

**The Attack on Trade Unions Today  
An Effective Canadian Response**

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In order to assess where trade unions will be in 2025, we must assess the political landscape for trade unions in Canada today.

Recently, we have seen a stepped up campaign from the right to weaken unions and otherwise restrict the rights of workers. This assault on unions is similar to what has been going on in the U.S. for the last few decades. Effective lobbying at the federal and state level, right wing think tanks and a supportive media have laid the groundwork for a political environment in which U.S. unions are targeted and demonized. At the present time, American unions have been weakened to the point where the union density rate is around 12% - 6.6% in the private sector.

The real and remaining strength in the U.S. labour movement today is in the public sector. Teachers, nurses, firefighters and other public sector workers and unions have been an effective voice in fighting the neo-liberal policies of deregulation, privatization, lower taxes and reduced public services. As a result of this opposition, many Republican state administrations have been targeting public sector bargaining and public sector pensions. We have seen this in Ohio and New Jersey but most notably in Wisconsin where Governor Scott Walker trampled on the collective bargaining rights of the state's public servants. Some hope that

the resistance to these laws in Wisconsin which saw months of public demonstrations and protests will in some way revitalize the labour movement in the U.S.

You may be asking what all of this recent history in the U.S. has to do with Canadian unions. The answer is that there is a movement to transport some of these anti-union policies and strategies into Canada. You can clearly recognize the same rhetoric, ideological slogans and polarized debates. The thrust of these policies being pushed by the right in Canada are clearly recognizable to those who are familiar with American labour law and labour relations. Some of the features are the following:

- demonize public servants and public service pensions. This is where union density is highest and political action is most effective,
- attack unions by undermining their financial base by imposing right to work laws and out-lawing Rand Formula clauses;
- weaken the political and democratic power of unions by challenging their attempts to advance political objectives on behalf of their members and workers generally;
- intrude on the internal workings of the association by forcing unions to comply with onerous, discriminatory and unreasonable reporting and disclosure requirements to government and interfering with how union dues are expended;
- keep unions on the defensive so that they are continually defending themselves in the courts and the political arena rather than organizing workers, collectively bargaining and pursuing their political and social agenda.

There is little question as to why some wish to import this American anti-agenda into Canada. The answer is the same as to why the political right in the U.S. has pursued these policies since 1980. The labour movement has consistently opposed the neo-liberal agenda of cuts in public transfers, lower taxes and reduced public services. Canadian unions have been a strong proponent of tax fairness, equality and quality public services. Indeed, Canadian unions have been a significant force in the Canadian progressive movement and have pursued political goals far beyond the interests of their members. After the Second World War and up to the 1980's when there was a fairer distribution of wealth and prosperity, unions played an important role in the political and social transformation of Canadian society. Through the political process and the mobilization of their members, unions played a significant role in achieving a variety of social rights for all Canadian citizens – minimum wage, universal health care, a public pension plan system. Importantly, unions were at the forefront of promoting equality by reducing the pay gap between workers and management, men and women, racial minorities and other workers. We must never forget that in Canada labour rights are human rights. Indeed, the Canadian labour movement was crucial in getting human rights

laws enacted across this country. In short, trade unions give Canadian working people the real opportunity to combine their collective efforts and pursue common goals whether it be in the workplace or in the broader Canadian polity.

Let me turn now to how these radical right wing policies are being transported to Canada. At the federal level we have what some view to be the most anti-labour federal government that we have ever had. With the limited time that I have I will focus on three areas. The first is the right to strike. This government has intervened in several federal bargaining relationships since 2011. It has little respect for the right to strike and has intervened even before the right to strike is exercised. It has even introduced back to work laws in relation to private sector companies which clearly do not provide essential services since there is much competition in their particular market. On each occasion, there was little or no evidence that public health or safety was compromised by the strike. The government was prepared to act on the inconvenience that a strike may cause. These actions have led to three constitutional challenges.

The second area is Bill 377 which imposes onerous and arbitrary reporting and disclosure requirements on trade unions. For example, unions will

have to report on all expenses over \$5,000.00 including how much money they are spending on political efforts and lobbying. This information will be posted on a government website. The law is also very discriminatory in that it does not apply to other associations such as employer organizations, medical associations or the law society. There is also no need for the law in that union members have legal access to all of the financial information that they want from their union. This law will require unions to spend tens of thousands of dollars on creating new offices and hiring new employees which will be required in order to comply with the law. In my view, the law is of questionable constitutionability whether it be from a *Charter* or division of powers perspective. Needless to say, its enactment will lead to a number of constitutional challenges... but once again this is part of the strategy. Even if the law is struck down the unions will have expended a great deal in terms of resources, time and money in challenging the law.

The third area I will refer to is the recent proposed amendment to the *Financial Administration Act* which was buried in the recent *Budget Implementation Bill*. This amendment will give the federal government the power to effectively take over collective bargaining in Crown corporations. The Big 3 targets are the CBC, CPC and Via Rail. Of course, these Crown corporations were created to operate in a commercial environment while

being independent of government. In light of their independence, their labour relations were to be de-politicized and not subject to political interference. Some believe that this is another attack on the CBC in order to ensure that its criticisms of the government are tempered.

This could be true but I believe that the policy goes far beyond this. I think the government will use this power to reshape the corporate directions of these entities which are creations of Parliament. This may be a legitimate policy option. However, let us be upfront about the policy and have a full and thorough debate on whether Canadians agree with this direction for these important Canadian Crown corporations.

If we move to the provincial level, we can see that there is a movement on the right to introduce similar anti-labour policies in Ontario. In June 2012, the Ontario Progressive Conservative Party released a White Paper on labour law reform. Their policy reform adopts many of the anti-union policies we have seen in the right to work states in the U.S. Upon forming a government, the Conservatives would rip up public sector collective agreements and impose a wage freeze. Needless to say, public service pensions would be targeted. They would also outlaw the Rand Formula under which an employer deducts union dues and remits them to the union.

Ironically it was in Ontario that the Rand Formula was created by Justice Rand. Finally, the Conservative policy would require that unions provide full and transparent disclosure of their revenues and expenditures including how much they are spending on political campaigns and strategies. Of course, there would be no similar requirements for corporations or other associations such as the OMA or the Law Society.

This leads me finally to what unions can do to fend off these attacks from the political right. The first is that the labour movement will have to become far more effective politically by educating and mobilizing their members and workers in general. The tradition of the Canadian labour movement is much different than the American labour movement. Social unionism as opposed to business unionism is the norm in Canada. Political involvement of unions has led to a great deal of social progress for all Canadians. The Canadian labour movement must become far more adept in getting this message across. Unfortunately, few Canadians appreciate the significant contribution of Canadian trade unions to Canada because of the hostile media and the limited attention paid to labour history in our schools and political discourse.



Unions have to persuade Canadians that the only way that workers can combat the serious inequality we have in Canadian society today is to act in association through a vehicle like a trade union. Unions also have to persuade Canadians that unions are a solution and not the problem. The right has very effectively demonized unions so that rather than saying I should have the same benefits as union workers, non-union workers say that union workers should not enjoy these benefits. It has become a race to the bottom!

Fortunately, many Canadians today are seeing the prejudicial effects of many of the neo-liberal policies which have created a more unequal Canada. Trade unions are taking a leading role in “outing” and challenging these policies which have hurt Canadian workers. For example, in the last few months Canadians have become far more sensitized to the harmful effects on Canadian workers of our temporary worker programme and the outsourcing of Canadian jobs to foreign countries... indeed it has now become the outsourcing of Canadian jobs to foreign nationals on Canadian soil as we saw in the recent Royal Bank example.

Canadian unions will also have to be less insular and take a leadership role in the broader progressive movement in Canada as they have done in the past. An important issue today which has attracted the attention of all Canadians, particularly young Canadians, is the gap between the top 1% and the rest of us. Unions have historically combated income inequality very effectively. The evidence is clear that countries with higher levels of collective bargaining coverage have much less inequality than countries with low union density rates like the U.S. Many in the United States attribute the decline of the middle class to the decline in union membership. There is an inverse relationship between unionization and inequality. [Recently, Paul Krugman talked about this relationship in these words:

“The sharpest increases in wage inequality in the Western world have taken place in the United States and Britain, both of which experienced sharp declines in union membership. Canada, although its economy is closely linked to that of the United States, appears to have had substantially less increase in wage inequality – and it’s likely that the persistence of a strong union movement is an important reason why. Unions raise the wages of their members, who tend to be in the middle of the wage distribution; they also tend to equalize wages among members. Perhaps most important, they act as a countervailing force to management, enforcing social norms that limit very high and very low pay. They also mobilize their members to vote for progressive politics.”]

Unions have the hard evidence to demonstrate that anti-union policies will lead to more inequality in Canada. Wages in the right to work states are much lower than states without such laws. As President Obama said: Right to work laws mean the right to work for less. Canadian unions have to vigorously challenge these attempts to bring in anti-labour U.S. policies. These policies will exacerbate inequality by weakening the collective power of Canadian workers. This was recognized by Chief Dickson 25 years ago:

“The role of association has always been vital as a means of protecting the essential needs and interests of working people. Throughout history, workers have associated to overcome their vulnerability as individuals to the strength of their employers. The capacity to bargain collectively has long been recognized as one of the integral and primary functions of associations of working people. While trade unions also fulfil other important social, political and charitable functions, collective bargaining remains vital to the capacity of individual employees to participate in ensuring fair wages, health and safety protections, and equitable and humane working conditions.”

In closing, let me conclude with the very descriptive and insightful characterization which Martin Luther King, gave to “right to work” laws many years ago:

“In our glorious fight for civil rights, we must guard against being fooled by false slogans, as ‘right-to-work.’ It provides no ‘rights’ and no ‘works.’ Its purpose is to destroy labor unions

and the freedom of collective bargaining... We demand this fraud be stopped.”

Dr. King has perceptively unmasked the fallacy of the rhetoric of the retail politicians of the right today who are trying to sell Canadians on Republican policies which will make Canada a less fair and just society. We have a lot to learn from the Americans...however, lessons on equality is not one of them. The disparity between rich and poor in the U.S. is greater than any other developed country. As Professors Krugman and Stiglitz have so convincingly demonstrated ... one of the key reasons for this disparity is the weakness of American unions. This is the message which Canadian trade unions must effectively deliver. Where unions will be in the year 2025 will depend on how effective they are in delivering this message to Canadians.