

Labour's foes have neither law nor history on their side

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Re: Forced labour: Canada flouts the UN Declaration on Human Rights and its Charter in compelling workers to belong to unions, Oct. 4

In its haste to weaken workers' rights, the employer-dominated LabourWatch Canada has misled readers on the rights and obligations of union membership.

Authors Jan Sodergren and John Mortimer point to one section of the UN Universal Declaration of Human Rights to support their attack on unions. However, they failed to note Article 23 (4) of the declaration, which says, "Everyone has the right to form and to join trade unions for the protection of his interests."

The authors have distorted the intent of the declaration and ignored unions' democratic right to negotiate collective agreements on behalf of workers. Following the authors' fractured logic, employees who opt out could potentially enjoy the same wages and benefits as unionized workers, without paying dues to support the many services that unions provide to their members.

Such action is unnecessary, as Canadian law already allows employees to democratically decide whether to join or decertify from a union if a majority of workers choose to do so. Collective agreements are also approved or rejected by a majority vote of members.

We doubt that Sodergren and Mortimer would advocate that citizens should be able to opt out of paying taxes, simply because they may not agree with the way a government uses the funds to provide services. However, that is exactly what they are asking us to agree to with respect to unions.

Fortunately, Canadian workers now enjoy greater protection in law. In a landmark decision striking down parts of the Campbell government's Bill 29 in June, the Supreme Court of Canada ruled that, "We conclude that the Section 2(d) guarantee of freedom of association protects the capacity of members of labour unions to engage in collective bargaining on workplace issues."

Union members' constitutional right to collective bargaining would be significantly undermined if employees could opt out of a collective agreement and negotiate their own conditions of work, as LabourWatch Canada advocates. Employers could pressure employees and new hires to opt out of the union through inducements and intimidation.

When New Zealand's conservative government passed the Employment Contracts Act in 1991 -- doing away with union security in favour of individual worker contracts -- the economy was thrown into chaos. Real wages and benefits fell across the country. The number of workers covered by collective agreements dropped by more than 40 per cent. Unemployment increased and the number of part-time workers tripled.

Union security clauses in collective agreements allow democratically elected unions to operate in an orderly and constructive way. The Rand Formula, named for a 1946 decision by Canadian Supreme Court Justice Ivan

Rand, mandates employers to deduct a portion of all employees' salaries in a bargaining unit, whether members or not, and forward these funds to unions as a dues checkoff.

The formula is based on the principle that all workers in a bargaining unit benefit from a union contract, and therefore all should support the union that negotiated their agreement.

Sodergren and Mortimer's statement that "B.C.'s labour code allows collective agreements that violate the Charter," is both wrong and misleading.

The Supreme Court of Canada has repeatedly upheld the right of mandatory membership and dues checkoff in collective agreements. In a 1992 case between the Association of Professional Engineers of Saskatchewan and the Saskatchewan Government Employees' Union, the court held that mandatory membership does not violate Charter rights -- noting that allowing members to opt out would create chaos and would tilt labour relations dramatically in the employers' favour.

The Supreme Court of Canada also ruled in a 1991 case between Lavigne and the Ontario Public Service Employees' Union that the union's use of member dues for purposes not directly related to collective bargaining does not violate the Charter -- in part because it allows workers, through their unions, to advocate for broader social, political and economic interests, just as businesses do.

Throughout modern history, trade unions have fought to uphold the dignity, respect and value of workers in our society. We will continue to do so.

George Heyman is president of the B.C. Government and Service Employees' Union.

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