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Editorial

# Back-to-work legislation a threat to democracy

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Recently two provincial governments have removed one of the most important democratic rights that Canadians enjoy - collective bargaining. Not only have British Columbia and Newfoundland arbitrarily ended public sector strikes that began legally but they have also imposed the terms of settlement on the workers through legislation. Such actions are part of a remarkably short-sighted and even dangerous trend.

Impending back to work legislation forced 20 000 Newfoundland public service workers to end a 27-day strike last week. But the government still imposed its settlement on them B a four-year collective agreement with a wage freeze in the first two years and cuts to their sick-leave plan.

The Campbell government in BC went even further, rolling hospital employees= wages back by 15% (according to the Labour Minister it was only 14% or Awhatever@), lengthening the work week and allowing contracting-out of jobs to the private sector. Even a last-minute Aagreement@ to avoid a province-wide general strike could not mask the Draconian nature of the government=s actions and the bitter pill the workers had to swallow.

Both governments threatened massive punishments for those who defied the edicts, including dismissals and huge fines for the unions and their members.

The governments have sent a powerful message to trade unions, one which will have ominous future repercussions: You can negotiate all you want, but when push comes to shove, unless you agree to what employers want, we will bring the full force of the state against you and impose what employers want.

Although the BC=s settlement terms are especially vindictive and nasty, the governments of BC and Newfoundland are by no means the first in Canada to use these methods. Since 1999, governments of New Brunswick, Nova Scotia, Quebec and Saskatchewan, across the political

spectrum from Conservative, through Liberal and NDP, have done the same. (The Saskatchewan government seems to have learned its lesson in 1999 and has since patiently weathered two large health care strikes without intervening.)

Health care workers across the country have good cause to rebel. Their real wages (after inflation) have often declined. Their employment security has eroded or disappeared and they have watched their cohorts shrink. Their work has intensified as the needs of in-hospital patients have become more acute.

Those in less-skilled positions are especially vulnerable as employers move from a hospital model of employment to a hospitality model, treating employees not as members of a health care team but like seasonal hotel and restaurant help. And more and more union members are rejecting agreements that their unions have negotiated.

Worker rebellion taps into deep public unease about the future of Canadian health care and can elicit great sympathy. People are increasingly suspicious when governments beat up on health care workers in order to pay for tax cuts to the rich.

Traditionally there have been three models of handling industrial conflict in health care. A few governments have no special legislation banning strikes or imposing emergency service provisions. Some others allow strikes but impose stringent controls on how many workers can be off the job (sometimes foolishly insisting on more coverage during a strike than in normal times.) Still other provinces ban strikes in health care entirely and substitute binding arbitration to resolve disputes.

Historically, even in jurisdictions where strikes are not illegal, governments have occasionally become impatient or convinced themselves prematurely that a public emergency exists. They have used their powers to pass ad hoc legislation to ban the strike. Up until recently, such strike-ban legislation has substituted arbitration, which means a third-party decides on a fair settlement.

What makes recent cases so different and so dangerous is that governments are bypassing the arbitration route and writing the terms of settlement into the legislation. When it happens again and again, collective Canadian governments are, for all intents and purposes, rendering collective bargaining dead.

Canada and other industrialized countries introduced modern collective bargaining legislation in the mid 20th century because they had learned that, given appropriate conditions, workers would join unions and that they would go on strike whether or not they were allowed to by law. Even when unions themselves were illegal and strikes were met by troops and machine guns, workers would still go on strike. Modern governments figured it better to legalize strikes and institutionalize collective bargaining, tolerating and even encouraging occasional strikes rather than bottle up worker resentment until it burst forth in even greater measure.

Health care and public service workers have shown in more recent years that they will defy strike bans if sufficiently angry and frustrated. To mention just a few cases: Ontario health care workers walked picket lines for eight days in 1981 despite fines, dismissals and the jailing of their leaders. Saskatchewan nurses stayed on strike illegally for ten days in 1999. Alberta licensed practical nurses and others did so in 2000 until they achieved a better settlement. Nova Scotia and British Columbia nurses threatened mass resignations in 2001. Even a decision to back down under massive pressure does not guarantee that mass civil disobedience will not break out at another time and another place.

Larry Haiven and Judy Haiven are faculty members in the Department of Management, Saint Mary=s University in Halifax and research associates of the Canadian Centre for Policy Alternatives - Nova Scotia.

**Press Release:** [The right to strike and the provision of emergency services in Canadian health care](#)

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