

## ILO and the Right to Strike

### Draft Letter to the Provincial and Territorial Ministers of Labour

February X, 2015

The Honourable **Xxxxx XXXXXXX**  
Minister of Labour  
Government of **Province**  
**Address**

Dear Minister:

I am writing on behalf of **Name of Organization** to urge you to make a public statement on behalf of your government in defense of the right to strike. I also encourage you to write to your federal counterpart, the Honourable Kellie Leitch, asking that she defend this fundamental human right at the March 2015 meeting of the Governing Body of the International Labour Organization (ILO).

A strong defense by the Canadian government at the ILO in support of the right to strike, with the support of all provincial and territorial governments, is urgently required as a result of an intense and unprecedented attack against this right that is currently being waged by the Employers' Group at the ILO. I especially urge you to take this action in light of the January 30, 2015, decision from our Supreme Court of Canada (SCC) concerning *Saskatchewan Federation of Labour et al. v. Saskatchewan*. That decision affirmed the long-standing and widely accepted international principle that the right to strike is a basic human right, as well as a constitutional right of all Canadians.

In its majority decision, the SCC clearly recognized the very health of our communities and our country depends on the constitutional guarantee of freedom of association. This fundamental freedom has served as a foundation of democracy and economic justice in Canada and throughout the world. In fact, the Court reaffirmed that meaningful collective bargaining supports "the values of human dignity, equality, liberty, respect for the autonomy of the person and the enhancement of democracy." It further stated that "the right to strike is essential to realizing these values."

Canada now proudly joins some 94 countries around the world that have enshrined the right to strike in their constitutions. The right to strike has also been established over many decades in international law at the International Labour Organization (ILO).

The Employers' Group at the ILO, however, are trying to turn back the clock on over 50 years of tripartite consensus and international legal jurisprudence in favour of the right to strike.

Despite being a party to this consensus, and, the development of wealth of jurisprudence that supports it, the Employers Group are displaying a radical reversal in their position regarding the right to strike. They are now putting forth the ludicrous position that the ILO and its judicial bodies should refrain from expressing an opinion on the right to strike.

In turn, they have been disrupting the ILO's vital work as a pressure tactic to overturn this fundamental international consensus in favour of the right to strike. They have created a stalemate at the ILO, and working people around the world are paying the price as ILO judgments on important labour rights issues are blocked.

The Workers' Group at the ILO have put forward a solution to end this employer-driven deadlock. That solution is found in the ILO's constitution, which has a provision stating that when a dispute cannot be settled at the ILO itself, then it be referred to the International Court of Justice (ICJ) to make a binding, and independent judicial determination on the dispute. The Employers Group are trying to block the rule of law by opposing the referral to the ICJ. They appear not to want justice to prevail.

Many governments support the Workers Group's demand to follow the ILO Constitution and take the case to the ICJ. In light of the SCC's recent decision that the right to strike is a constitutional right afforded to all workers, it seems more than reasonable and just that the Canadian government, and all provincial and territorial governments, would support the Workers Group's proposal that this dispute at the ILO be referred to the ICJ.

I am asking that you write the federal Minister of Labour, the Honourable Kellie Leitch, to let her know that your government supports the right to strike, in light of the recent SCC decision. I further suggest that you encourage her to ensure that the Canadian government takes the same position at the March 2015 meeting of the ILO Governing Body by supporting the proposal of the Workers' Group to refer this ILO dispute to the ICJ.

On a final note, I would ask that you make a public statement on February 18, 2015 in favour of the constitutional right to strike of all Canadians. That day has been designated by, the International Trade Union Confederation (ITUC) as an international day of action to defend the right to strike.

Thank you for your consideration of this matter.

Sincerely,