

ROY J. ADAMS



LABOUR LEFT OUT

Canada's Failure to Protect
and Promote Collective Bargaining
as a Human Right

“CANADIAN WORKERS LIKE TO THINK their labour laws offer them a real possibility to form and join a union and bargain their working conditions collectively. In this book, Roy Adams shows how misleading this popular belief is. He offers path-breaking alternatives to confer to workplace representation the central human rights status it should receive in our society.”

— **Gilles Trudeau**, Professor of Labour Law,
Université de Montreal.

“ON THE WORLD STAGE, Canada has promised to protect and promote labour rights as human rights. But, as Roy Adams makes clear, they have not kept that promise.”

— **James Clancy**, National President, National Union of Public
and General Employees.

“ROY ADAMS MAKES A STRONG CASE for reforms that would bring Canada in line with ILO standards. Anybody who genuinely cares about the state of democracy in Canada will find this book to be a valuable and stimulating contribution.”

— **John Godard**, Asper School of Management,
University of Manitoba.

“ALL CANADIANS OUGHT TO BE OUTRAGED at the inaction of our governments, as described by Roy Adams in this book. They promise to promote collective bargaining and then stand by and allow it to wither under assaults from employers.”

— **Michael J. Fraser**, Canadian National Director and Executive
Vice-President, United Food and Commercial Workers.

“ALL PEOPLE SHOULD HAVE THE RIGHT of association... This book deserves to be widely read and discussed.”

— **Bill Freeman**, writer, former chair,
The Writers' Union of Canada.

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CANADA'S FAILURE TO PROTECT
AND PROMOTE COLLECTIVE BARGAINING
AS A HUMAN RIGHT

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ALTHOUGH I HAVE BEEN STUDYING international and comparative labour issues my entire professional career, my interest in labour rights as human rights may be traced back to my involvement in McMaster University's Theme School on International Justice and Human Rights. Rhoda Howard-Hassmann, who is now Canada Research Chair in International Human Rights at Wilfrid Laurier University, was a founder and original director of the School. She asked me to develop a course in labour's human rights and that began an adventure of intellectual discovery that has led to this publication. Over the years I have had many discussions about the issues addressed here with John Godard, professor at the Asper School of Business at the University of Manitoba. His challenges have made me work very hard to revise and understand better my working hypotheses. I am also indebted to Brian McArthur of the United Food and Commercial Workers, Derek Fudge of the National Union of Public and General Employees and to Bernie Adell, professor emeritus of law at Queens University for reading and commenting on earlier versions of the main argument made here. The final version of the thesis is, of course, entirely my responsibility.

PREFACE

DURING THE LAST HALF CENTURY THERE has been a human rights revolution in Canada. The rights of aboriginal people, those with disabilities, visible minorities, and women have attracted increased protection. As well, respect for these human rights has been vigorously promoted by federal and provincial governments. In more recent years the rights of gays and lesbians have also made progress. Although the international community heralds labour rights as deserving of equal respect, protection and encouragement, labour in Canada has been left out of the human rights revolution. Indeed, as this study will demonstrate, during the past half century the rights of workers have been diminishing; so too has been their ability to exercise their dwindling rights. In the public sector governments have consciously and repeatedly offended international labour standards they have solemnly promised to respect, protect and promote. In the private sector, governments have remained on the sidelines while employers have become increasingly bold in their attempts to thwart their employees' human right to organize and bargain collectively.

The international human rights consensus that Canada formally supports, requires that all globally recognized human rights be treated equally and be accorded equal reverence and respect. Canada, however, has chosen to promote and protect certain human rights while allowing labour rights to languish. By doing so it weakens the global consensus on which millions of people rely. By choosing which human rights to honour and which to ignore or violate, Canada condones similar

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12 behaviour elsewhere. If Canada may choose to deny the human rights character of collective bargaining then other nations may claim that their local customs allow them to discriminate against women, children and ethnic minorities.

According to the global consensus, labour rights are a key element of human rights and respect for human rights is an essential element of democratic society. As labour rights recede so does democracy. I hope that this book will act as a wake-up call not only for unions and the large majority of Canadian working people excluded from employment decision-making but also for everyone who cares about human rights and the quality of our democracy.

Roy J. Adams

Hamilton, Ontario

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