

## Westray Law: If Workers Don't Get Prevention, They Must Seek Justice

May 2023



Over 1,000 workers a year are killed on the job across Canada and countless more are injured or made ill at work. At this time of year, we mark important milestones in the fight to protect workers health and safety and to hold accountable those employers who kill or injure workers.

April 28<sup>th</sup> is the National Day of Mourning for workers killed, injured or made sick on the job. May 1<sup>st</sup> is First Responders Day, recognizing the courageous work of frontline workers such as firefighters and paramedics, including the role they play in confronting catastrophic workplace injuries and deaths. May 9<sup>th</sup> is the anniversary of the Westray Mine tragedy which killed 26 workers. That tragedy ultimately led to *Criminal Code* changes that hold corporations and corporate executives responsible for worker health and safety.

The 1992 explosion at the Westray Mine in Nova Scotia was caused by a build-up of methane gas and coal dust. This was not a simple accident but was the direct result of a negligent employer who put profits before the health and safety of their workers. Although two mine managers were charged with criminal negligence and manslaughter, the charges were dropped by the prosecutor who said there was insufficient evidence for conviction.

In 1997 a public inquiry conducted by Justice Peter Richard included the following findings:

- The mine's Internal Responsibility System for health and safety had failed
- Mine managers blatantly disregarded health and safety regulations
- Mine managers intimidated and coerced miners with threats and firings
- Mine management prioritized production at the expense of safety
- Government inspectors and officials failed to carry out their oversight responsibilities

After years of campaigning, Westray family survivors and the labour movement forced the Federal Government to amend the *Criminal Code* in 2004, making it easier to hold corporate executives and corporations criminally liable for serious workplace injuries and fatalities and imposing serious penalties including jail time and big fines.

However, the Westray Law is being **shamefully** underutilized. As of early 2022, there have been only nine successful prosecutions under the Westray amendments – four in Quebec, four in Ontario and one in British Columbia. In Ontario, Metron Construction and the project manager responsible for the Christmas Eve swingstage deaths of four workers respectively received a fine of \$750,000 for the company and three-and-a-half years of prison for the manager.

The right to come home safely from work, and live a full life without suffering occupational illness, is a permanent campaign for unions everywhere. The United Steelworkers campaign, [Stop The Killing, Enforce The Law](#), to ensure those responsible for fatalities in the workplace are brought to proper justice, is part of that fight.

The Labour Council's Executive Board will:

- Amplify the [Stop The Killing, Enforce The Law](#) campaign which has four asks of our provincial government:
  - Crown attorneys should be educated, trained and directed to apply the Westray amendments of the Criminal Code of Canada;
  - Dedicated prosecutors are given the responsibility for health and safety fatalities;
  - Police are educated, trained and directed to apply the Westray amendments;
  - There is greater coordination among regulators, police and Crowns so that health and safety regulators are trained to reach out to police when there is a possibility that Westray amendment charges are warranted.
- Urge all Labour Council affiliates to amplify the campaign
- Urge municipal governments to support the campaign