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CCPA-NS submission to Law Amendments Committee on Bill 102: An Act to Prevent Unnecessary Labour Disruptions and Protect the Economy (Amending Chapter 475 of the Revised Statutes, 1989, the Trade Union Act)

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Introduction

We present this submission on behalf of the Canadian Centre for Policy Alternatives-Nova Scotia (or CCPA-NS). CCPA-NS is an independent, non-partisan research institute concerned with issues of social, economic and environmental justice. The NS branch has existed since 1999 and has 50 plus research associates with varying fields of expertise.

After a review of Bill 102's proposed amendments to the *Trade Union Act* and comparable legislation in other provinces, we want to highlight several key points about the proposed changes that would enable First Contract Arbitration (FCA) in Nova Scotia:

- First, these amendments to the *Trade Union Act* will bring Nova Scotia closer **to the national standard** of labour legislation.
- Second, FCA **contributes to economic productivity** by providing an avenue to resolve labour disputes involving newly-unionized employees and employers, who are unable to do so on their own, thus promoting harmonious labour relations.

- Third, as in other provinces, the provision of FCA will be **good for all Nova Scotians**, whether they be employers or employees, unionized or not.

Our overarching position on these amendments is that **ample evidence exists to support the introduction of FCA**. Indeed, it is our contention that its introduction in Nova Scotia is long past due. We commend the Provincial Government for moving forward with this initiative, because in those jurisdictions that recognize the critical role of unions as a tool to achieve greater social and economic justice, their citizens enjoy greater equality and are healthier overall.

Modernize Labour Relations in Nova Scotia

To the first point: FCA is standard legislation in Canada. Once Nova Scotia passes and proclaims this amendment to the *Trade Union Act*, only two provinces will not have some version of FCA: Alberta and New Brunswick. More than 85% of the Canadian labour force is covered by similar legislation.¹ Indeed, a full comparison of labour standards in Canada, let alone other international jurisdictions, would reveal just how much more progress Nova Scotia needs to make. This is a relatively minor step forward for workers. One of the most comprehensive studies on FCA concluded that there was: “broad satisfaction on behalf of employers and unions, as well as mediators and arbitrators...”² Enacting FCA will modernize labour relations in Nova Scotia.

Improve the Nova Scotia Economy

To our second point: FCA contributes to economic growth promoting harmonious labour relations and increasing productivity. If we value collective bargaining, FCA is **prudent public policy and makes good common sense**. It is a preventative measure aimed at helping newly-certified unions and their employers when they run into problems negotiating their first collective contract. It is the case that both sides may be unfamiliar with the bargaining process, they may each have unrealistic expectations, or the employer may stall the talks in hopes that the union members will lose patience and de-certify. After employees have exercised their statutory right to join a union, FCA guarantees both parties that their negotiations will result in a signed contract. This means a smoother, faster, and fairer bargaining process, which can only be good for productivity.

There is ample **concrete evidence** to support our contention that FCA will be good for employees, employers and the Nova Scotian economy as a whole. Empirical evidence conclusively shows that FCA improves a jurisdiction's labour relations. British Columbia has had FCA since 1973, and its economy has performed markedly well since that time, relative to other provinces.³ FCA in British Columbia has had measurable positive impacts. It has, for example, resulted in less time spent negotiating and more time focused on productivity. In addition, more first contracts are signed without parties resorting to work-stoppages or lock-outs. Last, lest there be concern that this will result in excessive arbitration, the evidence from British Columbia shows that between 1993 and 2009, only 10% of first contract negotiations went to arbitration, with more than one-third of applications to the province's arbitration system made by employers, not unions.⁴

It is time that we based public-policy decisions on concrete evidence. How many people know that employers and unions successfully negotiate collective agreements 97% of the time without work stoppages?⁵ Indeed, as CCPA-NS has previously shown, making strikes illegal, or otherwise taking away critical tools from unions, can actually result in increased work stoppages and discordant labour relations.⁶

The **bottom line** is that there is no evidence to support the claim that FCA will limit Nova Scotia's competitiveness or weaken the economy.⁷ Rather, researchers who have undertaken a vigorous analysis of the Canadian experience with FCA legislation conclude that it: "streamlines the collective bargaining process so that employers and employees can focus on work without wasting time and money on a work stoppage or sitting endlessly at the negotiating table."⁸

Good for all Nova Scotians

To our third point: there is ample research analyzing the role of unions in Canada. The employer/employee relationship is one characterized by an imbalance of power that needs to be at the forefront in this discussion. Unions help balance this relationship and their benefits have been clearly shown: they are the primary vehicle for popular prosperity;⁹ they ensure safer working conditions;¹⁰ they have promoted a culture of social progress;¹¹ they provide a voice to their members;¹² and they have even been linked to greater rates of innovation.¹³

In short, research from around the world demonstrates the positive effect unionization has on rates of pay and quality of living for employees. Indeed, no society has ever been able to achieve widespread prosperity without strong unions. Societies that have stronger unions, and thus are more equal, demonstrate better quality of life for women, higher life expectancies, lower infant mortality rates, higher math and literacy scores, more social mobility, and generally higher standards of living.¹⁴

Empirical findings from around the world demonstrate the stultifying effects of **inequality** and a widening income gap between the rich and the rest of us. A recently published book, titled ***The Spirit Level***, undertakes a comprehensive analysis of the state of inequality in advanced democracies. The authors conclude that a key contributor to the widening gap is a decline in trade union membership.¹⁵ They demonstrate that there are marked correlations between inequality and such negative social indicators as mental illness, drug use, obesity, teenage pregnancy, high school dropout rates, violent crime, youth crime, and imprisonment rates. Unions work to bargain better rates of pay for employees, thus reducing inequality in our society. Unionization is good for all Nova Scotians. In the words of Wilkinson and Pickett, the authors of ***The Spirit Level***: "Achieving greater equality is the gateway to a society capable of improving the quality of life for all of us and is an essential step in the development of a sustainable economic system."

Concluding Remarks

By adopting FCA legislation, Nova Scotia will be sending the message to all of its employers and employees that fair collective bargaining is a right that is to be respected as set out in the Preamble to the *Trade Union Act*. The reason we support these changes to the *Trade Union Act* is that they are **straightforward and sensible**: Bargaining must be done in good faith and will be assisted when it is not effective in a first contract situation.

To reiterate our three key points, CCPA-NS supports this legislative measure to amend the *Trade Union Act* to include first-contract arbitration because: (1) it will bring Nova Scotia closer **to the national standard** of labour legislation; (2) **contribute to economic productivity** by promoting harmonious labour relations, and (3) it is **one small step forward** toward narrowing the income

gap and helping to ensure that all Nova Scotians work together to share in the province's prosperity.

NOTES

¹ Labour Management and Review Committee, *Discussion Paper - First Contract Settlement*, Department of Labour and Advanced Education, 2011. <http://www.gov.ns.ca/lae/policy/docs/FirstContractSettlement.pdf>

² Patrick Egan-Van Meter and Ross Eisenbrey, *First-Contract Arbitration Facts: The Canadian Experience*, Washington, DC: Economic Policy Institute, 2009. <http://www.epi.org/publication/ib256/>

³ Melanie Vipond, *First Contract Arbitration: Evidence From British Columbia, Canada of the Significance of Mediator's Non-Binding Recommendations*, 2010. http://works.bepress.com/melanie_vipond/1

⁴ Vipond, *Ibid*

⁵ Association of Canadian Financial Officers, *Assets or Liabilities: A Business Case for Canadian Unions in the 21st Century*, 2011. http://www.acfo-acaf.com/sites/default/files/assets_or_liabilities_final.pdf

⁶ Judith Haiven and Larry Haiven, *The Right to Strike and the Provision of Emergency Services in Canadian Health Care*, 2002. http://www.policyalternatives.ca/sites/default/files/uploads/publications/Nova_Scotia_Pubs/NSright_to_strik.pdf

⁷ Egan-Van Meter and Eisenbrey, *Ibid*.

⁸ Egan-Van Meter and Eisenbrey, *Ibid*

⁹ Bruce Western and Jake Rosenfeld, *Unions, Norms, and the Rise of American Inequality*, 2011. http://www.wjh.harvard.edu/soc/faculty/western/pdfs/Unions_Norms_and_Wage_Inequality.pdf

¹⁰ Bruce Campbell and Armine Yalnizyan, *Why Unions Matter*, 2011. <http://www.policyalternatives.ca/publications/commentary/why-unions-matter>

¹¹ Campbell and Yalnizyan, *Ibid*.

¹² Association of Canadian Financial Officers, *Ibid*

¹³ Association of Canadian Financial Officers, *Ibid*.

¹⁴ Marc Lee, *Reflections on the Spirit Level*, 2010. <http://www.progressive-economics.ca/2010/07/26/reflections-on-the-spirit-level/>

¹⁵ Richard Wilkinson and Kate Pickett, *The Spirit Level: Why More Equal Societies Almost Always Do Better*, London: Allen Lane, 2009