

The Ontario College Teachers Strike and Fundamental Human Rights

By

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In its editorial on the Ontario College Teachers' Strike, the Hamilton Spector stated that "the system failed thousands of college students" and "It must not do so again." The editors characterized the strike as having a "devastating fallout for countless students" suggesting that college teacher strikes ought to be banned somehow.

The editors also stated that many Ontarians "blame" the government for the strike which they tepidly defended by stating that the strike was legal. They made no attempt to explain why the strike was legal and why the government should have been commended, not blamed, for honouring the right of college teachers to strike.

It would have been appropriate for them to remind Ontarians that the Supreme Court has recently affirmed the right to strike as both a fundamental human right and a constitutionally protected right. In its *Saskatchewan Federation of Labour* decision the Court reiterated the position that it made clear in its *Health Services* decision of 2007 that Freedom of Association, of which the right to strike is an inherent aspect, is essential in realizing the Charter values of "human dignity, equality, liberty and respect for the autonomy of the person and the enhancement of democracy." All Ontarians, indeed all Canadians, are entitled to know that the rights to organize, bargain and strike have been affirmed globally as human rights by nearly all of the world's nations including, prominently, Canada. These rights are not simply a political choice that may be given or taken away according to the whim of the party in power. They are no less sacred in the eyes of the world, in the eyes of the Supreme Court, than the right to equity in employment that is frequently, and rightfully, defended or commended by the press.

Without the right to strike working people are vulnerable to arbitrary, dehumanizing behavior by employers such as the stripping of benefits from low wage workers in response to the rise in the minimum wage in Ontario. Without the right and the mechanism to bargain, labour is reduced to the status of commodity to be exploited as the boss sees fit. Without that right, labour as a movement is weak and cannot stand as a force against the inexorable growth in inequality that, as Oxfam International has recently reported, has seen the wealth of Billionaires grow by an average of 13% a year since 2010. Without a strong bulwark to stand against it, that mudstorm is leading us back to the undemocratic, class-based oppression of the past.

The International Labour Organization has been charged by the world community to establish, promote and defend the rights of labour to the benefit of all humanity. Towards that end the ILO has developed a set of standards regarding the right to strike. The fundamental principle is that strikes must be honoured for all workers except those in occupations so critical that withdrawal of their labour would harm "the life, personal safety or health of the whole or part of the population." Police, the military and hospital

workers are essential. Teachers, the ILO has emphatically declared in the course of commenting on several cases including many from Canada, are not.

That does not mean that students who are harmed by education strikes do not matter. They do and we should seek to put in place systems that result in few education strikes. But education strikes do not endanger life, health or safety and so must be honoured for the greater good that results from respect for fundamental worker rights. Indeed, it is likely that the Ontario government's back-to-work order was unconstitutional.

If the Ontario government cannot legally and ethically impose a no-strike system on college teachers, it may negotiate such a system. Arbitration in one form or another is a viable alternative even though it has a number of side-effects unwanted by one side or the other. But, for college teachers, arbitration must be negotiated not imposed.

It has been my experience, knowing teachers at many levels and being one myself, that student-welfare is high on the priority list of educators everywhere. With good will on both sides a solution respectful of students, teachers and an empowered working class capable of defending democratic values is there to be found and implemented.