

CHASING THE CARROT:  
ORGANIZING PART-TIME ONTARIO COLLEGE WORKERS

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## Abstract

This thesis explores issues of union renewal in the context of precarious work, and examines strategies and tactics for effective union organizing of precarious workers in the particular case of the Ontario Public Service Employees Union's (OPSEU) efforts to organize the Ontario part-time college workers. The question of how to successfully organize precarious workers is explored by examining established organizing strategies and tactics and their effectiveness when organizing a group of precarious workers. In a political setting that is increasingly hostile to organized labour, this study examines the impact of rights-based strategies on organizing, as well as a series of organizing tactics which include 1) engaging members as activists, 2) recruiting organizers who mirror the workplace, 3) evaluating change-oriented leadership in the union, and 4) cross-constituency organizing to build solidarity.

Dedication

For R.B. and for all of the Ontario colleges part-time workers who are still waiting for justice.

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## **Introduction**

This thesis examines the efforts of the Ontario Public Service Employees Union (OPSEU) to organize Ontario part-time college workers, within the context of precarious work. Run primarily as a “bottom up” campaign, OPSEU recruited organizers from full-time college support staff workers, who are OPSEU members, and also from the ranks of part-time faculty and support staff workers. The union engaged these activists to organize thousands of part-time workers in the colleges, leading to the mass card signings that triggered 2009 certification votes for both academic and support staff. Issues facing union organizers attempting to certify non-standard precarious workers differ importantly from issues for organizers reaching out to workers engaged in standard labour.

Moreover, the challenges of organizing these precarious workers in particular are considerable given their wide geographic dispersion and, for some of the employees, their extremely short employment periods. How does the approach adopted by OPSEU compare with the recommendations in the literature? How successful was it? What lessons can we learn from this experience about organizing precarious workers?

Regulatory remedies, access to collective bargaining, or both are required to protect part-time workers from the risks of precarious employment. The case of Ontario part-time college workers presents a particularly interesting study. As a group of workers lacking many standard employment protections, but having successfully lobbied for improved legislation that formally allows access to collective bargaining, OPSEU’s campaign to organize these workers presents a unique opportunity to assess organizing strategies



amongst a large group of part-time public sector workers who can be identified as precariously employed, and attempt to identify what worked and what did not when engaging them in the organizing campaign.

Legislative and regulatory limitations expressed through a series of exclusions to standard regulatory protections under the Employment Standards Act, and legislative barriers to collective bargaining under the Colleges Collective Bargaining Act (CCBA) create many of the barriers encountered by part-time workers inside the colleges.

Structural barriers include temporary, timed contracts and part-time hours mandated by legislation or program funding or both. Acknowledging that the some of the details of this study are quite specific to part-time Ontario college workers, it is common for those experiencing precarious employment to encounter structural and legislative barriers that construct the conditions of their work. This is particularly true in the public sector, where contradictions in the state's roles as both employer and regulator can serve to actively reinforce precarious conditions. The challenge for unions to overcome these barriers is to identify and develop successful organizing strategies in the context of precarious work.

This thesis will explore the problem of organizing precarious labour by identifying the specific conditions that create precarious working conditions in the colleges, and by examining and assessing organizing strategies OPSEU used to overcome these barriers.

This thesis contributes to the scholarship around precarious work both by examining differing conditions creating precarious work in the public sector, and by evaluating strategies unions can use to reach geographically disperse, precarious workers on very short term contracts.

## **Method**

This study is in the tradition of participatory action research and uses mixed methods to examine its research questions. It examines relevant legal texts to assess both the legal landscape and the extent to which the current legislation enables or constricts the ability of the OPSEU unionization drive to mobilize precarious workers and protect their rights. It examines quantitative employment data to assess the trends in College employment. Finally, it employs a small sample survey of organizers involved in the OPSEU campaign for gaining insight into the effectiveness of the campaign as they perceived it.

The quantitative employment data and discussion of specific working conditions concentrate on college support staff, although most of the activists interviewed worked on both the support staff and academic certification campaigns. The boundaries between the support staff and academic campaigns were muddy from the beginning of the process, with the executive of OPSECAT consisting of support and academic representatives together, and card signing for both groups happening simultaneously across 24 colleges. The issues affecting the two groups, while frequently overlapping, are quite distinct in the details. Support staff and academic groups experience precarity based on timed contracts, increased risk shifted to workers, a lack of a collective voice, and a sense of exclusion created by the contrasting material conditions and stratified status between full-time standard workers and part-time employees in the colleges. The choice to focus on support staff is largely a result of my greater understanding of their conditions on the ground, and a fascination with the contrast of 'regular' part-time workers who remain

vulnerable despite their long term but insecure employment, with the short, fixed term, high turnover conditions of student workers. In order to examine the specific political, legal and structural conditions inside the colleges and the union that have kept these particular workers from accessing collective bargaining, this thesis incorporates the disciplines of political science, public administration and sociology.

I come to this research from a history of activism generally and as an activist in this campaign specifically. I work as a full-time support staff employee at an Ontario college and am a long-time member of the local union executive. As well, I have been involved as a volunteer rank and file activist in OPSEU's efforts to gain part-time college workers a union since its current inception in 2005. Every day I interact with part-time co-workers who have similar stories to those shared in the interviews. Through my activism I have been privileged to meet and interview the activists and organizers you read about. As both a researcher and an activist in this particular campaign, the potential erosion of objectivity is, some argue (MacDonald 2012) more than compensated for by the enrichment afforded by my ability to better understand and interpret the responses of those surveyed.

Many of the individuals interviewed are activists I worked with directly on the campaign, and other names were passed to me through these contacts. Efforts were made in the interview selection process to include a balance of geographic regions across the province, gender and race, although few racialized workers were included at this level of

the campaign.<sup>1</sup> The data from the interviews are coded according to categories based in the organizing literature, with the exception of the category for ‘employment status’, which emerged from the data.

Chapter 1 creates a framework for exploring the case study, with a review of relevant literature. This includes a discussion of precarious work, specifically under what conditions part-time work might be constructed as precarious work, and the often contradictory role the state plays in regulating public sector employment. A need for union renewal in the context of precarious work is established, and strategies of organizing for union renewal are discussed.

Chapter 2 explores the question of part-time work in Ontario colleges as precarious work. This is accomplished by identifying the demographic details of part-time support staff in the colleges and by examining the legislation that governs employment standards and collective bargaining in Ontario colleges. This chapter traces the history of the Colleges Collective Bargaining Act (CCBA) and its impact on conditions for all part-time college workers, including support staff. Sources include the *Colleges Collective Bargaining Commission* (Gandz, 1988), *A Review of the Colleges Collective Bargaining Act* (Whitaker, 2008), the CCBA (1990), CCBA (2008), and various supporting documents.

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<sup>1</sup> There is a rich literature on issues related to gender and union organization (see Briskin 2013; Briskin 20011 for example). The relatively high proportion of women in precarious employment generally and in the Colleges specifically is an important dimension of my broader research but one that takes us beyond the scope of the present study.

Chapter 3 explores the challenges of rising precarious work in the public sector, and the contradictions encountered when the state acts as both regulator and employer in the collective bargaining process. It also discusses the response of unions through an examination of rights-based strategies. This is accomplished through a survey of the literature on collective bargaining as a Charter right in Canada since *Dunmore*, with a careful examination of the 2007 Supreme Court of Canada's Health Services decision (*Health Services and Support - Facilities Subsector Bargaining Assn. v. British Columbia*; Fudge 2008; Tucker 2008; Langille 2009; Adams 2008; Savage 2009). This chapter also reviews the relationship between rights discourse and union renewal in the literature and explores what can be learned from OPSEU's campaign to change the Colleges Collective Bargaining Act in regards to the power of rights-based strategies.

Chapter 4 identifies organizing strategies in the OPSEU campaign. Seven temporary union organizers are interviewed, consisting of part-time college workers and rank and file bargaining unit activists engaged in the organizing campaign across the province. The interviews seek to identify what the activists encountered as major successes and barriers in the campaign and examine the organizing strategies when compared with the literature. In keeping with Bronfenbrenner and Hickey's conception of running a comprehensive union campaign for higher certification rates (2004), this thesis will explore four specific union organizing strategies adapted from the union renewal literature, including 1) engaging members as activists, 2) recruiting organizers who mirror the workplace, 3) evaluating change-oriented leadership in the union, and 4) cross-constituency organizing.

Chapter 5 speculates on the future for Ontario part-time college workers, and contemplates the similarities and differences between organizing standard and precarious workers. The chapter concludes with a brief look at the 'bigger picture' relationship between precarious labour and union renewal.

## Chapter 1: Precarious Work and Union Renewal

Activism... the capacity and willingness to act, the practice of taking the initiative, of beginning new actions, of going on the offensive, of making things happen rather than waiting for them to happen.” Cuneo (1993)

At the colleges, you're always chasing the carrot... (J, part-time college worker)

On January 19, 2009, after more than thirty years of being excluded by law from the right to access collective bargaining and form a trade union under the Colleges Collective Bargaining Act (CCBA 1990), the first ballots were cast by Ontario Colleges of Applied Arts and Technology’s part-time academic instructors to determine if they would certify a union (Vote 2009). In the summer of 2009, part-time college support staff followed, casting ballots at all 24 Ontario colleges (OLRB 2009), culminating what is possibly the largest organizing drive in Ontario history, with between 17,000 – 20,000 part-time public sector workers affected by the outcome of the vote.

Instead of providing the hope of more secure employment conditions for these broader public sector workers, the results of both votes were immediately sealed by the Ontario Labour Relations Board (College Employer Council 2010) pending the employers’ multiple legal challenges to the certification process allowed under the new legislation drafted in 2008 (CCBA 2008). More than four years later, in August of 2013, the OLRB ruled that the union failed to meet the required threshold of cards and ordered the ballots of both potential bargaining units destroyed, unopened (OLRB 2013). The Ontario part-time college workers remain vulnerable and their conditions are unchanged.

In order to better understand this outcome, and identify effective ways to remedy the situation, this chapter creates a framework to examine the conditions of these workers. This chapter surveys the literature on precarious work, paying attention to the role of state regulation when examining causes of precarious work, particularly in the public sector. The chapter also examines a corresponding need for union renewal in the context of rising precarious employment, and the possibilities unions present as a path to better conditions for workers like the college part-time workers.

### **Precarious Work**

Precarious work is employment characterized by “limited social benefits and statutory entitlements, job insecurity, low wages and high risks of ill-health” (Vosko 2006, p.3) It is highly gendered and racialized, with a higher percentage of women, people of colour and new immigrants likely to be engaged in precarious work (Vosko 2006, see also Cranford, Vosko and Zukewich 2003; Vosko 2006; Pupo and Thomas 2010; Vosko, 2011; Lewchuck, Clarke and de Wolff, 2011). Not simply defined as non-standard work, precarious employment is most often found outside of the standard employment relationship, and is frequently constructed as “part-time, temporary, solo self-employed or simply extremely low-waged work with few regulatory protections” (Cranford, Vosko and Zukewich 2003, p.7-8).

Concern over precarious work is rising. ‘Standard work’ is becoming a misnomer, with approximately 20% of employment in Canada that may be classified as precarious, a further 20% exhibiting at least some aspects of precarious work and a growth rate of



more than 50% in the past 20 years for these forms of employment (United Way and McMaster University 2013). Recent reports from the both the Law Commission of Ontario (2012) and the United Way and McMaster University (2013) received considerable coverage in the daily media (Oved 2013; Kane 2013; Monsebraaten 2013; McIsaac and Yates 2013). Precarious work is becoming a household word, and is increasingly a household reality.

While often characterized as “flexible” workers in the New Economy (Pupo and Thomas, 2010, p.xii), precarious workers have also been labelled “globalization’s child” (Standing 2011, p.5), a new class with a new set of difficult circumstances. Standing argues that as a class the ‘precariat’ “lives with anxiety – chronic insecurity... with a fear of losing what they possess even while feeling cheated by not having more.” (p.20). Precarious work by its nature shifts risk to workers, creating limited ties of commitment and community between the worker and the employer, and collectively between workers within workplaces, what Lewchuk, Clarke and de Wolff refer to as “working without commitments” (2011).

Accompanying the increased employment risk borne by the precarious worker is a sense of isolation in the workplace. Lewchuk, Clarke and de Wolff argue that this is particularly true for temporary workers, and is experienced as a constant fear of not being “liked” by an employer and therefore not being hired back (p.82), and also a need to meet or exceed expectations under a system of constant evaluation that is frequently unspoken or invisible. A related theme that emerges from Standing’s work is difficulty building

solidarity between core workers and temporary or non-standard workers as a result of these tensions. Standing bluntly states that in the most extreme form, governments and unions have used temporary workers as a “buffer” to preserve jobs for a shrinking pool of full-time workers, creating a multi-tier workforce, which effectively alienates temporary workers (p.35). This may lead to “Anger, anomie, anxiety and alienation” (Standing 2011, p.19) but may also be a galvanizing force for change.

It is helpful to parse the notion of precarious employment further to articulate the various ways in which precariousness is present and locate the reader to the particular challenges facing organizers of the OPSEU campaign. Under the broader umbrella of precarious employment, precariousness varies contractually in the ways in which the job insecurity and minimal compensation manifest themselves. There is the job insecurity associated with fixed term, possibly often renewed (but not *renewable* as a term of the contract) full-time contract. In such jobs, even long-time employees of the organization who have the illusion of security will not have the certainty of continuing employment or the ability to access the privileges of seniority, for example. There is the job insecurity derivative of short term, full-time contracts that inhibit any sense of belonging and heighten a worker’s sense of disposability. Finally, there is the short-term, part-time, non-renewable contract that is the most precarious of all. In such conditions, workers are hired for short stints of employment on a part-time basis with no guarantee of employment for more than a few weeks. The part-time hours inhibit connections to the workplace beyond the minimum necessary to discharge one’s employment obligation. The mutual employee-employer commitment is low and the scope for monitoring and protecting workers’ rights is

extremely limited. For OPSEU non-unionized support staff workers, these latter two contracts dominate. Combined with the fact that these highly precariously-employed workers are spread out over 24 Colleges across Ontario means the need for protections is especially acute but the challenge for union organizers to educate and organize these workers is nothing short of daunting.

Unions as a tool to combat the effects of precarious work in a globalized economy is a major theme in the literature (Anderson, Beaton and Laxer, 2006; Cranford, et Al, 2006; Lewchuck, Clarke and de Wolff, 2011). There is acknowledgement, however, that as union density falls, unions' ability to protect workers both inside and outside the union falls with it (Pupo and Thomas, 2010; Lewchuk, Clarke and de Wolff, 2011, Kumar and Schenk, 2006; Early, 2011). Logically, organizing a rapidly growing segment of the labour market is imperative to the health of the labour movement. Unions must identify strategies to engage and include precarious workers if they wish to maintain union density and remain relevant to Canadian workers.

Critical questions about engaging and including these workers arise in view of the heightened insecurity of precarious workers. The frequently temporary nature of their employment relationship and a weakened sense of solidarity with standard workers create barriers to traditional organizing models. A related objective of this study then is to assess the suitability or adaptability of recommended 'organizing for renewal' strategies when organizing precarious workers.

### **Part-time Employment – Precarious by Nature?**

Part-time employment does not automatically denote precarious conditions, and is not always undesirable to those engaged in it. The reasons for part-time work are varied; there are those who simply cannot secure full-time work, known as involuntary part-time workers, but there are also a sizeable number of individuals who for various reasons voluntarily seek out part-time work. The most recent data from Statistics Canada illustrates that statistically women outnumber men as part-time workers in every age category, and that women frequently identify engagement in voluntary part-time work as a response to meeting the needs of social reproduction, specifically childcare, and other family responsibilities (2012). Men and women both overwhelmingly identify “going to school” as the most common reason for voluntary part-time work between the ages of 15-24, with numbers that approach gender parity in this age group, but in every other age category women are over-represented in categories that represent social reproduction (Statistics Canada 2012). Women are much more likely to work part-time, and frequently do so to meet the needs of children and family.

Women’s constricted choices in the labour market are explained in a number of ways by feminist political economists. Arguably, a lack of accounting for social reproduction (Picchio 1992), inadequate support in regards to family obligations, impacting women more forcibly than men (Acker 1988), and the inherently contradictory goals of production and reproduction in a globalized economy (Acker 2004) change the way women engage with the labour market. Vosko argues that internationally, labour

regulation is largely predicated on the male bread-winner standard employment relationship (SER), increasing the risk of reinforcing gendered inequities (2008). Recognizing these realities, until the needs of social reproduction are adequately addressed through improved policies and regulation, part-time work will almost certainly continue to be dominated by women pursuing imperfect solutions to the contradictory needs of production and social reproduction.

There are methods available to equalize part-time work with standard employment in relation to wages, working conditions and entitlements, by the use of policy instruments and/or unionization. In Canada, the current unionization rate for part-time workers is 23.6%, much of which is concentrated in the public sector (Statistics Canada 2012b). This number is surprisingly low in light of the approximately 70% unionization rate in the public sector. Broken down by gender, men employed in part-time work are less likely than women to belong to a union, 18.3% versus 29.5%, numbers attributable to higher numbers of women in the public service (Statistics Canada 2012b). Regulatory responses are available to remedy uneven conditions between part-time and standard workers; legislation that equalizes part-time wages with standard workers is being used with some success in Quebec (Bernstein 2006). The ILO established a Part-time Work Convention to examine the regulation of part-time work on a more global scale, but the convention has had limited success; the convention has been criticized for legitimizing part-time status, potentially reinforcing the segregation of part-time workers and sacrificing justice for an increase in 'flexible' employment (Murray 1999). During the review process that preceded the ILO Convention on Part-time Work, international

unions exhibited mixed responses to part-time status, with some outright rejecting more flexible forms of employment, and others embracing organizing part-time workers in order to “protect them through collective bargaining” (as quoted in Murray 1999). Issues outside of low wages that surface in discussions of part-time work include limited access to training and restricted career advancement (Pupo 1993), working conditions that are most open to improvement through collective bargaining rather than regulatory remedies. The fact is that although not all part-time work is precarious, without some form of intervention through policy mechanisms and/or collective bargaining, part-time work is particularly vulnerable to the effects of precarious employment, and women are more likely to be affected than men due to their higher participation in part-time work.

### **Regulating Public Sector Bargaining or Legislating Precariousness?**

Remedies to precarious work, such as protections for part-time work ideally engage both policy and collective bargaining responses (Anderson, Beaton and Laxer 2006). Yet the interests of the state in setting legislative and regulatory agenda affecting collective bargaining and worker rights run counter at times to the state’s interests in its role as either a direct or indirect employer in the public sector. Public sector collective bargaining regulation is, as a result, often posed as an exception to standard private sector schemes, with the caveat that public service provision is intended for the public good, so requires more stringent controls and higher accountability (Rose 2004). Separate public sector collective bargaining legislation is common in Canada at all three levels of government, with notable differences in regards to “bargaining rights, bargaining

structure, the negotiating process including the scope of bargaining subjects, disputes procedures and the regulation of strikes” (Rose 2008, p. 546). Although there is great variation across the broader public service, and from province to province, public sector bargaining is frequently constrained by specific legislation that denotes the rules of certification and/or collective bargaining for a particular sector or workgroup, i.e. firefighters or police (Rose 2008), and of course Ontario college workers (Arthurs 2009). Legislation governing access to collective bargaining has substantial impacts on a workgroups individual and collective ability to influence their working conditions, as witnessed by the Ontario college workers.

The tension between these two roles frequently exposes contradictions. Federal and provincial levels of government have, for example, the ability to adopt ad hoc legislation in special situations, for example when fiscal restraint is the goal (Evans 2011) or strikes become unwieldy (Swimmer and Bartkiw 2003; Panitch and Swartz 2003). So although unionization rates are high in the public sector, the challenge of regulation as a moving target is the reality for union’s negotiating with an employer who also has direct or in the case of broader public sector workers, indirect control over legislation governing collective bargaining. Under the constraints of back-to-work legislation, essential services designations, lay-offs, privatization and fiscal restraint, public sector unions, like industrial unions, have failed to resist casualization, temporary job categories and other non-standard forms of work that frequently lead to precarious employment.

The issue of precarious work ensconced within the public sector seems a contradictory and disturbing trend. If, as assumed, the state is a site for protection through regulation, setting the standards for other employers to follow, what is to be made of the state as an agent of precarious employment? Broad and Hunter define neoliberal governance as policy that has been “used to shift the role of the state away from promoting social welfare... to promoting privatization and deregulation of the economy” (2010 p.25). The linked demands for fiscal austerity and flexibility that gives rise to these straightened conditions for services have been accomplished under the neoliberal banners of debt reduction, global competitiveness and efficiency. These were the rallying cry of early Canadian neoliberal governments, including the federal Mulroney Conservatives, the Chretien Liberals (Derlien and Peters 2008), and the Harris Conservatives (Borrowy 2006; Stinson 2010). The imposition of early retrenchment policies (Rose 2008), and the continuing consolidation of these efforts after the 2008 global financial crisis (Gindin and Hurely 2011; Evans 2011) have resulted in levels of increased insecurity for the citizenry generally and public sector employees specifically which remain today. As a result, the dual roles of the state as labour regulator and employer give rise to a set of contradictions and tensions that must be addressed when examining strategies to organize precarious workers, particularly inside the public service.

In response to these conditions, unions have turned to a series of strategies that position collective bargaining as a human right in the courts and in the public imagination. The overall purpose is two-fold; to gain a semblance of justice for the workers directly affected, and also to create legislative conditions more sympathetic to organizing the



unorganized, including precarious workers (Fudge 2012). Tactics in the adoption of collective bargaining as a human right include pursuing collective bargaining rights at the level of international law (Adams 2008), in the courts under s.2 freedom of association of the Charter of Rights and Freedoms, (Fudge 2008; Tucker 2008; Barrett 2003; Barrett and Poskanzer 2012; Langille 2011), and engaging in discourse around workers' rights as human rights to position unions as a tool for justice (Fudge and Brewin 2005; Fudge, D. 2012). The efficacy and value of these strategies as a path to union renewal is hotly contested amongst academics and union activists (Adams 2008; Savage 2009). Faced with inadequate or obstructive collective bargaining laws, however, solutions must be found; this thesis will evaluate rights-based approaches as one strategy for unions to pursue in their struggles when organizing precarious workers.

### **Union Renewal**

A growth in precarious work and an increasingly hostile legislative arena for organizing, coupled with shrinking union density underline the need for union renewal. Unions create a platform for collective worker voice. Worker voice has been variously defined as “any attempt at all to change rather than escape from an objectionable state of affairs,” (Hirschman 1970, p.30), and later by Freeman and Medoff (1984, p.7-8) as “direct communication to bring actual and desired conditions closer together.” Historically, collective bargaining is the most effective way to both attain and exercise worker voice (Forsyth 2011), as a “means to balance otherwise unequal (individual) bargaining power in employment relations and redress deep inequalities” (Hayter 2011, p.2), inequalities

that are inherent in the employee/employer relationship. In the face of shrinking union density (Kumar and Schenk, 2006, p.34; Kainer, 2009; Milkman and Voss, 2004), an unfavourable legislative climate (Jackson, 2006; Slinn, 2003; Forsyth, 2011) and relatively high employer resistance (Bentham, 2002), unions are concerned with ways to survive and hopefully thrive in a globalized economy.

Acknowledging the realities of low union density and an unfavourable climate for trade unions, alternate avenues for exercising voice are being explored. This includes “co-regulation”, a model that incorporates inside employee representative committees with third party independent monitoring to encourage a robust form of self-regulation (Estlund 2010), however, it is widely agreed that collective bargaining, if achievable, is a preferred method for obtaining worker voice (Adams 2008; Forsyth 2011; Savage 2009). Falling union density limits the power of all workers, with or without access to collective bargaining, leading to discussions of union renewal.

Current preoccupations with union renewal in Canada and elsewhere focus on 1) how to halt declining strength in the face of falling union density, and 2) how unions can revitalize themselves and grow in their particular “institutional and environmental context” (Kumar and Schenk, 2006, p.30). What does successful union renewal look like? Gordon, in a discussion of transnational labour, argues that unions operate like nations, creating borders that include and exclude individuals based on the criteria of membership or non-membership, with the ‘borders’ acting as a “mechanism that makes increased benefits possible.” (516). Gordon argues that adopting an “inclusive” model of “labour

citizenship”, effectively widening the borders to incorporate many or most workers into the collective bargaining fold, acts as a protective mechanism against deteriorating wages and working conditions for all, in contrast to the traditional craft union model that limits or excludes access to labour citizenship in order to protect gains for the few (2007, p.516). Other scholars argue that unions are most relevant to workers when they operate as “swords of justice” (Forest 2009, p.99) with their primary role being to flatten income inequality and social injustices based on class (Camfield, 2011). Many scholars argue that these injustices are often experienced through gender, race and ethnicity (Yates 2002, p.39), and that combating these effects is the path to true union renewal. Social unionism, an approach to union activity and ideology that is concerned with social and political injustice as both collective bargaining issues and issues outside of the workplace and (Camfield, 2011, p.145; Baines 2010) is an example of the ‘sword of justice’ approach, as is “social movement unionism” which engages in highly democratic decision making at the membership level, takes a militant stance against management, and engages in political action designed to combat neoliberalism (Camfield 2010).

Discussions around mitigating the impacts of precarious employment in Canada frequently focus on regulatory solutions (Vosko 2008; Vosko 2006; Thomas 2009; Bernstein 2006), with acknowledgment that trade unions can also be an effective tool against precarious employment (Anderson, Beaton and Laxer, 2006; Cranford, et Al, 2006; Lewchuck, Clarke and de Wolff, 2011, p.288). Recent recommended policy responses to precarious work specific to Ontario include a reduction in employment standards exemptions, increases to and an examination of the impacts of an adequate

minimum wage, legislation that equalizes part-time working conditions with those of full-time, improved enforcement mechanisms for regulations, expansion of health and safety legislation, and improved access to worker voice and participation through both union and non-union mechanisms (Law Commission of Ontario 2012). When considering worker voice, scholars like Standing argue that the traditional labour movement is often not responsive or relevant enough to this new class of workers to be an effective solution, and other policy paths such as a basic guaranteed income may be more successful (2011). In the North American context, in the current neoliberal climate of austerity, this solution appears politically untenable (Myles and Pierson 1997; Steensland 2008), making collective action by workers a pressing priority (Cranford et Al, 2006).

As a means of enabling some degree of democracy in the workplace, the issue of unionization assumes a corporate or government organizational structure, rather than a cooperative or other labour-managed structure. Because corporate and government structures are state-specific, it is important to acknowledge the state context and be careful when importing recommendations from other legal jurisdictions. In the Canadian context, Kumar and Schenk outline seven major strategies to pursue union renewal, including organizing the unorganized, structural change such as mergers, a focus on coalition-building inside organized labour through national and international solidarity, grassroots political action, education and training for leadership development and rank and file awareness, partnerships with employers and government on issues of mutual interest, and finally, coalition-building with community and social groups (36). For the purposes of this study the most relevant strategy is organizing the unorganized.

There is little history and research on successful union organizing strategies for this particular type of precariously employed worker. While there are examples of unions successfully organizing precariously employed workers who are geographically concentrated in precarious employment for extended periods (CUPE 3093 at York University represents graduate students and sessional course directors, for example), and there is literature examining case studies of mobilizing constituencies within these more stable and concentrated groups (Kuhling 2002), there is little research examining the particular challenges facing organizers of short-term, fluid part-time, workers dispersed across 24 workplaces/employers, spanning a province as large Ontario.

We may try to draw some lessons from the literature on organizing the unorganized, which identifies several tactics that are known to improve success rates generally. For example, Bronfenbrenner and Hickey identify ten specific tactics for more effective organizing, including adequate and appropriate staff and financial resources, active and representative rank-and-file organizing committees, active participation of member volunteer organizers, person-to-person contact inside and outside the workplace, issues which resonate strongly in the workplace and in the community, creative and escalating internal pressure tactics involving members inside the workplace, external pressure tactics outside in the broader community, and building for the first contract during the organizing campaign (2004 p.22-23). While various strategies and tactics have been tested and are known to work in the context of organizing standard workers, there is much less known about the effectiveness of these recommended approaches when organizing precarious workers.

There is a growing body of literature on ‘organizing for union renewal’ in Canada, the U.S. and Britain (Kumar and Schenk, 2006; Milkman and Voss, 2004; Hickey, Kuruvilla and Lakhani, 2010; Hurd, 1993; Eaton 2004; Bronfenbrenner and Hickey, 2004). Since the 1990’s, discussions of organizing as a tool to combat the effects of shrinking union density is of primary concern in the U.S., where density has reached alarmingly low levels (Milkman and Voss, p.3), but also in Canada where unionization rates have declined less sharply (Jackson 2006, p.67). Despite concerns with shrinking union density, there are scholars who point to the dangers inherent in focusing only on increasing numbers, demonstrated in cases that severely limit or remove democracy from the membership, creating destructive dissent within the movement that may erode solidarity (Early, 2011), and possibly lead to forms of “corporate unionism” that embraces “union density at all costs” (Camfield, 2011, p.113). There is wide agreement, however, that union density plays a substantial role in the ease of access to collective bargaining, bargaining outcomes and access to political power (Jackson 2006, p.62-63; Camfield 2011).

Discussions of union renewal that emphasize “organizing the unorganized” frequently focus on service sector workers (Savage, 2007). These positions are often dominated by women, youth and people of colour (Clarke and Warskett, 2010, p.235-236). New interest has arisen in the effects of reflecting the diversity of gender, race, age and education in the rank and file membership (Yates 2002; Savage 2007) and of organizers themselves (Rooks 2003; Foerester 2003). Quantitative studies establish that organizers who mirror diversity in the workplace correlate with higher certification levels, at least in

Ontario and British Columbia (Yates 2002, p.34). This literature is particularly relevant in discussions of the female-dominated service sector (Yates 2002, p.32), and the “non-market” broader public service, including health, education and social services (Eaton, 2004). There is evidence that women are more likely than men to vote yes to certify a union, important information when examining female dominated workplaces (Yates 2006). Overall, although there is considerable discussion about effective strategies, there is evidence that change in Canadian unions is often slowly and unevenly implemented (Yates 2002; Eaton 2004).

There is evidence that who does the organizing affects successful outcomes; studies focusing on organizers explore this problem. There are a number of qualitative case studies that explore issues around effective organizers, including “the cowboy mentality”, a level of almost religious zeal that serves to strengthen some organizers commitment, and alienate others (Rooks 2003), organizers as transformative actors in the union and the workplace (Savage 2007 p.121-123), and the dynamics between staff organizers and union participation in organizing campaigns (Sharpe 2004), but these studies’ primary focus is on organizers who make a career of this work. There are qualitative studies that explore rank and file experiences of organizing among other activities (Lynd and Lynd 2000, p: 12-13; Stinson and Ballantyne, 2006, p.154-155) and studies examining the efficacy of organizing strategies in the Canadian context (Eaton 2004) but little in the way of Canadian case studies that examine the organizing culture here, at a time when there is growing hostility to unions, particularly in the public sector (Gindin and Hurely, 2011; Evans 2011).

Discussions of effective organizing strategies provide a number of directions. One strategy focuses on the importance of engaging members as activists, believing that only through more militant mobilization of rank and file members and increased union democracy from below can the movement be rejuvenated, (Camfield 2011; Moody 1997). High involvement of rank and file members in successful organizing campaigns is supported as crucial by some (Yates 2002) and rejected as less definitive by others (Hickey, Kuruvilla and Lakhani, 2010; Crain 1994).

A second stream of literature focuses on strong coordination and centralization dependent on change-oriented national leaders, often characterized as ‘change from above’ (Voss 2010). This approach often focuses on increasing access to leadership and staff positions for women and people of colour, and also an emphasis on innovative tactics (Voss and Sherman 2000). Although these “bottom up” and “top down” approaches may appear contradictory, Briskin disputes the need for a dichotomy, calling instead for a form of “post-heroic leadership” valuing women’s formal and informal leadership in local unions with “cross-constituency organizing” and “coalition-building *inside* unions between and across equity-seeking groups” for a more consensus driven leadership model (2010, p.523). Other scholars embrace a “third way” (Hickey, Kuruvilla and Lakhani, 2010, p.56), which strategically combines both grassroots membership action and leadership-driven strategies specifically tailored to individual campaigns (Bach and Givan, 2008; Bronfenbrenner and Hickey, 2004). Major U.S. studies of organizing strategies identify the use of creative and intensive use of multiple tactics (Bronfenbrenner and Hickey



2004) and strategic use of centralized 'top down' and 'bottom up' tactics (Hickey, Kuruvilla and Lakhani 2010) as crucial to organizing success.

## **Chapter 2: Legislated Precariousness: Ontario College Workers**

If not all part-time employment is precarious, how do part-time college workers fit within the lens of precarious employment? Accepting that part-time precarious employment is work that offers combinations of low social benefits, inadequate wages, reduced job certainty, exclusion from standard employment protections and frequently intersects with gender, race and youth (Vosko 2006) this chapter will examine the specific conditions of part-time support staff measured against this understanding of precarious employment.

### **Ontario Colleges - Building Precarious Employment?**

Part-time college support staff is a highly gendered workforce, where on average approximately 67% of non-student part-time employees are women (EERC 2012). Student hires, which make up a rising percentage of the part-time workforce, come closer to gender parity, a trend that is typical of part-time workers between the ages of 15-24 (Statistics Canada 2012). The majority of students no longer attend college straight from the high school system, with only 34.7% of students applying directly from secondary school in 2012, but the student demographic is young, with increasing numbers of newcomers to Canada and a growing population of international students (Colleges Ontario 2012). The number of part-time workers in both categories has been rising over time, but the gender ratios have remained stable, with typically a 2 point range from year

to year between groups from 1994 to the present.

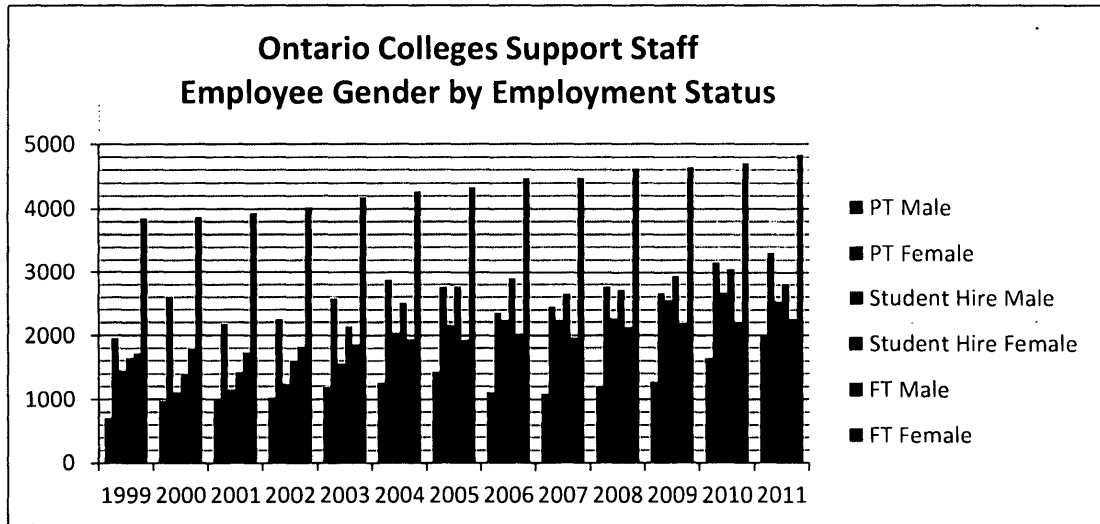


Figure 1: Data provided by Support Staff Employer Employee Relations Committee (EERC), 2012

Much of the student hiring is means-based, relying on the Ontario Student Loan Program criteria. As a result, low-income students are the most likely candidates to be hired by the colleges (Ontario Student Support Branch 2008, p.1). Student hire turnover is high at approximately 30%, which can be attributed to several structural factors, including the rate of graduation, a student drop-out rate of approximately 38% across the province (Colleges Ontario 2010), and the funding structure for student jobs. Until the 2012/2013 academic year<sup>2</sup> the Ontario Work Study Program (OWSP 2011) provided the main source

<sup>2</sup> The 2012/13 academic year begins a new, de-centralized funding model; starting in 2012 the 24 colleges will independently administer the funds that traditionally came through OWSP

of funding for provincially subsidized student jobs<sup>3</sup> in the colleges (Ontario Student Support Branch 2008, p.1).

Ontario Work Study Program (OWSP) caps student earnings at \$1000/semester per student (OWSP 2011). In the context of high tuition and rising debt loads, OWSP encourages students to “earn your aid” (OWSP 2011). The language of ‘earning your aid’ echoes the logic of workfare ‘work incentives’ that push people into substandard work (Evans 2007), a component of the workfare system that reinforces “managed precariousness” (Good Gingrinch 2010). OWSP functions in much the same way. The program, first conceived as a supplementary income program within the grant system now functions to supply post-secondary institutions like the colleges with a steady supply of flexible, inexpensive labour, while reinforcing underfunding in the system through a highly individuated approach. Work experience gained through OWSP positions at the colleges are often touted as a benefit to students, gaining them an advantage in the labour market. Arguably, the net benefit flows to the employer, with a “reserve army of labour” (McBride 2004) to subsidize growth in the colleges. As of 2013, OWSP funds are being administered directly by the colleges (OWSP 2011). It is an open question if student jobs will continue to grow, or if the funds will be redistributed through bursaries.

Although gender, youth and low income do not determine precarious employment, they often intersect with precarious work. The “regular” non-student part-time workforce is highly gendered, on average 70% of the employees are women. The student workforce is

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<sup>3</sup> The province, through OWSP picks up 75% of the cost of qualified student jobs; the institution provides the remaining 25%.

closer to gender parity but consists of predominantly low-income, young and/or newcomers to Canada, all potentially vulnerable characteristics. To understand the scope of precarious conditions in the colleges, the employment regulatory framework the colleges operate under must be explored.

### **Ontario Colleges Employment Regulatory Framework**

The Ontario Colleges of Applied Arts and Technology were conceived and created in 1967 to accommodate skills training that was, according to then Education Minister Bill Davis, “essential to the continued growth and expansion of the economy of our Province and our nation”... and that the colleges primary focus be “that adequate facilities be made generally available for the education and training of craftsmen, technicians and technologists” (as quoted in Ontario.Ministry 1990, p.7) The main focus of the colleges was and is to make people job ready. Relatively young and nimble educational institutions, the twenty four colleges are located province-wide, with approximately 7000 full-time academics, slightly more than half of which are men, and approximately 6700 full-time support staff, of which approximately 70% are women (College Employer Council, 2010).

College employment is divided into three disparate categories; administrators who do the hiring and firing, and are traditionally excluded from collective bargaining, academic faculty who develop curriculum and facilitate instruction, and support staff, a broad category of workers who provide the various services required to keep large educational institutions running. As a result, college workers are a varied lot, including college

instructors, librarians and counselors on the academic side, and myriad service workers ranging from janitors to nurses, clerical workers to lab technicians, maintenance workers and IT specialists, all of whom are considered support staff. The broad categories of academic and support workers are codified under the Colleges Collective Bargaining Act (CCBA), which sets out a statutory bargaining regime determining who belongs in what bargaining unit, with the division between full-time and part-time being the number of hours worked<sup>4</sup>.

The number of part-time employees in the college system is highly contested (OLRB 2010). In 2008 leading into the votes the Ontario government estimated the total numbers, including academic and support staff part-time employees at 17,000 (Ontario, 2008), but estimates from employer data shared under the auspices of the full-time support staff collective agreement suggests that at peak times during the academic year 9300 support staff workers are part-time, of which more than 55% are students (EERC 2009). Even within these conservative estimates, both the academic and support staff part-time workers outnumber the equivalent full-time work groups.

As discussed in chapter 1, to avoid the risks of part-time work becoming precarious employment an appropriate regulatory framework must exist, workers require the protection of collective bargaining, or both. Part-time college workers suffer from a lack

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<sup>4</sup> Currently the CCBA (2008) Sched. 1 establishes four potential bargaining units, one for each of full-time and part-time academics, and full-time and part-time support staff units, based purely on hours worked. Sessional academics are restricted to those teaching less than 6 hours a week, and part-time support staff are restricted to those who work 24 hours or less. There are a number of exclusions under the Act, primarily positions with professional designations, i.e. professional engineers, lawyers, etc., and administrators.

of access to appropriate employment standards and to date also lack the ability to improve their conditions through collective bargaining. These limitations can be traced to the legislative and regulatory framework that governs employment in the Ontario colleges.

The Ontario colleges are broader public sector organizations which operate under a complex regulatory regime that controls governance, employment standards and collective bargaining. As the result of the overlap of several pieces of legislation<sup>5</sup>, part-time college workers have no access in law to many of the basic employment standards. As Crown agency employees, all college workers are excluded from wide sections of the Employment Standards Act (ESA), specifically Pt V-XI, including access to regulation of hours of work for breaks, length of work day (VII), the minimum wage (IX), no payment for public holidays (X), and no vacation with pay (XI). Standards such as the minimum wage are not abused in practice<sup>6</sup>, however, part-time workers in the college system do not receive vacation pay or pay for public holidays, have no access to over-time pay, and must make their own informal arrangements with managers or administration if they are sick, want to take an unpaid vacation or otherwise wish to deviate from working conditions controlled “almost exclusively by the employer” (Whitaker 2008, p.33).

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<sup>5</sup> LRA s.3(h) excludes any employee of a College of Applied Arts & Technology. The Ontario College of Applied Arts & Technology Act s.1(4) defines the colleges as a Crown agency. The ESA s.3(4) limits crown agencies to only the following parts: Part IV s.14, Pt. XII-XXVI, XVIII, excepting s. 74(1)(a)(vii), Pt. XIX.

<sup>6</sup> Although a thorough method of tracking this is beyond the scope of this project, a preliminary search indicates no history of complaints on the issue through the OLRB.

The assumption might be made that as public sector employees, college workers will be covered by similar or superior provisions to the ESA under collective bargaining agreements. From the inception of collective bargaining in the colleges in 1975 until 2008, however, part-time college workers were explicitly excluded from access to collective bargaining by the CCBA (1990 Sch 1&2). Exclusion from collective bargaining in the colleges has impacts which are both material and pervading. For example, support staff workers covered by collective agreements enjoy adequate wages, relative job security, extra-wage benefits including vacation, medical and dental benefits, generously topped up pregnancy and parental leave, mandatory defined benefit pensions and access to training and professional development leaves. They also enjoy access to internal job competitions that increase possibilities for advancement<sup>7</sup> (Support Staff C.A. 2008). In contrast, part-time workers are subject to lower wages, timed contracts with no obligation of renewal, no access to vacation pay, and no extra-wage benefits<sup>8</sup>. Precarity is further reinforced through job security language embedded in the full-time collective agreement giving “preference” to full-time workers over part-time workers, which allows the conversion of multiple part-time jobs into full-time positions for bargaining unit members (Support Staff C.A. 2008). Part-time workers face formal exclusion from the status of ‘internal’ job applicants, although they may have many years of service at the

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<sup>7</sup>Art. 7, 14, 11, 8, 12.3.1, 12.3.2, 9.3, 18.5.1.4

<sup>8</sup> One exception is access to the defined benefit pension plan. Recent changes to pension allow part-time workers immediate entrance upon hiring, rather than waiting 24 months, to this jointly funded defined pension plan. The contribution is voluntary, however, and the take-up by part-time employees is historically low.



college<sup>9</sup>. In addition to the cumulative effects on job certainty and economic security, exclusion from collective bargaining creates a culture of exclusion that permeates the colleges. Part-time workers are not only cheaper, they are much more expendable. College part-time workers can be characterized as in Barker and Christensen's description of flexible labour, as the "human resources equivalent of the just-in-time inventory system" (as quoted in Thomas 2009, p.22). Exclusion from basic employment standards and collective bargaining create the perfect conditions for precarious employment. In order to identify ways to overcome these conditions, both legislative changes and union strategies need to be considered.

### **A Brief History of the CCBA**

The exclusion of part-time workers from bargaining rights can be traced through the history of collective bargaining at the colleges. Before 1975, the statutes governing collective bargaining in the colleges was much the same as in other sectors of the Ontario public service; bargaining was governed first in 1967 under the Public Services Act and then in 1972 under the Crown Employees Collective Bargaining Act (Gandz 1988, p.22). The Colleges Collective Bargaining Act 1975 established an independent legislative process for Colleges collective bargaining. It has been suggested that this was in response to a "difficult" bargaining relationship with the academic unit (Whitaker 2008, p. 10) and tensions in structural governance issues in the colleges that interfered with the

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<sup>9</sup> Some efforts have been made to rectify the issue of part-time service, while maintaining job security for full-time workers. Part-time workers' service to the college "must be considered" during the hiring process, after internal candidates. have been exhausted (Support Staff Collective Agreement 2008)

bargaining process (Gandz 1988, p.vi). The adoption of the CCBA 1975 was a major accomplishment for the union, in that it granted the right to strike or lockout, a major key to bargaining power. The newly established Act did exclude by statute the inclusion of part-time employees in the bargaining unit (Whitaker 2008, p.11). With relatively few part-time workers in the colleges in 1975, exclusion may have seemed like a small concession for the right to strike. In this period, part-time employees were often excluded from collective bargaining. This arrangement is arguably a result of labour norms that assumed the “male breadwinner” as the primary beneficiary of employment standards and protections under the standard employment relationship (Vosko 2008), with women, whose status was most often part-time, positioned as “supplementary ‘secondary’ workers” (Standing 1997, p.9), who were therefore frequently excluded from collective bargaining. Whatever the cause, the exclusion of part-time workers often went unchallenged in the labour movement of this era.

The exclusion of part-time college workers did not remain unchallenged for long. Between 1975 and 1988, when a major reassessment of the colleges’ governance and bargaining structure, the Gandz report was released, strikes by both the support staff<sup>10</sup> and academic unions occurred. Calls for reform to include the part-time employees in the bargaining units were tabled (Gandz 1988, p.32). The Gandz report outlined a number of questions relevant to bargaining within the college sector, going so far as to question the need for bargaining legislation separate from the Labour Relations Act at all.

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<sup>10</sup> The Colleges Support Staff strike of 1979 was the first strike ever undertaken by OPSEU members.

The report concluded that public sector bargaining in the colleges operate under different strictures than private sector bargaining and upheld the need for exceptions to the LRA. Gandz recommended retaining the CCBA in a modified form. The decision was made on a four part criteria. Gandz first concluded that the Labour Relations Act (LRA) is a 'hands-off' piece of legislation that grants government insufficient control over public sector bargaining (p. 131), secondly that there is a need for the "public to know what is going on in public sector disputes' which gives rise to the need for a fact-finding function embedded in the bargaining process (p.132), third that the bargaining structure must create a distinction between "the government as the paymaster and policy formulator and the government as a party in collective bargaining", to be accomplished by the establishment of a body separate from the Ministry to negotiate and enforce collective agreements on behalf of the then 18 colleges (p.132) and finally, that provisions must be made for "structuring educationally appropriate bargaining units" outlined by statute (p.133). This last provision is key as he envisioned the academic and support staff bargaining units encompassing both full and part-time employees respectively (Gandz p. 142). While many of the Gandz recommendations were adopted in the 1990 legislation, with the revised CCBA quite distinct from the LRA, including considerably more prescribed procedures and fail-safes in regards to strikes, an arms-length bargaining agent and the retention of the two existing full-time bargaining units. The rising number of part-time workers remained excluded.

By 1988 when Gandz published his report, there were already calls to shrink the public sector. Brian Mulroney's infamous statement that he would send federal public sector

workers off “with pink slips and running shoes” (as quoted in Derlien and Peters 2008, p. 137), was part of public discourse, and New Public Management was growing more influential in public policy circles (Shields and Evans 1998). In this atmosphere, *Vision 2000: Quality and Opportunity*, a major evaluative study of the direction and future of the colleges was published in 1990. Spanning thirty-eight working papers and almost two hundred pages in the final report, the document exhibits a number of neoliberal presumptions in its interpretation of then-current conditions and the colleges’ vision for the future. The purpose of the colleges from their inception was to create educational links to the labour market, with a mandate to “provide career education for high school graduates” and “training opportunities for adult workers”(8). Vision 2000’s version of the future is one of “increased competition on a global scale” and a “race to keep up with the latest technologies”(9). The report also problematizes a “growing ratio of the dependent population in the form of an aging demographic and under-skilled workforce” (12), positioning individuals’ college education as the solution to these dilemmas, strongly echoing a neoliberal emphasis on competition, individualism and market logic.

In late 1990 there was a change of government, and Bob Rae’s NDP was elected in Ontario. In May, 1992, Bill 23 (An Act to Amend the Colleges Collective Bargaining Act and the Ministry of Colleges and Universities Act) that allowed the part-time workers to unionize was introduced for first reading and brought forward for second reading in June 1992, but died on order papers (Whitaker 2008, p.13). The unrevised CCBA 1990 remained, entrenching the exclusionary practices of the 1975 legislation on a growing group of part-time workers.

The 1990's were notoriously difficult times in the public sector in Canada, particularly in the Harris' Conservatives 'Common Sense' Ontario. Deficit discourse created legitimacy for reducing government expenditures (Shields and Evans 1998). New Public Management discourse provided justification for reducing costs while subsequently claiming to increase efficiency within public administration. Part of a broader global shift in neoliberal governance that emphasizes "the operation of free markets and free trade as a public good" and subsequent limits to state interventions in the market (Harvey 2005, p.64), the Harris government made a concerted effort in their first full budget of 1996 to slash public expenditures across the board, with substantial reductions in funds to transfer partners across sectors (Ontario Budget 1996). This in turn led to budget shortfalls and staff reductions in numerous government agencies, including the colleges.<sup>11</sup> The College's response was two-fold; an initial reduction in both part-time and full-time staff, and then a dramatic increase in the hiring of part-time, non-unionized labour who

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<sup>11</sup>See 1994-1999 staffing chart

quickly outstripped the full time workers.

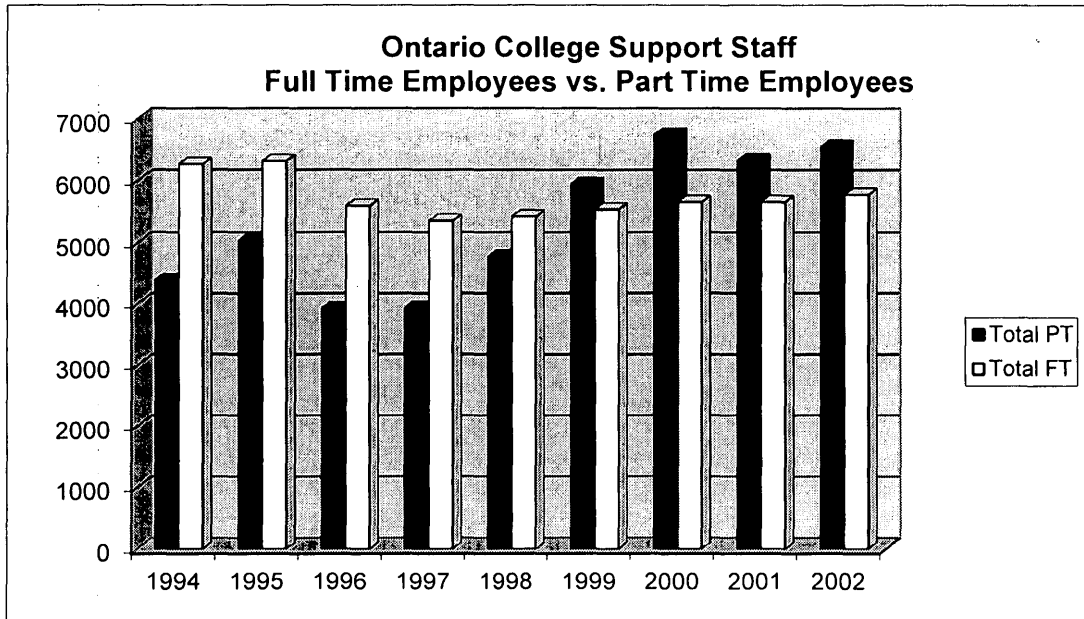


Figure 2 (Chart provided by Ontario Colleges Support Staff EERC from staffing data, 1994-2002)

The trend towards replacing full-time bargaining unit members with part-time non-unionized workers did not escape either the academic or the support staff unions. There is a notable emphasis on job security language in both parties' collective agreements that will "give preference to full-time over part-time assignments"<sup>12</sup> although the sheer number of part-time workers leads to questions over the effectiveness of the language. The employer's response to retrenchment was to avoid the difficulties of the bargaining process to exploit provisions of the CCBA by hiring increasing numbers of highly

flexible non-unionized workers, “unencumbered by collective agreement obligations” (Whitaker p. 33).

The acceleration of part-time hires was most notable in the post-Harris years. The release of the Harris government’s 2000 Ontario budget doubled funding for the Ontario Work Study Program (Ontario Budget 2000, p.23). Reporting of student hires was exceptionally uneven in this early period (EERC 2009) but the overall upward trend beginning in 2001 is clear, with student hires more than doubling from 2000 to 2009.

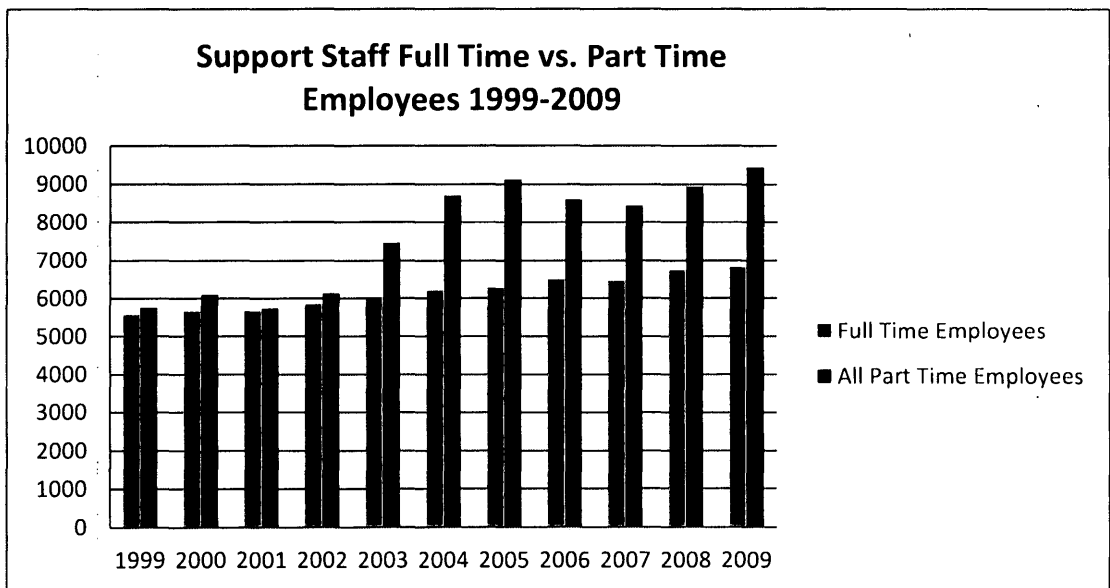


Figure 3: Data provided by Ontario Colleges Support Staff Employer Employee Relations Committee (EERC) from part-time staffing data, 1999-2009 (2012)

Regular part-time, or non-student hires also show an overall upward trend, although the progression is less consistent, with notable surges year over year during support staff collective bargaining years of 2000, 2003, 2005 and 2008. Overall, between 1999 and

2009, the number of part-time college workers in the support staff complement nearly doubled.

In contrast, full-time support staff has been stable; data from the employer indicates that from 1999-2009, the full-time complement recovered gradually after the Harris cuts, from 5570 full-time support staff positions in 1999 to 6830 positions by 2009, a small gain from 1994 numbers (Council 2012). The bulk of growth is in part-time jobs, particularly in means-tested, subsidized student jobs.

Growing numbers of precarious workers in any labour pool can be seen as a threat not just to the security of the workers experiencing precarious work, but to the security of core, unionized workers as well. Gordon's discussion of labour citizenship recognizes the tension between inclusion and exclusion inherent in this relationship. Gordon argues that labour citizenship tilts either toward the "bright line rules" of exclusion common in skilled craft unions, with rules designed to restrict the labour of workers who might put downward pressure on wages and working conditions (p.516) or, in cases where employers have access to large pools of workers with similar skills, a more inclusive definition of labour citizenship, with the goal of organizing all workers in the potential pool in order to avoid downward pressures on wages and working conditions (517-18). Both models can be seen at work in the colleges. The formal exclusion of part-time workers as internal candidates, and language "giving preference" to full-time over part-time workers is an effort at drawing a bright line that protects bargaining unit members from downward pressure. The limited of success of this method is reflected in the



growing numbers of part-time workers. In 2005, the Ontario Public Service Employees Union (OPSEU), the union responsible for full-time college workers began to actively pursue a more inclusive model, beginning a campaign to change the legislation barring part-time college workers from unionizing (OPSEU 2005), which culminated in revised legislation allowing formal access to collective bargaining in 2008.

### **Barriers to Bargaining in the CCBA 2008**

Gaining the legal right to organize was only the first barrier part-time college workers face in their efforts to access collective bargaining. The new legislation creates specific challenges to the certification process.

Whitaker's recommendation to bring the Colleges Collective Bargaining Act (CCBA) in line with the Ontario Labour Relations Act (1995) by instituting a two-part certification vote is problematic. Changes to the Labour Relations Act (LRA) under the Harris government implemented the dual-part process of card signing with a following certification vote; the revised CCBA certification process is a variant of the LRA. Under the CCBA 2008, at least 35% of the total number of affected employees must sign a union card, followed by a simple majority vote to approve a bargaining agent for the certification to be valid (CCBA 2008). When the LRA moved to a two part certification process, organized labour expressed concern that the new process would increase costs through protracted litigation, create more scope for employer interference, and ultimately, result in fewer certifications (Slinn 2003). Despite the Harris government's stated goal that the amendments to the LRA were created as "An Act to restore balance and stability

to labour relations and to promote economic prosperity” (Bill 7), organized labour’s concerns were substantiated by a nine point drop in successful certifications under the two-part system (Johnson 2002). Empirical evidence suggests that new union certification levels in the female dominated service industries dropped after the adoption of the amended Act, with part-time employees being particularly disadvantaged by the two-part process (Slinn 2003). Even under the LRA, with typical employment standards in place, the logical outcome is for unions to concentrate on full-time, standard “male breadwinner” jobs as being more readily ‘winnable’, making part-time work increasingly open to becoming precarious employment. The experience of part-time college workers under the CCBA, four years into litigation with no decision illustrates that these fears are justified. The two-part certification process under the CCBA 2008, with undefined timelines for the employer to challenge the union’s cards creates a substantial barrier to organizing.

The structure of the bargaining units is another barrier under the CCBA. Whitaker recommended a total of four centralized bargaining units, one for each of the part-time academic, part-time support staff, plus the two existing full-time bargaining units across the province. Betty Cree, Chair of the support staff divisional executive argued vehemently for part-time worker’s inclusion into the existing support staff bargaining unit (Ontario.Standing Committee). This is unsurprising when again looked at through the lens of Gordon’s analysis, where a large pool of labour exists in the colleges doing jobs of a very similar nature to those already protected inside the boundaries of labour citizenship. Ironically, the support staff divisional executive also argued for the

exclusion of students from the bargaining unit, claiming the restricted hours of work and direct government subsidies of the OWSP program should make them ineligible (Ontario Standing Committee). The legislation proposed by the Rae government in 1992 grappled with the issue by allowing any part-time worker with more than seven hours of employment per week access to the bargaining unit, effectively excluding casual workers and the majority of student labour. Whitaker recommended all part-time support staff employees that work no more than 24 hours a week, including students, be counted as part of a single support staff bargaining unit (2008). None of the parties appear to have considered creating a separate student bargaining unit. The final mandated bargaining units, coupled with the rapid growth of student workers and the high turnover of the student workforce substantially increases the number of potential bargaining unit members in the part-time support staff unit, making the 35% threshold challenging to meet. This places a considerable burden on the union when accounting for the scale and geography of the organizing drive, elements that are also mandated by the CCBA.

## **Conclusions**

A close examination of Ontario college support staff reveals highly stratified working conditions between full-time and part-time workers. Full-time employees, predominantly women, enjoy job security, extra-wage benefits and protections that meet and often exceed basic employment standards, achieved through collective bargaining. Numbers for full-time unionized workers have remained flat over time, spending almost ten years recovering from substantial cuts under the Harris government. In contrast, part-time

support staff work under considerably different circumstances than full-time employees. The 'regular' part-time employees working 24 hours or less per week are highly gendered, performing the same work as full-time employees, but are outside standard employment protections, with no access to collective bargaining. These positions have grown steadily over time. The third identifiable group is student workers, who are generally young, low income, fixed term employees. Student work is tied directly to a subsidized state funding program that produces cheap workers as well as income for students. They too are outside standard regulatory protections or the protection of collective bargaining. The student group has grown at a much higher pace than 'regular' part-time employees since 2002. Combined, the regular part-time and student workers outnumber the full-time bargaining unit members. The colleges have become reliant on the growth of cheap part-time workers to offset pressures from the neoliberal tenets of increased competition, shrinking funding and straightened circumstances affecting post-secondary institutions across Ontario.

The legislative structures controlling employment standards in the colleges have allowed and encouraged the proliferation of precarious part-time work. It is difficult to argue that regulatory remedies might be available to part-time college workers to improve their conditions. Considerable attention has been drawn to their conditions over decades, and only after the convergence of OPSEU's aggressive lobbying and the SCC's decision on *Health Services* did the government of the day agreed to grant them formal access to collective bargaining. A major review of the legislation governing working conditions granted only this benefit. There is no indication that full inclusion under the Labour

Relations Act was even contemplated, despite Whitaker's rhetoric in regards to bringing the CCBA into line with current labour law. Under the circumstances, the chances that their working conditions will be improved by broad revisions to legislation governing employment standards are slim. Collective bargaining is the best tool available to improve conditions of part-time work in the colleges to bring conditions level with full-time workers.

There are a number of problems with the legislation that make organizing under the CCBA 2008 challenging. The two-part certification creates particular disadvantages for part-time workers, the structure of the bargaining unit that includes temporary students and regular part-time together to define the size of the bargaining unit, and the sheer scale of the project combine for difficult and challenging organizing. Finding strategies to overcome these difficulties is the priority.

### **Chapter 3: Bargaining With The State**

The state is a major employer in Canada, and public sector jobs now represent the bulk of union density. Recent data show the broader public sector represents almost one quarter of paid labour in Canada, with approximately 3,600,000 employees in the broader public service, many of whom are women (Statistics Canada 2012b). Unionization rates in the sector are high, with approximately 71.4% of all public sector workers being unionized, in contrast to 16% in the private sector (Statistics Canada 2012b). Unionized jobs as a whole tend to be 'good' jobs, with higher wages, more job security and better benefits; conversely, non-union jobs are more likely to be lower paid, more precarious and offer less overall security, even within the public sector (Anderson, Beaton and Laxer 2006; Statistics Canada 2012b). In 2010, more women than men were unionized in Canada, primarily because the density rate of the public sector has held up more robustly than the private sector, however much of the most recent growth in unionized jobs is in part-time work (Statistics Canada 2012b).

The benefits of unionization on wages and working conditions are consistently higher when contrasted with non-unionized jobs inside and outside the public sector, although there are still inequalities correlating to race and gender within unionized labour that cannot be dismissed (Anderson, Beaton and Laxer 2006; Das Gupta 2006). In Canada, early public sector collective bargaining systems were credited as some of the most progressive in the Western world (Swimmer and Bartkiw 2003). Accomplished through struggle, public sector unions have been an important site of hard-won gains, particularly

for women; for example, issues such as pay equity have been largely driven by public sector unions (Armstrong, Cornish and Millar 2003). Within this narrative, however, the rise of precarious work in the public service is notable. Despite high unionization rates which offset some of the pressures of precarious work (Borowy 2006; Stinson 2010), there are rising numbers of temporary, self-employed, temporary part-time and/or 'casual' workers in various locations in the public service. These workers often lack job longevity and/or job certainty, and are excluded from key protections available to core workers (Borowy 2006; Stinson 2010).

When understood in the context of a neoliberal rendering of the New Economy, with an emphasis on globalized capital, technological change, flexible work, increased individualization, and rising disparities between highly skilled workers and racialized and/or gendered low-skilled workers (Albo 2010), a state focused on "deferring to the influence of markets" (Chaykowski and Giles 1998, p.7) and New Public Management principles reinforcing a leaner public sector (Sheilds and Evans 1998), rising precarious work in the public sector is unsurprising. Precarious work is not restricted to low-skilled workers in the public service. Highly skilled professionals are being increasingly effected by elements of precarious employment; for example, nurses across Canada are suffering from increased insecurity in wages, job security and control over working conditions, demonstrated through wide-spread involuntary part-time work, casualization, and ironically, increased hours of forced overtime, although through strike action and public campaigns nurses have been more successful at resistance than many other public sector workers (Briskin 2010). White collar professional workers, identified by Standing

as the “salaried” (p.7), a growing example being university and college instructors, are increasingly experiencing precarious work, although highly skilled workers may suffer varying degrees of distress in comparison to lower-skilled workers (Lewchuck, Clarke and de Wolff, 2011).

Inside and outside the protection of collective bargaining, there is rising pressure in the public sector from precarious work. Legislation that erects barriers to organizing, restricts strike action, and in the recent case of Ontario teachers under Bill 115, imposes contracts on unionized workers all illustrate the tension between the state's dual role as regulator and employer. Faced with increasing pressure from precarious forms of work, and a hostile legislative and regulatory setting, public sector unions have responded with a number of tactics and strategies to increase access to collective bargaining.

### **Canadian Unions Respond: Freedom of Association and Collective Bargaining**

Unions, particularly public sector unions, have adopted a menu of rights-based strategies that attempt to establish collective bargaining as a human right in both the legal arena and in the public imagination. These strategies include the pursuit of a right to collective bargaining under the Charter of Rights and Freedoms. Until fairly recently, collective bargaining in Canada was treated by the courts as a statutory right, despite Canada's ratification of the ILO's Convention 87 on the right to organize (Adams 2008). Unlike the *Universal Declaration of Human Rights* (Art. 23(4)), the Canadian Charter of Rights



and Freedoms contains no explicitly stated right to join a labour union<sup>13</sup>. Over the past fifteen years, however, the Supreme Court of Canada (SCC) has cautiously moved towards enshrining collective bargaining as a constitutional right. As recently as *Delisle v. Canada* (1999), it was recognized that members of the RCMP could form a staff association to represent their interests in the workplace, but they had no corresponding right to join a certified trade union under the Public Service Staff Relations Act. In *Delisle*, the SCC established that employees are free to “set up an independent employee association which is protected against employer interference in its business by s. 2(d) of the *Charter*...” (para 37), but the majority opinion was careful to state that “the fundamental freedoms protected by s. 2 of the *Charter* do not impose a positive obligation of protection or inclusion” for access to a particular statutory model of collective bargaining (para.33). The right to freedom of association in *Delisle* falls well short of a right to collective bargaining.

Arguably, *Dunmore* and *Health Services* combined overturn this position. In 2007, when *Health Services* was released, it looked like these cases substantially reset Canadian labour law, by establishing collective bargaining as a (limited) right under s2(d) freedom of association clause of the Charter (Fudge 2008; Tucker 2008; Adams 2008). In direct

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<sup>13</sup> Hon. Allan Blakeney, in an article discussing the s. 33 “notwithstanding” clause states “framers of the *Charter* selected specific rights and freedoms for constitutional protection knowing that infringement of those rights by the state would appropriately be dealt with by the courts. The decision to leave other rights out of the *Charter* was made knowing that those other rights would best be enforced by the legislative, executive and administrative arms of the government.” The result is that recognition of any economic rights, including collective bargaining, must be ‘read in’ under equality (s15) or fundamental freedoms (s2) by the courts.

contrast to *Delisle*, *Dunmore* establishes a “positive obligation on the state to extend protective legislation to unprotected groups” (*Dunmore* 2001: para. 20) if the group can “demonstrate that exclusion from a statutory regime permits a substantial interference” (para. 29). *Health Services* reinforces the logic of *Dunmore*, and states that s.2 “protects the capacity of members of labour unions to engage, in association, in collective bargaining on fundamental workplace issues” (para 19). The decision is clear that s.2 does not protect “all aspects of “collective bargaining” nor does it guarantee “particular outcome(s)” or a “particular statutory regime (para 19), in an echo of *Delisle*. This is a substantial change from earlier decisions where collective bargaining was clearly not protected by s. 2(d) freedom of association (Fudge 2008: 25).

In the *Health Services* decision, the justices credit *Dunmore* with establishing a constitutional right to freedom of association for the purpose of collective bargaining, in keeping with the right to enhance “human dignity, liberty and autonomy of workers by giving them the opportunity to establish workplace rules” (*Health Services* para. 84). The Court carefully limits this right to the process of collective bargaining, however, stating “what is protected is simply the right of employees to associate in a process of collective action to achieve workplace goals” and not the fruits of the process, nor any particular statutory regime (*Health Services* para. 19). It is also clear in the *Health Services* decision that “substantial interference” in the groups’ ability to access their right to freedom of association must be demonstrated (Fudge 2008: 35). In discussing the limits of s.2(d) established in *Dunmore*, the Court states that:

To constitute *substantial interference* with freedom of association, the intent or effect must seriously undercut or undermine the activity of workers joining together to pursue the common goals of negotiating workplace conditions and terms of employment with their employer that we call collective bargaining. But less dramatic interference with the collective process may also suffice. In *Dunmore*, denying the union access to the labour laws of Ontario designed to support and give a voice to unions was enough. (*Health Services* 2007: para 92)

In *Dunmore*, it was found that exclusion from the protections of the Ontario Labour Relations Act which were provided to other workers was deemed in violation of s.2(d), and was not saved by the application of s.1 of the Charter (Barrett 2003: 99) for a group of particularly vulnerable workers from the Ontario agricultural industry. In *Health Services*, the arbitrary removal of transfer, layoff and contracting out rights entrenched in the B.C. government's Bill 29, without any consultation with the Unions was also deemed to be in violation of s.2(d), and the government was given 12 months to revise the legislation (Fudge 2008:27-28). Taken together, these decisions create a constitutional case law that entrenches the process of collective bargaining as a human right in Canada, albeit as a somewhat limited and circumscribed right.

### **The Charter and Judicial Review in Canada**

The impetus for pursuing collective bargaining as a human right in the courts can be attributed not only to a hope for winning workers justice in specific circumstances, but a hope for shifting legislative and regulatory policies to benefit all workers through collective bargaining (Adams 2008). An examination of the wider debate regarding the impact of Charter decisions upon the political process in Canada reveals contradictory understandings of the impact judicial review has on legislatures. Scholars like Morton

and Knopff criticize the impact of judicial interpretation on political discourse and policy formation as an unelected role that usurps traditional parliamentary privileges of “electoral, legislative and administrative politics” (2000 p.13). Many liberal democrats argue that robust democratic institutions, via wide public consultation, citizen engagement and multiple levels of open debate are more effective and accountable when tackling complex issues of rights than the decisions of an unelected judiciary (Waldron 2006; Petter 2009). In contrast, other scholars argue that ideally, judicial review under the Charter is both a “unifying” lens for national debate (Russell 1983 p.41) and a “second level of decision making, which acts as a test against state limits on individuals’ rights (Russell 1983 p.45). The interaction between the court and the legislature can be described as a “dialogue between judges and legislatures” (Hogg and Bushnell 1997 p.79), although this dialogue may only be successful when there is structural support for citizens’ access to challenge state actions in the courts (Epp 1996).

Judicial review effects policy decisions at multiple levels. Petter argues that dialogue happens not only when the courts directly overturn legislation, but when Justice Ministry lawyers vet policy for Charter compliance at the drafting stages of the legislative process, and when politicians use the Charter to “explain, criticise and debate” controversial issues in public policy (2009, p.35). There are questions as to how robust any dialogue might be if judicial review dominates the outcome of legislative limits (Macfarlane 2013). There is also wide agreement that since the inception of the Charter in 1982, legislatures contemplate Charter compliance when crafting legislation (Morton and Knopff 2000, see also Hogg and Bushnell 1997; Petter 2009; Macfarlane 2013).

The direct impact of judicial review on collective bargaining is a matter for substantial debate. The courts suddenly idealized depiction of economic equality and workplace democracy outlined in *Health Services*, supposedly created by access to the *process* of collective bargaining may be well beyond the Courts' ability to deliver (Tucker 2008, p.39). The *Health Services* decision is a 'win', however it took over five years to secure a decision from the courts, a period of time in which thousands of health care workers lost their jobs due to contracting out and major concessions were given up by many of the remaining workers (Fudge 2008). This points to the fact that success in the courts is rarely definitive or quick, and justice is not always the outcome for the individuals affected.

When evaluating the justice meted out to workers directly in cases such as *Dunsmore*, the outcomes are disappointing. After the *Dunsmore* decision, the Harris government used the period set out by the court to revise the statute to make cursory changes to the Act, resulting in the *Agricultural Employees Protection Act, 2002 (AEPA 2002)*. The legislation continued to block agricultural workers' ability to bargain collectively, and the AEPA has the dubious honour of being the "only labour legislation in history under which no bargaining has ever occurred." (Calvalluzo 2012 p.162). The result was another lengthy court challenge by the UFCW, ending with the further tightening of the SCC's interpretation of collective bargaining as a right in the *Fraser* decision (Barrett and Poskanzer 2012). Currently the agricultural workers still have no access to collective bargaining. The 'dialogue' between the courts and the legislature in this case has been disjointed and contradictory.

Despite some scholars' fear that legislatures defer to the Courts, examples like Dunmore illustrate that legislatures have and exercise the power to act independently. The impact of judicial review, while real, is uneven when applied to specific circumstances and particular pieces of labour legislation. While Charter challenges have been described as a pragmatic tactic (Walchuk 2009), success can only truly be declared if the impact of the court's decisions influences legislatures to pass laws that make collective bargaining more widely available to all. So far this is not the case. Rather than expect that individual case law will provide a general remedy to the broad difficulties of legislation limiting access to collective bargaining, pursuing collective bargaining as a human right must be examined as a tactic in the broader context of rights discourse.

### **'Workers Rights as Human Rights' – The Case for Rights Discourse**

The adoption of a legal strategy that relies upon the establishment of collective bargaining as a right under the Charter of Rights and Freedoms has been accompanied by an increase in discourse around labour rights as human rights (Fudge 2012). Even though renewed hope has been invested in the courts to achieve greater access to collective bargaining for Canadians under the auspices of the Charter, there is evidence that success for workers' can be limited using this strategy. The recent upsurge in support for organized labour from the courts coincides with a general worsening of conditions for labour and workers as a whole due to increasing neoliberalism, globalization and new international divisions of labour (Arthurs 2009). It is recognized that caution should be applied when relying upon the courts to secure a "right" to

collective bargaining, due in part to the potential unevenness of outcomes (Fudge 2008), and the risk of substituting the power of the courts for grassroots activism and democracy (Walchuk 2009). The use of legal strategies cannot be completely dismissed, however; since rights discourse can create a powerful moral imperative when unions link it to a “transformative political purpose” (Lichtenstein 2003).

Debates about the value of adopting labour rights as human rights as a strategy in Canada, as elsewhere, are fierce and unresolved. There is substantial discussion supporting a vision of collective bargaining as a human right, including Adams’ definition of collective bargaining as an inalienable right, flowing from our dignity as persons (Adams 2006; Adams 2008), a need to restrict the states’ ability to limit our freedoms, applied to associative collective bargaining with the same logic as any freedom (Langille 2011) and the negative implications for an equitable and cohesive society if these rights are abandoned (Fudge 2012). Acknowledging this, there is also discussion of the real but limited gains made to date from this strategy (Fudge 2008; Tucker 2008; Barrett and Poskanzer 2012).

Conversely, there is debate that rights discourse is dangerous to the overall health of the labour movement. Larry Savage argues that rights discourse depoliticizes class struggle by vesting power in an elite-led legal system, failing to address inequalities of wealth and income and creating a tendency to “undermine labour militancy and foster a sense of individualism in workers rather than a sense of collective worker power” (Savage 2009, p.9). Others argue that this elite-lead strategy chips away at the democratic strength of

unions (Early 2011). Certainly, as Walchuk points out, there are “no picket captains, no strike mobilization committees or no shop stewards needed in a courtroom” (2009; p. 110), leaving workers largely on the outside of the process when a dispute reaches the courts.

What then has the pursuit of labour rights as Charter rights done for workers, broadly speaking? The Charter has opened up a venue for groups who are traditionally disadvantaged to gain a public voice, as demonstrated by the struggles of agricultural workers in *Dunmore*. The rhetoric of rights has penetrated political culture and may help shape the “development of political and social movements” (Epp 1996, p.766). Before 1982 and the Charter, the process of “intergovernmental negotiation” was the path to decision making in Canada; major policy decisions affecting distributive justice, for example the development of the Canada Pension Plan, tended to be decisions framed as debates between federal and provincial levels of government (Smith 2007, p.30).

It can be argued that the Charter’s emphasis on rights discourse has opened the door for citizens to directly enter the conversation with the state in regards to policy issues (Smith 2007, p.30). Accessing the resources required to do so, however, is becoming increasingly difficult for the average citizen, as funding sources such as the Court Challenges Program disappear (Court Challenges 2006). Individual workers, particularly those experiencing precarious work, are unlikely to have the resources required. Unions, with their fairly unique ability to garner funds on a substantial scale are in a good position to pursue Charter challenge strategies. Certainly, in the hope of having a positive impact



on labour rights through the courts, unions are the most likely organizations to affect change. The efficacy of relying on the courts for wider access to collective bargaining is still being debated, as is the impact of rights discourse on labour militancy more broadly. The discourse around labour rights as a human right, with an emphasis on justice and access to collective bargaining for all (Fudge 2005) is firmly established in the current labour movement, although the outcomes do not always reflect the rhetoric.

### **‘Denying Rights Is Wrong’ – Rights Discourse and Changing the CCBA**

Faced with legislation that explicitly barred part-time workers from accessing collective bargaining based simply on their hours of work, several rights-based strategies were employed by OPSEU in the fight to change the Colleges Collective Bargaining Act (CCBA). In June 2005, early in the campaign, the National Union of Public and General Employees (NUPGE) submitted a complaint to the International Labour Organization (ILO) on behalf of OPSEU, claiming that part-time workers rights were being infringed against the Ontario government under international law. The complaint states that the CCBA (1990) restriction on collective bargaining rights for part-time workers contravenes Canada’s ratification of the Freedom of Association and Protection of the Right to Organise Convention 1948 (No. 87) and ILO’s Convention 98 (ILO Case 2340, 2006, s.341). This same tactic was used by UFCW early in the case of the agricultural workers (Cavalluzzo 2012). The colleges’ response to the ILO complaint cites the colleges’ need for “flexibility in programs and activities” in order “to be responsive to the immediate and frequently changing needs of employers and the workforce” (s.354). The

ILO found no merit in the employer's position, urging the Ontario government to allow part-time college workers access to collective bargaining (s.363). With a long history of ignoring ILO edicts (ILO s.358) the Ontario government disregarded the ILO decision, but the conversation around collective bargaining as a human right for Ontario college workers was established.

Political lobbying, with a stress on basic fairness and worker rights was a major component of the campaign. Part-time and full-time workers lobbied MPP's across the province for changes to the Act, and OPSEU worked with the provincial NDP to table a private members bill to revise the CCBA allowing part-time workers to organize (OPSEU 2005). The bill was defeated, but succeeded in drawing attention to the part-time workers' cause.

As part of both a political strategy and as a standard organizing tactic, OPSEU facilitated the formation of the Organization of Part-Time and Sessional Employees of the Colleges of Applied Arts and Technology (OPSECAAT) (Part-time Times, October 5, 2006). OPSECAAT is a democratic workers organization, with elected representatives from both academic and support part-time workers. Not a union, the association provides a recognizable structure and the possibility of a collective voice for part-time college workers. In 2007, OPSEU and OPSECAAT engaged in direct action to change the law. The union began a province-wide union certification card signing campaign, designed to pressure the government into amending the CCBA to allow part-timers collective bargaining rights (College Workers Ask 2007).

In June 2007, the SCC's *Health Services* decision was released, with a commensurate impact on the understandings of collective bargaining as a right on multiple levels of government and the wider labour movement.. OPSEU's message around collective bargaining rights intensified, using the slogan "Denying Rights Is Wrong", with the president and vice-president of OPSECAAT travelling around the province visiting colleges to escalate the card-signing campaign (Part-Time Times June 18, 2007). Despite the colleges' claim to the ILO that part-time employees were not interested in a belonging to a union, thousands of part-time academic and support workers signed cards that were submitted to the Ontario Labour Relations Board. OPSEU filed applications for union certification for both the academic and support staff. The Board rejected the application, citing the CCBA 1990 (Part-Time Times, Dec. 7, 2007), but the political point was made.

The government's response to the twin pressures of the certification drive and the *Health Services* decision was swift. In August of 2007, Kevin Whitaker, Chair of the Ontario Labour Relations Board was appointed by the government to conduct a review of the Colleges Collective Bargaining Act (Ontario 2008). The review consists of Whitaker's examination of the history of the college's bargaining relationship, as well as a series of public consultations. The consultations included OPSEU representatives from both academic and support staff bargaining units, various college administrators, the student association and OPSECAAT (Ontario. Standing Committee 2008). Whitaker brought forward 17 recommendations for changes to the CCBA, a limited number of which were relevant to gaining rights for part-time workers. The Ontario government tabled Bill 90, including all 17 of Whitaker's recommendations, and the Colleges Collective Bargaining

Act, 2008 went to first reading June 8, 2008. The Act obtained Royal Assent October 8, 2008 (CCBA 2008). The part-time college employees, excluded from collective bargaining since 1975, gained the legal right to form a union.

### **Conclusions**

Recognizing the power of the state to intervene to address the proliferation of precarious work, and assessing the limited or even contradictory nature of that response is crucial to understanding the situation of precarious workers generally, and part-time college workers specifically. With the state exhibiting increasing pressure to push the costs of austerity onto the public service and the working class (Gindin and Hurely 2012), a broad regulatory solution to precarious employment appears unlikely; in contrast, unions have an active interest expanding their membership, and the ability to directly engage with those affected by precarious work. The adoption of rights-based strategies is a reflection of unions' desire to remedy specific injustices; BCGSU's challenge in Health Services specifically looked for justice for their affected members, UFCW's challenge to the Harris Tories specifically sought collective bargaining rights for highly vulnerable agricultural workers, and OPSEU sought to gain collective bargaining rights long denied to a large group of part-time workers. At the same time, the broader goal to bring Canadian collective bargaining rights into line with international human rights treaties is at work. The desire to obtain collective bargaining as a 'right' accessible to all under the Canadian Charter of Rights and Freedoms would certainly go a long way towards re-establishing union density, and also greater economic justice for Canadian workers.

Gaining access to collective bargaining for vulnerable workers in an environment already hostile to trade unions requires creative tactics. The state's resistance to collective bargaining, particularly notable in the public sector where the state acts as both regulator and employer explains public sector union's attempts to 'go around' legislatures by using the courts. The limited success of this tactic when evaluated singly is clear, even, in the case of Health Services, when the outcome can be counted as a win. In response to neoliberal legislative regimes, unions have moved towards rights-based strategies under s.2 of the Charter of Rights and Freedoms in the courts, through international organizations like the ILO, and by reinforcing public discourse that emphasizes labour rights as human rights. It is clear that a reliance on rights strategies is not successful in all individual cases, and that success may be slow and uneven. Some real gains are being made in the case of part-time college workers who now have legal access to collective bargaining. A focus on rights discourse also appears to reinforce unions' understanding of their role as organizations that provide justice to workers. In particular cases, such as UFCW's intervention with the agricultural workers, the injustice to the workers affected is so vast that the depiction of the union as a "sword of justice" is wholly credible. If as Daisy Rooks states a focus on justice serves to reinforce the commitment of some union organizers (2003), a fuller value of rights discourse as a labour strategy becomes clear. Still, it is worth noting, as Larry Savage puts it "Power does not flow from rights" (2009), and that an over-reliance on rights discourse and legal procedures may negatively impact militancy and union democracy. Rights discourse is no substitute for effective organizing,

underlining the need to assess organizing strategies, particularly in the case of precarious workers.

## **Chapter 4: Voices from the Colleges: Organizers Speak Out**

There is some urgency to find effective organizing strategies as the percentage of precarious employment grows and union density shrinks. Outside of the question of shrinking union density impacting unions' ability to defend their members economic or political interests, there is a risk that excluding precarious workers from representation may ultimately be a challenge to internal union legitimacy; Dufour and Hege argue that growing numbers of non-standard workers being excluded from the union can "no longer be analyzed as resulting from the dysfunctional aspects of the systems, but come instead to be understood as the cause and consequence of the [union] actors' decreasing significance" (2010 p.356). The structure of Canadian unions differ considerably from Western European models, however, the question of union legitimacy is still relevant when examining the growth of unrepresented precarious workers in Canada. Dufour and Hege suggest that acknowledgement of these circumstances "opens up new space for unions to act" (p.357). The assumption cannot be made by unions that simply turning their attention to precarious work will translate to successful organizing. The tensions that Standing and others outline between standard, unionized workers and precarious workers indicate that special strategies may be required to engage precarious workers in organizing drives, particularly in workplaces with existing unionized workers like the Ontario colleges. Having identified part-time workers in Ontario colleges as being subject to precarious employment, with access to collective bargaining the best hope for improving their conditions, this chapter will consider the strategies used in OPSEU's campaign to organize part-time college workers.

Much of the broad empirical research evaluating organizing strategies focuses on specific tactics, primarily although not exclusively analyzing 'wins' to identify successful strategies (Hickey, Kuruvilla and Lakhani, 2010; Bronfenbrenner and Hickey 2004). Bronfenbrenner and Hickey have developed a model to examine the relationship between successful union certification and union tactics. Bronfenbrenner and Hickey make a convincing case, based on a national assessment of U.S. NLRB applications that combining multiple key tactics which include 'top down' and 'bottom up' strategies' into a "comprehensive union campaign" (2004, p.22) makes for more successful union certifications. While not discounting the effect of employer opposition, industry, or worker demographics, they outline a key cluster of organizing tactics, which when combined correlate with higher certification levels. Furthermore, they conclude that the use of concurrent multiple strategies has a substantially higher impact on success rates than using any one strategy alone, with certification rates climbing in relation to the number and intensity of tactics used, concluding that success in union certification is strongly affected by the use of a "comprehensive union-building strategy"(2004, p. 21). Other scholars have drawn conclusions on various tactics that build organizing success in unions, including the use of rank and file organizers (Yates 2002), recruiting organizers who mirror diversity in the workplace (Foerester 2003), a focus on "strategic leadership" that integrates "political action, bargaining and organizing activities" into union certification campaigns (Hickey, Kuruvilla and Lakhani, 2010, p.69) and a conception of "cross-constituency organizing" that embraces post-heroic leadership as an acknowledgment of various levels and forms of leadership in unions (Briskin 2011).



When considering organizing the Ontario colleges, the logistics are daunting. In the case of support staff, for example, there is a need to reach and build relationships with approximately 13,000 support staff across the province, many of whom work less than three months out of the academic year, in order to sign 35% of the bargaining unit in a full academic year. It is a massive project, spread over a wide geographic area, with legislative limits that force the union to organize all 24 colleges simultaneously (CBCA 2008). The conditions of precarious work, coupled with the outsized scale and geography of the Ontario colleges indicate a need for creative organizing strategies. In keeping with the concept of a 'comprehensive union campaign', this chapter will explore the use of multiple organizing tactics used during the OPSEU campaign. These include engaging rank and file members as organizers, recruiting social justice-oriented organizers who mirror the workplace, developing active representative rank-and-file organizing committees, and the possibilities of cross constituency organizing as a means of building solidarity. These concepts will be linked to the organizers' understanding of the events in the campaign as expressed in the interviews. The goal of this process is to begin to identify tactics that lead to success when organizing precarious workers.

### **Organizers in the OPSEU Campaign – Who They Are**

Research indicates that who does the organizing in a union certification campaign has a substantial effect on the outcome of organizing drives (Sharpe 2004; Yates 2002; Bronfenbrenner and Hickey 2004; Yates 2006; Savage 2007; Foerester 2003). The majority of those working on the OSPEU campaign were temporary organizers –

OPSEU's strategy in the face of 24 colleges with multiple locations and 20,000 potential card-signers was to recruit activists from inside and outside the colleges to do the organizing, including card-signing work, and to encourage the volunteer efforts of college union local executives and steward bodies. Yates finds that the rate of successful certification increases amongst organizing drives where the "first point of contact between a union and a workplace being organized is through workers from other bargaining units." (2002, p.34). Three of the individuals interviewed are full-time college workers who are union activists, an approach fairly typical of 'bottom-up' worker-to-worker organizing (Yates 2002). Of the seven temporary organizers interviewed, six had previous union experience in OPSEU or other unions, ranging from the local level (stewards or local executive members) to more senior levels (divisional executive, regional labour councils, executive board).

C credits the experience of current union activists and retirees as essential.

The people I worked with had a lot of experience. They had union experience and they had college experience, because they weren't part-timers. There was one person there - she was from outside but she was a former OPSEU worker, [a] union person - so she knew unionization, she knew the union. Then the other two organizers - one was a retired union person [who] represented the faculty, and the other was a very popular support staff retiree. And I remember when they asked me what I thought about working with retirees and I just think it's great because have so much experience and they know the college. (C, part-time activist)

The recruitment of retirees as organizers is completely outside the literature; with an aging workforce and a large cohort of baby boomers beginning or approaching retirement, this is an area of study worth exploring.

The same activist expresses her belief that being able to engage with the existing local union structure is a benefit to the campaign:

The Ontario Public Service Employees Union had some advantages, they were already the established organization representing all of the full-time faculty and support staff. It was a logical development, and they had access to an awful lot of information that was useful in the card signing campaign, for example they had a clause in their collective agreement that allowed them to have access to the lists of who the part-timers were.

(C, part-time activist)

As well as experienced union activists, OPSEU employed part-time college workers as temporary organizers. The literature supports the recruitment of member volunteer organizers and/or active representative committees (Bronfenbrenner 1997; Bronfenbrenner and Hickey 2004); OPSEU's approach in hiring potential bargaining unit members is unusual. Organizers were recruited from both support staff and academic part-time workers, although no student workers were engaged on the campaign as paid organizers. Despite the novelty of this arrangement, the involvement of part-time workers as activists and organizers resonates as a theme in the interviews, although the difficulty of engaging and maintaining an activist base in this group is acknowledged.

They [the retirees] were very helpful but I realized they were going to be gone, yeah, and the outside person. You know, I realized that was going to happen. In terms of organizing some kind of base, [we] pretty well had to make connections with part-timers. And at the same time they're guarding themselves...and those people were feeling very nervous about coming out and participating and putting themselves on the line. Who can blame them? (C, part-time activist)

The passage of three years in a multi-pronged campaign between 2006 and 2009, staffed with temporary workers and volunteers situated in a high-turnover, insecure work environment like the colleges raises interesting questions about the ability to build relationships that are the basis of intensive bottom-up “worker inclusive” organizing strategies (Foerester 2003, p. 21).

Through what we've researched, there's approximately a 30% [support staff] turnover rate per semester. In the summer, the numbers of part-time go down, because there's generally a lesser activity level in the colleges. But now you had to take, it wasn't 30% of one semester, which is 10,000 [worker] students. It wasn't 30% of a summer semester which is about 2000 part-time, it was you need 35% of the whole year, which was now 13,000 [part-time workers], which greatly increased the numbers you needed in order to have a successful application. (B, bargaining unit activist)

In response to this issue, the later part of the campaign used the “blitz” model (Foerester 2003, p.21) to reach as many workers as quickly as possible, particularly night school faculty and student workers, both of whom have a high turnover rate.

So instead of one person in each college running around trying to sign up people, you had a team of people go in and sign up people. And instead of searching people out, it was more of a hit and miss proposition, so it's "Hey you, do you work in the college?" as they were walking by in the hallway, rather than "Okay, I've gotta find that office", which produced many more cards. When I spoke to the organizers, my thought patterns were "If it moves, sign it." All the rest will get shaken out in the wash.”

(B, bargaining unit activist)

The blitz style of organizing encourages intensive use of financial resources and organizers' energy, and has been criticized for preventing organizing campaigns that build rank and file power (Early 2011). The blitz model is also credited with high

burnout levels and creating limits on the involvement of women as organizers, since it demands extremely long hours and high mobility (Rooks 2003). The blitz is a method that reaches large numbers of people in a short time, however, which appears to be a pertinent issue in a transient work population like the colleges.

Another tactic that correlates with higher certification levels is recruiting organizers who mirror the workplace; echoing gender, language, race, ethnicity, sexual orientation, age, and education of organizers often results in more union 'wins' when the organizers reflect their potential members (Foerester 2003). Women were well represented amongst the temporary organizers who were interviewed; of those interviewed, three organizers identified as women and four as men. Just one of the organizers interviewed identified as a worker of colour; few workers of colour were engaged at this level of the campaign. Interestingly, when participants were asked the open-ended question "How were the people working on the campaign representative of the workers in the college?" only one organizer replied in regards to race, age, gender and/or education, as reflected in the literature:

I think the folks that were making decisions at the bureaucratic level occupied a fairly privileged cross section, usually white, older, with higher education than many of the people working on the ground. Overall, I didn't see a whole lot of diversity here. (K, part-time activist)

All seven organizers interviewed replied to this question in regards to employment status; part-time or full-time employees, retirees or professional union staff.

There are two classes of workers. I am a part-time worker, too, I understand what they're going through. With the full-time, particularly faculty, maybe they never worked part-time, you have to work part-time to get it. (J, part-time activist)

Initially there were a lot of full-timers on it who as I say didn't really deliver the goods and then at the very end of the campaign when they were trying to make up numbers, in order to go to the Board again, they weren't using part-timers at that point. (R, part-time activist)

Well that's a little bit of a mixed bag, because some, in some areas OPSEU recruited from outside the college system, as far as lead people within the campaign, and then in other areas they used the college support staff, or college employees to do that work. (L, bargaining unit activist)

Oh, well, there were part-time and full-time people working on the campaign. In my area, I worked with some retirees, too. (D, bargaining unit activist)

They weren't. Out of the people that I worked with when I was at OPSEU, only one of the people there, sorry two of the people, one of the people was a part-time support-staff at the college, and another was a part-time instructor at the college. Beyond that, we worked with full-time people, like full-time college people, we worked with people outside the college sector, and we worked with OPSEU staff members. (B, bargaining unit activist)

The impact of employment status on organizing strategies, i.e. part-time, temporary, or standard workers in the context of precarious work, is not widely addressed in the organizing literature, but the prevalence of the response indicates there is a gap in the research that needs to be further explored.

Some efforts were made to engage part-time college workers in representative rank-and-file organizing committees. Bronfenbrenner and Hickey emphasize the importance of “active representative rank-and-file organizing committees” (2004, p.22), although there is evidence that few unions consistently use this model in the U.S (Bronfenbrenner and

Hickey 2004), or in Canada (Eaton 2004). There is debate that this tactic may not be decisive in all circumstances (Hickey, Kuruvilla and Lakhani 2010), however, part-time organizers point to the formation of OPSECAAT as a rank and file organization as a strength, and its disbandment as a failing of the campaign.

The most successful part of the campaign was enlisting part-timers to work on the campaign. I don't think that should be underestimated. Initially it began with people from OPSEU staff doing focus groups and little sessions to determine what kind of messaging they should be using, as they followed up from the 2005 OPSEU convention that moved unanimously that the union work toward organized part-timers. So they started with focus groups and sessions and visited the different colleges and certainly part-timers actually owning the campaign to some degree was extraordinary. All the passion, all of the enthusiasm, all of the excitement and loyalty and all of the things that made the campaign work were the result of the formation of OPSECATT, and the involvement from the very first steps of part-timers in the campaign, so that was brilliant. (R, part-time activist)

What worked really well was the fact that we did involve at a grassroots level the part-timers with the creation of OPSECAAT. I think that was a very powerful vehicle that created an authentic place for part-timers to articulate their demands, and how they envisioned their participation in the union. It gave them a concrete arena to actualize, even prior to unionizing what it would like to behave as if you were in a union. I think that's really a key to mobilizing. I think one of the greatest weaknesses was the disbandment of OPSECAAT. (K, part-time activist)

It is less clear, however, what kind of rank-and-file organizing was done on the ground; much of the activity appears to have centered on signing membership cards, first for the OPSECAAT organization and later union certification cards, with little of the decision making taking place at the rank and file membership level amongst part-time workers. Much of the coordination and decision making appears to rest with the existing union, rather than with active participation of rank and file part-time workers; C explains this as

an outcome of the perception that part-time workers experience higher risk than full-time unionized workers.

I thought they [OPSEU] had quite a bit to the advantage. The disadvantage was that very few of us were actually part-timers that were engaged in the front-line work, and that's because of fear, I guess, of job security. Their ability to mobilize people was sometimes on the shoulders of retirees, or people not really part-time. How to resolve that issue I'm not sure but I think that's a big factor in the continuity. The precariousness of the work was working against us because you have a revolving door of people coming and going. That revolving door is a feature of the type of part-time, contract, precarious work it is, so that people's tenacity towards the delivery of that public service is not there as much because there's no vested interest, because they can't make a decent livelihood in that kind of work. (C, part-time activist)

It is unclear if the focus on the existing union is in response to the structures and risks of precarious work, or the result of the existing leadership filling a void; with an existing hierarchy to rely upon, it may be that the organization engaged existing activists, rather than focusing on building capacity amongst more vulnerable workers. Within this discussion on leadership, and recognizing Hickey, Kuruvilla and Lakhani's findings that strategic leadership from staff and elected union officials is consistently indicative of organizing success, an examination of leadership in the campaign is in order.

### **Leadership, Solidarity and Cross Constituency Organizing**

One of the primary debates around organizing for union renewal, often presented as a dichotomy, is the question of change-oriented leadership versus rank and file mobilization (Voss 2010; Briskin 2011). Frequently discussions of "change-oriented leadership" in social movement unionism demonstrate a fundamental tension between the need to remain accountable to the union's core membership, while still championing



unorganized workers in the broader sector or economy (Voss 2010), a tension that remains largely unresolved in union renewal literature. Briskin proposes a solution to this dichotomy in the form of post-heroic leadership, based in cross-constituency organizing (2011). In contrast to traditional leadership models, Briskin defines postheroic leadership as a form of leadership which “shifts from persons to practices and outcomes... [and] focuses on collective rather than individual leadership” (2011, p.518). Increasingly diverse workplaces reflect a need for the inclusion of multiple voices and experiences while organizing inside and outside the union, creating a need for cross-constituency organizing. She defines cross constituency organizing as:

Institutional and political practices to address multiple and sometimes competing identities, and to support inclusive solidarity, leadership tasks of central importance in union movements whose membership demographics are changing substantially to include a greater proportion of workers of color; workers with disabilities; young workers; Aboriginal workers; and self-identified gay, lesbian, and transgendered workers... Cross-constituency organizing in unions, then, addresses a central leadership and union renewal task: to develop intersectional practices and policies. (Briskin 2011 p.523)

As we have seen, college workers are a complex cross-section of gender, age, race, ethnicity, language, and education. Briskin primarily refers to organizing equity-seeking groups inside the union, so does not address employment status, but precarious employment frequently intersects across these same equity groups (Vosko 2006). One solution when organizing precarious workers inside a workplace populated with standard and non-standard workers may be a strategy that focuses on building cross-constituency organizing that includes employment status. If the experience of precarious employment

can limit solidarity with standard workers (Standing 2011; Lewchuck, Clarke and de Wolff 2011), an understanding of cross-constituency organizing to include employment status is particularly useful when organizing a workplace with standard and precarious workers inside. The OPSEU campaign made efforts in this direction, with mixed success.

In order to understand the challenges of building solidarity between workers with divergent employment status, it is important to recognize where the interests of the two groups come together, and where they might part. The work performed by both full-time and part-time college workers is virtually the same, but workers are aware that their status “outside” or “inside” labour citizenship creates firm boundaries (Gordon 2007). These boundaries are defined by hours of work but also by their *status* as part-time or full-time workers.

I know that a collective agreement first of all is done collectively, so it's not every person for themselves, it's not a competition between people, it's a collective effort to find a common ground. For wages, working conditions, benefits, according to the work we do that's discussed and negotiated. So knowing that and realizing that 55% of the people in the 24 colleges didn't have the right to do that, I was surprised at that, very surprised. So that became the fight, to get that right. (C, part-time activist)

Fairness, equitable treatment with regards to opportunities, specifically opportunities to move into full time status is one of the major aspects of concern from part-time staff. And it's the ability to do that in an equitable and fair manner. The experience is that over 50% of full-time [support]staff have some part-time experience before they transfer into the full-time bargaining unit and that was one of the major issues when transferring in, that they be given the same opportunities in that process. (L, bargaining unit activist)

The abuse of part-time employees in regards to [high] numbers also played a part in it, in thinking that if there was a union, conditions for them could be better, and in a spin off, conditions for the full-time employees would be better... I can be making 25 dollars an hour, and yet somebody doing the exact same work as I am could be making fifteen dollars an hour because they're part-time. So the colleges would lose that advantage over them, and I quite honestly think that's why that [application] is still in front of the Labour Relations Board, is because a) the colleges don't want to lose that ability, and b) the government doesn't want to lose that ability, because the government could also step in, say okay, enough's enough, the challenge is dropped, count the ballots. (B, bargaining unit activist)

The value of unions as a force for justice becomes apparent at this juncture, reinforced by rights discourse; discussions of equal pay for equal work, equitable access to opportunity and fair treatment are identified as points of convergence between full-time and part-time workers.

Another point of shared interest is a concern for job certainty or job security.

So I was employed on contract but I didn't have any material that said I had any rights. Job security I think was number one for me. Okay, I've got this job, but is it secure? This contract lasts for 3 months, then what? I would say the job security was a factor, and your right not to be dismissed unjustly, to be re-employed based upon past experience or seniority. But the big thing was that you're on contract every 3 months, you're not sure whether you're going to be re-employed, and for me that's been going on for over 10 years every 3 months, and sometimes it's the day after I start working that I sign that contract. (C, part-time activist)

Temporary contracts affect employment insecurity beyond job longevity. As reflected in the literature (Lewchuck, Clarke and de Wolff, 2011), temporary workers express an almost constant fear of dismissal. The opaqueness of the hiring and renewal process for this group of workers creates considerable scope for anxiety and insecurity that are effectively impossible to address one-on-one with the employer.

And I know people that got dismissed, just outright fired without cause, and there was nothing really, nothing they could do, they had no reps to help them. But that's not all, really, it's that they get no protection, no stewards, no reps to help them out, they're just on their own, with no-one. For example, if a student complains about you, you know as a teacher there's just nothing you can do except meet with the dean, or meet with the manager; say they, the students think you mark too harsh or whatever, you can just talk to the dean or manager, you got no rep to go with you. It's like a two-tier system. (J, part-time activist)

I did see people get fired. I saw some of my colleagues get fired. And then I realized, because this new manager came in, and this woman that had been there 5 years, they just let her go, they didn't renew her contract. And I was like, well you can't do that, there's a law that says you have rights, this is unjust. That was the realization, seeing these people just being let go without there being any way that they could argue it out, [I was] just stunned at that. And then I saw more than one, and I realized, if this manager changes, they could bring in their next door neighbour, I could be there 10 years, and they could bring in their next door neighbour. (C, part-time activist)

The need to address job insecurity leads to a linked theme, worker voice. Part-time college workers lack access to an effective collective voice, and individual voice is readily suppressed by the pressure of their temporary status.

The question of wages when you're going through getting thrown out into the street after working 27 years, and being shy of your pension and losing your rights and everything, you're quite traumatized. When you're going back into the workplace you're kind of like "So should I say anything? I'm so glad I got a job." So there's that hesitancy to want to say too much. But everything [in the college] with wages was very quiet, it wasn't upfront, it isn't a discussion, it isn't mapped out anywhere, you don't even know whether to ask someone else what they're making. (C, part-time activist)

There are approximately, let's just say about 20,000 part-time workers in the college system; about 10,000 academic and about 10,000 support staff. They're not paid well to begin with ... so the first benefit would be pay, the second benefit would be benefits, the third benefit would be some form of job security. Tied into

that and not to be ignored is an issue of respect - we were disposable workers and are disposable workers within the College system. It's not a good feeling and it's not a good work environment, and actually it is not good for the worker but it's bad for the colleges, the hiring and the training and all of the things associated with precarious employment were a problem in terms of the ultimate services and goods delivered to the students. Because of the disposability of these employees there can be a lack of continuity. (R, part-time activist)

The individualization of part-time workers' shared circumstances limits their ability to question or affect basic working conditions. According to C, wages are not transparent, and are rarely discussed. R states that wages and extra-wage benefits are simply inadequate, and furthermore that the issue of 'disposability' lowers the quality of services to students due to lack of training and high turnover. In contrast, workers who have access to a collective voice have the opportunity to pursue better conditions.

Having sat on a number of bargaining teams, and chaired bargaining teams, I know what it took to negotiate with the employer, and how ready they were to make changes to benefit the employees, which wasn't a great lot. They didn't fall down and say "Yes, we will give you the world". The gains that we made were hard fought, and not being in a union makes those fights even harder. (B, bargaining unit activist)

A shared voice could potentially create better working conditions for full-time and part-time college workers. Unfortunately, solidarity between standard and part-time workers may be uneven in workplaces that stratify workers based on employment status, like the Ontario colleges. The organizers identify several points of weakness in the cross constituency organizing that went on in the colleges:

The organizing department at OPSEU knows how to organize groups to be organized. The full-time employees of the colleges don't necessarily have that expertise, they know about it, but they don't necessarily have the expertise. Full-time staff at the colleges *do* have the expertise about how the college works, and

where people work, and how to motivate their members to get things done. Yet, there was no cohesion really between the two groups, whereas if they'd worked closer with the local leaderships in all the colleges, they would have found that out. (B, bargaining unit activist)

There was lack of knowledgeable, competent oversight on the part of the leadership of the union of the campaign. Mistakes were made, and they were serious mistakes. Bill 90 was passed in the culvert of 2008 and yet a recruitment campaign was undertaken in, I believe, April of 2007 before these workers had the right to be members of a bargaining unit. And then it turns out, for example, on the support side, students working would also be included in the bargaining unit. Well we didn't know that ... so we weren't even signing them up in 2007. (R, part-time activist)

The question of the students is particularly controversial. Two of the organizers specifically speak to a need to exclude student workers from the bargaining unit.

There was a category of employees which are Ontario Work Study students, and they're a group of students who by regulation or process are limited in the amount of earnings they can make per semester. ... The CAAT Support divisional, the DIVEX felt would have been an appropriate exclusion from the bargaining unit, because these are a very transient group of workers who are limited in their capacity to earn a thousand dollars per semester, which means a minimal amount of hours... I think had we been able to make that clear enough, that the government will not typically subsidize part-time employees of a bargaining unit at 75%. (L, bargaining unit activist)

You know, we thought the students would be excluded, it wasn't clear. The people I worked with were not signing students, but others were. When Whitaker included them [under the CCBA] it was late in the process, we weren't prepared for that. (D, bargaining unit activist)

In contrast, another activist addresses the need for more effective outreach and inclusion for students:

I would have liked to see more recruitment of Work-Study students, because they were a huge part of the drive during the vote, but they were not really tapped into during the organizing... Because there was this notion of who the real part-timers were, and the real part-timers were the ones who had been there for twenty or so years, whereas the students were kind of considered "part-time lite". (K, part-time activist)

It is interesting to note that there is no discussion of a separate bargaining unit for students anywhere in the interviews, but only talk of exclusion from the existing bargaining units. The students, who can be considered one of the most vulnerable groups of workers based on their low income and youth, are addressed primarily as a barrier, not 'real' workers. Solidarity with student workers appears limited.

When asked about financial and staff resources, the consensus amongst the organizers is that resources were adequate, although there is some debate about distribution; i.e. the costs of advertising, and having the right people available at the right time. Some activists express concern that because the financial costs have been high and the success of the project is uncertain, there may not be political will to mount a second campaign:

We had a lot of dollars up front, a lot of resources and enough people to help out. The OPSEU President and Executive Board was (sic) really behind it. Then the LEC's, they aren't supportive of the part-time workers, not supportive of the campaigns. The Board and the President's office were still behind it, but some of the local leadership had an attitude towards part-timers, this attitude that if part-times join a union, what's going to happen is we'll be outnumbered. Not all of the local leadership, but enough of them. There was a feeling that the local presidents didn't want us on their turf.

(J, part-time activist)

What are the moral responsibilities of the next steps? Well, everybody should have a chance at a decent job, be it full-time or part time. So morally, it would be responsible for us to attempt to somehow try a signing again, try another campaign to get the number of cards. The reality of it is that there's not the same money available to be spent, there's not the interest level there to put forward a

decent campaign, because the colleges are just going to get in the way again. So, from a financial aspect, a "fiscally responsible" aspect the next step is to have the government voluntarily open up those boxes and count the ballots, or recognize them as a unionized group.

(B, bargaining unit activist)

It was different at the beginning, the first time... For example at [one college], we went in, they let us set up tables, the LEC's were really engaged, I mean even the management was pro, they seemed to think it was fair if we got a union. Later on, there were less resources, after October 2007 there was a one year time lapse before we resumed. The local executives were not getting the information, they felt not included. The local leadership, they had hidden agendas, a lot of personal politics. I mean, they should support their union, how would you feel, really, I'd be pissed. (J, part-time activist)

Solidarity is a major theme in connection to cross constituency organizing. Organizers argue that leadership at both the local and senior levels of the union exhibit uneven commitment to solidarity with part-time workers:

So you know you have I think there are two obstacles to begin with - the colleges Employer Council and the provincial government who put a wall up. When you put a wall up like they did then the likelihood is that the union, what happens is cracks started emerging in the union's campaign. There were a number of things that didn't work about the campaign, but one of the cracks was the issue of solidarity, between this goal to organize part-timers, and full-timers who didn't buy totally into that campaign. Who felt that for example there was a pie and there was only so much pie and if a portion of the pie went to part-time, that would be a portion they would be deprived of. And that crack started at the [OPSEU] Board with Ted Montgomery, and ran its way through the full-time bargaining units in 24 colleges across Ontario. That was a problem.

(R, part-time activist)

R illustrates the breakdown in solidarity at the senior leadership level:

A [OPSEU] communications person once described Bill 90 as a pail of shit with a piece of chocolate in it. A member of the [OPSEU Executive] Board and the Chair of the bargaining team for the full-time faculty said "There was no piece of chocolate in that pail of shit." (R, part-time activist)



The primary tension the organizers allude to seems to be fear that full-time bargaining power will erode, or the current union power structure will change, effectively damaging or shutting out full-time workers' collective voice. There is some validity to the leaders concerns; Bill 90 recommended the elimination of the only remaining deemed strike/anti-scab legislation in the province, and created clauses that further restrict or complicate the bargaining process for existing bargaining units (Whitaker 2008; CBCA 2008). The outcome is contradictory responses from senior leaders in the sector (Ontario Standing Committee), and varying levels of resistance from local leadership, accompanied by a sense from some leaders that gaining the right to organize part-time workers came at considerable cost to workers inside the bargaining units. The image of "the pie" is particularly resonant, eschewing a belief that full-time workers must compete with part-time workers for finite material goods and power if they are allowed inside the union. This echoes Standing's (2011) description of temporary workers as a 'buffer' for a shrinking pool of full-time workers. The irony is that 'the pie' is already divided, albeit unevenly, with part-time workers present in the workplace in ever larger numbers, with each individual part-time worker gaining a smaller piece of the pie.

### **Next Steps in the Campaign**

When asked about next steps in the campaign, the activists replied:

'Denying rights is wrong' was one button we wore and the other was about fairness, so you have a situation where those things which we consider to be rights are not being realized, they are in words only. These are different times we are facing right now; politically, economically we're in crisis. We started in 2007 with OPSECAAT, we had a financial crisis in 2008. You had a whole push to

service monopoly right, in this country and worldwide, over public right. Politically you have all that going on from 2008 to now. In that environment where austerity is the order of the day, where cuts are the order of the day, where we don't have any money for you but we have money for this company over here, how do they orchestrate all of that and give you union rights at the same time? (C, part-time activist)

There is no campaign now. It stopped awhile ago, there's been nothing since last year's rally, and a rally isn't a campaign. It's been 2009, 2010 since anything happened. The website updates, they just aren't there... There is no campaign. (J, part-time activist)

The ILO released a third report March 31, 2012 on the failure of the Ontario government to address the inability of Ontario part-time college workers to access collective bargaining rights (OPSEU 2012), which was duly noted on the OPSEU campaign web site. The next most recent update on the campaign prior to this is April 2011, and there seems to be little news to share. When asked how they feel about the ballots still being sealed, and the long legal process that ensued, organizers express frustration:

We encouraged, especially as a lead organizer, I spoke to many of these people, and encourage them to sign cards, and offered them a ray of hope. And when you offer someone a ray of hope, and here we are three years hence and the ballots have not been counted, it is difficult to feel very good about this. And yet I'm represented and I've got a full time job and I've got rights and entitlements, and these people are suffering even more so. (L, bargaining unit activist)

I think that it would be marvellous, wonderful if OPSEU wanted to take the lead in fighting for union rights for part-time workers. Someone has to do it. OPSEU had a wonderful opportunity to take the lead in doing that, and they have let it go. It's just that simple - there's no longer the political will to fight that fight and to lead that crusade on behalf of part-timers, on behalf of precarious workers. I've always been impressed with how the UFCW defended agricultural workers. And OPSEU is not doing it for part-time college workers, what the UFCW has consistently done for agricultural workers. And that's unfortunate, and that's sad. I think [it is] a result of a lack of vision on the part of the leadership of OPSEU. (R, part-time activist)

Despite frustration, organizers are hopeful that a new or newly revived campaign may be in order:

When you get involved in any form of campaign, you expect a result, sometimes a negative result or a positive result, but it gives you a result. In this case, we're finding ourselves in limbo, but a torturous limbo, because we don't know what the outcome is going to be. And I still remain somewhat optimistic that we were able to move the government to do something for these people, because the government in power is still the government that changed the law. So I still have some optimism with regards to being able to do something. (L, bargaining unit activist)

If I were to pick a battle that I would want to fight, that I thought was important to fight today within the trade union movement, it would be part-time labour, it would be precarious employment. That's the battle that I would think is important because there are more and more part-time workers every day, more and more precarious employment. (R, part-time activist)

I'm hopeful for a future campaign. To resume is difficult. Some say start from scratch, some say pursue what we started, go after the ballot boxes, me, I don't know. It's up to the union leadership to decide. I mean, strategies, resources, there was \$4 million spent. But part-timers need protection. They're used and abused, fired at will... At the colleges, you're always chasing the carrot. (J, part-time activist)

The message for Ontario part-time college workers is summed up by C:

I'm really looking at a new form of organizing. I think we have to look at new forms of dealing with [things] because the old methods are not working, obviously, not just for us but for quite a few workers in Canada, from locked out workers all over the place to people being denied pensions, to this and that. You can see that there's a breakdown of the social contract between labour and employers, right? What we know as being labour relations is just not there anymore. So I think we have to be creative and we have to develop new forms of organizing and we have to continue to resist the denial of those rights, and at the

same time come up with creative ways to do this. And I think that's what's on the agenda. (C, part-time organizer)

### **What Worked and What Didn't in the OPSEU Campaign?**

Without being able to establish if the OPSEU campaign is a 'win' because of the stalled results of the vote, important lessons can still be learned from input of the organizers. The OPSEU campaign follows the trajectory for successful organizing laid out in the literature in several of the tactics adopted, and differs in sometimes innovative or controversial ways in others.

OPSEU's selection of organizers reflects that belief that who does the organizing has an impact on success in certification campaigns. The decision to hire part-time activists as organizers, although it may seem contradictory to the volunteerism traditionally expected and relied upon in unions (Hickey, Kuruvilla and Lakhani 2010) and a reliance on rank and file representative committees (Bronfenbrenner and Hickey 2004) appears to be a success. All the part-time workers recruited had either previous union activism experience (Yates 2002), social justice activism experience (Foerester 2003), or both, approaches reinforced in the literature. The interviews indicate that having internal organizers on the ground, interacting with part-time workers was a success, with a unique ability to speak to the issues affecting both part-time workers and standard workers in the workplace. That being said, heavy reliance on vulnerable temporary organizers on a long and complex campaign may be problematic, since turnover in the ranks is potentially high. Hiring temporary organizers from the ranks of precarious workers is also an irony that cannot go without comment, although the sheer scale of the project demands a

reserve army of organizers that logically comes at least in part from existing activists and internal workers. Hiring internal part-time workers to work on the campaign as organizers may be considered controversial in traditional union circles, with their ingrained reliance on volunteerism, however the organizers, particularly the part-time activists themselves see this as one of the most successful strategies in the campaign.

The OPSEU campaign suggests that traditional ‘bottom-up’ worker-to-worker styles of organizing may have limited effectiveness in high-turnover workplaces if used in isolation, a finding reinforced by the literature (Bronfenbrenner and Hickey 2004; Hickey, Kuruvilla and Lakhani 2010). The bottom-up strategy of active member participation committees had limited success in the OPSEU campaign. OPSECAAT appears to have limited penetration with part-time workers; when OPSEU withdrew active support after the certification was filed, the organization was not robust enough to stand on its own. OPSECAAT’s worker-to-worker organizing model looks more effective within the context of the card-signing portion of the campaign when used in conjunction with strategies that require substantial central coordination and staff input, such as the blitz model (Rooks 2003). Organizers felt that approaching part-time college workers to sign cards, already having established interest and relationships through the OPSECAAT drive was an effective way to reach part-time workers. Recognition of varying conditions on the ground, and a careful alignment of strategies to actual conditions is the take-away lesson from the circumstances at the colleges.

In order to accommodate an increasingly diverse workforce, particularly in workplaces with both standard and precarious workers inside, there is a demonstrable need for organizing that reaches across gender, race, age, ethnicity, language, and education, as established in the literature. Existing methods that are known to increase certification levels, such as recruiting rank and file union activists as organizers (Yates 2002) were adapted by OPSEU to meet these needs with mixed success. Despite selecting workers from the existing bargaining unit, there was limited mirroring of the diversity inside the membership. Although gender was reasonably balanced, youth was underrepresented considering the large body of student workers, and the racial diversity of organizers was limited.

The use of rank and file organizers from the existing bargaining unit, and the reliance on the existing union structure demonstrate some of the primary tensions of the campaign. Although in many ways the knowledge of the steward body, as well as detailed information available through support staff collective agreements was counted as a plus, a recurring theme in the interviews is the perception of internal resistance from local leaders and/or members. This resistance is considered a major barrier by the part-time organizers. OPSEU's strategy for organizing part-time workers leaned heavily on the cooperation and efforts of the leaders and local union executives inside the colleges, and organizers identified the breakdown in solidarity as problematic. Some of this is related to specific and unusual circumstances related to the process of changing the CCBA, and even so was not universal amongst the activists and leadership. The full-time bargaining unit members that agreed to be interviewed are still hopeful that the part-time workers

will be organized, and are willing to work towards this goal. However, broader literature on precarious employment underlines the difficulties of establishing solidarity between standard and precarious workers (Standing 2011; Lewchuck, Clarke and de Wolff 2011); the full impact of tensions between precarious and standard workers inside the same workplace on successful organizing is unclear, and creates cause for concern.

### **Conclusions**

Finding a balance between rank and file involvement and centralized strategies is a challenge that clearly emerges in the OPSEU campaign. The use of part-time workers as temporary organizers may be controversial, but is an interesting attempt at balance between strategies that emphasize both top-down and bottom-up approaches. The failure to approach sufficient numbers of students in the card signing portion of the campaign could have a substantial impact on achieving the 35% threshold required under the Colleges Collective Bargaining Act (2008). The inconsistencies and confusion around organizing students illustrate the importance of finding successful strategies that address the need for worker involvement and strong centralization. The lack of clarity speaks to a need for clear avenues to make and communicate decisions when running organizing campaigns.

Traditional bottom up, worker-to-worker organizing strategies may have limited value among highly mobile, temporary workers like the students. This category of worker is difficult to communicate with in the workplace, their employment is of short duration and as a demographic they may have concerns that are distinctly different from “regular”

part-time employees. More centralized strategies like the blitz model might be successful with student workers. The blitz model may not be required to reach long-term 'regular' part-time employees, who are in the workplace over time and are available to build relationships with. The need to engage with students suggests that a year-long series of 'blitz' card signing aimed at this population may be a success if launched at various strategic stages of the school term, in line with hiring practices. Other solutions touched on in the interviews to reach students include communication via social media like YouTube, which is outside the scope of this study, but is an innovation that has possibilities when organizing young workers.

Tensions between balancing the needs of existing union members with the needs of unorganized precarious workers are also clearly identified in the organizers' experiences of the campaign. The recurring issue of solidarity between full-time and part-time workers illustrates this tension. The threat of growing numbers of precarious workers engaged in the same work as standard workers creates contradictory impulses for standard workers, to both include and exclude part-time workers in order to protect full-time workers conditions. Part-time workers experiences of precarious conditions makes them feel alienated, or as J so aptly describes it, feel that full-time workers don't "get it". The potential for failure created by these conditions comes out clearly in the interviews. A breakdown in solidarity has the potential to create substantial barriers in the campaign by limiting access to volunteers, experienced activists, critical information, erecting barriers to the further finances and resources required to make a renewed attempt at organizing. The hiring of both full-time and part-time college workers as organizers



addresses some of these concerns; involving both on the ground in decision making about operational strategies and creating mutual support are methods for identifying issues and concerns in both groups.

Taken together, these tensions are difficult to resolve, and aptly illustrate the challenges of cross-constituency organizing in workplaces with both standard and precarious workers. Rights discourse potentially works to reinforce solidarity. The message that all workers deserve justice, when internalized by activists and organizers, as illustrated in the interviews creates a powerful tool to persuade workers and activists of the value of pursuing the organizing project under conditions that are frustrating and difficult. These tensions underline the difficulties facing the larger labour movement when organizing precarious workers.

## **Chapter 5: What the Future Holds and Conclusions**

### **The Future for Ontario College Workers**

The four years Ontario part-time college workers waited after they cast their votes truly was, as one organizer put it, “a form of limbo”. Almost five years after the adoption of the CCBA 2008, part-time college workers are still not unionized. Much of that time has been spent arguing in front of the Ontario Labour Relations Board (OLRB) about definitions of employees and employee groups, of who should be included as in the bargaining unit and who should not. The employer, having spent four years and many, many billable hours to challenge the vote are unlikely to offer voluntary recognition. Meanwhile, the number of part-time support staff workers continues to grow, exceeding numbers in the full-time bargaining unit. This trend is unlikely to reverse, despite changes to the OWSP program that may encourage fewer student hires. Considerable resistance from the employer through the legal process, coupled with the difficulties of identifying, finding and signing a large, geographically dispersed, high-turnover group of workers creates a difficult project. Faced with these challenges, the best possibility to improve working conditions for part-time college workers is a new organizing campaign that applies the knowledge gained from OPSEU’s first attempt, adjusting the union’s strategies accordingly.

Part-time only bargaining units are less likely to be certified (Slinn 2003), although numbers indicate that organizing part-time workers is currently on the rise. Possible explanations include the same structural limits that restrict access to training and

advancement for part-time workers, for example, schedules that make communication and inclusion in organizational structures predicated on full-time, standard work difficult (Pupo 1993). The inclusion of student workers in the same bargaining unit as 'regular' part-time workers adds substantially to the numbers needed to achieve the 35% card threshold. High turnover and short term contracts makes signing student workers problematic; building relationships, which is the basis of worker-to-worker organizing can prove difficult in a workforce with such limited hours and short-term relationships to the workplace. It is clear that to be successful, however, the student workers must be reached.

Since the Harris years, rising tuition, and a highly individuated approach to funding post-secondary education that emphasizes personal responsibility through loans and a work-fare like subsidy system for jobs in the colleges has encouraged rising numbers of student jobs. Student jobs are not career jobs, the positions are structured to be temporary, are often low-skill and are bound by the strictures of a student's enrolment status and income level. Ironically, these circumstances may make students more open to unionization; students may perceive less risk when choosing to support joining a union in response to the temporary terms of work and their specialized status. For the union, finding a way to reach students, literally and figuratively, is the challenge. Briskin addresses generational shifts in a way that may point the way forward for organizing student workers:

The postheroic future for unions may well be supported by generational shifts that suggest commitments to consensual decision making, less tolerance for hierarchy, and less respect for traditional authorities, particularly among Generation X. (2011 p.520)

Students are a group where cross-constituency organizing may prove particularly fruitful. The ethnicity, race and migrant status of Ontario college students are highly diverse (Colleges Ontario 2012), and age and education are factors that need to be considered when building solidarity with this group. Rank and file members of the support staff bargaining unit recruit and supervise student workers; cross constituency organizing that includes organizing for solidarity across age, education, race, gender and employment status might prove an effective method of communication and outreach to students. The creation of a flatter, more inclusive structure for decision making, and the recognition of multiple levels and types of leadership that reach out across age, gender, ethnicity, race and education may lead to success with students, and addresses the concerns of all part-time workers in the colleges.

The details of the CCBA create challenging requirements for certification, but also underline internal barriers inside the union that must be addressed. The controversy around student inclusions in the bargaining unit, for example, draws attention to divisions over strategy and direction in OPSEU's campaign. Throughout the certification drive, there appeared to be little clarity in regards to the status of students; some activists signed as many students as they could, while others completely excluded students from the organizing drive, believing they would not 'count'. This lack of clarity has a significant effect when calculating numbers of the "full" bargaining unit in the certification process, but also points to a clear need for centralized strategies when taking on a campaign of this scale and complexity. The use of mostly temporary organizers, spread across a large

geographic area may account for the lack of a centralized response; careful attention must be paid to the communication of strategy when dealing with such divergent levels of experience and large geographic distances. If the use of bargaining unit activists, retirees and part-time workers turned organizers is going to continue as the base for organizing, a combination of centralized strategic communications and more consensus-driven decision making will be required. Although these two approaches may seem contradictory, the integration of rank and file decision making, including the input of regular part-time, full-time and student workers into the larger strategy, and communicating that strategy in ways that can be widely internalized and implemented may be the only way to succeed in reaching part-time workers in sufficient numbers.

Addressing tensions between gaining rights for part-time workers and maintaining the rights of the existing union members is another issue that needs to be acknowledged. There is a certain amount of distrust of full-time employees by part-time workers, built and reinforced by the structural conditions of employment that create such a wide gap in working conditions, wages and status between the two groups. The discomfort runs both ways; the elimination of deemed strike/anti-scab legislation created some resistance inside the steward bodies, and in the case of the academic bargaining unit, contradictory responses from senior leaders in the sector (Ontario. Standing Committee). Leaders at every level of the union expressed a belief that gaining the right to organize part-time workers came at considerable cost to standard employees, although this belief is by no means universal. There is concern that finding the political will to commit adequate resources to another campaign may prove problematic. This set of tensions cannot be

underestimated; accounting for the needs of existing members and unorganized workers outside the borders of labour citizenship, with the resources of time, money and effort available is one of the most contentious issues related to union renewal (Camfield 2011; Voss 2010). Resolving this tension will require sustained conversation between members and leadership, acknowledging the risks and benefits of inclusion, with an emphasis on justice.

Discussions of workers' rights as human rights frame this debate as one of basic fairness and equity, inherent in our common humanity (Adams 2008). Widening the borders of labour citizenship to include as many potential workers as possible (Gordon 2007), as opposed to shutting the doors against potential threats, requires a shift in perspective for members and leaders. The fact that OPSEU pursued this organizing project indicates that the shift is underway. The involvement of many local leaders and stewards in the first campaign, and the hope expressed in the interviews by organizers that OPSEU will continue to work towards including part-time workers into the union suggest this to be the case. Rising awareness of the negative impacts of precarious work created through media attention, efforts by the union to communicate the risks to members' own security if precarious work is allowed to go unchecked (OPSEU 2013b) and reinforcement through rights discourse that appeals to justice and a sense of fairness for all workers (OPSEU 2013) can assist in accelerating this shift. With a decision on the original certification applications finally made being made (OLRB 2013), there is a possibility to move forward on a second organizing campaign, armed with the knowledge gained in the first certification attempt.

## **Organizing Precarious Workers – What’s Different? What’s the Same?**

The question remains if organizing precarious workers requires different strategies, or innovative new combinations of strategies, as compared to organizing standard workers. The case study of the OPSEU part-time college workers campaign raises some interesting avenues to explore, particularly around organizing workplaces with existing unionized workers. Statistical data recording unionization success rates when organizing precarious workers are not available, although the recent focus on precarious employment may change this. Research that measures precarious elements of employment in Canadian workplaces in some systemic way would benefit our understanding of how to measure success when organizing precarious workers.

Currently, the standard organizing literature suggests that multi-faceted, centralized campaigns frequently improve the chances of successful certifications (Hickey, Kuruvilla and Lakhani, 2010). Multi-faceted tactics may be even more crucial in settings like the colleges, where the workplace is highly stratified, and the workgroups being organized have varied and divergent needs due to differences in age, education and job longevity. Responses to differing conditions on the ground, for example bottom-up, worker to worker organizing that builds relationships, and more intensive or innovative approaches, including the blitz method, the possibilities of cross constituency organizing and emerging, under-researched areas ranging from the recruitment of retirees as organizers to the use of social media communication, provide promising glimpses of strategies that may prove effective when organizing vulnerable workers, but further study of organizing

campaigns that specifically target precarious workers is required to better understand these issues.

The interviews reinforce findings in the literature that emphasize who organizers are has a substantial impact on success rates of organizing campaigns. The part-time activists interviewed all expressed a belief that including part-time workers as organizers and activists on the campaign was an important part of the process. These same activists largely agreed that the formation of OPSECAAT as a worker-to-worker organization, while perhaps not as robust as might be hoped, had a substantial impact on outcome of the campaign, another finding reflected in the literature.

Understanding of the impact of recruiting organizers who mirror the membership in regards to gender, race, age, language and education based is unclear in the OPSEU project as compared to the literature. There was remarkably little diversity amongst the organizers in regards to race as compared to the population of workers in the colleges, so it is difficult to judge what the impact may have been. Age is addressed obliquely, in that little organizing took place amongst the students, a demographic of young workers, and the interviews identify them in many ways as not being considered 'real workers', an attitude that created a substantial set of barriers. It is unclear how much impact this lack of diversity had on the outcome, since the major preoccupation of the organizers who were interviewed was employment status, be it part-time, full-time, retirees or professional staff. The interest in employment status may be particular to the circumstances of this study, but it raises interesting questions about the impact of



employment status when organizing amongst mixed shops of unionized workers and precarious labour in a broader context.

Despite evidence that first contact from rank and file organizers from unions is a successful strategy (Yates 2002) recruiting bargaining unit activists from inside the workplace that supports both precarious employment and standard work comes with a set of contradictions. Full-time college workers provide experienced union activists on the ground, with less to fear from management than their part-time counterparts. There are, however, notable tensions inherent in the relationship between standard workers and precarious workers in the colleges. These tensions are identified in the interviews by the part-time activists' belief that there is competition for finite material and social gains in the workplace, assumptions that may be common in public sector jobs under neoliberal governance and globalized industrial relations more broadly (Chaykowski and Giles 1998). Stratification is reinforced between part-time and standard workers by the structures built into their employment status, including disparities in wages, benefits and control over working conditions. These differences reinforce not only material benefits but status within the organization. These are issues that may have substantial impacts for or against successful organizing, but further research is required to establish the relationship. The structures of precarious work, with a corresponding lack of regulatory protections, constant surveillance and lack of job longevity affect those experiencing precarious work, and also affect standard workers by creating downward pressure on wages and working conditions, consequently lessening solidarity in the workplace. Lessons from this case study indicate that tensions between full-time workers and

precarious workers' status must be acknowledged and addressed when organizing inside mixed workplaces. Conditions for both standard and non-standard workers can be protected and improved if they stand together. Building solidarity between the two groups may be challenging, but is necessary if increasing union density for effective union renewal is the goal.

### **Precarious Work and Union Renewal: The Bigger Picture**

Precarious work is growing in Canada. In discussions of union renewal, the impact of union density is a major preoccupation (Kumar and Schenk, 2006; Camfield, 2011). When put in the context of the new economy (Albo 2010), with a legislative agenda that is increasingly hostile to organized labour (Fudge 2012), and a labour market with growing numbers of precarious workers (United Way and McMaster University 2013), the need for effective strategies to organize precarious workers is clear. Precarious workers, as a growing segment of the Canadian labour force are a logical target for union organizing; organizing gives precarious workers access to a collective voice and a mechanism to improve working conditions, while simultaneously reinforcing an inclusive model of labour citizenship that is required if union renewal is to succeed.

Neoliberal models of governance have created rising precarious work in the public sector. The Ontario colleges are an example of public sector institutions responding to the pressures of funding cuts and expectations that institutions must be “competitive” by exploiting precarious labour. This is a disturbing trend, in that substantial gains for women and racialized workers made in the last thirty years in the public sector are being

clawed back through privatization, casualization, temporary jobs and de-skilling (Briskin 2010; Clark and Warskett 2010; Borrowy 2006). Shrinking union density in the private sector has largely been mitigated through increases to public sector union density in Canada over the past thirty years (Statistics Canada 2012b), but renewed attacks on the public service in the form of federal back-to-work legislation (Canada 2012), and bills aimed squarely at increasing austerity and weakening unions (Evans 2011) are on the rise.

Responses from unions have been mixed. Ontario currently has the second lowest provincial unionization rate in Canada, behind only Alberta. (Statistics Canada 2012b). Federally, unionization rates are rising in part-time and temporary job categories, with the gap between full-time and part-time unionization rates, while still substantial, continuing to shrink (Statistics Canada 2012b). This indicates that unions are expanding efforts to organize greater numbers of non-standard workers, although it may also be indicative that more part-time and temporary jobs exist to be organized. The public service, which is highly gendered, has the highest unionization rates, and for the last nine years Canadian women have enjoyed higher unionization rates than men, reflecting women's occupational numbers in the public sector, particularly in health and education (Statistics Canada 2012b). At this juncture, serious and sustained attacks on public sector bargaining are essentially an attack on the base of the labour movement in Canada; coupled with recent and continued neoliberal restructuring of income security programs like Employment Insurance and Canadian Pension Plan benefits, the base of income security is being eroded for many Canadians. These conditions require a strong response

from the labour movement, both to ensure their own institutional future, and as a matter of justice.

Inversely, labour law in Canada has become less accommodating of unions and more frequently aims to erect barriers. Examples include the two-part certification process entrenched in Ontario's Labour Relations Act (Slinn 2002; Johnson 2002), more recently, extreme labour reforms enacted by the current right-wing government in Saskatchewan (Stevens 2013). Unions have responded to these conditions with the adoption of a series of rights-based strategies. Recent decisions in the courts have embraced a limited vision of collective bargaining as a constitutional right (Fudge 2008; Tucker 2008; Adams 2008; Barrett and Poskanzer 2012) although the impact of these decisions is mixed (Fudge 2008; Tucker 2008) and the pursuit of these rights in the courts are not without controversy (Savage 2009).

The possibilities opened up by workers' rights as human rights are appealing, however, rights-based strategies should be used with caution, and full awareness of the limitations of this approach. Rights discourse coupled with the timing of the Health Services decision in 2007 arguably created pressure on the McGuinty government to change the CCBA to allow part-time workers the formal right under the law to organize, success that was otherwise elusive for thirty years. A conception of labour rights as human rights provides an alluring normative narrative (Walchuck 2009) when linked to political purposes, potentially acting as a transformative moral imperative (Lichenstein 2003). As we saw in the interviews, activists and organizers can be strongly motivated by the

pursuit of justice when collective bargaining is linked to rights discourse. Unfortunately, there is often a gap between the formal rights promised by collective bargaining as a human right and/or constitutional right, and legislation that does not readily provide access to these rights.

There is a powerful argument that the labour movement must not wait for “better” legislation or a more sympathetic political climate to find effective ways to organize precarious workers. The goal of rights-based strategies is to provide not only a remedy to particular injustices, but to create pressure to improve the legislative climate to gain access to collective bargaining for all workers. In the current neoliberal-dominated political reality, the possibilities for this strategy are limited. Reliance on the power of the courts is unlikely to be sufficient to achieve justice for the most vulnerable workers, particularly precarious workers; conversely, unions have the collective power to act. Organizing, despite a hostile environment, is more necessary than ever.

Unions as they exist in Canada are not a perfect means to increase social justice and guarantees of social solidarity, however, unions improve conditions for those who have access to them. Inversely, the growing numbers of Canadians working both in and out of the public sector who do not have access to collective bargaining often experience rising precariousness that threatens their security as a whole. If unions create “good jobs”, then we need to work towards conditions where everyone has access to the benefits of collective bargaining in its most inclusive forms.

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## Appendix A: Colleges Collective Bargaining Act Timeline

- 1975 – Colleges Collective Bargaining Act establishes right to strike, excludes part-time workers from collective bargaining
- 1988 – Gandz report reviews college governance – recommends collective bargaining for part-time workers
- 1990 – Revised CCBA becomes law - part-time workers remain excluded
- 1992 - Bill 23 granting part-time workers access to collective bargaining is tabled – dies on order papers after first reading
- 1995 – Labour Relations Act of Ontario revised to include 2 part certification process
- 2005 – April - OPSEU Convention motion to organize part-time college workers
- 2005 – June – ILO complaint submitted by NUPGE on behalf of OPSEU
- 2005 – October - Private NDP members’ bill is tabled to strike exclusion of part-time workers from CCBA - defeated
- 2006 – April - OPSECAAT is formed
- 2006 – May - organizers hired for OPSECAAT membership drive
- 2007 – July – certification application submitted and rejected by OLRB
- 2007 – October – Whitaker appointed to review CCBA
- 2008 – February – Whitaker report tabled recommending part-time access to collective bargaining
- 2008 – April – OPSEU submits certification applications to OLRB
- 2008 – October – CCBA 2008 gains royal assent
- 2009 – January - part-time academic instructors cast ballots
- 2009 – July – part-time support staff cast ballots

## Appendix B: Interview Schedule

### **Section A: Introductions**

Name:

Gender:

Date of birth:

City you live in:

Where you currently work:

What is/was your position at the college?

What was your title or position with OPSEU during the campaign?

What was the date you joined the campaign?

### **Section B: Why a union?**

Q: What do you believe are the advantages for part-time college workers to being included in a union?

Follow up questions:

What were your experiences working at the college that made you believe a union was necessary?

What were your previous experiences with unions before your involvement in this campaign?

Did you have any previous experience working in church/community/social justice groups before your involvement in this campaign? If so, how were they relevant?

(Probable categories = fairness, equality, inclusion, parity, security, collective bargaining gains, rights, social justice)

### **Section C: What worked? What didn't?**

Q: What events or techniques do you think were successes in the campaign? What do you think might have been done better?

Follow up questions:

Tactics? (Probable categories = one on one, small group meetings, rallies, letters, email, phone calls, media, political action)

How were the people working on the campaign representative of the workers in the college? (Probable categories= gender, language, race, ethnicity, age, education, sexual orientation)

Resources – (Probable categories= time, number of organizers, appropriate leadership from union staff, access to targeted workers)

#### **Section D: Why aren't we there yet?**

Q: Why do you think we don't have a union yet for part-time college workers?

Follow-up question: How do you feel about the fact that the unionization process seems to be stalled at the Labour Board?

(Probable categories= employer resistance, workers anti-union stance, fear of reprisals, high turnover workforce, culture of apathy, legislative limitations)

#### **Section E: Next steps**

Q: What do you think the next steps are in the campaign?

(Probable categories: political action, court challenge, new card-signing campaign, a different union, employee association, strike for recognition, voluntary employer recognition, abandon the attempt)