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Outline

• Overview of Feminist Political Economy (FPE) & the Study of Employment Standards (ES)

• Review of Constraints on Workers’ Access to and Realization of ES
  • Ontario case study:
    • exemptions & special rules
    • claims-making & settlements

• Conclusion: FPE and Everyday Research on Work and Employment
The Enforcement Gap

**Normative Goals:**
Social minima, universality, fairness, etc.

**Workplace Objectives:**
Assure basic labour standards, protect against major downside risks of employment, mitigate against power imbalances and resulting abuses

**Laws:**
Employment standards (e.g., minimum wages, maximum hours, etc.)

**Enforcement Strategies:**
Voluntary compliance, proactive enforcement, reactive enforcement

**Enforcement Tools:**
Negotiated settlements, orders to pay, inspections, investigations, prosecutions, etc.
An FPE Approach

• Holistic theory and framework for action;
• Dialectical, materialist, and praxis-oriented.

Two key Analytical Commitments:

• Highlights relationship between production and social reproduction, partly through intersectional theorizing;
• Understands contradictions and tensions as sources of continuity through change.
Contributions of FPE to the Study of Employment Standards

Feminist political economists have:

• Identified the bifurcated structure of labour law and policy;
• Revealed ES as the principal source of labour protection for those responsible for social reproduction and presumed to have access to resources beyond the wage;
• Made visible the normative model of employment (i.e., the SER) underpinning ES;
• Problematized “nonstandard work” as a catchall and explored dimensions of precariousness.
Using FPE to Understand the Enforcement Gap I: Exemptions & Special Rules

- Divergent levels of protection under ES due to complete and partial exemptions;
- Increasing number of exemptions has particular consequences for members of socially marginalized groups;
- Those who suffer from the fraying margins of ES protection most are also often presumed to have access to support outside their wages.
Personal Emergency Leave

- 77% of Ontario employees have full coverage under personal emergency leave provisions (SLID 2011).

- Need for personal emergency leave varies by gender, visible minority, and migration status.
Personal Emergency Leave Coverage: A Case of ‘Double Jeopardy’

- Visible Minority Women: 74%
- Visible Minority Men: 82%
- Recent Immigrant Women: 68%
- Recent Immigrant Men: 80%
Using FPE to Understand the ES Enforcement Gap II: Claims-making and Resolution

- Claims-making increasingly reflects a ‘self-help’ approach:
  - individual employees are to take full responsibility for lodging complaints
  - ‘settlements’ as a primary mechanism for resolution;
- Self-help approach emblematic of neo-liberalism
- Continuity through change in its reproduction and deepening of longstanding power relations in ‘new’ guises
- Open for Business Act (OBA) established a requirement for employees to first seek resolution with their employer before gaining access to the claims system
Implications of ‘Self-help’: More Settlements

Settlements 2007-08: 4%
Settlements 2012-2013: 12%
Implications of ‘Self-help’: Fewer Complaints

- **ES Complaints Received by MOL**
- **Non-unionized Ontario employees**
Conclusion

- Exemptions & special rules and a ‘self-help’ model of claims-making and resolution illustrate the utility of FPE in understanding challenges to workers’ realization of minimum ES.

- In identifying and probing the “enforcement gap,” FPE helps point the way to a research and action agenda centered on regulatory effectiveness and the pursuit of social minima for all workers.
Partners

- Cavalluzzo
- CALC
- Legal Assistance of Windsor
- Ontario Human Rights Legal Support Centre
- Law Commission of Ontario
- OPSEU/SEFPO
- Parkdale Community Legal Services
- Workers' Action Centre
- Sudbury Community Legal Clinic

Closing the Gap
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Funded by

Social Sciences and Humanities Research Council of Canada
Conseil de recherches en sciences humaines du Canada

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Closing the Employment Standards Enforcement Gap