

Public Sector Strikes and Democracy: Learning from the City of Toronto Workers' Strike

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The Toronto City workers' strike is over. Why was it so controversial? Why did it generate so much heat and anxiety? The anxious folk believed that they had good reasons to be agitated.

Garbage smells; this kind of industrial action affects a great number of people who perceive themselves as neutrals, as *innocent* victims; it fortifies the view of so many people that government of any kind cannot be trusted to run a raffle to raise money for a turkey dinner; it invigorates the perception that unions have too much power; it offends many people that lowly *garbage* workers have conditions of work that approximate the conditions of work enjoyed by workers with a perceived higher status; it offends them even more that they have the gumption not only to ask for more, but that they have the legal right to do so militantly; it underscores a widely shared belief that, if the delivery of these services was subject to the discipline of the free market, it would be more efficient and cheaper; and so on, truly ad nauseam.

These very real and conventionally felt resentments were premised on mistaken understandings and ugly stereotyping, embers of ignorance and nastiness fanned into raging fires by the shameless elites and their opinion-moulding allies in the media. Treating these seductive and misleading analyses of the conflict seriously made certain preventive remedies attractive. For instance, there was much traction for the notion that more public sector workers be declared essential to rob such worthless (but apparently essential) people of the power to hold the bulk of the people, who *deserve* decent services, to ransom. (Councillor Walker's motion at City Council and the *Toronto Star's* discussion of it are just two manifestations of this tendency.) These kinds of reactive remedies will not work. They do not identify the structural features of government-workers' relationships that, unaddressed, will give rise to similar angst-creating tensions in the future, just as they have done repeatedly in the past.

What generates that recurring angst is that the mechanism of adjustment of these kinds of labour disputes depends on an implicit (and, publicly, to be denied) attachment to undemocratic precepts. Deep down, everyone senses this, but this intuition is suppressed by ceaseless propaganda extolling this society's commitment to the virtues of democracy. Uneasy as people might be, they are not to be allowed to think that this commitment is ephemeral. Struggles, like the recent one waged by the Toronto City workers, threaten to bring the democracy deficit to the surface, to where it has to be dealt with directly. Demands for a new politics, a more democratic politics, might find fertile ground. This is menacing to the elites and their opinion-makers and shapers. It is better to blame workers, especially workers easily characterized as having marginal status in our supposedly status- and class-blind society, for the malfunctioning of a legitimated scheme of

dispute settlement. They, and their unions, are demonized. Hence, arguments to take away some of the powers benignly granted to these irrational workers abound, promising that when stripped of the (very few) powers these workers have, all will be well: democracy will still reign as abuses of power will be constrained.

COLLECTIVE BARGAINING FREEDOMS

The powers that the city workers exercised – and supposedly abused – were those that naturally belong to trade unions in Canada. A Supreme Court of Canada decision – after long denying the proposition – decreed that the democratic guarantee of freedom to associate included the right to bargain collectively. Of course, workers had long exercised this right legally in Canada without the Court's guarantee; the Supreme Court of Canada (after denying its existence for as long as it could) merely gave this legal social and political fact the imprimatur of being a constitutional freedom. The exercise of collective bargaining powers has been a functional necessity in market capitalist regimes for ever and ever. An unequal division of wealth means that people without wealth must work for someone with wealth in order to live. The more they have to compete with each other for such jobs, the more they are exploited. Employers always seek to take advantage of this economic power – this is why they scour the globe for cheaper labour at all times; this is why workers seek to eliminate competition amongst themselves, whether the law allows it or not. As the old workers' slogan had it: “United we bargain; divided we beg.”

By the mid-1940s, the legal struggles over workers' right were resolved in favour of permitting a limited form of collective bargaining in Canada. To this extent, unions became legitimated actors in our polity. But, there were limits. They could only bargain with one private employer at a time. This meant they could only be involved in disputes with their employers over their local conditions of work. It was a scheme that conceded that some workers would unionize, like it or not (and most employers did not like it), and that to appease this almost irresistible push, they should be given power to respond to market imbalances a bit better than could workers left undefended in competitive markets.

This statutorily designed collective bargaining regime is a slightly mediated version of the pure market regime in which each individual is left to fend for herself. The statutory legalization of lock-outs and strikes was a novelty (a right that the ultra reactionary Supreme Court of Canada still has not guaranteed as a fundamental freedom). This right allowed the parties to show, by legalized economic coercion, that they could outlast their adversary in the market. Employers had opposed this legislative

development precisely because legal collectives of workers made the battle more even than when a wealth owner pitted its (collectivized capital supported) economic strength against individual competing workers or illegally combining ones. From a conceptual perspective, the new game was a variant of the preceding one, not a rejection of it. Workers could be expected to get better outcomes, but the outcomes were still to be determined by the market for labour. The market system, *and its ideology*, had remained in place but, for some workers, it had been modified in their favour. Workers could get better deals, but they were expected to deal for better market terms, for better wages and conditions, not for a different set of relations.

The fact that a union was only recognized as a bargaining agent for a set of workers employed at the same place of employment meant that they could be involved only in disputes with their employers over those workers' local conditions of work. Workers' hard-fought-for right to strike could only be exercised if aimed directly at the particular employer where they had been certified as an agent. They could not engage in tactics that tried to restrain the activity of other employers not directly integrated into the target employer's business. Collectivized economic power was illegal if used for any other purpose but those focussed on enterprise-by-enterprise bargaining.

Thus it is that the statutory scheme that promotes freedom of association in Canada, now supposedly part of the workers' *democratic* birthright, is not to be used for political purposes. Collective economic power is not to be used in such a way as to affect the allocation and raising of funds for the delivery of services to the public. Unions are not meant to be organizations through which workers are permitted to make the kinds of demands to which only governments can respond in our polity, that is, they are not permitted to make demands that are, in liberal terms, political in nature. Inasmuch as unions advocate politically, they are to behave as just that: advocates.

The principal regime of labour dispute resolution in freedom-loving Canada draws a sharp distinction between the economic and political spheres that reflects the conventional rejection of class analysis, of a political economy approach.

PUBLIC SECTOR COLLECTIVE BARGAINING

In due course, this method of resolving disputes was adapted to the public sectors. But, here, all demands made in respect of working conditions are made of an employer who is not a market actor, who does not have to worry about losing market share if it does not produce goods or deliver services. There is no market discipline. Every use of collective power by a public service sector union to improve or, more commonly these days, to preserve, working conditions, is, using the precepts of the liberal paradigm, an economic demand from the workers' subjective perspective and a political demand from the governmental employer's vantage point. The employing agencies are always able to argue that they have been democratically elected to dispose of funds with the good of all the people in mind and that this political decision-making should override the very self-serving, economic claims of a sector of the public, namely, public sector workers. Their narrow economic demands are trumped by the State's political responsibility to serve the greater good. The government employer is able to claim the high ground by saying that public sector unions do not have the political legitimacy to interfere with the democratic process. This argument resonates in a setting in which the distinction between the economic and political has been naturalized.

Inevitably, the initial grant of private sector bargaining rights to public sector employees has been severely limited and constrained. Some workers are denied the right altogether; some are



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not allowed to strike; some are not allowed to bargain about certain conditions; frequently, governments enact laws suspending collective bargaining rights and/or ordering legally striking employees back to work, forcing them to work under conditions they had a, a few minutes ago, a right to reject. In short, the market model of collective bargaining runs into a dead end. Public sector workers do not have anything like the (meagre) weaponry that has been reluctantly granted to some lucky private sector workers.

NEOLIBERALISM AND PUBLIC SECTOR RESTRAINT

In recent times, this has made them peculiarly vulnerable to the relentless political assault by the State on its own standards' protecting regimes and on its and welfare schemes. With neoliberalism, governments of all stripes have privatized public services, thereby giving private profit-seekers more scope in their relentless drive to accumulate. Less public sector workers are needed. They have deregulated private sphere activities, making it easier for profiteers to make profits. Less public sector workers are needed. They have cut taxes and often the foregone revenue benefits private sector profit centres. For instance, since 2003, federal tax cuts to benefit corporations and the wealthier members of society, amount to \$160-billion. Less funds are available for deployment in the public sectors. Statistics Canada reports that, since 1991, the federal government's expenditures had shrunk from 19.2 % of GDP to 11.2% in 2007. Governments collect less revenue and spend less. They cut services. Less public sector workers are needed. Welfare schemes are diluted or bite the dust and, as a direct consequence, more needy workers are thrown into the competitive labour markets, exerting a downward pressure on the conditions of employment for all workers.

All of these ravages are the outcomes of decisions made by electorally empowered governments. Public sectors have to fight their battles in the framework thus created by the politicians. They have no institutional standing different to that of any other citizen affected by the political decision-making. This is the logic of a liberal polity in which the private economic and State political spheres are kept distinct. Yet, public sector workers are impacted more immediately and harshly than most of the citizenry by government decisions about how to raise and deploy funds. These political decisions affect their working conditions and security directly. They have to deal with an ever-changing framework for negotiations, changes over which they are not permitted to exercise any institutionalized control. They must negotiate, after the fact, with the only weapons the law gives them—the constrained collective bargaining powers they have. This disadvantages them.

The government, a political, non-market entity, is cast as a run-of-the-mill for-profit economic actor that employs people in much the same way as does a private sector employer which is, conceptually, subject to competitive market forces. A logically and politically troubling misdirection is evident. This *pretence* is even more distorting when the government 'employer' is merely a sub-set of political decision-makers, as is the case when a teachers' union faces school boards or hospital workers confront hos-

pital boards, or university workers battle a university's administrators, rather than the source and controller of the funding that determines the metes and bounds of economic collective bargaining for these school, hospital and university boards.

The collective bargaining that is to take place *pretends* that the outcome of the contest between the government and its workers will reflect the machinations of the politically neutral invisible hand that guides market forces. But, as is rarely the case in the private sector, those market forces are continually shaped and re-shaped by a specific 'employer' without any direct participation by its workers who will have to accept the reality of the market thus created. This is why there are always discussions as to whether or not the offers and demands are fair, an idea that only has any meaning if the offered terms are malleable, are subject to political machination. The fights over conditions are fights over political discretionary decision-making. This is why the public intuitively knows that these contests have something to do with democracy. This cat must be kept hidden in its bag and this is why any efforts by workers to try to negotiate better terms or to reject imposed cuts by using their economic clout are sought to be portrayed as the abuse of a privilege. Precisely because of the misleading characterization that separates the political from the economic, this is all too often too easy for the elites.

PUBLIC SECTOR STRIKES

In politically created 'public sector markets', workers are to use the only tool they have to affect their working conditions and job security, resort to collective bargaining private sector style. As in the private sector, they are empowered to withhold their labour power until their 'employer' can no longer afford being idle. But, this 'employer' is not worried about losing money – indeed, when services are not delivered, it saves money. The best public sector workers can hope for is that the governmental entity they are targetting is persuaded that it is good small 'p' *politics* to enter into an agreement acceptable to the workers.

The exercise of public sector workers' narrow economic bargaining powers is effective only if it, *indirectly*, undermines the political power of the public sector employer. The asymmetry in kind and quantum of powers available to the parties is now manifest.

Precisely because the 'employer' is not an economic employer in liberal terms, the economic response by workers transliterates into a political response as defined by the same liberal terms. This leads to two related features of all these battles in the public sector.

First, workers invariably will be cast as illegitimate intervenors in the democratic processes of government. This makes it easy to castigate them, to make it difficult for the workers to win the battle that is truly being fought when they are in a struggle over conditions of employment, namely, the battle for the hearts and minds of the public that may have sway with the political ‘employer.’ This task is made more difficult when the government is aided by the public’s sense of entitlement to uninterrupted services and by that public’s taught disdain for public servants, seen as cosseted, lazy and undisciplined, unlike workers subjected to the market.

The second feature is a special ‘take’ on public sector disputes commonly put forward by progressive activists and worker-friendly groups. There is an inclination to see a public sector’s union willingness to stand firm, to conduct a lengthy (often potentially unpopular strike), as revolutionary. It is tempting to characterize it as a class-based response to the neoliberal agenda pursued by governments. It is true that workers are trying to shake off the burdens established by the politically created framework in which they must bargain and, as the collective action is aimed at trying to win political support, it does have some of the attributes that a direct political confrontation of that political framework and its designers could be expected to have. In short, it may look as if the political and the economic spheres are conflated. But, caution is in order: while the workers’ conduct is congruent with the way in which demands for a different world order might be made, that is not their goal.

The motive of the workers in struggle is much the same as that of workers who struggle in the private sectors where the political consensus is not – and is not seen as having been – put in issue. They are attempting to protect their existing entitlements or carve out improved ones. As a consequence of the adaptation of the narrow economic bargaining model to the public sector, public sector workers are not institutionally organized, nor are they politically educated, to do anything else. It would be illogical and, indeed, unfair to have expected the Toronto City workers to transform their resistance to the oppressive demands for concessions by a neo-liberal city government as a clarion call for a reversal of the nature of our political economy.

But, the fact that a glimmer of hope of this kind is raised each and every time that a government exerts its raw power in an abusive way and the affected workers stiffen their spines, points to the progressive potential that inheres in exploiting the contradictions that are built into the paradigm that artificially separates the economic and the political spheres. The contradictions are most obvious in the public sector. Indeed, some of the most dramatic threats to the status quo in relatively recent times have arisen out of ideologically driven government actions that assaulted the public sectors directly.

Operation Solidarity in British Columbia and the Days of Action in Ontario are illustrative. Workers tried to use their economic power to have direct political impact, rather than to ameliorate their localized working conditions. Here, to underscore the point that the split of the economic and political spheres serves

the ruling class all too well, it is worth noting that, in British Columbia, the powers that be refused to treat the rolling strikes as labour disputes subject to labour law adjudication. Rather, they were characterized, by a supposedly worker-friendly labour relations board, as political actions and, as the privilege of collectivized economic action did not stretch to the making of political demands, the workers were subject to the general laws that forbade combinations, marching, boycotting, and the like. Judicial injunctions flowed like wine at a Bacchus Festival as the impermissible use of collectivized labour power was denounced by the dominant class; the apocalypse of democracy and the rule of law were imperilled, it was prophesied by a shrill media, again and again.

The pressure was enormous and Operation Solidarity lost its steam when some organized workers (or, more accurately, their leaders), unready to push their remarkable power that arose from using economic power for radical political purposes (as if they were capitalists threatening a capital strike), accepted a settlement of their more narrow economic dispute with the government. Workers everywhere were reminded that the economic and the political should not be mixed. Somewhat later, the Days of Action organizers did not choose their slogan lightly. They wished to indicate that they were engaged in civil disobedience, in an exercise of free speech and assembly, rather than using economic clout to attain political goals. In a sense, unions in Canada had internalized that notion a long time ago. So, when the CLC called for a national strike day to oppose the 1975 Trudeau wage restraint programme, it termed it a National Day of Protest.

LEARNING FROM THE CITY OF TORONTO STRIKE

To return: it is in the public sector that the constraints imposed by institutions built on the falsehood that the economic and the political are separate spheres become most obvious and it is there, therefore, that the potential to raise consciousness about the need for change is most marked. This is the primary lesson to be drawn from the Toronto City workers’ strike. And that lesson, if learned, does offer the possibilities for fruitful political education and action.

Efforts ought to be made to have public sectors reject the departmentalization that the bureaucratic needs of the government ‘employer’ imposes. It is this supposed technocratic need that provides government with the logic that allows it to pretend that it is comprised of a series of self-standing departments, quasi-profit centres. Their success and the impact on public servants is easily illustrated.

The Toronto City workers kept on making envious comparisons with the treatment of their fellow public employees who were police officers, firefighters, paramedics, and the like and who had had better deals from their discrete ‘employers.’ Obviously, all these workers have different occupational interests; equally obviously they have, in terms of their relationship to their ‘employers,’ more in common than what differentiates them. This is why the comparisons were made.

Each time that there is a Toronto City workers' kind of struggle, an opportunity arises to make a strong argument that all public sectors workers have a common employer, one who makes overall decisions on the basis that the priorities it establishes allow it, *unilaterally*, to favour one set of workers over another. The follow-up should be that this common employer should be faced as one entity, as a political entity and not a set of employers each with responsibility for its own bottom line.

Such an argument depends on educating people about the extent to which the false divide between the political and the economic acts as a fetter on their aspirations. They are to be made aware that it is their lack of power when the initiating decisions are made – about funding, about departmentalization, about priorities – that make their collective bargaining, at best, reactionary. They are responding to circumstances brought into being by their opponent. It is their lack of participation in the initial political decision-making that puts them at a disadvantage. As the people who are most directly and immediately affected by these decisions, they ought to claim that simple democratic principles entitle them to have a role in the government *political* decision-making that sets the framework for their conditions of life.



Narrow economic bargaining does not resolve their basic problems; they need to be able to go beyond that. Precisely because they are in the non-market setting, these workers cannot be met with the argument that it is the invisible hand that neutrally constructs the terrain on which collective bargaining is to be conducted. Each of their separated struggles allows an argument to be made, an educational campaign to be waged to the effect, that the weaponry they have been given – private sector collective bargaining – is dysfunctional and *undemocratic*.

PUBLIC SECTOR WORKERS AND DEMOCRACY

To call for education and organization to enrich democracy is a call that ought to have resonance in all places of work, private and public. But, precisely because the public sector has been characterized by liberal capitalism as *the* sphere of the political, it has more chance of success there. What needs to be considered is how to use public sector workers' recurrent brave fights for dignity and better conditions to exploit this potential. The idea that there is a pressing need to democratize (a), the State sectors and (b), all workplaces, is hardly novel. What is being argued here is that a closer analysis of what structural and institutional barriers exist in the public sector may aid activists in their efforts to bring about some real changes.

In a sense, then, those who read revolutionary potential in struggles, such as that engaged-in by the Toronto City workers, have identified the skeleton in the cupboard. A skeleton does not get flesh on it automatically. The workers must fight for their own sake; that is all the system allows them to do. We cannot ask them to be our surrogates. To have them act as a tool for real change, they have to be educated and differently organized. A starting point is to take the lessons taught by the structural problems Toronto City workers (and Windsor's workers, and countless other public sector workers everywhere) to heart.

Finally, what these musings show is that for real change to occur, organized workers remain the most powerful agents we have. They are the ones who bear the brunt of capitalist strategies and who are kept in check by a distorted presentation of the nature of relations of production. **R**

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