Ontario Tories launch massive attack on workers' rights

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13 November 2000

The Ontario Tory government has announced reactionary revisions to the province's labor code and is in the process of drafting legislation that will gut decades-old minimum employment standards. These changes, which are expected to be entrenched in law during the current session of the Ontario legislature, represent a new stage in the Tories' assault on workers' rights and will set a precedent for corresponding actions by governments across Canada and North America.

The Tories announced their intention to “modernize” the Employment Standards Act (ESA), which governs conditions of employment, in their 1999 election manifesto, “Blueprint.” Then last summer they published a consultation paper entitled “Time for Change.” Central to the government's plan is a massive, 25 percent increase in the maximum number of hours that an employee can be required to work in a given week, from 48 to 60. The consultation paper also raises the possibility that this maximum may not apply to certain industries such as agriculture and construction.

While the provision of a legal maximum workweek does not by itself guarantee workers will not face attempts by employers to coerce them to work even longer hours, it nevertheless represents an important legal protection which has stood for over a century. The proposed increase would set the standard back over 50 years.

The Tories are also proposing to eliminate a provision that requires employers to obtain a special permit if they want workers to work more than 12 hours a day.

In place of the current daily and weekly work limits, the government is considering a scheme under which employers will have the discretion to “transfer” or average out hours of work over a three-week period. In other words, a company could compel its workers to work 60 hours one week, 48 the next and 72 hours in the third, and still be considered not to have exceeded the 60-hour maximum workweek.

The government is also proposing to eliminate the “one day's rest in seven act” and replace it with a requirement to provide only 48 consecutive hours of rest every two weeks. This is to be combined with new regulations governing vacations and overtime pay that, in the name of freedom of choice, will make workers susceptible to employer pressure to waive their traditional rights and accept less costly alternatives. Thus workers are to be given the “freedom” to take their holidays one day at a time, rather than in a block, if requested by their employer. In addition, workers will be given the “right” to take time off in lieu of overtime pay, effectively eliminating the added overtime cost for employers.

The suggestion by the Ministry of Labour that these changes are intended to bring democracy and choice into the workplace is a transparent fig leaf. Some 500 businesses and institutions surveyed by the government's Red Tape Commission identified reform of the ESA as a top priority to improve the province's competitive position and attract investment. The ESA “reform” will gut legal protections for workers that were adopted not only to provide a better quality of life but ensure some modicum of safety at the workplace, while lowering labor costs and payroll taxes for business and at workers' expense.

The rationale advanced that these changes give new “rights” to workers is based on the lie that the wage-labor relationship is a free one, in which the worker and boss are equals, not a social power relationship. When the Tories and the employers talk about making the labor market more flexible, they mean that workers should be placed even more at their employers' beck and call. The proposed gutting of the ESA will remove legal obstacles to increased exploitation and place individuals far more frequently in the position of having to negotiate their own terms of employment. Under conditions where job security has been all but eliminated and the protection accorded by unemployment and welfare benefits greatly

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diminished, employers will be able to pressure and terrorize workers into doing their bidding.

In claiming that the striking down of decades-old minimum employment standards conforms with modern realities, the Tories are, with unintended irony, letting slip the truth—the reality of capitalism is such that as labor becomes more productive, and wealth expands exponentially, the global struggle for profits necessitates an all-out reversal of workers' rights.

In a decisive blow against an already compliant trade union movement, the Tory government introduced legislation November 2 which would cripple trade union rights and facilitate union-busting.

An amendment to the Labour Relations Act, Bill 139 stipulates that:

- in all unionized workplaces, notices must be prominently posted explaining the procedures to be followed for decertification;
- the window for union decertification is to be increased from 60 to 90 days;
- when a union certification drive fails, there is to be a one-year “cooling-off” period before another is permitted;
- in cases where workers are negotiating a first union contract, separate votes must be held on the employers' contract proposals and whether to strike;
- employers that don't sell construction services, i.e., municipalities, schools, banks, etc., are to be allowed to tender work on their construction projects to nonunion contractors.
- the salaries and benefits of all union officials making in excess of $100,000 annually will henceforth have to be publicly disclosed.

With its open promotion of decertification—i.e., union-busting—the Tories have broken the collaborative relationship that has existed at least since the Second World War between the unions, employers and government.

The union response to Bill 139, as to the consultation paper on the ESA, has been predictably indignant, but to date the Ontario Federation of Labour has outlined no strategy on how it intends to fight the changes. Instead, the OFL is proposing to diffuse the anger of workers with what it is calling an “I didn't vote for that” campaign, in which workers will be asked to cast a vote against the labor code changes in a mock vote.

Since torpedoing the province-wide teachers strike in the fall of 1997 and winding up, shortly thereafter, the anti-Tory “Days of Action”, the union bureaucracy has repeatedly signaled that it desperately wants to work with the Tory government. The Tories, however, have spurned the bureaucracy's offers. Indeed, only after a protracted internal debate did they drop a plan to include in Bill 139 abolition of the Rand Formula—a move which, by threatening the unions with bankruptcy, would have had the most immediate impact on the union officialdom's privileged position. (A compromise reached in 1946, in the immediate aftermath of the unionization of basic industry, the Rand Formula provides for automatic dues check-off in exchange for the unions renouncing the demand for a closed shop.)

Other representatives of the ruling class argue, however, that a new assault on an already compliant union movement is inadvisable, first and foremost because it could lead to an eruption of bitter struggles against union-busting that ultimately could give rise to a working-class counteroffensive. Secondly, because they fear that the marginalization of the union bureaucracy will corrode its ability to contain the class struggle within the sterile framework of protest politics and collective bargaining.

Speaking against Bill 139, Liberal Opposition leader Dalton McGuinty declared, “There's been 25 years of peace and stability by and large in Ontario when it comes to labor relations.... If everything is working so well, why fix it? It ain't broke. Why screw around with it?”

A spokesperson for the social-democratic New Democratic Party, David Christopherson, indicated his party's basic acceptance of the Tory offensive. In a request put to Labour Minister Chris Stockwell, the NDP proposed that Bill 139 stipulate that the rules for unionization be posted in all nonunion workplaces, just as the rules for de-unionization are to be posted where unions exist.

In reply to an NDP call for public hearings on the labor legislation, Stockwell responded, “I will have as much public hearings on this bill as you had on the social contract,” referring to the NDP's 1993 legislation that cut the wages and suspended the collective bargaining rights of 1 million public sector workers.

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