



June 2007

LABOUR RIGHTS ARE
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Labour rights are human rights

THE RIGHT to freedom of association, which includes the right of workers to join a union and bargain collectively, is a fundamental and universal human right and a cornerstone of democracy.

Freedom of association is the cornerstone of democracy because this right creates the possibility for workers and citizens to organize. And it is through organizing that workers construct the vehicle - unions - for winning and exercising rights.

In the past 25 years Canadians have endured a serious erosion of this fundamental and universal human right, creating a 'human rights deficit' in this country.

Governments cannot pick and choose among human rights. It is the role of a democratic government in a civil society to defend all human rights.

Labour rights are a critical component of human rights helping to protect and promote the social and economic well-being of the human population.

Human rights cannot flourish where labour rights are not enforced.

"Labour rights are at the heart of the fight for human rights. The freedom to associate, to organize and to have equal opportunities in the workplace—every year we see these rights under attack around the world."

KATE ALLEN
AMNESTY INTERNATIONAL
UNITED KINGDOM

Supreme Court finally agrees

THE Supreme Court of Canada recently confirmed that labour rights are human rights.

On June 8, 2007, the Court reversed 20 years of its own jurisprudence by ruling that the guarantee of freedom of association in section 2(d) of the Charter of Rights protects the right of Canadian workers to join a union and bargain collectively.

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The judgment breathed new life into section 2(d) of the Charter. It is the most significant court decision in support of labour rights in the past 20 years.

It explicitly repudiates the restrictive interpretation given to it in a series of rulings in the 1980s, when it was defined to mean only the right to join a union, but not to engage in union activities.

Chief Justice Beverley McLachlin and Justice Louis LeBel, the authors of the decision, forcefully declared:

"We conclude that Section 2(d) of the Charter protects the capacity of members of labour unions to engage, in association, in collective bargaining on fundamental workplace issues."

The Supreme Court cited four propositions to support its decision:

1) The reasons the court evoked in the past for holding that the guarantee of freedom of association does not extend to collective bargaining can no longer stand up to public scrutiny.

- 2) An interpretation of section 2(d) that precludes collective bargaining from its ambit is inconsistent with Canada's historic recognition of the importance of collective bargaining to freedom of association.
- 3) Collective bargaining is an integral component of freedom of association in international law, which may inform the interpretation of Charter guarantees.
- 4) Interpreting section 2(d) as including a right to collective bargaining is consistent with, and indeed, promotes other Charter rights, freedoms and values.

"This ruling affirms that labour rights are human rights and that they are an integral part of any democratic society. All governments in Canada should reassess the cavalier manner in which they have violated international Conventions

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and standards and at long last abide
by them."

JAMES CLANCY, PRESIDENT
NATIONAL UNION OF PUBLIC AND
GENERAL EMPLOYEES

Unions, democracy & prosperity

UNIONS have been, and continue to be, an important force for democracy, not just in the workplace, but beyond, in the community—locally, nationally and globally.

Unions need democracy in order to thrive. Democracy needs unions: a just and democratic society depends on a healthy and free labour movement.

It is no coincidence that in countries where there are free and active trade union movements, there are more democratic, transparent and representative forms of government.

Not only do democracies benefit from unions, so do economies.

Unions provide workers with a decent wage so they and their families

can enjoy a quality standard of living and financial security. They provide workers with comprehensive benefits over and above legislative benefits and universal public programs.

Beyond the economic benefits provided to workers and their families, unions have historically been a major force in humanizing and democratizing the economies of nations.

Unions promote higher levels of economic equality and, in many ways, also encourage labour markets to achieve greater economic growth and efficiency.

The erosion of labour rights weakens democracy and threatens the economic well-being of citizens.

"The failure to protect freedom of association and collective bargaining in Canadian workplaces diminishes our standing as a democracy."

ELAINE BERNARD, EXECUTIVE DIRECTOR
HARVARD UNIVERSITY
TRADE UNION PROGRAM

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Labour rights and corporate globalization

THE LEGISLATIVE attack on labour rights in Canada is part of what has grown into an international phenomenon.

During the last 25 years, national labour movements in almost every country of the world have been under attack. The severity of this attack may differ based on a country's level of union density, but the objective remains the same—namely, to weaken workers' rights and their unions.

There is a clear set of common ingredients, which lead to an equally clear and ominous common result—a precipitous decline—if not outright denial—of workers' rights, in lock step with a sharp increase in corporate rights.

The corporate drive to compete by slashing labour costs again, and again and again is now endemic.

Countries, in their turn, compete for investments by deregulating both the workplace and the labour relations framework that governs the workplace.

Canada's international commitments

BESIDES the Supreme Court of Canada's decision of June 8, 2007, labour rights are defined through a fundamental and universal human right known as 'freedom of association'.

This basic right is enshrined in a number of well-respected international documents originating in the United Nations and the International Labour Organization (ILO).

ILO DECLARATION OF PHILADELPHIA OF 1944

The Declaration embodies the principles "labour is not a commodity" and "freedom of expression and of association are essential to sustained progress".

UNITED NATIONS UNIVERSAL DECLARATION OF HUMAN RIGHTS

On December 10, 1948, the General Assembly of the United Nations adopted and proclaimed the Universal Declaration of Human Rights, which set

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out fundamental principles for human rights. These include the right to freedom of association (Article 21) as well as the right of everyone to form and to join trade unions for the protection of his/her interests (Article 23).

**ILO CONVENTION No. 87
FREEDOM OF ASSOCIATION AND
PROTECTION OF THE RIGHT TO ORGANIZE
(1948)**

This Convention establishes the right of all workers to form and join unions of their own choosing without prior authorization, and lays down a series of guarantees for the free functioning of organizations without interference by public authorities, including the right to engage in free collective bargaining.

**ILO DECLARATION ON FUNDAMENTAL
PRINCIPLES AND RIGHTS AT WORK**

In 1998, the ILO adopted the Declaration, reaffirming the commitment of the international community to "respect, to promote and to realize in good faith" the rights of workers and employers to freedom of association and the effective right to collective bargain-

ing, and to work towards the elimination of discrimination in respect of employment and occupation.

**INTERNATIONAL COVENANT ON ECONOMIC,
SOCIAL AND CULTURAL RIGHTS (CESCR)**

Article 8.1(a) of CESCR provides for the right to form trade unions and to join the trade union of his or her choice in order to promote and protect a person's social and economic interests. State governments are not permitted to restrict this right to unionize, unless strictly necessary in the interests of national security, public order or for the protection of the rights and freedoms of others.

Canada's feeble commitment

Canada played an important role in drafting each of these important conventions and declarations; and Canada is a signatory to each of these important international documents.

Canada has also solemnly agreed to support, promote and adhere to these international human rights standards.

However, the day-to-day reality is much different. In fact Canada's labour

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rights record is one of the worst in the world. The rights endorsed so enthusiastically in international forums by Canada have never been fully realized here in Canada!

"Canada's reputation as an international champion of human rights falls appallingly short when it comes to the question of workers' rights. While we are among the first nations to sign international labour conventions, too often we break them when they prove inconvenient at home. Our federal and provincial governments have used their powers to deny collective bargaining rights, outlaw strikes and let employers run roughshod over unions."

ED BROADBENT, PAST PRESIDENT
RIGHTS AND DEMOCRACY

The right to join a union—maybe

THE MOST fundamental element of the right to freedom of association is the right to join a union. Yet, in Canada thousands of workers across the country are denied the basic right to join a union.

Scattered across several jurisdictions in Canada, there are groups of workers who are restricted by law from joining a union and engaging in collective bargaining. These include:

- domestic workers in Alberta, New Brunswick and Ontario;
- all agricultural workers in Alberta and seasonal agricultural workers in Ontario;
- nurse practitioners in Alberta;
- part-time academic and support workers employed in community colleges in Ontario;
- independent family support workers and home childcare providers in Quebec; and
- certain casual workers employed by the provincial governments of New Brunswick, Nova Scotia and Newfoundland and Labrador.

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There is absolutely no way to defend the decision to deny these groups of Canadian workers access to this most basic human right—beyond a desire to favour employers at the expense of employees.

Deprived of their basic rights, these workers find themselves at the mercy of their employers with no ability to negotiate the terms and conditions of their employment. They can be fired, disciplined, and otherwise mistreated, but cannot file a grievance or otherwise defend themselves.

With respect to each of the groups of workers noted above, the International Labour Organization (ILO) has repeatedly stated that it fails to see any reason why the principles on the basic rights of association and collective bargaining afforded to all workers should not apply.

This is an international embarrassment for our country. It certainly tarnishes Canada's reputation as a defender of human rights.

"The right to join a union is obviously basic to human freedom.

To deny it is to accept what amounts to involuntary servitude."

JAMES CLANCY, PRESIDENT
NATIONAL UNION OF PUBLIC AND
GENERAL EMPLOYEES

Constant assault on workers' rights

IN THE past 25 years, workers in almost every jurisdiction in Canada have endured a major violation of their basic bargaining rights.

Since 1982, our governments have passed 175 pieces of legislation that have restricted, suspended or denied collective bargaining rights for Canadian workers.

Our Canadian governments now regularly:

- deny workers the fundamental right to join a union;
- outlaw the right to strike;
- impose collective agreements on workers that represent the employer's last offer; and

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- allow employers to engage in union-busting activities.

"The state must not substantially interfere with the ability of a union to exert meaningful influence over working conditions through a process of collective bargaining Thus, the employees' right to collective bargaining imposes corresponding duties on the employer."

SUPREME COURT OF CANADA DECISION
JUNE 8, 2007

Fixing Canada's human rights deficit

The time has come for all citizens to respond. Canadians across the country must demand that our governments

address Canada's human rights deficit. Human rights cannot flourish where workers' rights are not enforced.

We need to create greater awareness and understanding that Labour Rights are Human Rights and how the legislative attack on the rights of workers threatens democracy and democratic institutions.

The recent Supreme Court of Canada decision has helped in that regard. But working people still need to take action to ensure that their rights are exercised and enforced. Rights not exercised will wither and disappear.

All governments in Canada must give effect to the international human rights norms, which they have made a commitment to comply with.

Take action

■ WRITE

Write your federal Member of Parliament and your member of your provincial legislature expressing your concern for the dismal international record that Canada and its provinces have in pro-

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protecting and promoting basic human rights for workers and demand that they support fair and progressive labour law reform.

➤ ~~TALK~~

If you are a union member, then talk to your union, federation of labour and labour council on the need to condemn governments that restrict or deny the fundamental rights of workers and to ensure that progressive labour law reform be a central focus of labour's political agenda.

Talk to anyone and everyone who will listen about Canada's poor record at protecting workers' rights and the fact that labour rights are human rights.

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