rights simply in virtue of membership in the ILO. It does not require adherence to the details of the relevant Conventions. Nonetheless, non-ratification of Conventions remains a problems and it is a central goal of the Declaration to move non-ratifying countries towards ratification of the relevant Conventions. As we have non-ratification of core conventions has a significant rhetorical impact in current debates about globalization. The arguments from consistency and hypocrisy noted above are animated by such admissions. In my earlier study, "Canada's Unratified Core ILO Conventions: A New Look" I analyzed Canada's ratification record concerning the core conventions. The crucial example of Canadian non-ratification, of core Conventions is Convention 98 - The Right to Organize and Collective Bargaining Convention of 1949. In my view Canada ought to ratify Convention 98 and there is no real bar to doing so. In fact, ratification of Convention 87, but not 98, is incoherent from the point of view of most Canadian labour lawyers. The full reasons for this view are set out in the earlier study. Moreover, from the purely pragmatic point of view, Canada is in essence already exposed to the most effective ILO processes concerning the real subject matter of both Conventions under the Special Procedures of the Committee on Freedom of Association. Canada is no stranger to these processes, regardless of its non-ratification of Convention 98. There is very little real additional legal "exposure" in ratifying. Moreover, as a prime promoter of the 1998 Declaration, Canada is now even more, than it was in 1996, committed to ratification of Convention 98. If that is insufficient motivation then there is the additional point that Canadian domestic constitutional law increasingly draws upon international treaties - including ILO Conventions whether ratified or not - in giving context to the Canadian Charter and thus to domestic Canadian labour law.[34]

(b) Canada, Article 33 and Burma

As we have noted several times in our discussions, the view that the ILO is "essentially voluntary" is widely held and thought to be a foundation stone in the debates about international labour standards. But this view is far from obviously true when one looks at the letter and legislative history of the ILO's Constitution. Article 33 of the ILO's Constitution actually read:

> In the event of any member failing to carry out within the time specified the recommendations, if any, contained in the report of the Commission of Inquiry, or in the decision of the International Court of Justice, as the case may be, the Governing Body may recommend to the Conference such action as it may deem wise and expedient to secure compliance therewith.

This is the bottom line of the enforcement under the ILO Constitution. That bottom line has recently been reached for the first time in ILO history in connection with the use of forced labour by Burma. The original version of Article 37 of the ILO Constitution 1919 actually specified "economic" sanctions, but the language was amended in 1946 to broaden the language to that just quoted. The policy question presented by Burma is the question as to

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[34] Dunmore v. A.G. Ontario 2001 S.C.C. 94