

# Human Rights and Strike Breakers

John Usher, United Campaign Director

According to international law every person has the fundamental human right to join an effective trade union and to withdraw their labour when necessary. Despite this successive UK governments' seem to consider themselves above human rights laws.

## Bringing in strike breaking labour...

Recently CWU members voted overwhelmingly in favour of strike action on a 67% turnout most politicians would be proud to achieve. In response the overpaid and unelected Royal Mail bosses brazenly declared their intention to take on 30,000 temporary workers - many to be used as strike breakers. Although they regularly recruit temporary workers to deal with the Christmas post, Royal Mail intended to double the numbers this year and bring them in early to cut the impact of what they called "unjustified and irresponsible" industrial action.

In November the CWU sought legal advice from John Hendy QC on the possibility of obtaining an injunction against Royal Mail hiring temporary workers as strike breakers. Now that an interim agreement has been made further strikes have been called off and the possibility of an injunction has been left behind for the time being.

But what is the UK law in this area? It's badly flawed according to a new report from the Institute of Employment Rights.

"Under Regulation 7 of the 2003 Conduct of Employment Agencies and Employment Businesses Regulations, it is an offence for an

employment business to supply agency workers to undermine legitimate industrial action" [1]

This Regulation goes a little way to protecting the rights of workers, but acts as little more than a fig leaf...

The law relies on the Employment Agencies Standards Inspectorate (EASI) to enforce Regulation 7 and so far no employer has been prosecuted or stopped from undermining legitimate industrial action.

But UK Regulations are not the only legal protection covering striking postal workers. 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".

If the UK is serious about upholding international laws and fundamental freedoms it should act to outlaw the Royal Mail recruiting temporary workers - whether recruited directly or through agencies - to break a strike.

## Recognition law...

A week before Royal Mail's recruitment of temporary workers, Newsnight revealed a leaked 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".

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## Article:

# Human rights, strike breakers and the CWU dispute

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The "Strategic Overview" outlines management tactics to "deliver the necessary 2009 changes with or without union engagement". The document considered strategy to defeat the union, including cutting back consultation to the legal minimum. UK

law only requires statutory recognition to cover "pay hours and holidays".

Another aspect of UK law that is surely not compliant with international human rights.

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### More information:

- John Usher is Director of the United Campaign to Repeal the Anti-Trade Union Laws, a trade union legal consultant, lecturer in labour law at Birkbeck College and a member of the Civil Justice Council
- [1] The Employment Act 2008: An IER Critique and Guide by Georgina Hirsch, John Usher and Shubha Banerjee is available from IER, The Peoples Centre, 50-54 Mount Pleasant Liverpool L3 5SD at £6.50 trade unions £20 others
- The United Campaign to Repeal the Anti-Trade Union Laws fights for the introduction of new, positive laws enshrining the rights of workers and calls for the repeal of all anti-trade union laws. Visit [www.unitedcampaign.org.uk](http://www.unitedcampaign.org.uk) for more information.
- Contact: United Campaign Secretary, 39 Chalton Street, London, NW1 1JD. [info@unitedcampaign.org.uk](mailto:info@unitedcampaign.org.uk) or **0151 702 6927**