



STRENGTHENING RECOURSE AND PROTECTIONS FOR WORKERS EXPERIENCING SYSTEMIC RACISM

Indigenous, Black and Racialized workers have been speaking up about the prevalence of systemic racism rampant within workplaces across the province.

Through the BC Federation of Labour's Racial Equity and Justice Caucus, the Indigenous Workers Caucus, and the Human Rights Standing Committee, recommendations have been made to strengthen workers protections and to provide recourse for workers who experience systemic racism at work. These calls to action were echoed at the recent BCFED Anti-Racism Engagement, which heard from over a hundred workers over four, two-hour engagement sessions.

EXPANDING THE SCOPE OF ANTI-RACISM LEGISLATION

The BC government has done a great job building up momentum on anti-racism by implementing the Anti-Racism Data Act, and the subsequent K-12 action plan on anti-racism. Now workers across the province are ready for legislation that will improve their working conditions directly across all sectors, and we heard this in the previously mentioned anti-racism engagements we ran.

With the BC government poised to bring forward anti-racism legislation this spring, this is the time to strengthen the legislation by including measures to prevent racism in workplaces and to provide workers who experience racism with recourse.

SYSTEMIC RACISM AS A PROHIBITED GROUND IN THE BC HUMAN RIGHTS CODE

In unionized workplaces across all sectors, the prohibited grounds in the BC Human Rights Code are often pasted verbatim into collective agreements, workplace anti-harassment policies and employee handbooks distributed by employers. We have heard from workers and the people who represent them when experiencing systemic and structural racism, that the absence of explicit naming and describing of systemic racism from the prohibited grounds in the BC Human Rights Code is a barrier to justice for Indigenous, Black and Racialized Workers. By simply naming systemic discrimination and including systemic racism in the prohibited grounds section of the BC Human Rights Code, the BC government can prevent this roadblock from happening for workers and their representatives. When claims are suppressed or denied unfairly, employers are not held responsible for addressing and remedying unsafe conditions. Our ultimate goal must be to prevent psychological injury and having a full picture of the depth and breadth of the issue is an essential part of an effective prevention strategy.

SYSTEMIC RACISM AS A WORKPLACE HAZARD

According to Statistics Canada, for the period of June to October 2023, over 65% of the workforce in BC was classified as "visible minority."¹ It's important to note that these federal government calculations don't include Indigenous workers, so the actual number of workers at risk of workplace racism is much higher.

Recent studies^{2,3,4} on the burden of racial trauma on Indigenous, Black and Racialized communities point out the reality that workers who are racialized experience psychosocial work environments (PWEs) that constitute a workplace hazard. The provincial government has an opportunity to step in and make it clear through the Workers Compensation Act that racism is a workplace hazard and employers have the duty to eliminate racist systems and prevent other forms of racism in their workplaces. The province is further positioned to work with the Workers' Compensation Board to ensure that racism, including systemic racism, is specifically defined, included and enforced through the upcoming violence prevention regulations.

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REVIEWING THE EMPLOYMENT STANDARDS ACT (ESA) AND EMPLOYMENT STANDARDS BRANCH (BRANCH) OPERATIONS TO MAKE THEM MORE INCLUSIVE OF INDIGENOUS, BLACK AND RACIALIZED WORKERS AND OF NEWCOMERS

The BCFED supports workers to file employment standards complaints. The negative impacts of an underfunded Branch are well documented. Many workers who don't have the benefit of union representation are migrant workers and newcomers who face employer exploitation. When they turn to the Branch for assistance, they face language barriers and unacceptable long delays before they are provided with a remedy. Workers who experience wage theft often wait a year or more to have their case investigated, and even longer for the monies owed to them. The ESA also includes exclusions and provisions that limit the rights of workers in certain sectors, such as farm workers. These exclusions disproportionately impact racialized and newcomer workers. The provincial government can help to rectify this by conducting a full review of the Act and how the Branch operates to improve access to justice for Indigenous, Black, Racialized and newcomer workers.

ADEQUATELY FUNDING THE SUPPORTS WORKERS COUNT ON IN BC

Resources are required to fund the resources that Indigenous, Black and Racialized workers count on most in our province. The BCFED recognizes the invaluable contributions that front-line community organizations provide in supporting workers who are most vulnerable, and we encourage the provincial government to provide funding to more of these organizations. We also recognize that the BC Office of the Human Rights Commissioner plays an important role in educating employers and the public on eradicating racism, including systemic racism, and should be provided with more funding to take on more of this work. The BC Employment Standards Branch also needs to be adequately resourced to carry out the increasing volume of investigations required, and to provide translation and support to the workers who rely on its services.

OUR RECOMMENDATIONS

1. **Immediately expand the scope of the anti-racism legislation anticipated this spring by strengthening protections in existing legislation that applies to workplaces. Specifically, we call for amendments to the BC Human Rights Code, *Workers Compensation Act* including the Violence Regulation, and the Employment Standards Act. We recommend strengthening existing workplace legislation to improve accountability and provide remedy for workers who experience racism by:**
 - a. Specifically adding a definition of systemic discrimination to the BC Human Rights Code that includes systemic racism, strengthening the reference to ending systemic discrimination as a purpose of the Act, and adding it as an expressly prohibited activity;
 - b. Naming racism, including systemic racism, as a workplace hazard that must be prevented by employers in Part 2 of the *Workers Compensation Act* and Regulations, and ensuring that the proposed language defining racism as an act of violence in the draft violence prevention regulations is implemented; and
 - c. Conduct a review and address any provisions or exclusions in the Employment Standards Act that discriminate against Indigenous, Black and Racialized workers and newcomers.
2. **Increase funding for:**
 - Community organizations that provide anti-racism training, support community members who experience racism and advocate for improved anti-racism policy;
 - Increase funding to the Human Rights Tribunal to ensure complainants have timely access to justice;
 - Increase funding to BC's Office of the Human Rights Commissioner to provide training and education on ending systemic discrimination as a purpose of the *Human Rights Code* and as a prohibited activity; and
 - Increase funding for the Employment Standards Branch to provide better access to translation services, improve support and services for newcomers, undocumented workers and temporary foreign workers, and address all violations in a timely manner.

Resources

1. Labour force characteristics by visible minority group and region, three-month moving averages, monthly, unadjusted for seasonality
<https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=1410037302>
2. The Traumatizing Impact of Racism in Canadians of Colour
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8943361/>
3. Structural Racism in the Workplace: Does Perception Matter for Health Inequalities?
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5696122/>
4. The Wretched of the Work: Anger, Fear, and Hopelessness as Impacts of Experiencing Workplace Racism in British Columbia, Canada
<https://ojs.uwindsor.ca/index.php/csw/article/view/7096>