

News Release



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SUPREME COURT OF CANADA TO HEAR UNIONS' CHALLENGE OF B.C. LAW ON WEDNESDAY

The Supreme Court of Canada will hear arguments tomorrow on whether a B.C. law enacted in 2002 violates the constitutionally-protected Charter rights of health care and community social services workers.

At issue is Bill 29, *The Health and Social Services Delivery Improvement Act*, which shredded legally negotiated collective agreements, clearing the way for unprecedented privatization of health care and the firing of thousands of workers.

The Hospital Employees' Union, the B.C. Government and Service Employees' Union, the B.C. Nurses' Union and other unions launched their constitutional challenge to Bill 29 in March, 2002.

HEU secretary-business manager Judy Darcy says that four years later, Bill 29 continues to disrupt health care and rob workers of decent jobs.

"Health employers have used this law to eliminate thousands of decent, family supporting jobs – most of them held by women – in the interests of privatizing health care," says Darcy.

"Bill 29 continues to have a chilling effect in our hospitals, care facilities and community agencies where workers are under constant threat of job loss."

BCGEU president George Heyman says the Charter case is fundamental to the rights of workers to free collective bargaining.

"The United Nations agency charged with monitoring labour relations has repeatedly condemned the B.C. government for undermining the collective bargaining process and violating international laws that Canada is bound to uphold," says Heyman.

"Bill 29 has caused four years of uncertainty and instability – and it continues to cast a shadow over current contract talks with health and community social services employers."

B.C. Nurses' Union president Debra McPherson says that Bill 29 affects the ability of registered nurses and registered psychiatric nurses to care for their patients.

"Bill 29 eliminated training opportunities, restricted the movement of nurses to new positions, and caused the layoff of hundreds of nurses, putting patients at risk, particularly seniors in long-term care."

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The unions' constitutional challenge to Bill 29 involves both the equality and freedom of association provisions of the Canadian Charter of Rights and Freedoms.

In seeking leave to appeal the case to the Supreme Court of Canada, the unions' argued that their challenge raises questions that are of national and public importance.

One such question is whether certain aspects of collective bargaining are protected by the freedom of association provisions contained in Section 2(d) of the Charter.

The lead counsel for the unions, Joseph Arvay, says that the "granting of leave is very significant since the Supreme Court of Canada had ruled in the late 1980's that there is no constitutional right to collective bargaining in our Charter. This would suggest that the Court might be prepared to reconsider that critically important constitutional question."

Another question raised by the unions is whether legislation that targets collective agreements in the most female-dominated sectors of the economy – such as health care and community social services – violates the equality provisions contained in Section 15 when the legislation is aimed at depressing wages which have been subject to pay equity processes.

The case has sparked national interest and the Supreme Court of Canada has granted intervenor status to the Canadian Labour Congress, the Confédération des Syndicats Nationaux, the United Food and Commercial Workers and the BC Teachers' Federation.

The Court has also granted intervenor status to the governments of Alberta, New Brunswick and Ontario.

Bill 29 was passed in January, 2002 and voided many long-standing provisions of health care and community social services collective agreements including protections against contracting out, seniority rights and labour adjustment programs.

The law also removed these workers' access to the successorship provisions of the BC Labour Code, a right enjoyed by virtually every other unionized worker in the province.

The unions' charter challenge was dismissed by the Supreme Court of B.C. in September, 2003 and by the Appeal Court of B.C. in July, 2004.

But last year, the Supreme Court of Canada granted the unions leave to appeal the latter court's decision and will hear the case on Wednesday in Ottawa.

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