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Quebec Bill 59, *An Act to Modernize the Occupational Health and Safety Regime*

**Defend Workers' Right to Healthy and Safe Working Conditions!
Hands Off Workers' Compensation!**



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Quebec Bill 59, *An Act to Modernize the Occupational Health and Safety Regime*

Defend Workers' Right to Healthy and Safe Working Conditions! Hands Off Workers' Compensation!

The Committee on Labour and the Economy of the Quebec National Assembly is now carrying out a clause-by-clause review of Bill 59, *An Act to modernize the occupational health and safety*

regime. The Bill, which is comprised of over 300 articles, modifies the 1985 Act respecting industrial accidents and occupational diseases and the 1979 Act respecting occupational health and safety.



The government's claim that the bill modernizes the health and safety regime is not true. The bill follows the path of the neo-liberal anti-social offensive, imposing a complete overhaul of the health and safety regime without any say or control by the workers, unions and the defence organizations of injured workers, all of which have thoroughly denounced it. It is estimated that hundreds of millions of dollars are going to be "saved" by employers every year through the denial of compensation for workers injured or made ill on the job and from the reduction of programs dedicated to the care of injured workers so that they can live a life in dignity with their rights recognized. It is a massive restructuring of the state to eliminate any previous space that was available to workers and their organizations to give them a modicum of say in the determination of the occupational health and safety regime.

Workers' Forum joins with Quebec workers and their organizations who are saying *No!* to the legislation, that it must not pass, mobilizing to demand resolution to these critical problems in a way that benefits workers and the society, based on workers' demands. The fact that this attack is perpetrated in the midst of the COVID-19 pandemic which increases all problems related to the health and safety of workers shows the criminality of the Legault government.

In this issue we are providing information on the legislation, opposition and proposals for empowering the workers, and will provide more information in the coming days and weeks, to contribute to making the voice of workers effective in defeating this dictate and upholding the right of workers to determine what are healthy and safe working conditions, and for full compensation for injuries and illness.

Bill 59's Changes to the Occupational Injury and Workers' Compensation System

The Union des travailleuses et travailleurs accidentés ou malades (UTTAM), the organization of Quebec workers who have suffered workplace injuries or illnesses, has published information bulletins on Bill 59 on its website [here](#).

We are reproducing below some of the main points of the UTTAM analysis of Bill 59:

"Indeed, the reform provides for important modifications to the Act respecting industrial accidents and occupational diseases (LATMP) which will have the effect, in many cases, of denying the right

of victims to true consolidation, [i.e. optimization of treatment] of their injury.

"To name but a few of these attacks, we should mention:



- the abolition of the list of occupational diseases in the law and its replacement by a regulation that the CNESST [Labour Standards, Pay Equity and Workplace Health and Safety Board] will be able to modify at will, which will make it more difficult to compensate occupational diseases;

- the introduction of additional criteria for certain common occupational diseases, such as tendonitis and deafness, reducing eligibility for compensation;

- the abolition of the right to physical rehabilitation, a program aimed at eliminating or mitigating physical disability;

- the possibility for the CNESST to impose vocational rehabilitation measures during the period of medical treatment (before consolidation) that would not be contestable, either by the worker or by his or her attending physician;[1]

- restrictions on the right to medical assistance (medication, orthotics, prostheses, treatments) and the possibility of having victims of occupational injuries pay for part of the treatment;

- the abolition of the presumption of disability for workers aged 55 and over at the time of an occupational disease or 60 and over at the time of an occupational accident, who could now be forced to seek employment despite their inability to return to work;

- limiting the power of the courts on what constitutes suitable employment in order to prevent them from ruling in favour of workers who challenge a CNESST decision on this subject;

- maintaining discriminatory measures against domestic workers.



"In addition, this bill contains several measures that make it even more complicated for workers to file claims (processes to file claims, time limits, etc.). Everything in this bill is aimed at making it

more difficult to access the system and compensation.

"Faced with a bill that threatens to expand employers' control over occupational health and safety and that proposes a significant reduction in the rights of injured or sick workers, we must react.

"In the coming weeks, we must tell the Minister of Labour loud and clear that if this is really what he sees as the "modernization" of the occupational health and safety system, for us, the answer is NO!"

Note

1. In its brief submitted during the special consultations and public hearings on Bill 59, UTTAM writes:

"Bill 59 provides, in its section 27, for the creation of a new period during which it will be able to put in place 'pre-consolidation rehabilitation measures.' The CNESST would then have the power to impose rehabilitation measures on the worker to 'promote his or her reintegration into the workplace' while the worker is undergoing medical follow-up and receiving treatment for his or her injury.

"Among the measures that the CNESST could impose is a gradual return to work so that the worker can develop the ability to gradually return to the duties of his or her job. Once the Commission has decided on such a measure, the worker would be forced to participate or face suspension of benefits.

[...]

"The power granted to the CNESST to impose such measures, which may include a gradual return to work, without the obligation to obtain the agreement of the treating physician, is totally excessive. "

Interview with United Steelworkers' Mining Sector Representative "The Government Cannot Deny What Workers Have Done for 40 Years to Defend Occupational Health and Safety"

- André Racicot -



André Racicot is President of United Steelworkers (USW) Local 9291 which represents, among others, workers at Iamgold's Westwood Mine in Preissac in the Abitibi-Témiscamingue region of

Quebec.

Workers' Forum: How do you assess Bill 59 in relation to the right of workers to healthy and safe working conditions?

André Racicot: You have to remember that the current law, the *Act respecting occupational health and safety*, recognizes four prevention mechanisms: the health program, the prevention program, the health and safety committee and the prevention representative. Currently more than 80 per cent of workers are not covered by these programs. The bill extends these to almost all sectors of the economy, but with Bill 59 the government weakens all these provisions in terms of workers' decision-making power by increasing the power of employers.

For example, the health program that is established for specific establishments is eliminated and incorporated into the prevention program. The current health program aims, for example, to prevent work accidents and occupational diseases in a given establishment. Currently, the union must agree to the health program through its participation in the joint health and safety committee, and the physicians of the Public Health Network in Occupational Health (RSPSAT) must also adopt it. From now on, with Bill 59, employers will have all the power to determine the content of the prevention program and the health program, now incorporated into the prevention program, without the input and support of the unions and without any medical advice, because the specialized physicians of the RSPSAT are also excluded from the process. According to the bill, if there is no agreement between the unions and the employer, the employer alone will decide on the prevention program.



The bill also introduces the concept of multi-facility. According to the bill, it will now be possible for employers with several establishments to set up a single prevention program, a single health and safety committee and a single prevention representative for all of their establishments. For example, if we take the example of health care, there may be dozens of health care institutions in the same region. The prevention representative could have to cover all the institutions, covering long distances, instead

of each institution having its own representative. In addition, the bill cuts prevention hours. If there is no agreement between the employer and the union, the employer decides on the hours and we have no recourse to challenge that. It is obvious that the only reason the bill cuts prevention hours is to save money for employers instead of saving lives.

At the level of the joint health and safety committees, workers will no longer have access to the information they used to have, for example, on the dangerous products used by the company. This information will now be in the hands of the employer. Employers have asked for this.

By an amendment to Bill 59 tabled by the government, the government is proposing to remove the arbitrary risk assessment in different sectors, which meant that prevention mechanisms applied according to the level of risk.[1] Bill 59 expands prevention mechanisms to most sectors, but the issue of reducing the hours of prevention representatives and health and safety committees remains and the ultimate decision is in the hands of employers.

WF: Given everything you have just said, how would you characterize this Legault government bill?

AR: In my opinion, this bill is a major setback in all our conditions. If I look at the experience of

workers in my sector, the mining sector, the figures show that fatalities have dropped significantly over the last 40 years because of the interventions that workers have made to get employers to adopt measures to improve health and safety in the workplace. One death is one too many, but no one can deny that our interventions have been successful. With this bill, it will be more and more difficult to intervene, which will lead to more accidents, including fatal ones.

The government's main concern with this bill is to lower employers' costs, to save millions of dollars on the backs of workers. This is unacceptable and must not be allowed to pass.

The government cannot decide for the workers and deny everything that has been done for 40 years and show no respect for our efforts.

Note

1. Bill 59 originally created three levels of risk; low, medium and high. The number of meetings of the health and safety committee and the number of hours that the prevention representative was assigned varied according to the level of risk. These three levels of risk were calculated on the basis of the cost of occupational injuries in a given sector of activity, spread over ten years. The bill called this a disbursement from the Labour Standards, Pay Equity and Workplace Health and Safety Board (CNESST). This was totally arbitrary because, among other things, it did not take into account accidents that are not reported, nor the systematic challenge by companies of workers' claims for occupational injuries. In cases where the interventions of workers and their unions has led to a decrease in occupational injuries, a dangerous sector, such as mining, could have been declared low risk and safety measures would have been reduced in the sector. On March 10, the Quebec government tabled an amendment which will eliminate this provision about the levels of risk.

Call to Action to Stop Deportation of Laval Detainee

No to Deportations!



On Monday, March 15, Solidarity Across Borders reported that: "One month after becoming the first of several detainees to test positive for COVID-19, "Marlon", (pseudonym chosen to protect his identity), a migrant held at the Laval Immigration Detention Centre, is facing imminent deportation to his country of origin. Marlon has yet to receive a negative COVID-19 test result and is still exhibiting symptoms such as fatigue and difficulty breathing. Despite this, the Canadian government is proceeding with his deportation on unusually short notice -- he was informed late on Thursday, March 11 that he would be deported on Tuesday, March 16." As of March 17 he had not been deported but the threat remains. Solidarity Across Borders has announced a "Free Them All!" Rally, to free all detainees at the Laval Centre, March 20, 11:00 am with details to be made available [here](#).

The organization reports that "Marlon contracted COVID-19 in the Laval Immigration Detention Centre, testing positive on February 15. He immediately began a hunger strike to denounce the detention conditions for migrants, which are conducive to spreading the virus among detainees and personnel. Social distancing is often impossible and guards and employees come and go from the centre, rotating on a daily basis. As a strategy to curb the spread of the virus, the Canada Border Services Agency (CBSA) placed detainees in conditions of solitary confinement, a practice that has been denounced as a form of torture. In response, a group of seven detainees staged a courageous five-day hunger strike to demand their immediate release."

Should Marlon's deportation proceed, "he will be separated from his wife and child in Montreal, who are currently seeking refugee status after fleeing from violence in their country of origin."

More on Marlon's Situation

Tanya Rowell Katzemba, a Solidarity Across Borders spokesperson, informed the newspaper *Le Devoir* that "[a]ll legal channels have been exhausted. We're angered upon learning about the CBSA's intention of moving forward with his expulsion with only a few days notice. We were thinking about requesting another detention revision hearing, but then all of a sudden we got the news. We don't understand what the urgency is."

The same media source spoke with Marlon by phone. He confirmed with them that he continues to have COVID-19 symptoms and that he is awaiting the results of a test taken on March 15. He also told them, "I still get frequent headaches, my eyes hurt and I have difficulty breathing, especially when I'm sleeping." He also reported that he has not "been given any medication, nor have any of the others who have been infected, we were just placed in isolation for 14 days under deplorable conditions."

"We want Canada to respect its commitments towards the population of keeping everyone healthy and safe. Within the present context of the pandemic, it's appalling that people who fled their country because of violence continue to be deported, it's completely inhumane," Tanya Rowell Katzemba told *Le Devoir*, adding: "They're going to put Marlon on a plane with other people, even if he still has COVID-19 symptoms, which runs counter to public health recommendations."

Marlon, his wife and child arrived in Canada without any legal identification, having fled their country of origin in November of 2019. Marlon told the media that he had been threatened and some of his family members had been killed, "so we decided to flee the country, hoping to begin a new life in Canada."

Solidarity Across Borders is calling on everyone to:

"Put pressure on Bill Blair and all government officials to demand the immediate release of Marlon and a halt to his deportation, as well as the release of all detainees! You can direct phone calls and e-mails to:



"1) Federal Minister of Public Safety Bill Blair

Bill.Blair@parl.gc.ca

Telephone: 613-995-0284

Fax: 613-996-6309

2) Your member of Parliament, find their contact information [here](#).

Social Media

"Share the call to action widely! Use the hashtag set #FreeThemAll #StatusForAll along with #HungerStrikeLaval to show your support for the struggle on social media! We encourage you to tag Bill Blair, Marco Mendicino, Justin Trudeau, and other government officials."



(Quotations translated from original French by Workers' Forum. Photos: WF, Solidarity Across Borders)

(To access articles individually click on the black headline.)

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