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Disputing the law

The trade union rights and freedom bill will help to bring the UK in line with international law. The government must support it.

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guardian.co.uk, Thursday 18 October 2007 09.30 BST

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The high court injunction granted last Friday against the Communication Workers Union's (CWU) strike illustrates why hundreds of trade unionists will be gathering at Westminster today to support the trade union rights and freedom bill, which is scheduled for its second reading in the House of Commons tomorrow.

Tabled by Labour backbencher John McDonnell and supported by the TUC and most of Britain's major unions, the bill does not have the support of the government, which recently affirmed its contempt for trade union rights with its opt out from the EU charter of fundamental rights, following the path cut by John Major at Maastricht 15 years earlier.

The injunction obtained by Royal Mail was brought before the court on less than three hours' notice. The CWU was unable to put in evidence or even get a representative to court to give its lawyers a full briefing. There was no time to prepare any documents for the court or a written legal argument. CWU's counsel had 30 minutes to read Royal Mail's substantial file of evidence, its written argument and to get some information over the phone from the CWU.

The injunction was granted on the grounds that the notice of the strike was defective. The union had given details of every workplace where the 80,000 CWU members intended to strike, the number in each grade at each workplace, the total number in each workplace and the total overall. However, the union did not provide the totals in each grade overall, though these were easily calculable by Royal Mail from the figures given and were not relevant to their planning. Nevertheless, the legislation requires the union to do the arithmetic: hence, principally, the injunction.

No doubt many people welcomed the strike's consequential calling off. But the law is brought into disrepute where the judge has no option but to deny a fundamental freedom to tens of thousands of people because of an inconsequential technicality in a hearing in which one party is at a serious disadvantage. As with the prison officers, it remains to be seen just how far unfair laws will lead to wildcat action, provoking an even bigger crisis of respect for the law.

Strike notices and their disproportionate obligations and consequences are not the only causes for concern. Like Labour's inheritance tax policy, the current trade union restraints are a bequest from the Tories (on this occasion the Thatcher and Major governments). Some of these restraints were described at the time of their introduction as having an "Orwellian flavour", and to be "unreasonable" and "unjustified", by John Hutton (then a dispassionate academic) and Tony Blair (then opposition employment spokesman) respectively.

These epithets do not cease to be true simply because their authors moved from the

groves of academe or the trenches of opposition to government. Nor should we be alarmed only by the ease with which our political leaders swallow their own words. A matter of more pressing concern is that much of the Tory inheritance breaches international labour standards, to which this country - with astonishing irony - reaffirmed its commitment when, in 1998, it signed up to the ILO declaration of fundamental rights at work.

International supervisory bodies have criticised such restraints for breaching ILO [convention 87](#) (a treaty ratified by a Labour government in 1949) and the council of Europe's [social charter](#) of 1961 (a treaty ratified by a Tory government in 1962). Such criticisms are provoked by the fact that British workers in dispute have limited rights to call on assistance from members of their own union, and by the fact that a union in dispute has no right to call on other unions for support.

Moreover, British workers have no right to be reinstated if dismissed for taking part in a lawful strike, workers taking part in lawful action can be permanently replaced, even where the industrial action was caused by the conduct of the employer, and trade unions have only limited rights to protect terms and conditions of employment while their service is being privatised.

The CWU case graphically illustrates the additional burdens imposed on trade unions by the hideously complex rules relating to notices and ballots before industrial action can lawfully be taken.

As social inequality continues to grow, so trade unions need the freedom to protect workers against the immense power of global capital. But government support has been minimal and its recognition machinery criticised for failing to promote collective bargaining, which has halved since Labour was last in office. The trade union rights and freedom bill is a step in the right direction - a mild, modest and moderate measure dealing with only some of the worst breaches of international law, removing only some of the UK constraints on the ability of trade unions to defend their members.

Support the bill Mr Brown, for international standards and for fairness.

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