US Supreme Court rules against SEIU in union dues case

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The US Supreme Court yesterday struck down an Illinois "fair share" statute that compelled home health care workers to pay union dues even if they were not members of the union.

The case, *Harris v. Quinn*, was a project of the right-wing National Right to Work Legal Defense Foundation. The Supreme Court's decision, one of the last of the term, is the fruit of a general campaign to use the courts to undermine traditional labor protections and block any form of collective resistance by workers to the dictates of management.

At the same time, the case is remarkable as a further exposure of the extent to which the unions—in a period of declining popular support and membership—have sought to secure their dues revenue streams by entrenching themselves in the corporate and government superstructure. This is part of the transformation of the unions into right-wing business entities that are hostile to the interests of the workers who remain trapped within them.

"Agency fee" (also known as "agency shop" or "fair share") refers to a labor arrangement where a particular union is designated as the exclusive representative of a given workforce, and all workers are required to pay union dues, even if they are not members of the union.

Two justifications have traditionally been offered for such arrangements. The first is that the "agency fee" prevents "freeloading," with individual workers taking advantage of the union's achievements [referring to a long-passed period when the unions actually secured gains for their members] while refusing to contribute anything themselves. The second is that the arrangement promotes "labor peace" by preventing multiple unions from forming that present conflicting demands to management. On these grounds, agency shop arrangements for public employees have been upheld by the Supreme Court since the landmark case *Abood v. Detroit Bd. of Ed.* in 1977.

The *Harris v. Quinn* cases involves home health care workers in the Illinois Home Services Program, which allows disabled recipients of federal medical assistance to hire a "personal assistant" to help them in the home. The wages of the personal assistants are paid by the state. Commonly, these personal assistants are the relatives of the disabled patients. Under the Illinois regime, the patients are labeled "customers" and the assistants are labeled "employees."

This arrangement was established by executive order in 2003, and later codified by statute, by then-Illinois Governor Rod Blagojevich. The stated purpose of this arrangement was to allow a labor union to "engage in collective bargaining" on behalf of the home health care workers.

Under the arrangement established by Blagojevich, the Service Employees International Union (SEIU) Healthcare Illinois and Indiana was appointed as the exclusive legal representative of the home health care workers, and was confirmed by a majority vote of the caregivers. In that capacity, the union entered into collective bargaining agreements that contained agency-fee provisions, and all of the home health care workers were required to pay union dues.

The petitioners in the Supreme Court case were all home health care workers who were family members of the individuals in their care. Workers claimed that they did not want to join or support the SEIU, and they argued that being forced to subsidize the SEIU violated their rights to freedom of speech under the Constitution.

The Supreme Court's majority, consisting of the established right-wing bloc of Samuel Alito, John Roberts, Antonin Scalia, Anthony Kennedy and

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Clarence Thomas, sided with the petitioners. At the same time, the majority declined to rule that all “agency fee” provisions in general violated the Constitution. Instead, the majority narrowly held that the home health care workers were not “public employees” within the meaning of prior cases upholding agency fee provisions.

The dissenters, which included Elena Kagan, Ruther Bader Ginsburg, Stephen Breyer, and Sonia Sotomayor, argued that the Supreme Court was bound by prior decisions upholding “agency fee” provisions for public employees. They pointed to the fact that many states had enacted similar regimes, and that undermining the legitimacy of agency fee provisions threatened four decades of labor agreements in multiple states around the country.

Ultimately, the disagreements in the Supreme Court over agency fee agreements represent divisions in the ruling class over the best methods for destroying the wages and living standards of the working class. Those defending the unions (and their dues revenue streams) consider the unions to be an essential instrument in suppressing the working class and imposing concessions.

Following decades of betrayals, union officials confront popular support in free fall. This phenomenon was evidenced most starkly by the UAW debacle in Tennessee in February this year, when workers voted against a two-year, multimillion-dollar, joint management-union campaign to unionize a Volkswagen plant.

Since they cannot rely on popular support, unions are increasingly looking to secure their dues revenue streams by backroom deals with government and corporate officials. It is significant that the Illinois home health care workers were not unionized in a popular struggle for better wages and working conditions, but by an executive order from Blagojevich.

This executive order was a windfall for the SEIU, which thereby acquired hundreds of thousands of workers who were compelled by law to pay tribute to the union in perpetuity. According to the Supreme Court, the SEIU-HII was raking in over $3.6 million in dues each year from the personal assistants under the deal.

It is worth noting that Blagojevich—who established the Illinois regime for home health care workers—was subsequently convicted on federal corruption charges. Among the charges was that Blagojevich attempted to sell President Obama’s federal Senate seat in return for a job at an SEIU affiliate that paid $300,000 a year. According to the *Wall Street Journal*, the SEIU contributed about $1.8 million to Blagojevich’s two campaigns for governor, receiving the home health care workers’ yearly tribute in return.

In the case of the Illinois home health care workers, they were compelled to pay dues, but beyond negotiating their wages ($7 per hour in 2003, currently a measly $11.65 per hour) the SEIU had no role in bargaining over any of the other terms or conditions of their employment: lunch breaks, holidays, vacations, discipline, terminations, job duties, or the days of the week and hours of the day during which the personal assistants were required to work.

In other words, these personal assistants were forced to pay dues to a union that did little for them besides taking their money, which was then used to line the pockets of union bureaucrats and oil the corrupt Chicago Democratic Party machine.

The Supreme Court’s decision yesterday underscores once again that the interests of workers are not reflected in the right-wing “right to work” campaign, nor in the liberal and pseudo-left promotion of the corrupt and reactionary unions that are an integral component of the existing setup.

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