

**National Union of Public and General Employees
Submission to the
United Nations Human Rights Council
in relation to the February 2009
Universal Periodic Review of Canada**

September 5, 2008

1. As an organization representing 340,000 working people from across Canada, the National Union of Public and General Employees is deeply concerned about the mounting gap between the commitments Canada has made on the world stage to protect human rights and the failure to live up to those promises at home.
2. Based on the premise that *labour rights are human rights*, Canadians have seen a serious erosion of a fundamental and universal human right in the past 26 years – their right to organize into a union and engage in full and free collective bargaining. Since 1982, almost every jurisdiction in Canada has experienced a major violation of the bargaining rights of its citizens.
3. The image of Canada as a country that respects human rights, especially in the area of labour rights, is an illusion. The federal and provincial governments in Canada passed 174 pieces of legislation since 1982 that have restricted, suspended or denied collective bargaining rights for Canadian workers.
4. Restrictions have been placed on the right of unions to organize. Collective agreements have been torn up. Freely negotiated wages and benefits have been taken away. Employers' proposals have been legislatively imposed on workers and the right to strike removed. Both the private and the public sectors have been hit by this phenomenon. In the public sector, governments as employers have been quick to abuse their power as legislators to change the rules to undercut the rights of their own employees. Private sector workers have had roadblocks placed in the way of their right to be represented by unions or have faced unfair back-to-work legislation.
5. Freedom of association and the right to collective bargaining are well established as fundamental human rights. These rights are enshrined in a number of international documents originating in the United Nations and the International Labour Organization (ILO), a specialized organization of the United Nations established in 1919, which Canada was a founding member of.
6. Canada has traditionally been a major participant in both of these organizations and has actively helped develop many of the international human rights standards that give meaning to freedom of association and the right to collective bargaining.

7. In 1948, the government of Canada supported the adoption of both key labour rights Conventions: No. 87 – *Freedom of Association & Protection of the Right to Organize* (1948) and No. 98 – *Right to Organize and Collective Bargaining* (1949). In March 1972, Canada ratified Convention No. 87 with the unanimous consent of all provinces and territories.
8. The government of Canada was an active participant in 1998 in drafting the *ILO Declaration on Fundamental Principles and Rights at Work* and voted in favour of its adoption. The official position of the federal government is that “*Canada attaches great importance to the Declaration ... as a key instrument for the promotion of the fundamental principles of freedom of association and collective bargaining. ... Its implementation will contribute significantly to improving the lives of working people and their families.*”
9. The federal Parliament went so far as to include in the Preamble of the *Canada Labour Code* reference to the ILO Conventions and the broadly defined principles of freedom of association.
10. The reality of Canada’s record, federally and provincially, is quite different, at great cost to Canadians. The promise of Canada’s international rhetoric has not been met in this country. The rights endorsed so enthusiastically in international forums by Canada have never been fully realized.
11. Let’s examine Canada’s record at the ILO:
 - i) At the annual June Conference of the ILO, the Canadian government representatives take an active role in developing the ILO’s Conventions and always vote in favour of adoption of each Convention. Canada’s record at ratifying those Conventions however is extremely poor.
 - ii) Of the ILO’s 188 Conventions, Canada has only ratified 30.
 - iii) Canada has only ratified three of the 30 ILO Conventions developed since 1982.
 - iv) Canada has ratified only five of the eight ILO core Conventions. We have not ratified Convention No. 29 - Forced Labour (1930), Convention No. 98 - Right to Organize and Collective Bargaining (1949) and Convention No. 138 - Minimum Age (1973).
 - v) Since 1982, Canada’s record with respect to the number of complaints submitted to the ILO Freedom of Association Committee is the worst of any of the ILO’s 183 Member States with unions in Canada filing more complaints than the national labour movements of any other country.

- vi) Since the ILO Freedom of Association Committee was established in 1951, only unions from four other countries – Argentina, Colombia, Peru and Greece – have submitted more complaints than Canadian unions.
 - vii) The 77 ILO complaints filed against Canadian federal and provincial labour legislation represent over five percent of all complaints filed with the ILO since 1982. Several of these complaints were subject to more than one restrictive piece of labour legislation.
 - viii) Of those 77 complaints, the ILO has reached decisions on 76 and found that freedom of association principles had been violated in 71 of the cases. Over 90 percent of all ILO complaints on restrictive labour legislation passed in Canada since 1982 (covering 72 pieces of legislation) were found to be in violation of ILO freedom of association principles.
 - ix) Also troubling has been the complete disregard the federal and provincial governments have shown towards the rulings of the ILO Governing Body. Canada's record has been so bad of late that at the June 2002 annual Conference of the ILO, the Committee on Freedom of Association asked its chairperson to hold consultations with the government delegation from Canada regarding the large number of complaints from Canadian unions and the lack of responsiveness by the federal and provincial governments to the ILO Governing Body rulings.
 - x) The only other governments the Committee on Freedom of Association felt compelled to consult regarding multiple complaints and lack of government cooperation were Chad and Morocco – certainly not countries that Canada would like to be compared to in terms of labour legislation.
12. The Canadian government is failing in its responsibility under international labour and human rights standards to deter such attacks and protect workers' rights.
 13. Pressure must be brought upon the Canadian government to ratify the remaining three core ILO Conventions still not ratified by the Government of Canada: No. 29 - Forced Labour, No. 98 – Right to Organize and Collective Bargaining and No. 138 – Minimum Age.
 14. Our organization has repeatedly sought to engage governments at the federal and provincial levels about the lack of responsiveness from them regarding the ratification of key ILO Conventions and the ILO Governing Body rulings. We have made little or no progress.
 15. There is no transparent, effective and accountable means of ensuring that Canada's commitments to the ILO are implemented.

16. We fully endorse the three fundamental changes suggested in the joint NGO Submission to the UN Human Rights Council Universal Periodic Review (UPR) of Canada to improving Canada's record of implementing its international human rights obligations. These are:
- i) Government secrecy around these issues must give way to openness and transparency.
 - ii) A coordinated and accountable process for monitoring implementation of Canada's international human rights obligations involving both levels of government, as well as Indigenous peoples and civil society, needs to be developed. As part of any such process there should be a high level focal point for implementation of Canada's international obligations that, at a minimum, meets the following criteria:
 - a) regular public reporting and transparency;
 - b) on-going engagement with civil society organizations, citizens and the media;
 - c) following engagement with affected stakeholder populations, public response to concluding observations from UN treaty body reviews and other UN-level recommendations within a year of receipt; and
 - d) a mandate to investigate and resolve complaints, including those related to co-ordination with provinces on matters that cross federal/provincial jurisdiction.
 - iii) A more concerted effort must be made to ensure that effective remedies are available in Canadian law and within Canadian human rights institutions for all of the rights contained in ratified international human rights treaties, so that governments can be held accountable by Canadian courts and human rights institutions for failures to comply with international human rights.
17. We are hopeful that the positive dialogue prompted by the new procedures under the Universal Periodic Review will lead to these three constructive changes aimed at improving Canada's international human rights commitments.

** For a complete list of complaints against restrictive labour legislation submitted by Canadian unions to the International Labour Organization between 1982 and 2008, go to www.labourrights.ca*