



Comments on:

WORKPLACE VIOLENCE PREVENTION

to the

Ministry of Labour

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by the

Canadian Federation of University Women
Ontario Council

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Consultation on Workplace Violence Prevention

The Ontario Council of the Canadian Federation of University Women (CFUW OC) is pleased to have this opportunity to respond to the Minister of Labour Consultation on Workplace Violence Prevention.

CFUW OC is composed of 58 clubs comprised of graduates living in urban and rural areas across Ontario. We are non-partisan, non-sectarian and we are totally member funded.

Our policies are voted on by a one club/one vote system so that all areas of Ontario, from northern communities to large cities to rural areas, have an equal voice. This results in well-balanced policies that may be embraced by most Ontarians.

Our members put their education and diverse skills at the service of their communities and are active in:

- m public affairs
- m public education, justice, health and environmental issues
- m improving the status of women in Ontario, and
- m ensuring human rights in the province.

CFUW Ontario Council is part of the Canadian Federation of University Women and has links to the International Federation of University Women.

Members of the CFUW were horrified in 2005 when they heard of the brutal murder of nurse Lori Dupont in her workplace, Hotel Dieu Grace Hospital. Prevention of violence to women has been an issue of concern to CFUW members since its founding in 1919. CFUW policies passed in 1992 and 2008 urge provincial governments **to take appropriate steps to improve measures to prevent violence against women** and to **include protection from psychological harassment in Occupational Health and Safety legislation**. This consultation gives us the opportunity to urge the government of Ontario to amend the Occupational Health and Safety Act to include workplace violence prevention (including harassment and bullying) as an appropriate measure to prevent violence to women.

The inquest into Lori Dupont's death revealed missed opportunity after missed opportunity for workplace intervention. In fact, Dr. Peter Jaffe noted 84 opportunities for intervention that were missed by the workplace, Hotel Dieu Grace Hospital. Further, the inquest revealed eerie similarities to the events leading up to the death of Theresa Vince in her workplace 9 years before. In both cases,

management was asked to intervene on behalf of the complainant. In both cases, management repeatedly failed to intervene and take the steps to correct the behaviour of a co-worker that would provide a safe workplace for the victim. And in both cases, inquest jury recommendations included review of workplace safety legislation to provide for protection from workplace harassment.

The members of CFUW Ontario Council commend the Minister of Labour for offering this opportunity to respond to the consultation. We are pleased that the Government of Ontario is taking seriously requests for revisions to Ontario Occupational Health and Safety Legislation to provide for Workplace Violence Prevention. **It is hoped that Ontario Occupational Health and Safety Legislation will be brought in line with standards for workplace violence prevention offered by the Government of Canada and the provinces of Saskatchewan and Quebec.**

Some concerns felt by CFUW Ontario Council:

- The **Consultation Background Paper provides information about violence protections that are currently available to workers in Ontario** including the Ontario Human Rights Code, the Criminal Code, and the Occupational Health and Safety Act and some collective agreements. Each of these has limitations which leave the workplace victim of violence vulnerable to injury and death as a result of workplace violence. **Only amending the Occupational Health and Safety Act to include violence in all forms will offer the necessary protections to Ontario workers.**

- **Relying on collective agreements (Background, p.3) to provide workers with violence protection is piece meal at best.** In fact, it leaves the vast majority of Ontario workers unprotected, as only a small number of collective agreements include this language and a large proportion of Ontario's workers are not covered by collective agreements at all.

- **The Human Rights Code covers harassment, but:**
 - It does not address harassment as a precursor to violence.
 - Further the process for invoking the Human Rights Code is lengthy with no workplace protection provided during the process.
 - The ineffectiveness of the Human Rights Code in offering protection from workplace violence is noted by the Coroner's Inquest Jury in the case of Theresa Vince. The jury stated that filing a complaint under the Human Rights Code would have had no impact on her 1996 murder.

- **The Criminal Code covers stalking and intimidation.** But like the Human Rights Code, **no workplace protection would be required during an investigation.** The complainant could be required by his/her employer to continue to fulfill his/her duties in the presence of the accused. Nor can the Criminal Code be used as a preventative measure, it can only be used if a crime has been committed.

- In the case of the **Occupational Health and Safety Act (OHSA)**, the background paper contradicts itself by stating on page 3:

Workplace bullying, teasing, and other abusive or aggressive behaviour that gives a worker reasonable cause to believe there is a risk of physical violence may fall within the scope of the OHSA.

And on page 4:

Concerns about violent behaviour, or threat of violent behaviour, do not usually meet the criteria for refusing work, as violence is not equipment, a machine, a device, a thing, or a physical condition of the workplace.

- Given the latter statement, workers can not be said to be protected from workplace violence under the OHSA. Further, it is stated that Ministry occupational health and safety inspectors respond to concerns about violent behaviour or threat of violence on a priority basis. However, in the **Ontario Nurses Association (ONA) response to the Consultation, the ONA notes that MOL has failed to respond or refused to take action in cases of workplace violence on numerous occasions**, claiming lack of jurisdiction or utilizing limiting MOL interpretations.

CFUW Ontario Council recommends that:

Workers in Ontario need to be protected from workplace violence through **an amendment to the Occupational Health and Safety Act.**

That amendment should:

1. include all forms of workplace violence, including but not limited to
 1. intimate partner violence that spills into the workplaces
 2. co-worker violence
 3. client, patient or customer violence
2. define workplace violence to include harassment, bullying and intimidation as well as physical force and physical injury
3. require every workplace to implement a violence prevention program that includes workplace training, assessment, measurement and procedures, violence prevention protocols and a workplace violence response plan
4. include the right to refuse work

RESPONSES TO CONSULTATION DISCUSSION PAPER:

The Ministry of Labour asks specific questions of respondents to the consultation.

http://www.labour.gov.on.ca/english/about/consultation/wp_violence/index.html

Our answers follow.

Definition:

The Ministry has developed an operational policy that defines workplace violence as:

“...the attempted or actual exercise, by a person, of any intentional physical force that causes or may cause injury to a worker, and includes any threats which give a worker reasonable cause to believe he or she is at risk of physical injury

Is the definition of workplace violence contained in the Ministry’s operational policy, as set out above, appropriate to your workplace or organization?

Our Response:

The operational definition is not appropriate to any workplace or organization for the following reasons.

1. This definition is limited to physical force and physical injury. It does not provide protections from bullying, intimidation or harassment. It would have excluded Lori Dupont and Theresa Vince from the protections they needed.
2. This definition permits an employer to let a situation continue for a very long time before he/she is legally required to intervene. Employer intervention is only required after aggressive, harassing, or disruptive behaviour has escalated to the point of risk of physical injury.
3. Protections from violence in the workplace should parallel those already offered for other forms of risk of injury. This definition of violence does not provide for protection against **long term harm**—physical and/or emotional—that can be caused by daily exposure to aggressive, harassing or disruptive behaviour. Under current OHSA standards, the right to refuse work is permitted both for immediate risk of injury, as in the case of a piece of machinery that is malfunctioning or being used in an unsafe manner; **and for long term risk**, as in the case of toxic chemicals in the environment that can reasonably be expected to cause physical harm though long term exposure.

Workplace Violence Prevention Program

Should there be a requirement under the OHSA or its regulations that employers develop and implement a workplace violence prevention program (that would include risk assessment, measures and procedures, and worker training)?

Our Response:

Each workplace should have a Workplace Violence Prevention Program that includes risk assessment, measures and procedures, and worker training. The Workplace Violence Prevention Program should also include as part of its mandate disruptive behaviour such as psychological and sexual harassment, bullying etc.

1. If so, should a prevention program include a workplace violence response plan? Yes. Employers should be prepared to intervene when the risk of violence is present. It is not sufficient simply to provide assessment and employee training. The Employer needs to be prepared to respond if and when a situation arises. The Employer can only be properly prepared to respond if there is a violence response plan in place.
2. If so, should a prevention program require employers to address behaviours that are likely to lead to workplace violence, such as bullying, teasing, or other abusive or aggressive behaviour? Yes. Employers/workplaces should be prepared to address behaviours that are likely to lead to workplace violence or physical or psychological harm to an employee. In both the Dupont and Vince cases violence prevention programs that addressed abusive, harassing and aggressive behaviour could have prevented their workplace murders. Dr. Peter Jaffe, in his report to the Coroner's Inquest into the death of Lori Dupont, identified 84 missed opportunities for workplace intervention. Each of these missed opportunities represented incidences of such as

bullying, intimidating, and/or abusive or aggressive behaviours.

3. *If so, should a prevention program differentiate between sources of violence (such as from clients or customers, co-workers, or intimate partners)? Violence prevention programs should cover all forms of violence in the workplace. Parallel to the Regulation for Industrial Establishments, which requires protective equipment and controls for many machines, but without limiting the generality of the foregoing, highlights particularly hazardous machines, workplace violence legislation should be required for all sources of violence. This legislation could highlight specific forms of workplace violence, such as intimate partner violence in the workplace, harassment, bullying, disruptive physician behaviour, violent clients, and working alone.*

2) *What impact, if any, would a requirement for a workplace violence prevention program have on your workplace or organization? Not applicable*

3) *How does your workplace currently deal with workplace violence prevention and response? Not applicable*

1) *In your sector, would it be useful to have requirements under the OHS Act or its regulations that address particular precautions that are needed to protect workers from workplace violence? These provisions would be in addition to requirements for a more general workplace violence prevention program (see section B).*

1. *If so, what specific requirements would you suggest to protect workers in your sector?*

Our Response:

We endorse the recommendations of the Ontario Nurses Association. Their submission to this labour consultation clearly identifies appropriate workplace violence prevention programs and how to appropriately highlight special cases of violence while providing preventions for all forms of violence in the workplace. Further, in the case of physician disruptive behaviour, where physicians are not hospital staff, the Ontario Hospital Association Guidebook for Managing Disruptive Behaviour provides clear guidelines that would provide workplace violence prevention in cases where the employer/employee relationships are not clearly defined, as with Doctors who have hospital privileges but are not employees of the hospitals.

Should there be a requirement under the OHS Act or its regulations that employers address the risk of domestic violence, when it may enter the workplace?

Our Response:

There should be a requirement under the OHS Act that employers address violence, in all of its forms, in the workplace. If properly implemented, the violence prevention program that addresses psychological harassment and threat to violence would provide protections from intimate partner violence in the workplace.

1. *If so, should situations of domestic violence be addressed within or separately from the*

more general workplace violence prevention program outlined in section B? Domestic or intimate partner violence in the workplace should be included within the workplace violence prevention program as outlined in Section B. It could be highlighted as a specific form of workplace violence without limiting the general protections from all forms of workplace violence (a parallel structure to machine safety provided in the Regulation for Industrial Establishments that provides general protections but highlights specific machinery).

2. *If not, what actions could employers take to better protect their workers in situations where domestic violence enters the workplace, separate from a legislative or regulatory change?*
3. *2) What impact, if any, would a requirement to address situations of domestic violence (when it may enter the workplace) have on your workplace or organization? Not Applicable*
4. *3) How does your workplace currently deal with domestic violence, when it may enter the workplace? Not Applicable*

Should the current work refusal provisions in the OHSA be expanded to include violence or the threat of violence as grounds for a work refusal?

If so, should there be any restrictions on when a worker may refuse work, in addition to the current limitations on when specific workers, such as police officers, firefighters, and workers in correctional facilities, hospitals, nursing homes, and psychiatric facilities, may refuse work?

Our Response:

Yes. We support the recommendations of the Ontario Nurses Association, which highlights appropriate methods of dealing with potentially violent situations in nursing homes, hospitals and psychiatric facilities as part of general workplace violence protection.

If so, should a worker be allowed to leave the workplace prior to the completion of the investigation in situations where there is a threat of physical violence?

Our Response:

Yes, risk of workplace injury, immediate or long term, from violence—including harassment, bullying and aggressive behaviour--differs from other risks of workplace injury. When the risk of violence cannot be removed through workplace violence prevention programs or interventions, the complainant must be able to remove him/herself from the situation. Asking a complainant to remain in the workplace during the investigation could further compromise the safety of the complainant.

If the current work refusal provisions in the OHSA are not expanded to include violence or the threat of violence, should there be another provision that addresses the steps that

should be taken to allow a worker to remove himself or herself from the workplace when there is an imminent risk of physical injury due to workplace violence?

Our Response:

We believe that the OHSA provisions should be expanded to include work refusal for violence, harassment or bullying (personal safety). But if they are not, there should be protections offered to workers that provide equivalent or greater protection than what would be available through work refusal.

Respectfully Submitted

A handwritten signature in cursive script that reads "Myra Q. Willis".

Myra Willis
President, CFUW OC

APPENDIX 1

SOME CANADIAN FEDERATION OF UNIVERSITY WOMEN POLICY CONCERNING WORKPLACE AND VIOLENCE

Note: Policy for CFUW Ontario Council integrates resolutions passed by CFUW Ontario Council as well as the Canadian Federation of University Women (CFUW) and the International Federation of University Women (IFUW).

Psychological Harassment in the Workplace 2008

RESOLVED, That the Canadian Federation of University Women (CFUW) urge the federal, provincial and territorial governments to enact and enforce legislation that ensures employees the right to work in an environment free of psychological harassment; and requires employers to ensure that procedures are in place to prohibit and address all forms of workplace-related bullying or psychological harassment.

RESOLVED, That the Canadian Federation of University Women urge the federal, provincial and territorial governments to inform all people in the workforce of their rights and responsibilities, options for redress and penalties under this legislation.

Prevention of Violence against Women 1992

RESOLVED, That the Canadian Federation of University Women urge the Federal, provincial and territorial governments to take appropriate steps to improve measures to prevent violence against women.

Violence Directed Against Women 1998

As violence directed against women is reaching an intolerable level in certain countries and situations,

RESOLVED, That national federations and associations

1. ask their respective governments to condemn all forms of violence directed against women and use every available means to bring such abuses to an end;
2. encourage their members to engage in this campaign and to report on the results of their efforts in order to measure the impact achieved; and
3. encourage their governments to support actively United Nations Conventions and Commissions, particularly the Convention on the Elimination of Discrimination Against Women (CEDAW), and to put pressure on other governments to do likewise.

APPENDIX B

Canadian Federation of University Women ONTARIO COUNCIL Club Locations

Ajax – Pickering	Kincardine	Oshawa & District
Aurora - Newmarket	Kingston	Ottawa
Barrie & District	Kitchener - Waterloo	Owen Sound & Area
Belleville & District	Leaside - East York	Perth
Brampton	London	Peterborough
Brantford	Markham- Unionville	Renfrew & District
Brockville & District	Milton & District	Sarnia Lambton
Burlington	Mississauga	Saugeen
Cambridge	Muskoka	Scarborough
Chatham -Kent	Nepean	Southport
Cornwall & District	Niagara Falls	St. Catharines
Etobicoke	Norfolk	St. Thomas
Georgetown	North Bay	Stratford
Georgian Triangle	North Toronto	Sudbury
Grimsby	North York	Thunder Bay
Guelph	Northumberland	Toronto
Haliburton Highlands	Oakville	Vaughan
Hamilton	Orangeville & District	Welland & District
Kanata	Orillia	Windsor
	Orleans	