There is also a consensus to the effect that the capacity of the health system to curb the coronavirus has been undermined by decades of cutbacks, contracting out, privatization and anti-social reforms which have rendered the health care system more and more inaccessible, and certainly not sound enough to overcome crises such as the present pandemic.



November 6, 2020. Protest at Gatineau Hospital against ministerial decrees.

Faced with these proposals from the workers but also from various sectors of the population, the response of the Legault government, besides its usual initial show of supposed "empathy," is to continue with business as usual, following its own agenda by imposing ministerial decrees and issuing threats. These ministerial decrees in health care have made the situation worse, as they have allowed employers to continue worsening employees' working conditions, with dangerous consequences for the latter as well as for the people in their care. In certain homes for the elderly, where there have been new outbreaks with the second wave, one employer stated that one of the measures it had taken was to hire security guards to make rounds to make sure everyone is "respecting the directives!"

When the Quebec government announced it would once again close gyms, restaurants and cinemas, a number of owners raised that when they had reopened in the wake of the first wave, they had complied with the guidelines of public health authorities, and that to close once again would surely lead them to bankruptcy. The Legault government, which, along with its predecessors, always claim to be the greatest allies of small and medium-sized enterprises, refused to listen. One association representing over 200 gyms in Quebec waged a campaign to explain how their services actually contribute to the physical and mental well-being of the population, and how, with the proper measures taken, gyms have not been a source of outbreaks. When the spokespersons suggested that they would perhaps defy government orders and stay open, the Legault government threatened to impose stiff fines on whoever would show up at these gyms.

An association of 700 doctors, called the Quebec Coalition for the Decentralization of the Health System, has stated that it was held back by local administrations in their efforts to "adopt concrete measures and solutions to curb the pandemic in healthcare institutions." It raises that autonomy of personnel on the ground is even more essential during this second wave, as the system must treat not only patients with COVID-19 but also those suffering from cancer or heart attacks, and this in the

midst of serious staff shortages. The first attempts of the association to speak with the government were in June, and the Legault government continues to rebuff its attempts to meet.



Also, recently, in an open letter concerning the fact that Gatineau has been declared a "red zone," the Mayor of Gatineau made the following point: "It is clear that uniquely from the public health perspective, we should be in an orange zone, even light orange... Why is this? It is the weakness of our health system, which is another criterion to determine zone colours, and of which little is said. The directors of public health in the Outaouais and across Quebec make this very clear: were it not for the frailty of the health system in the Outaouais, the low number of available beds, nurses and doctors, we would be in an orange zone. We are, again today, victims of decades of negligence in terms of investing in health." The mayor goes on to say that were it not for this injustice, "we could break the isolation which weighs heavily upon us, our elderly would suffer less, and we would lose fewer jobs, since, for the most part, job losses are in the sectors which would still be open were we an orange zone."

Society is crying out for new arrangements whereby all sections of the people, starting with the workers, are called upon to play their part to overcome the problems at hand, the present one as well as all the others. New forms are necessary to find solutions to social problems, in consideration of individual and collective interests and those of society as a whole, in a democratic movement. Attempts to criminalize the demands, views and proposals of the people and their organizations is part of the problem and constitutes a major hindrance to the democratic advancement of society.

(Photos: FIQ)



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