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• (1530)

[English]

The Chair (Mrs. Susan Kadis (Thornhill, Lib.)): Good afternoon to members of the committee. We're going to begin our meeting today. I welcome everyone.

We're resuming our work on parental benefits for self-employed workers. We have with us today, and it's a pleasure to introduce, Ms. Juana Berinstein of the Workers' Action Centre.

I'm sure you've been made aware of the rules of the committee. You have approximately 10 minutes for your opening statement and then questions and answers by the committee members will be inclusive of seven minutes in the first round and five minutes in the second round. We welcome you to the committee today and look forward to hearing your remarks.

Ms. Juana Berinstein (Policy Advisor, Workers' Action Center): Good afternoon, everyone. As Ms. Kadis said, my name is Juana Berinstein and I'm the policy coordinator at the Workers' Action Centre.

The Workers' Action Centre is a worker-based organization committed to improving the lives and working conditions of people in low wage and unstable employment. We work with thousands of workers every year, predominantly recent immigrants, workers of colour, women, and workers in precarious jobs. We provide information about workplace rights, strategies to enforce those rights, and we organize campaigns to improve wages and working conditions.

I understand this committee is concerned with achieving gender equity and with the economic well-being of women. One strategy you're looking at to accomplish these goals is to extend maternity and parental benefits to self-employed workers. We believe that self-employed workers should not only have access to maternity and parental benefits but to all the benefits offered through the EI program. Further, we feel that in extending coverage to self-employed workers, there are some problems with the existing EI regime that need to be addressed.

The position of the Workers' Action Centre, and by extension my presentation today, is grounded in the experience of our members. I'm also going to draw on the work of Leah Vosko, who is the Canada research chair in feminist political economy at York University and has published extensively on the issues of precarious employment. As well, I'll make reference to work done by Grace-Edward Galabuzi, a professor at Ryerson University, who has looked at the racialization of low-paid work in Canada.

[Translation]

Ms. Christiane Gagnon (Québec, BQ): You're speaking too quickly. Since the interpreters did not receive a copy of your text, they are having difficulty following you.

[English]

Would you speak a little more slowly? The interpreter can't follow you.

The Chair: Yes. Could you please adjust somewhat? Thank you very much.

Ms. Juana Berinstein: There are four main points I'd like to touch on today in arguing that all EI benefits should be extended to self-employed people and that current problems with EI must be addressed in order for the extension of benefits to be meaningful. These four points are: misclassified workers, debunking the myth of choice, the racialization of employment, and issues of access.

First I'll talk about misclassification of workers by telling you about some of the women who have come to the Workers' Action Centre. There's Maria, a night cleaner for a large department store in Toronto, who earns less than \$5 an hour; a group of 200 newspaper carriers we've worked with, who also earn less than \$5 an hour and who deliver a major daily in Toronto; and Fatima, a salesperson who sells credit cards for major banks, who at times has earned less than \$1 an hour.

You might be surprised to hear that all of these workers are defined as self-employed. At the Workers' Action Centre we get many calls from workers who are misclassified as self-employed. These are people who do not have any employees of their own, people who would not self-identify as self-employed. They are given this classification by their employers, who are using the category of self-employment to pay lower wages—for example, to pay a flat fee for a job instead of the minimum wage—and also to avoid having to follow basic employment standards such as having to pay for public holidays.

These workers are more like employees than entrepreneurs, but are misclassified as self-employed because this category benefits the employer. For misclassified workers, self-employment has nothing to do with entrepreneurship, but is rather a last resort, a job taken under less than favourable terms because often there are no other options because of the discrimination and barriers some face in accessing the labour market. For many of the workers at our centre, this is the new reality of work.

Leah Vosko, in her paper, "Confronting the Norm", further explores the precarious employment relationship of workers who are what she terms "solo self-employed". That is, self-employed workers who don't have any employees of their own and who often earn very low wages, the very same workers I've been referring to as misclassified self-employed.

Over one-third of the solo self-employed have incomes under \$20,000 a year. I can tell you that all of the workers who come to our centre who have been misclassified as self-employed are women, people from racialized communities, and people who are earning incredibly low, poverty wages. They have very little to do with the image of the entrepreneur that often comes to mind for people when they hear the term "self-employed".

Given the ways that employers are restructuring the employment relationship, workers like Maria and Fatima are denied the protection of basic labour standards, as well as the ability to qualify for programs like EI. Remedying the situation of misclassified workers is, of course, beyond the scope of this committee. However, we feel that extending EI coverage to self-employed workers is an important step in securing and returning some entitlements to workers like Maria and Fatima.

The failure of other systems has allowed employers to restructure work in a way that deprives people of adequate wages and legal protection. Thus, it is important for this committee to extend the protection of a safety net like EI to those workers who need it most, so-called self-employed workers.

Now I'd like to move on and talk about my second point, which is the need to debunk the myth of choice. Some have argued that those who choose to be self-employed should accept that as a consequence they're simply not eligible for EI. However, the idea of choice is very misleading when we're talking about self-employment, because, as I've just spoken about, the employment relationship is being increasingly restructured by employers in increasingly precarious ways, and not necessarily through the unconstrained choice of workers.

Workers at our centre have clearly told us that they have no choice: they can either put up with the conditions and terms of employment set out by the boss or client company, or they can easily be replaced. The company will find someone else to clean, someone else to sell credit cards.

● (1535)

Many women workers also tell us that they have no choice but to engage in these kinds of employment relationships because their families are dependent on them for caregiving work at home. Immigrants, many of whom are workers of colour, tell us that they are also denied choice because they face discrimination in the labour market. Simply put, precarious employment under the guise of self-employment is not about choice; in fact, it's about being without options. Workers tell us over and over again that if they had a choice they would choose to be on the payroll as an employee.

In many ways it adds insult to injury that workers such as Maria and Fatima are not able to access the benefits and training offered through EI, when they need maternity or parental benefits, when they find themselves without work, or when they find they are ill or

need to care for an ailing family member. Not qualifying for EI is simply another reminder of the rights they have lost as workers under the growing and grim reality of precarious work.

Now I'd like to move to my third point, the racialization of employment. We feel that the racialization of precarious work is an important point for the committee to consider. In employing this lens, we see that extending EI benefits to self-employed workers is not only a women's equity issue, but an issue of racial equity as well. What we see at our centre every day is the racialization and ghettoization of work. We see how newcomers and immigrants are pushed into the sectors of work with the least protection, the lowest wages, and with little power to negotiate improvement. They are pushed into jobs that are increasingly labelled "self-employment", like the jobs that women like Maria and Fatima do, which I've already mentioned.

We work with newcomers and people from racialized communities who are misclassified as self-employed and who, for example, work in the service industry delivering pizzas and newspapers, who work as cleaners and as salespeople or as garment homeworkers. It's not an accident or a coincidence that all of these workers are workers of colour.

The racialization of poverty is documented by Grace-Edward Galabuzi in *Canada's Creeping Economic Apartheid*. In that article Galabuzi found that:

...unemployment data show that a racialised labour market is an endemic feature of the Canadian economy. Characteristic of the racial and gender labour market segmentation is the overrepresentation of racialised (particularly women) members in low paid, low end occupations and low income sectors...

Similarly, in an upcoming article by Leah Vosko titled "Gender, Nationality, and Precarious Self-employment: Immigrant Women and Men in Canada", Vosko shows that immigrants are highly concentrated in self-employment and that it is those in the solo self-employed category who have driven the recent growth of self-employment. Thus, extending EI coverage is important from both a gender and a racial equity perspective.

Lastly, I'd like to address some key issues with regard to access. The last point I want to raise is that in order for the extension of EI benefits to self-employed workers to be truly meaningful and to be a progressive reform, especially for low-income women and people of colour, some current problems and barriers with the EI regime need to be remedied.

For example, current benefit levels are simply too low. Workers only get 55% of their incomes, which for a low-wage worker is simply not enough to survive on. Hours of eligibility are too high—in Toronto it's 910 hours to be eligible. This can be very restrictive and can penalize women, who are more likely to be part-time workers than men, and newcomers as well. We feel strongly that the two-week wait period, for example, must be removed, especially in light of the fact that low-wage workers don't have savings to rely on and that no one, especially women on maternity leave, should be expected to go for two weeks without any income.

Already many low-income workers and immigrant workers who come to the Workers' Action Centre tell us that even though they pay into the EI system, they can't access benefits, either because of hours or because the benefits are again simply too low to survive on.

We hope that in addition to extending EI benefits to self-employed workers this committee will work to ensure that these problems are not carried forward with that extension.

• (1540)

In conclusion, I can say our experience at the Workers' Action Centre and the work of experts who study precarious employment demonstrate that many workers are misclassified as self-employed when in reality they are workers with little choice, earning low wages and dealing with a tremendous amount of insecurity. Specifically, women and women of colour such as Fatima and Maria are disproportionately represented in precarious work situations and as a result are disproportionately unable to access social benefits such as EI even though they are arguably the workers who need them the most.

Given this reality, we hope that a broad lens will be utilized in looking at extending maternity and parental coverage to self-employed workers and that with this broad lens in place the committee will in fact recommend that all EI benefits be extended to self-employed workers. Further, we hope the committee will take steps to address the current barriers in the EI system faced by workers who are low-income or newcomers.

The Chair: Thank you very much, Ms. Berinstein.

Moving on to our first speaker, we have Ms. Smith.

Mrs. Joy Smith (Kildonan—St. Paul, CPC): Thank you very much for your presentation. It was very insightful.

There are a couple of points I would like to get your opinion on because they are quite disconcerting when you hear them. You were saying that even though some workers had paid into EI, they couldn't receive any benefits. I would assume that's because of the hours or the short time they worked. Could you elaborate on that a little bit?

Also, you talked about workers being misclassified as self-employed workers as opposed to workers on the payroll. Could you come forth with some ideas about how you think that could be remedied?

• (1545)

Ms. Juana Berinstein: In terms of some of the barriers to accessing EI I talked about, I was referring to hours. There were changes made in 1996, when the hours you needed to be eligible for EI were raised. We feel from our experience with workers that those hours are simply too restrictive for people who work part-time or for people who don't have a long history of working in Canada.

Several groups—the Canadian Labour Congress, for example—have recommended lowering the hours of eligibility to 360 hours. We would support a really concrete measure like that, one that would lower the hours to make EI available in particular to part-time workers and to newcomers.

The benefits are also very low. The minimum wage right now is very low, \$7.45 an hour in Ontario, which is a poverty wage. Studies have shown that a person would need at least \$10 an hour to reach the poverty line if they were living in a large city.

As to what benefits someone would get when they're on EI, we would really encourage you to look at linking those benefits to some cost of living measures. It should take into account whether someone

is a low-income or minimum-wage earner so that what they would receive on EI would be adequate to meet a low-income cut-off line. Otherwise, it's just not a meaningful benefit for someone.

If someone knows that the benefits they're going to get through EI are so low they won't be able to afford to meet basic needs like rent and food, then basically what you've done is you've cut off that social program to someone, because if it's not enough to survive on, then it's not going to be an option. What we see in our work is that workers will often cycle from one really terrible work situation to another because they can't rely on social safety nets like EI.

As to the misclassification of workers and the remedies, when I talked about the failures of other systems, I meant that part of what needs to happen is that workers who are self-employed need to have access to things like EI. That is why we were very happy, when this committee undertook a study on this, to recommend this change.

I think other laws need to be strengthened, ones that are outside the scope of this committee, although there is work being done in this area. The Law Commission of Canada, for example, is undertaking a study to look at how to extend legal protections to workers who do not currently have them. Leah Vosko, who I mentioned in my presentation and who I think the committee has also had some contact with in the past, has written two papers for the Law Commission of Canada specifically looking at precarious employment. They might be useful for this committee; they're a reference as well.

I hope that answers your questions.

Mrs. Joy Smith: In your presentation you were saying this one woman earned \$5 an hour. I know there are laws for minimum wage and that could be monitored. When you were talking about that, I wondered if it was because she was paid a certain amount of money for the project and it landed up being \$5 an hour. That's a sort of way of circumventing actually paying people a higher wage. Is that what you meant?

Ms. Juana Berinstein: What we're finding is that employers, in trying to cut their costs, are saying to workers who have an employee-employer relationship, "I'm going to say you're self-employed. I want you to come and clean my department store. I may hire 20 cleaners, for example. I'm going to call each of those 20 cleaners an independent, self-employed contractor, and I'm going to pay you a flat fee to do this job." When you divide the flat fee by the number of hours it takes to do that job, you find the wages they're earning are below minimum wage.

When you look at the situation and you apply a legal means test to the situation, you see that relationship is not one with a self-employed worker. It's an employee-employer relationship. We've challenged some of those cases with individuals who have wanted to challenge their employers and we've won when we've gone to the Ministry of Labour, for example, but what we find is that it's systemic and endemic. We see this happening over and over again, especially to newcomers, to immigrants, and to women, people who don't have a lot of options and who are facing a lot of discrimination in the labour market.

Even though workers know that they're obviously employees, that they're earning less than minimum wage, and that it's against the law, they need the work. It's so difficult out in the job market that it's difficult to challenge employers, because employers will simply turn around and say, "If you don't like it, there's the door".

• (1550)

The Chair: Thank you.

We're moving on to Madame Gagnon.

[Translation]

Ms. Christiane Gagnon: Thank you for your presentation.

You mentioned an important aspect of the work done by people in precarious jobs, part-time jobs, and minimum-wage jobs. These people work in an unstable situation. Often, their jobs have no continuity because their duties are constantly being renewed.

You also said that we are looking at self-employment, of course, but that it was very easy to get parental leave through EI. I would also mention that we should start by reviewing eligibility for EI and certain other conditions of the program as a whole with respect to maternity leave and parental benefits, before we look into the situation facing self-employed people so that there are more possibilities that take this situation into account.

Are you familiar with the maternity leave conditions offered in Quebec? If so, would you be in favour of some changes with respect to the number of hours of work and the possibility of having 40 or 50 weeks, in return for giving people less money for a certain period of time, so that they could choose the option they prefer?

[English]

Ms. Juana Berinstein: I would say I'm a bit knowledgeable of the model Quebec is going to switch to in January. We would certainly support a model that is universal, that gives all workers, all people, access to parental and maternity leave benefits. We would certainly support a system where workers had options within that system.

What we would be worried about and caution against is a system where self-employed workers could choose whether or not to pay into a system. We'd be concerned that if that were the case, it would be difficult for the system to be self-supporting. What we'd like to see is something mandatory, something universal, where all self-employed workers would be attached to a system that would give them benefits.

• (1555)

[Translation]

Ms. Christiane Gagnon: Quebec will be setting up a mandatory system. The self-employed will have to pay their premiums in order

to be entitled to maternity leave and parental benefits. So that has been taken into account, but there are still some irritants.

Under the federal program, for example, to be eligible for maternity leave, a woman has to have worked 600 hours, and the waiting period is two weeks. Quebec has abolished these two conditions. So there is no waiting period. In addition, there is a \$2,000 amount required in order to be entitled to maternity leave. This applies to the self-employed as well.

Do you think there should be more latitude, so that people can access maternity leave more easily?

[English]

Ms. Juana Berinstein: Absolutely. I think that's the basis of what we're saying. Right now we feel the current system is unfair. Self-employed workers should have access to social benefits like employment insurance and parental and maternity leave, especially in light of the fact that many workers are not choosing to be self-employed. The classification of self-employment is really being imposed on workers particularly because of this. We feel that all people have a right to access these social benefits, so we would definitely like to see the extension of benefits to self-employed workers.

The Chair: Do you have more questions, Madam Gagnon? You have two minutes.

[Translation]

Ms. Christiane Gagnon: You say you prefer a public, mandatory insurance program for parental benefits. Have you thought about the reaction of people if they were forced to contribute to such an insurance plan? What procedures would have to be established to be eligible for such a plan? Who would be responsible for collecting the premiums? Do you have any suggestions for us?

[English]

Ms. Juana Berinstein: Right now, as you all know, EI payments are made by employees and employers. So if we were to extend coverage to self-employed workers, one way to do it would be to look at self-employed workers paying a premium, although we would be really concerned if self-employed workers were asked to pay both the employee and employer contributions, which is the system we currently have for CPP, for example.

Of course, in light of the fact that we advocate for low-income workers, we feel it's really important to consider low-income earners when creating social policy. We would want to make sure that being able to access a system wouldn't put an unfair burden on workers already struggling to make ends meet.

[Translation]

Ms. Christiane Gagnon: I would like to make a comment. If my information is accurate, under the Quebec plan, the employer's share will be paid by the Quebec government.

Would you find such an approach acceptable? Clearly, self-employed workers cannot pay both the employer's and the employee's share. We know that there are various categories of self-employed workers, but you represent only the most disadvantaged of these, do you not?

[English]

Ms. Juana Berinstein: We would have no opposition to either a provincial or a federal government contribution to the EI program, in order to extend those benefits to low-income workers in particular.

The Chair: Thank you.

We'll move now to the Liberal side and Madam Torsney.

Hon. Paddy Torsney (Burlington, Lib.): Thank you.

You certainly represent a really important area of consideration, and I'm very pleased that you're here.

We tend to think of self-employment as being some kind of entrepreneur. At the beginning, we thought that people were doing very well for themselves through self-employment or entrepreneurship, but there are, of course, lots of people who are working in a self-employed manner and not making a lot of money, either because of the jobs they're doing or because the numbers of hours they're working are less than full-time in some cases and they're therefore paid less.

You've clearly identified a group of people who are at risk and who aren't being paid adequately. When I hear you talking about changing how we do this for self-employed workers, you're really changing the nature of the system for those individuals. It sounds to me like you're actually talking about a guaranteed annual income, with some kind of attachment to the labour force deemed by hours or something. In the case of a person who's making a dollar an hour, he or she is contributing and has income but is spending an awful lot of hours to earn \$10,000 or \$15,000 a year, if he or she is even at that level.

Their issues aren't only on EI and parental leave. I'm not sure that parental leave is really going to address that. As you said, you get a proportion of your salary up to a certain maximum. If you're the sole income earner or in a low-income family, you should know that EI is up to 80%, not just 55%. We have tried to adjust social policy.

For self-employed people, you're really talking about some kind of a guaranteed annual income to bring them up to a level, where in the case of a worker earning \$1 an hour, it would in fact be better than what he or she was making when being paid \$1 an hour. Is that right?

• (1600)

Ms. Juana Berinstein: Well, we would certainly have no objection to a kind of scheme that is like a guaranteed annual income, but we understand it's beyond the scope of this committee.

Hon. Paddy Torsney: Of course, there are lots of us who are interested in it.

Ms. Juana Berinstein: We would have no objection to that. It's certainly something that we advocate for. We feel that all people should have access to an adequate standard of living.

Hon. Paddy Torsney: Right. Why don't we do this on EI?

Ms. Juana Berinstein: I feel what's happening right now is that people who are self-employed don't have access to any of those EI benefits. We feel it is at least one important step in ensuring that self-employed people have access to that benefit. We feel it's unfair for them to be denied the benefit simply because they're self-employed.

Hon. Paddy Torsney: Should there instead be a system for self-employed and employed workers that is a maternity and parental benefit system based on the fact that you're reporting any income on income tax and you would get access to a certain dollar value of benefits that would be adequate for someone supporting a child? It's a pretty radical suggestion.

Ms. Juana Berinstein: Of course, we would certainly support a program that would cover as many people as possible and that would extend benefits to as many people as possible. Perhaps looking at a program that's not attached to the labour market is one way of doing that. There are some examples of countries that have done that.

Hon. Paddy Torsney: Okay. The child tax benefit has addressed some of the issues related to the low-income workers who you're supporting.

The other issue is not quite related to EI, but in my constituency, a number of organizations were reassessed as employers by Revenue Canada because they were always dealing with the same contracts on the same routes, etc. Are you aware that Revenue Canada can audit some of these companies and deem them to be employees? They are therefore eligible for a whole series of benefits and eligible for minimum wage.

Ms. Juana Berinstein: Yes. We have in fact supported some workers in challenging individual employers.

I think what I wanted to impress upon the committee today is that the problem is so systemic it's beyond an individual worker to challenge that in the workplace, although that's sometimes a very important strategy to take. There are often a lot of barriers that a worker will face in wanting to challenge the employer. One is that they might threaten their employment by doing that.

Hon. Paddy Torsney: They shouldn't have to do it on a named basis. Revenue Canada has a system of anonymous calls for investigations. You guys could do it with a claim. They shouldn't have to reveal themselves at all.

Ms. Juana Berinstein: I think often what happens is that workers feel the fear of reprisals.

Hon. Paddy Torsney: Then we need to get that message out, so that they don't fear that.

Employers and employees fund this now. You don't want to have.... At \$1 or \$5 an hour, even...we heard from women operating day cares that don't make a lot of money. They have some benefits of operating their businesses out of their homes, some things that help. The picture isn't clear. Is it just related to income, because there would be write-offs there? They too are not in a position to pay employer and employee costs.

On this question of how to fund whatever this is, it would be nice to add the provincial government. I'm not sure the province I'm from really wants anything else it has to pay for these days.

Clearly there are benefits to everybody from having parents able to be attached to their children for a time without worrying about other things, like how to pay for the food to feed the kids. But how to fund it is really something we have to struggle with. No one disagrees with your concept, and some of the issues you've raised are very important. I'm not sure, but I think you said a third of your self-employed people are making less than \$20,000 per year. They can't afford anything else off their taxes, and that's who we've trying to... We've been reducing the EI premiums. We've been trying to reduce their tax burden, trying to add income through the child tax benefit, but how to do this other piece is really hard.

You've given us lots of food for thought, but I'm not sure you gave us the magic potion, other than taking it out of the EI system and making it a benefit that every parent is entitled to for a specific time.

Would you leave it as a year, then?

•(1605)

Ms. Juana Berinstein: What we've heard from workers is that... it's difficult. Self-employed workers are in a particularly difficult position. Workers in the kind of precarious employment I talked about are in a particularly difficult position in that it's sometimes difficult for them to be away because they fear not being able to come back. They are workers who have not only a tremendous amount of insecurity, but also a feeling that they can be very easily replaced. Those feelings are exacerbated by the kinds of work situations and relationships they're in, but it's certainly important for workers to have that choice, to be able to access up to a year.

Hon. Paddy Torsney: If we're designing this new system—dreaming—would we change it so that it's...? The only way I could see something working would be to have it for a year, as we've agreed, and it would have to be based on the minimum wage for that province for the full year, because otherwise, if your workers are already earning less than they should be, you wouldn't want them to earn a portion of whatever they're earning. How do you deem it when it's a contract for so many pieces of work, whether it's newspapers or credit cards or whatever they're selling? You can't do it on an hourly basis, so you'd have to create something that was like a minimum wage for the year.

Ms. Juana Berinstein: Or a minimum floor.

The Chair: I think we'll wrap up now.

Thank you, Ms. Torsney.

We'll hear now from Ms. Crowder.

Ms. Jean Crowder (Nanaimo—Cowichan, NDP): Thank you, Madam Chair.

Thank you for your presentation today. I think part of our challenge is that we're dealing with a complex social issue, and it seems that we need a statement of principle and value. If we agree that children are the foundation of our society in the long run—because every one of us here will rely on children to grow up, get into the workforce, and pay our pensions eventually—we actually need to commit to supporting families and children in the healthiest way possible. It seems that if we come from a principled statement around support to families and children, we can then work toward working out the details.

I pulled an article from the *Ottawa Citizen* dated Tuesday, November 8. The headline was, "Forced to fight for maternity benefits: Two-year battle highlights how self-employed women are treated differently than salaried employees under the federal government's EI program". This was about a local Ottawa woman who had the benefit of support and education. She actually got a pro bono lawyer who helped her deal with what they termed in the article as, "complex rules, a system in which the face of government is a powerless call centre worker who reads from a prepared text that does not take the individual into account". She finally got some money. It was past her child's second birthday when she finally got cheques of \$160 a month for 50 weeks with no interest. If this woman had no other support systems she would be very challenged to survive on \$160 a month and pay her rent and all of those kinds of things.

I think it sounds as if many of the women you were talking about, many of the self-employed workers, often don't have the resources to take on a government bureaucracy, for a number of reasons. Either they fear losing their current jobs or they just don't have the knowledge of the bureaucratic process that would allow them to challenge it. Do you have any sense of what percentage of self-employed workers are in this marginalized group?

•(1610)

Ms. Juana Berinstein: According to one of the articles I cite by Leah Vosko, she says a third of self-employed workers are earning less than \$20,000 a year. So we are somewhat limited by the numbers that come out of Stats Canada, in terms of the categories of income they look at. You sometimes can't see specifically how much they're earning. Certainly a significant portion of those in the self-employed category are low-income earners.

Ms. Jean Crowder: If you live in a major urban centre and are earning less than \$20,000 a year, how are you even surviving on that? So we're doubly disadvantaging these women.

Ms. Juana Berinstein: Yes. Often low-income workers who are employees who could access EI choose not to because the benefits they would get are simply not enough for them to survive on. So if they find themselves unemployed they don't even go to the EI office to apply; they just immediately go in to find another job. Often the reason they left that job in the first place was because their basic rights were being broken, or perhaps they were fired because they said to the employer, "I'm entitled to overtime pay". They might have tried to speak up for their rights and were then fired.

We think it's important to look at what some of the current problems are in accessing EI, so if we were to extend that to low-income, self-employed workers, it would be a meaningful extension, and they wouldn't face the same barriers in accessing the program.

Ms. Jean Crowder: Some of us have argued that if a gender analysis had been conducted in 1995 when the rules changed, the rules wouldn't look like they do today, because they disadvantage women and other seasonal workers. Certainly men are impacted as well, but women have been disproportionately impacted.

Just out of curiosity, what happens to the children? This article also says that according to Women Entrepreneurs of Canada, a third of self-employed women are back to work within two months of their baby's birth, while only 5% of regular employees are back to work that soon. What's happening to those children?

Ms. Juana Berinstein: I would say not a good thing. When parents don't have the choice to care for the children the way they would like to, they're often pressured to find whatever situations they can for child care. Sometimes it means relying on family members, on other children. People do what they can to get by. But we feel it's important for the state and our government to take responsibility in ensuring that parents have meaningful choices and that child care arrangements are adequate. In order to have that adequacy, women, parents, need to be able to rely on social supports, everything from adequate income to adequate child care.

Ms. Jean Crowder: Has it been ten minutes?

The Chair: I think you have 60 seconds.

Ms. Jean Crowder: Okay. What are next steps that could help to make the situation change?

• (1615)

Ms. Juana Berinstein: I certainly think one practical step could be to extend EI to self-employed workers and to remove some of the barriers I've talked about: remove the two-week waiting period, lower the hours of eligibility, and look at increasing benefits.

The Chair: For our second round, we will hear from Mr. Komarnicki.

Mr. Ed Komarnicki (Souris—Moose Mountain, CPC): I've been listening with interest to a couple of things you talked about. One was the precarious workers, and I see there are two problems: first, the reclassification issue; and second, being classified properly and being able to access EI benefits adequately, or the benefits not being quite what they should be. The reclassification issue is the one I want to ask you a few questions on, because many people perhaps try to have their employees hired on as independents when really they're not. I think one of the previous questioners indicated that there is an audit process, and I know a number of people have been audited, and lawyers spend a lot of time trying to establish whether they're independents or employees. Many times they're found to be employees, and employers are assessed because employees are entitled to benefits.

It seems to me there's already a system in place to ensure that independents who are really not independents ought to be classified as employees. So maybe it's a question of not necessarily more legislation but perhaps enforcement of existing legislation, or providing a mechanism that people can access easily or more easily to ensure that what is not being done at least gets done.

Do you have any thoughts about forgetting what we'd like to see and simply seeing what we've got? I'll come to the other in a bit, but with what we have, is there perhaps...? In addition to the legislation we have, might there be some person or body that could advocate on

behalf of people who aren't prepared to do so for themselves, to ensure that what is in place is to their benefit? Do you have any views about that question?

I'll come by with a second one after that.

Ms. Juana Berinstein: Yes. Certainly, the Ministry of Labour is the ministry where we try to be very vocal in advocating for the enforcement of current labour legislation. There are really specific things we would like to see done that aren't currently happening. We'd like to see things like more surprise inspections in workplaces, so it's not dependent on a worker coming forward. We'd like to see the Ministry of Labour going into workplaces so that workers feel the reach of the law in their workplace. We'd like to see things like penalties for employers who are breaking the law over and over again. What we see right now is very weak enforcement, very little enforcement, of labour laws in Ontario, and I know there are problems across the country with enforcement of labour legislation. Groups like CPRN, the Canadian Policy Research Network, is wrapping up a multi-year study they've done on vulnerable workers, and part of what they've done is specifically look at recommendations to improve enforcements across the country. That is certainly one thing that needs to happen to tackle this whole problem of the ways in which work is being restructured to deny workers basic legal protection.

Mr. Ed Komarnicki: It seems to me that just adding yet a further definition to what the difference might be between an independent and an employee wouldn't necessarily cure the problem. It's there. It's maybe systemic, as you say. It needs a stronger mechanism with which to enforce. So from that perspective, it would seem that pressure should be applied to the existing programs that are available.

The other thing that follows from that is if indeed one was going to ensure that all employees who are really employees can access the benefits, you would naturally then subject them to the minimum wage that exists in the provinces and that exists federally and all of the benefits that flow from that without actually increasing any additional benefits. There's a big avenue there for the people in precarious jobs to access at least what is there, without any further assessment.

Ms. Juana Berinstein: I think we can move forward on two paths. I think we certainly need to move forward on enforcement of labour laws to ensure that people are being properly classified at work and that employers aren't able to misclassify someone in order to cut their labour costs. Currently we have a significant pool of workers who are being misclassified. I think it would also be an important step to extend benefits like maternity and parental leave and EI to self-employed workers as well, to catch those workers who are currently in that situation.

It often takes a long time, even once workers come forward to the Ministry of Labour, for example, to say they're being incorrectly classified. It takes a long time for their case to be reviewed, for a ruling to come down, for the Ministry of Labour to try to enforce that in the workplace—

• (1620)

Mr. Ed Komarnicki: And I appreciate that.

Ms. Juana Berinstein: So in terms of trying to achieve equity and fairness for workers, I think it's important that the extension of benefits takes place.

Mr. Ed Komarnicki: We might need a more streamlined enforcement process, and perhaps that could be another approach. But if we were going to accept the fact that we need enforcement plus benefits, just the fact of a minimum wage and all of the other things becoming naturally available if streamlined enforcement were in place, would you be open to tying in the benefits to the earning amount that the employee is entitled to—in other words, basing the benefits on how much the employee makes—or is there a flaw in that?

Ms. Juana Berinstein: I think there's a flaw in that, in that certainly low-income workers would be hurt by that kind of scenario. In a country as wealthy as this, we really need to look at systems that more equally distribute benefits and wealth among everyone who lives in this country. It's important for us to look at adequacy and adequate levels of income, and I think sometimes by basing it on a percentage of income you're not necessarily going to get to that level of adequacy.

Mr. Ed Komarnicki: Let me put it to you this way. If you were indeed an employee and we said that as an employee you were entitled to a minimum amount for each hour of service you provide, wouldn't that cover the adequacy portion of it? If the minimum base amount was at a sufficient level, wouldn't that resolve quite a bit of your problem?

Ms. Juana Berinstein: I suppose that's a pretty big "if", given that right now, for example, our minimum wage is a poverty wage. It doesn't allow someone in a large urban centre to meet an adequate standard of living.

The Chair: Thank you very much.

Ms. Neville.

Hon. Anita Neville (Winnipeg South Centre, Lib.): Thank you very much.

First of all, I have a couple of questions, if I can ask you, Ms. Berinstein, about your organization. Is the Workers' Action Centre located in Toronto? Are there comparable organizations across the

country that you link with, or are you quite singular? I'm familiar with one in Winnipeg, but I'm just curious to know how far...

Ms. Juana Berinstein: The Workers' Action Centre is located in Toronto. All of our work is really based in Toronto with workers in the city. There are a few other workers' centres across the country. We're also part of an organization called NAFFE, the North American Alliance for Fair Employment. There are about 100 members of NAFFE. Most of them are in the U.S.

There is a history of workers' centres—centres that have supported and advocated for low-wage workers. It's really a movement that began in the States, and then we've seen in the past five to ten years some of the workers' centres begin to do similar work here in Canada.

Hon. Anita Neville: Thank you.

The other question about the organization is, what percentage or portion of the community you work with and are involved with are women?

Ms. Juana Berinstein: I'd say it's about fifty-fifty. We also work with a lot of families. What we find is that often when one person comes to the centre—it might be a woman—through her experience with our centre she'll say, "My male partner is also involved with precarious work; he'll come", and sometimes children as well. We see how precarious work is affecting entire family households, and across generations as well.

Hon. Anita Neville: Thank you.

You've raised a lot of important issues today. I want to thank you for it, because what you've brought forward is important.

You have a number of solutions, certainly extending or revising the EI benefits, as well as talking about work for self-employed workers. How would you prioritize what you're talking about, or can you?

Ms. Juana Berinstein: It would be difficult, or I guess I would be hesitant to say that I would choose one over the other. I really feel that doing both is important, to extend both parental maternity leave benefits, as well as the whole package of benefits that a worker is currently entitled to under the EI regime, to self-employed workers. At the same time, I feel that in order for that extension to really be meaningful, some of the current problems with the EI program also need to be addressed. I'd be hesitant to just pick one over the other. I really feel that both of those need to happen in order for us to see some improvements in the lives and standards of living for low-income people.

Hon. Anita Neville: We're hearing from large numbers of groups focusing on the issue of parental and maternal benefits for self-employed workers. You can appreciate the diversity of groups that have come before the committee and will come before the committee. If we were to move forward with a recommendation on extending parental benefits for self-employed workers, what would be your specific recommendation related to low-income parents whom you work with?

•(1625)

Ms. Juana Berinstein: We would certainly like to see the eligibility criteria, which someone would need to meet in order to access that program, make it accessible to people, so that the hours of eligibility would be something that isn't a barrier for part-time workers, for example, or for newcomers, and so that the benefits someone is entitled to were enough to ensure that someone would have an adequate standard of living.

I know that's quite broad, and—

Hon. Anita Neville: Yes. Recognizing that this is an insurance program, how do we work that in? Do you have a recommendation? If we were to come out with a report, what would be your optimal situation for the self-employed? I recognize the difficulties you've talked about in the misclassification of self-employed, which is a really important reminder to the committee. What would be your best recommendation that we could bring forward, for the group you're involved with?

Ms. Juana Berinstein: I think what is most important to us is making sure that when those benefits are extended to self-employed workers, it's not done on the assumption that self-employed workers are high-income earners, for example. To do so, it's a question of continuing things like the top-up program, so that people who are low-income earners receive an extra top-up, and just thinking about how the program can be most accessible, when we look through both a gender and a racialized lens; when we look at who the people are who are the lowest-income earners and what some of the barriers are that they would face in accessing an employment insurance program.

So perhaps one of the recommendations could be implementing changes to the current employment insurance program.

Hon. Anita Neville: But that would be for employed workers, as opposed to self-employed.

Ms. Juana Berinstein: What we'd like to see is a recommendation that self-employed workers are able to access the entire bundle of EI benefits, not just parental and maternity leave.

Hon. Anita Neville: I have one last question, because it has come up in another sitting. Are there many people you come in contact with who are self-employed, as you describe it, and may not really be self-employed but who put money into the EI program in short spurts but are never able to access it? They may have a temporary job for six weeks or eight weeks, and they have a series of those jobs over many years.

Ms. Juana Berinstein: Yes, absolutely. One of the things we see with people who do temporary, seasonal, contingent kinds of work is that it's often very difficult to have full-time hours sustained over a full year. People who are attached to the labour market in a precarious way are people who are not able to access full-time, full-year hours, even though they may want to work full-time, full-year. That's certainly a trend we see. People attached to the labour market in a precarious way tend to have precarious hours and precarious days of work throughout a year.

•(1630)

Hon. Anita Neville: Thank you.

The Chair: Thank you very much, Ms. Neville.

We're moving on to Madame Demers.

[Translation]

Ms. Nicole Demers (Laval, BQ): Thank you, Madam Chair.

Thank you very much for your very instructive presentation, Ms. Berinstein. I am always very surprised to see how we treat women, young people, newcomers to the country, immigrants, and visible minorities. I am always surprised to see how deplorable their working conditions are.

[English]

Are you not hearing me?

Ms. Juana Berinstein: I'm hearing you in French, not in English.

The Chair: No, we're not getting the English translation.

I think we need to suspend temporarily.

Ms. Nicole Demers: I'll make an exception because it's taking too much time already.

You're all there wanting to know what I'm going to say.

Some hon. members: Oh, Oh!

Ms. Nicole Demers: You're so excited about it. Well, it could be much better.

I was listening to your exposé, Ms. Berinstein. It's really maddening to see that it's always the youth, always the women, always the visible minorities who are obliged to work under those conditions. It angers me very much, because in a province as rich as Ontario, as rich as B.C.... All of Canada is very rich, and we keep saying it. To have conditions like that, it is as if we were allowing slave wages. Women working for those wages will never be able to participate in a program like that because they'll never have enough money to be able to participate in it.

In Quebec we have an organization that for the last 25 to 30 years has been working with people who work and are not unionized. It's called *Au bas de l'échelle*. They've been working with people for a very long time. But we don't see problems such as the ones you've described, where employees are paid \$1 an hour. This is awful. This is like in third world countries. I can hardly believe it.

I wonder what kind of support you get from your governments in order to help the people who are suffering those kinds of working conditions. In Quebec, we have an office...*des normes du travail*... minimum wage. Do you have an office like that in Ontario? Do people have recourse to services that could benefit them and get them better working conditions?

It seems to me that people are afraid to talk about their working conditions because they're afraid of losing their jobs. When you advocate for some of those people, has it been your experience that those people have lost their jobs? When you intervened in the name of some of those people, did they in fact lose their jobs? Is that what happened?

It would seem to me if that is what happens, they would be very afraid to go forward and ask for their rights. I don't know. To me it's a very sad situation. What you described to us is a very sad situation.

I would like to know as well what kind of action you take in order to help those people besides advocating for them. Do you have information pamphlets? Do you have services that can help the people who don't speak either English or French? Do you have those kinds of services available?

I know that in EI we cannot help with those working conditions. It's not our role. But as a legislator, I find it maddening that those people are working under those conditions. So what can we do? There must be something...in 2005, that we see women working like that. They must be working 70-hour weeks in order to be able to bring some bread to their table to feed their children. How can we accept that as a society?

What kind of society are we if we are able to lift our heads when there are people working like that under those conditions? I don't know.

• (1635)

Ms. Juana Berinstein: To answer one of your questions, I can tell you that the majority of workers who come to our centre have been fired because they stood up and sought what they were entitled to under the law. So even though we have anti-reprisal legislation in a province like Ontario, which is the province I'm most familiar with, we find that people don't feel the reach of the law. They don't feel protected by the law in their workplaces.

When we ask ourselves why, it's because the system right now makes it incumbent upon the individual to take a complaint to the Ministry of Labour. What we would like to see is a much more proactive system where the Ministry of Labour would go out into workplaces and not wait for an individual to file a complaint.

You also asked about what we do. What we try to do is to organize. When workers come to our centre, we offer education about what their rights are under the law and we try to strategize, to think about what tactics can be pursued in order to actually access those entitlements. And we try to create solidarity between workers. We're a member-driven centre, and workers are very directly involved in helping each other access their rights and in driving the work of the centre.

I know another committee member said it seems like I've talked about the problems but haven't offered a lot of solutions. I think that's what we're very steeped in every day, in the problems that workers are facing in incredibly terrible work situations, where people are being exploited and abused and where their very basic entitlements, like minimum wage and the other things that appear in labour legislation, such as overtime, anti-reprisal, public holiday pay...those are not things that people are able to access. Those rights are being denied, in particular to women workers but also to newcomers.

Ms. Nicole Demers: Is your association supported by the provincial government?

Ms. Juana Berinstein: Our association?

Ms. Nicole Demers: Yes.

Ms. Juana Berinstein: Our group does not receive funding from the provincial government. We receive funding mostly from private foundations.

Ms. Nicole Demers: But are you supported in any way? Do you have any pull? When you have a body of people, if you have 5,000 members or 10,000 members in your association, I don't know....

• (1640)

Ms. Juana Berinstein: We try to have a very strong voice with the Ministry of Labour.

The Chair: Thank you very much.

Merci, Madame Demers.

We'll hear now from Ms. Crowder.

Ms. Jean Crowder: Thank you.

It seems to me that we are actually dealing with two issues. We're dealing with self-employed workers who earn sufficient income that they would benefit from access to maternity or paternity or parental or whatever those benefits would be. But we're also dealing with a significant number of workers who.... Unless we make huge changes to the EI system, and even if we eliminate the two-week waiting period and we lower the number of hours of work and we tinker somewhat with the benefit, it doesn't feel like for a significant number of workers EI would be the answer.

What else can we do?

Ms. Juana Berinstein: I don't think it's the answer, but I think it's an important step for people to at least have that entitlement. I think that is a beginning. I think right now, even that entitlement is not something people can access.

In terms of what else we can do, part of it rests provincially in terms of enforcing labour standards, except for some workers who fall under federal legislation. In terms of what we advocate for, we advocate for some broader changes, things that would see people be able to have a more adequate standard of living. We advocate for things like raising the minimum wage so that people are able to support themselves above the poverty line.

Certainly, I think a committee like this, in looking at recommending the extension of an EI program, could at the very least make mention of some of those other things that need to be remedied, that would need further action by government in order for low-income workers to have a level of adequacy.

Ms. Jean Crowder: It sounds like what you're recommending is that we advocate for change in the EI system as well as talk about the other issues.

You mentioned full-time full-year employment. At one time, I don't know the percentage, but a significant percentage of the workforce was in full-time full-year employment, but now it has shifted radically; the percentage has flipped on its head. It feels like we're going to continue to go down that track, whether people are in contract work or self-employment. Yet we have a social policy that hasn't responded to the changes in the workforce.

What do you suggest?

Ms. Juana Berinstein: I suggest we change social policy to reflect changes in the labour force. I think there is some movement in that direction as well. For example, the Law Commission of Canada, which I mentioned earlier, is looking at who are the.... You're right, especially when we look at labour legislation, for example. A lot of it is very outdated. It was created when the assumption was that first there was a male breadwinner in the house and that this person worked full-time full-year. Certainly that's not what families look like today. Certainly that's not what all employment situations look like today.

Part of what needs to happen is we need to change labour legislation. We need to change social policy to mirror that situation. We also need to ensure that in doing so we're not legitimizing trends that are harmful to families, workers, and women. Part of what we want to do is to ensure.... It is important, for example, to have a basic floor of labour rights so that when we look at extending a benefit, we make sure we don't do it in...and to legitimate, for example, that anybody can classify a worker as self-employed.

As I said, obviously it's beyond the scope of this committee, but we need to ensure that all of those things I suppose are happening in tandem.

Ms. Jean Crowder: Part of the frustration is that this committee has heard from many witnesses who have talked about the studies that have been done and the report and all those kinds of things. Many of the issues you've identified today are not new issues. We have significant work that's been done on immigrant women and poverty, aboriginal women and poverty, youth and poverty. We have the information, but it's getting that shift.

I agree, we need to change social policy, but it's really the mechanics of how we go about changing social policy. The information is there, but we don't seem to be able to make the moves that are required. There doesn't seem to be a cohesive way of taking a step back and looking overall. When you make changes to EI, how does it impact on health care? How does it impact on training and education? How does it impact on housing? We don't have that kind of approach to social policy, or if we do, it's not evident.

That's more of a comment than a question.

• (1645)

The Chair: Ms. Karetak-Lindell.

Ms. Nancy Karetak-Lindell (Nunavut, Lib.): Thank you.

Thank you very much for your interesting presentation. I'm sorry I missed part of it, but some of my questions were asked by Anita and some other people before me.

From what I've heard, it seems a lot needs to be done under provincial legislation and provincial labour laws. I've been an employer, besides having been an employee, and I'm trying to figure out what we can do at the federal level to ensure that everybody follows the law. I'm trying to find a way so that it is not always up to the watchdog to ensure that people are following the law. This is the case I'm getting from the scenarios you present, that the onus is on employers to treat their employees fairly. But the onus seems to be mainly on the employee for those measures to be taken to treat the workers fairly. I'm trying to figure out how at the federal level we

can ensure that we cover those cracks. Obviously, people are falling through the cracks, and people are taking advantage of the lack of knowledge employees have.

As an employer, it was always my duty to ensure that people knew their rights about those very things you're talking about: statutory holidays, overtime, and the hours of work. I'm trying to figure out how we fit into all this when we're talking about self-employed workers. As we know, the trend in Canada seems to be for small contract jobs, so that the employer does not have to pay the employer's share of CPP, employment insurance, and so on. But it's a competitive world out there, and everybody wants to cut costs. You talk about the social safety network as well.

So some of it is more of a comment. But it seems that unless we have groups like yours fighting on behalf of employees.... I represent Nunavut. It's very difficult to have organizations like yours, especially when you say you're funded by private funds. We just don't have that capability, especially in the north, and I would say probably in rural areas. Again, it becomes a service available only in urban centres.

I'm trying to figure out what is the role of both governments to ensure that the rights of workers are protected, because obviously people are falling through the cracks. I know what you're saying about self-employment benefits and that, but I think the area you're talking about is way beyond what the study before us is.

So I would like your comments on that.

Ms. Juana Berinstein: To respond to your first comment around the role of the federal government, there is a Canada Labour Code. Right now, that Canada Labour Code is under review. The Arthurs commission is reviewing a section of the code. So we feel that one important thing that can happen at the federal level is that standards can be raised at the federal level.

Recommendations, for example, can be made through the Canada Labour Code to do some of the things we feel are really important, such as increase enforcement and increase surprise inspections; have things like a wage protection plan so that when companies don't pay wages, there's a plan, a fund that workers can turn to, to ensure their wages are paid; and raise the federal minimum wage. Then those federal standards are something we can use in the provinces to try to raise the provincial standards as well.

It is a broader problem than just maternity and parental benefits. When we were asked to come to speak to the committee about EI, and we got together as a staff team and we talked to workers at our centre about the issue, about putting together our presentation, we realized it was impossible for us to come to talk to the committee without talking about things like hours of eligibility and benefit levels, even though we knew that wasn't specifically what you're looking at. You're not looking at recommendations on the current EI system, but we felt it was impossible to talk about the situations of the workers we work with, low-income workers, without talking about those things.

In a way, we're trying to say we feel we should be taking a broader lens to the problem. I know some members of the committee have also said they're aware of the problems, that they're broader than this committee. I think we just wanted to ensure—and this is what I feel we can bring to the table—that there's a really grounded experience in what low-income workers are facing, and to talk about how extending maternity and parental benefits would certainly be something useful. But at the same time, we can tell you, from our experience, about barriers that people have faced in accessing those benefits.

● (1650)

Ms. Nancy Karetak-Lindell: I have a quick addition to that. On the parental benefits part—and maybe I missed a few minutes of your presentation—I'm still trying to get my head around how a self-employed worker would pay for those funds. As we have been hearing from more than one presenter, most people can't afford to pay into this. I know you alluded to it a bit I think with Paddy's question, but I'm still trying to find out how that benefit would work for self-employed workers if it's going to be, I think you said, optional on the part of the employee or the self-employed worker.

If you could, just clarify that.

Ms. Juana Berinstein: I have to clarify that we wouldn't advocate an optional system. We feel that if benefits are to be extended, it has to be universal. You can't opt in or out of the program.

What I did say was that if there were different options within the program that everyone had to be a part of...if you could choose to have more weeks at less money or more money at less weeks, perhaps an option like that would be acceptable to us. But we don't feel people should be able to opt in or out of the program. We feel it should be extended universally to all self-employed workers.

Ms. Nancy Karetak-Lindell: What about the funding part of it?

The Chair: We've finished our time now, I believe. If you have one further brief comment, that's fine.

Ms. Juana Berinstein: I think what we would like to say, and I certainly don't have the solution for this committee in terms of how to fund something like this, but certainly it would be important to ensure that it wouldn't be a burden in particular to low-income earners. So certainly low-income earners having to pay both the employee and employer section is something that would create a burden.

The Chair: I'm moving next to Ms. Smith.

Mrs. Joy Smith: Thank you.

Have you ever done any analysis of immigrant women who have become engaged in these jobs?

It seems to me when you have a second-language barrier, which a lot of them do, the self-confidence, in terms of what you can do and how you can do it, would go down. I wondered, has there been any exploration of assisting new Canadians in terms of explaining the system to them and perhaps giving them a vision for what they can achieve if they go through certain steps, like education, improving their English, looking at the different job markets?

I know in our city we have the Women's Enterprise Centre. It's especially set up for women, and it just gives them a working knowledge of how the Canadian system works. I would think, in listening to the presentation today, there are many challenges. There is a real problem, but maybe we need to expand the role and talk a little more about what else can be done to enable and to empower, especially the immigrant women who come to our country and just look around for any job they can find to just get their foot in the door. Would you comment on that?

● (1655)

Ms. Juana Berinstein: I think settlement services, to help someone settle in a new place, are certainly important. But I also feel very strongly, in terms of my experience at the centre and what we've seen, that the problem is not with the individual woman worker. I think often there's also an idea that many workers don't know their rights, and that's why they face exploitation at work. What we've seen is that workers know when their rights are being violated. A worker knows when they're not being paid minimum wage that it's against the law; a worker knows when they're not being paid overtime; a woman worker knows when she's being sexual harassed, that those things aren't legal.

The problem isn't then so much with knowledge of rights, but more with how can someone access those rights and still feel safe and protected? That's where we feel the main problem is. In a system like the current system we have set up with the Ministry of Labour's claims process, it's dependent on an individual worker reporting an employer. This is very difficult for workers who are struggling to get by and who are juggling a lot of difficulty in their life. Many low-income workers are juggling two or three jobs to get by, and to then engage with a complicated legal process can be very difficult.

I think it's important also to note that the problem is not necessarily with the individual worker not knowing or not knowing how to access their rights, but also with employers who are knowingly exploiting workers. In many of these situations it's not a "whoops" situation, it's not that employers are accidentally denying people their legal entitlements; it's that they are knowingly doing this because it benefits them in some way, usually financially. So we feel like it's also very important for employers to be given a very loud message by government that these kinds of employment practices won't be tolerated and that there will be a penalty or a consequence to breaking the law.

Right now, when an employer breaks labour standards—for example, if they don't pay minimum wage—and a worker makes a claim against that employer, even if the ruling is in favour of the worker, all that happens is the employer has to pay what they owed. Very rarely does the employer face any kind of penalty for breaking the law. This has created an historical situation where employers break the law with impunity. They know that even if they break the law, in the case of wages that aren't fully paid, if a worker files a claim, it takes six to eight months in Ontario for a claim to be heard. It's like an employer basically having an interest-free loan for six or eight months, because at the end of those six or eight months, all they have to pay is what they owed in the first place.

The Chair: Thank you very much.

We'll move to Ms. Torsney.

Hon. Paddy Torsney: All those issues, clearly, are provincial, but I'm very sympathetic to them.

I'm wondering if you made a presentation or sent in a presentation to the finance committee when it was doing its hearings.

Ms. Juana Berinstein: Did we present to the provincial finance committee or the federal?

Hon. Paddy Torsney: The federal.

Ms. Juana Berinstein: No, we didn't. We made a submission to the Canada Labour Code review, but we didn't make one to the finance committee.

• (1700)

Hon. Paddy Torsney: In terms of being strategic, I think you do need to make a presentation to the finance committee every time they're doing pre-budget hearings, because the pre-budget consultation process gives people ideas for how to improve standards. For instance, when they were making changes to a variety of things and asked how to address child poverty, the child tax benefit came along. That is a process. It sometimes takes some years, but I think you should make sure they hear your ideas.

I wanted to suggest that we need much more dialogue in the general population, not just in government. In fact, there are lots of contract workers who choose to be contract workers. Those aren't the low-paid contract workers who are making that choice. They are the high-paid contract workers who are choosing that because they think it's more advantageous to them. Every time I see one of those contracts, I ask where the benefits are. Oh, they let them buy their benefit packages independently. If they were an employee they would get benefits. It's in everybody's interest, because the people who can afford to not buy benefit packages and in fact pocket the

change are usually the ones who don't have dependants and don't need health care plans, and they are usually younger and single. And that is a disadvantage to married people and people with children or people who have partners. I think we need a dialogue about that.

I'm often asked to sign off on things, and I say, "Just a second, I really am not a fan of this concept of all this contract work". I have particularly heard from lots of young men to not worry about that, that they would take care of that stuff. Well, no, you're actually creating a disadvantage. Empower contract workers to start talking about these issues and create a debate.

Peter Drucker died this last week. He talked about loyalty in employee relationships as very important—taking care of your employees, making sure they have good benefit plans, making sure they understand. I heard you say earlier that lots of times people don't know their rights. I've often seen cases where employees have expressed their rights poorly, and that creates a challenge, or they think they know their rights and create a problem with employers. Often it's provincial stuff, and I'm asked to intervene and call on employers, but they've already said something really outrageous to the employer, which wasn't necessarily the way to get the information across.

I think it's great that you're out there, and I encourage you, and if we can help facilitate this kind of dialogue....

Again, I've had a number of companies in my 12 years that have been reassessed by Revenue Canada, and I've had a lot of employees angry—well, they didn't think they were employees—about that reassessment who said, "How dare you let Revenue Canada do this". Some of them were better paid. Some of them thought the business was going to go down. Some of them liked the arrangements. Sometimes it did actually occur that the company went under.

I think we need to have a better dialogue about those things. Maybe it's not a question of more laws. At the federal level, the real push is for this reassessment for CPP contributions by employers or for EI, and it's generally triggered by somebody who's asking for a benefit and has filed independently, not realizing they weren't a contract worker. Maybe we need more resources on that front.

The other thing I was going to say is that I think what you're really advocating is something that would be based on the tax system rather than on the EI system, because as has been mentioned, it is an insurance system. That's where you get the two-week co-pay, as with your benefits. Hopefully you have benefits. In your benefit plan you probably have to pay 20% on your dental, or something like that, or a minimum payment a year. That two weeks is the co-pay. When we first introduced parental leave, it was two weeks for each employee—we've reduced that from four weeks to just two—and that helped a little.

Unfortunately, I think there is a lack of awareness that it is an insurance system. Maybe people don't want it to be an insurance system, but then we'll need to find another way to finance this operation. I think we then need to figure out how we make sure people have a certain minimum income. That's probably best done not related just to parental leave, but to all your workers' concerns.

•(1705)

I encourage you to speak to the finance committee, because regardless of what we do on EI, you've raised a bunch of issues. I think you're advocating for a more general reorganization of how we give EI and parental leave benefits, and it would be very helpful for the finance committee to hear part of that too.

The Chair: Thank you.

Mr. Komarnicki, please.

Mr. Ed Komarnicki: I agree that you're dealing with areas that are both provincial and federal and that it might make it somewhat difficult.

I didn't quite catch whether or not your group has made a presentation to Professor Arthurs' review of the Canada Labour Code.

Ms. Juana Berinstein: Yes, we have made a presentation and we've met with several researchers from the commission as well. We've made a written submission.

Mr. Ed Komarnicki: What was your basic proposition insofar as the Canada Labour Code itself is concerned? What was your central theme?

Ms. Juana Berinstein: Our central theme is that standards need to be improved. The current standards are too low, so one of the things that needs to happen is an improvement in standards, and we also need to see an increase in the enforcement of those standards.

Mr. Ed Komarnicki: Two good points.

The Chair: Thank you very much.

We're moving to Madam Gagnon. We just want to ensure, Madam Gagnon, that our system is working; we had difficulty before.

Is our system up and running?

[Translation]

Ms. Christiane Gagnon: Is the system working? We are not hearing the interpretation.

[English]

I would like to say this in English. My English is not that good, but I want to go back to what Ms. Torsney talked about just before. She said you maybe have to go to the finance committee. We can say that to many women who come here to take up the issue, but if we say to everybody to go to that committee or to another committee and that maybe they have an answer for you....

I think it's the right place to go, but for the committee, I suggest that we might have a report on what the committee will study and then send advice to the finance committee, to the ministers for the status of women and human resources. There are three people who have an agenda to change the law or change the way to regard the *sensibilité* about the problem of people who are not earning enough money; they are not putting on the issue of employment insurance.

If we do that, we'll do that for every little issue we debate here. We don't have the means to look at and take action on many issues for women, but the committee has to be proactive. The way to be

proactive is to push hard on the ministers who are responsible for many issues for women. That's my comment.

The Chair: Thank you very much, and thank you for your patience with the lack of translation, Madam Gagnon.

I believe we have Madam Torsney.

Hon. Paddy Torsney: I wanted to ask if you had charitable status.

Ms. Juana Berinstein: We do not have charitable status.

Hon. Paddy Torsney: Are you listed as a non-profit, though?

Ms. Juana Berinstein: We've just currently incorporated as a non-profit.

Hon. Paddy Torsney: So people can't make donations to your organization?

Ms. Juana Berinstein: No, but we work very closely with the legal clinic, so sometimes we can do joint projects and people can make a donation to a project we're doing as a joint venture with the local legal clinic.

Hon. Paddy Torsney: While I certainly hope we're going to make some recommendations based on your testimony, I did just want to emphasize that part of the reason that you also need to be heard at the finance committee is that, as I can tell you as a former vice-chair of the finance committee, there are very few women who appear at the finance committee and there are very few issues like this that appear at the finance committee.

It's been frustrating in various budget rounds to have lots of representation on tax cuts or investment in other areas but not so much emphasis on investing in workers. We just need to make sure people are hearing us, because sometimes when we arrive back in caucus, they ask where we're coming from; they say they've never heard any of that. So if we could also make sure that our colleagues on the finance committee hear it too, it would be helpful.

•(1710)

The Chair: Thank you, Madam Torsney.

I see no more speakers, so I will thank our guest speaker today for her very compelling testimony. You've very clearly defined issues for us to deal with, and I'm sure this will help facilitate our work and our study. I want to thank you very much for coming. Your presence was very helpful.

Ms. Juana Berinstein: Thank you for having me.

The Chair: Just before the committee adjourns, I'd like to bring to your attention that this Wednesday we'll be continuing to meet on parental benefits for self-employed workers. Our witness will be Marcelle Marion, a lawyer formerly with the Canadian Bar Association. Next Monday we will hear from Ministers Cotler and Fontana on the very important issue of pay equity.

I'd also like to bring to your attention the fact that we have an informal meeting with Ms. Grant Cummings, who has joined us already in the room today, representing a working consultation with NAC. Hopefully, you can stay for a brief period of time and get an update on what is happening.

The meeting is adjourned.

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