

Human Rights and Strike Breakers

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According to international law every person has the fundamental human right to join an effective trade union and even to withdraw their labour when necessary. But successive UK governments' appear to consider themselves above human rights laws in spite of their criticism of other states for human rights breaches.

Bringing in strike breaking labour...

Recently CWU members voted in favour of strike action and now Royal Mail bosses are brazenly declaring their intention to take on 15,000 temporary workers as strike breakers. Although they regularly recruit temporary workers to deal with the Christmas post, they are doubling the numbers this year and bringing them in early to cut the impact of what they are calling "unjustified and irresponsible" industrial action. For the action set for 22 October the BBC reports that "some managerial staff and contract drivers will be brought in to move mail but services will be 'very limited'".

So what is the UK law in this area? It's badly flawed even though Regulation 7 of the 2003 Conduct of Agencies Regulations makes it unlawful for employment businesses to supply strike breaking labour. It goes a little way to protecting the fundamental rights of workers, but acts as little more than a fig leaf...

The Declaration of Philadelphia 1948 stated that "labour is not a commodity". Since then every human rights code and new constitution has recognised that humans or citizens are not raw materials or products and therefore should not be treated as such.

So people are free to associate and form trade unions to promote their economic and social interests. They should be allowed to do this as it "reaffirms the values of dignity, personal autonomy, equality and democracy" as the Canadian Supreme Court recognised in July 2007.

However, Regulation 7 doesn't cover employment agencies, nor does it stop employers recruiting strike breaking workers. The law relies on the Employment Agencies Standards Inspectorate (EASI) to enforce this law and so far no employer has been prosecuted or stopped from undermining legitimate industrial action. The EASI has yet to have any positive impact on the human rights principle.

If a worker can join a union, it has to be effective and this means realistic collective bargaining. This is only effective if workers are able to withdraw their labour as a last resort.

Article 11 of the European Convention on Human Rights says restrictions can be placed on union rights only if they are "necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others".

This does not mean that Royal Mail or any employer, government, sections of the media or public opinion can decide to undermine or prevent industrial action because they think or declare that the industrial action is "unjustified and irresponsible".

Article:

Human rights, political parties and the CWU dispute

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But if the UK is serious about upholding international laws and fundamental freedoms it should act to outlaw the Royal Mail recruiting temps directly (without going through any agency) to break a strike.

An opportunity to crack down on employers breaking strikes with agency workers is also presented by the forthcoming implementation of the EU Agency Workers Directive.

Recognition law...

A week before Royal Mail's recruitment of temporary workers, Newsnight's

Richard Watson revealed a leaked PowerPoint presentation prepared by Royal Mail managers which "show[s] that this is no ordinary strike. The clash is beginning to bear the hallmarks of epic industrial struggles of the past". The presentation considered tactics to defeat the union, including cutting back consultation to the legal minimum. UK law only requires statutory recognition to cover "pay hours and holidays". Again, surely not compliant with international human rights and freedoms...

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