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## ARE FACULTY STRIKES UNETHICAL?

**ABSTRACT.** It has been argued that strikes are morally objectionable in the university context. They injure third parties – the students – and for this reason ought to be rejected. More generally, the strike weapon has led to a reduction of the power of Boards of Governors to adjust universities to changing times. And furthermore, the use of the strike weapon and the ensuing conflicts can injure the collegial form of governance that is essential to higher education. It is here argued that these arguments are hardly conclusive, and that there are virtues to having the strike as a means to resolve disputes. But keeping things on track requires both parties to adhere to the moral and social virtue of civility.

**KEY WORDS:** strikes, unions, collective bargaining, senates, collegiality, university governance

There is a memorable passage in Plato's *Republic* in which the issue of the remuneration of a professional is debated.<sup>1</sup> The question discussed (340 C ff) is whether (material) self-interest is the basic motive for all human action, and therefore of political activity. The general issue for Plato is the art of politics, but the discussion proceeds in terms of a comparison to various other human arts. Among these is medicine. The physician in the full sense of that term is not a money-maker; that is not the end of the art of medicine. Rather, Socrates argues, the aim of the physician is the health of the sick (341 C). So for other human arts: none of them were invented for the sake of self-interest but for the end of performing a service. The physician and the practitioners of the arts have in their essence no concern for personal advantage or remuneration, but solely the welfare of the subject for whom the art is performed, in the case of medicine for the well-being of the patient. As for the fees the practitioner receives, these do not result from the art itself but from another art, that of money-making. As Socrates puts it, ". . . if we are to examine this precisely, medicine produces health while the craft of earning produces pay; house-building provides house, and the craft of earning it which accompanies it provides a wage; and so with the other crafts; each fulfills its own function and benefits that with which it is concerned" (346 D). Yet the subsidiary art of earning income cannot be entirely separated for the art, e.g., medicine, to which it is subsidiary: if pay is not added to the practice of the art by those for whose benefit the art is practised, the artist would be unwilling to provide his or her services to others. "They [the craftsmen] ask for pay because the man who intends to practice his craft well never does what is best to himself, . . . but he pursues the advantage of his subject" (346 E–347 A).



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This concern over the connection between the practice of a craft or art and the remuneration that one receives for that practice from those who benefit has had subsequently a long history. The issue has arisen in particular over the role of the university teacher as a teacher and his or her role as an employee. In Canada most universities have unionized faculty, who, through that union, collectively bargain for economic benefits. The union serves as part of the social mechanism – the university administration is the other part – through which they receive remuneration for their practising the craft or art of teaching. The union bargains for its members collectively; the bargaining settles the terms under which faculty members come to be paid for practising their craft of teaching.

As Plato saw, there is the possibility of conflict between the motive for remuneration, on the one hand, and the motive that is essential to the practice of the art, on the other. If the craftsman does not receive sufficient remuneration, then he or she will not practice his or her art and the subject of the art will lose; and if the craftsman does not practice his or her art well, then he will not receive the remuneration to which he aspires. But there is always the possibility of deception, the problem of the rational knave as the Scottish philosopher David Hume was later to put it. The craftsman is the expert in his or her craft, and he can perhaps exercise the craft in such a way that corners are as it were trimmed and he or she receives more remuneration than is deserved. There are ways in which the subject might also be tempted to do the craftsman less than justice. Plato resolved this problem of potential conflict, in theory at least, in the ideal republic, by having this republic so organized that all units functioned in harmony. He argued that there is an ideal form of organization, and that this involves a harmony of all parts.<sup>2</sup> The philosopher-kings in the ideal republic, grasping the structure of the form of the ideal state, would effect and maintain this organization and ensure the absence of conflict. Virtue consists in the sorts of behaviour that obtain when all are living and functioning together in harmony.

The harmonious inter-related functioning of all parts is no doubt the ideal. Whether it can be established or maintained by a group of philosopher-kings is another issue; whether we would want it so organized is another. Certainly Plato's suggestion that this latter sort of arrangement would really work has convinced few in his own day, and fewer since. Other ways, other forms of social organization, which could effect a harmony of goals, have been sought by people as they have struggled to find ways to achieve the goal of living and working together in harmony.

In more recent times, one of these means is collective bargaining. Bargaining collectively by unions with management has been one of the tools

that human beings have discovered for coming to terms that enable them to live together in harmony, or, at least, in coming to arrangements with each other than enable them to get together and work cooperatively. There is struggle and debate in this process, but also a sort of harmony and cooperation: it is regulated struggle and patterned debate, to which the parties involved have agreed. In the end, when the bargaining is over, there is a contract between the two parties which represents the best that each can do under the circumstances, and which therefore (it is hoped) brings them together in an equitable and cooperative way after the tensions of the conflict.

One of the tools that are used by unions to maintain the well-being of their members is the strike. This has generated a certain amount of controversy: whenever there is a strike there arises the notion that such action is appropriate for the industrial context but is peculiarly inappropriate for universities. It brings the search for economic well-being into conflict with the professional obligation of faculty; there is interference between the art of money-making and the art of teaching.

There are two versions of this argument that I would like to consider. I will not propose knock-down agreements on any issue – there are hardly any knock-down arguments in applied ethics –; nor will I suggest that there are any neat formulae for settling the issues – again, there are no neat principles that can everywhere be deployed to solve problems in applied ethics. But there are considerations that can be brought to bear that will show that one conclusion or another will turn out to have the balance of reasons on its side. As it turns out, the crucial problems are not so much the acceptance or rejection of certain principles but rather, as Plato long ago saw, the exercise of virtue, the virtues that define civil society.

## I

Whenever there is a strike of university faculty there is special concern for the well-being of students: the strike will have the effect of impairing their studies. David Cameron for one has made this suggestion.<sup>3</sup> There is no doubt that such impairment will indeed occur; it could hardly be otherwise. To the extent that such impairment occurs, there is indeed a conflict between the art of money seeking being pursued by the faculty and the art of teaching to which they are committed. Cameron has argued, in fact, that unionization has been a development in Canadian universities that hinders their effectiveness. In his view, strikes in particular are one of the more regrettable features of collective bargaining in Canadian universities. They have resulted in concessions to faculty association on the part of university administrations that have lessened the capacity of administrations to adapt

their universities to changing conditions – to such things as new economic “realities,” i.e., less funding on the part of governments, or the need to delete old programmes (and their faculty) in order to make way for new programmes demanded by students and by the society that is the ultimate source of funding.<sup>4</sup> Cameron has called for a transfer of power from faculty unions back to Boards of Governors, so that the subject of the craft of teaching may more effectively be served.<sup>5</sup>

Cameron is not the first to advance such an argument. The question of unionization and the morality of strikes, not just in universities but in general, has long been an issue in applied ethics in Canada. Thus, already in the nineteenth century John Clark Murray, professor of philosophy at McGill University, took up the issue of strikes in the newly emerging industrial society in Canada in his study on *The Industrial Kingdom of God*.<sup>6</sup> It was his argument that strikes are a bad thing, but when a union is introduced the worst effects of strikes can be avoided. He argued that, far from increasing the number of strikes, unions were a way in which many of them might be avoided. His point was that unionization introduced an element of regularity and order into the relationship between management and workers. Strikes may occur, but they occur only as a last resort, rather than the only resort, to resolve disputes through bargaining: with regulation, and a set of rules for bargaining, before the strike weapon is used a number of other tools will have been used to try to resolve the disagreement.

In dealing with the issue of the appropriateness of the strike weapon in university situations, one has to look at the benefits of the collective bargaining process as a whole. It in effect regularizes the craft of money-making as exercised by those who practice the art of teaching. The craft of money-making is not essential to the craft of teaching, which has another end, but as Plato saw the two cannot really be separated: there can be no exercise of the craft of teaching unless there is also an exercise of the craft of money-making. The issue is, how can the craft of money making be regularized so as to minimize the ways in which it might interfere with the end of craft of teaching. If we apply Murray’s argument to the case of universities, then the conclusion is that unionization can make the craft of money-making more regular with a consequent minimizing of the conflict with the craft of teaching.

Nonetheless, as part of the regularized bargaining process, strikes may, and, at Canadian universities, have occurred. It is Cameron’s argument that *any* strike is a bad thing. Murray’s point may be correct, unionization may well reduce the number of strikes, but none is better than some. It is the professional obligation of university faculty as teachers to avoid the use of

the strike weapon. In fact, it is the obligation of university administrations to resist its use to increase the power of unions to affect the management of the teaching (and research) roles of the university in the best interests of the students, the subjects of the craft of teaching. (The same argument applies, of course, to the use of the lockout as a bargaining tool by university administrations.)

The process with which we are concerned is one of bargaining within the context defined by the craft of teaching in a way that optimizes the use of resources to that end. That end, the exercise of the craft of teaching, is in fact the end accepted (one hopes) by both administration and union. Now, the problem is that the to and fro of bargaining does not always resolve the disputes. What happens then? One, but only one, of the ways that society has used to resolve impasses in bargaining is a strike (or lockout); it seems to have been the one to which universities administrations and faculty unions in Canada have in general agreed to adopt. One may regret, as Cameron does, the power which it has given to faculty unions; but for better or worse that is the way the process now works: it seems to be the best of a bad set of solutions.

A strike or lockout occurs in bargaining situations in which the two parties have positions with regard to allocating resources which are incompatible. In times of plenty these sorts of impasse do not arise as often as they do in times of scarcity; when universities were well-funded there is no resort to the strike and indeed, little call for unionization and collective bargaining. But times of scarcity arose, and so did the use of collective bargaining.<sup>7</sup> When that occurs, then a strike or lockout is likely inevitable; often, as Murray suggested, an impasse can be avoided through the bargaining process, but as things develop in this imperfect world, an impasse is likely to develop. Where there is an impasse, something must be done to bring about a decision.

A strike or lockout has a real point. It is not simply to inconvenience the "other side." Nor is one neglecting one's professional concerns for students; a strike or lockout must be seen in that context – for both parties, the end ultimately is a resolution that does the least damage to exercise of the craft of teaching. A strike or lockout enables both parties to test themselves as to those points where they might be able to retreat to a less favoured but still satisfactory position. A strike or lockout provides a context in which aspiration levels can be looked at more carefully than had hitherto been the case; it provides a context in which aims can in some cases be adjusted downwards, perhaps to be compensated by a gain made elsewhere at a point where the other party has lowered his or her aspiration level. The strike/lockout provides further factors that must now be taken into account;

not least among these, at a university, is the fact that both sides have to take account of the effect on students. Aiming not to fall below aspiration levels with regard to these new factors often leads to adjustments in other areas where there is disagreement.

Seen in this way, as a means through which both parties can test themselves, a strike/lockout is a way through which the parties can discover a solution to the decision problem that confronts them. As such the process is a rational procedure to use when negotiations on dividing scarce resources run into an impasse; it is a rational process of impasse resolution. Rational procedures should not be looked upon with disdain.

In particular, it would likely lead to worse consequences if one simply retreated from the collective bargaining process, with its possibility of strike or lockout, and gave, as Cameron seems to suggest, all power to university administrations for the allocation of scarce resources. As Murray argued long ago, that is an even worse situation.

One may therefore conclude not without reason that in an imperfect world with scarce resources, the weapon of the strike or lockout remains a socially tested way to resolve disputes in bargaining over the allocation of those resources for the best context for the exercise of the craft of teaching that is, the best available context, not the version that would be used in the best of all possible worlds.

## II

Cameron's argument against strikes is part of a broader argument against the role of faculty unions in the management of scarce resources for the exercise of the craft of teaching (and of research). He puts the argument in something like economic terms: management can be more effective and efficient if the role of unions, and the strike weapon in particular, can be curbed, and the powers it gives to faculty unions be given (back) to administrations.

There is another version of this argument that appeals to other consequences of faculty unionization and the use of the strike weapon to resolve impasses in the process of bargaining.

R. Whitaker has recently taken early retirement from his university,<sup>8</sup> citing as grounds the "awful state of today's multiversities."<sup>9</sup> To put his point briefly – not too briefly, I hope – universities have, or, rather, ought to have a unique form of governance. A university is not an ordinary industrial enterprise, where ends and means are determined by management. Given the aim of the university to transmit knowledge from faculty to

students, and given that no one beyond the faculty have any capacity to exercise craft of teaching in the areas in which they profess, faculty members of necessity have to participate in the governance of the university, in the setting of regulations for university practices for the mounting of courses and programmes, and in determining standards for the students. Given the aims of the craft of teaching the university demands what used to be called a *collegial* form of governance. The usual form that this takes in universities is to have a senate to deal with academic matters and a board to deal with financial matters.<sup>10</sup> Often the only link between the two is the President, perhaps with other administrative officers. In any case, whatever the details, the lines between employee and management are blurred in such a form of governance, as the demands of the form require cooperative working together for the setting of academic rules and programmes and for ensuring students meet the appropriate standards.

The difficulty, as Whitaker sees it, is that faculty unionization has disrupted this form of governance, replacing cooperation and collegiality with the confrontation of the collective bargaining process. And the disruption of the collegial form of governance has implications for the exercise of the craft of teaching: the conditions that result are less than the best possible, suffused with tension and conflict rather than the spirit of “working together.”

There is certainly some point to this argument. Collective bargaining is often not an easy process – though as Murray argued there are processes which are worse. W.L. Mackenzie King, when a relatively young man and before he became Prime Minister of Canada, took up these issues, in his *Industry and Humanity*.<sup>11</sup> There he argued that industrial firms should be organized cooperatively, with committees consisting of both workers and management. He argued that working together, collegially if you wish, would foster cooperation and eliminate the need for confrontation negotiations and therefore for strikes. Such arrangements were never, perhaps unfortunately, taken very seriously, perhaps not even by King himself after he became Prime Minister. Unfortunately, King provided no mechanism for impasse resolution when the worker-management committees could not reach agreement.<sup>12</sup> In any case, management did not like giving up any power; certainly, King’s arguments, whatever their merit, did little to persuade them. When the workers were recognized as participants helping to shape the terms and conditions of employment, it was only after much confrontation efforts, often including difficult strikes.

The difficulty is that in negotiating salaries and benefits and the terms and conditions of work, if one enters into those negotiations with no firm position one will simply retreat everywhere and end up with very little.

One can get reasonable working conditions and a reasonable share of the scarce resources through negotiations only if one has some positions at least which are quite firm. Not only that, but the other side must know that those positions are firm. In the context of a union-management dispute, each side has its way of demonstrating to the other that certain positions are firm. Rallying support among union members for the position of the negotiating team is one of the ways which unions have for doing this. This sort of rallying may include sharp criticism of management, the university administration, for not recognizing how firm the membership is on certain things. At the same time the administration will be critical of the union for not recognizing other resource needs of the university. In the university context, each side will criticize the other for not recognizing the needs of students. These sorts of moves are part of the process, and, while they should be taken seriously, they should not be taken too seriously: they should not be allowed to poison irreparably relations between the two parties. At the same time, however, one must recognize that things sometimes get downright nasty. And without doubt, in the demand of the union for solidarity among its members, part of the nastiness is the pressure put on faculty who might oppose the strike or some of the positions taken by the negotiating team. This is so especially in those cases where the faculty-run senate is seen as part of management. Collegiality suffers. And so thereby does the capacity of faculty to exercise to their best the craft of teaching.

Whitaker is correct: sometimes the academic community has suffered drastically. There are no easy answers. Given the fact of unionization and given the special way universities must be organized if teaching is to aim at the best, all one can do is exhort the parties involved to remain civil.

Given the rather special role of the president, as head of the administration while at the same time a leading member of the faculty senate, there is a special responsibility on management in the university setting to bring about reconciliation; but that responsibility must be shared with the heads of the union. The appropriate attitude is that expressed by the President of General Motors Canada, Maureen Kempston-Davies, after the 1999 strike of the Canadian Auto Workers. Ms. Kempston-Davies told Buzz Hargrove, President of the CAW, that "We have to talk when this is over. We have got to get the relationship back on track."<sup>13</sup> But there is an onus, too, on the part of the union to bring about the sort of reconciliation that can get things "back on track."

"Back on track" means, among other things, a determination not to continue the struggle that developed during the strike. Efforts must consciously be made to moderate the feelings that can often be very strong. At the same time, there should, in the best case, be a determination on the part



of both the union and management to deal with other matters on a collegial basis.

It is sometimes argued, as Whitaker seems to argue, that faculty give up the collegial model of relations in the university when they decide to certify. Collegiality is replaced by confrontation. This, however, is surely a mistaken view of the nature of collegiality. Collegiality too often has meant authoritarianism masking itself as a kindly paternalism. True collegiality, in contrast, consists of people being able to sit down together as equals. Certification permits this. It is true that certification means that one side now has the power to strike while the other side has the power to order a lockout; and either will often produce a certain amount of ill-will. Still, it needs not do so – it can be recognized as a way society has devised for rationally settling otherwise irresolvable disputes over conditions of work. Moreover, most disputes can be handled by the two sides sitting down and talking things out as equals. Certification ensures this sort of collegiality by ensuring the parties deal with each other as equals.

Of course, whether it works out this way, or regularly degenerates into ugly confrontation, is in large part a matter of style, both of the university administration and of the union leadership. When a contract is signed between a university and its faculty association both sides are party to it, and both sides have the obligation not only to work within it but to make it work. If one side or the other is determined to take their position to the limits of what the contract allows and then perhaps even push for more, then they may be working within the contract but certainly are not trying to make it work. There has, for example, to be a determination to head off problems before they even arise. Some universities manage it; others do not. Perhaps Whitaker has in mind the latter.

If things are to be handled well, then civility is essential. Both administrators as management and members of the faculty association executive cannot be at war; they must be able to raise issues, talk things over, and work cooperatively to settle problems before they become major issues and matters of confrontation.<sup>14</sup> Both sides, in other words, must exercise the civic virtue of civility.<sup>15</sup>

If one searches through Cicero's *Offices*, one finds a variety of civic virtues mentioned and praised – bravery, for example, and loyalty. But there are other virtues that do not appear, among them tolerance and civility. These are modern virtues, recognized only in the early modern period. They are both relatively strange. To be tolerant is to recognize that the other person is wrong but to put up with it anyway; it involves the resolve to live with error. To be civil is to allow that the other person might be wrong but to work with that person anyway; it involves the resolve to

work with those who might be wrong. Both tolerance and civility require restraint, the determination not to push one's case or point of view to the extreme that the other person is forced to resist violently. They require the determination not to use, or at least to limit, appeals to emotions and to non-rational means in ways that make cooperation and further discourse impossible. Both virtues involve the aim of living together and working together towards common goals even where there is disagreement. In the context of universities, among those goals will be that of making an employer/employee contract work. In the case of the university, that common goal is the exercise for the benefit of students of the craft of teaching.

Civility on the one hand does not preclude vigorous disagreement on policy or on the means to implement policy. Neither, on the other hand, does it require always attaining some sort of consensus. And certainly, it does not require unthinking loyalty to leadership, the Board of Governors, say, or the President. People should be able to disagree on policy, indeed be able to disagree vigorously, while also maintaining social contact and discourse and while continuing to work together. There is a strong tradition of civility in Canadian politics. In the House of Commons members can disagree sharply in debate, and resort to a variety of tactics to ensure that their voice is heard, while at the same time maintaining mutual respect and even to remain friends. Civility, however, does not require friendship. What it does require is mutual respect and a two-sided orientation involving a willingness to listen to the other side, together with the sense of restraint which all that imposes.<sup>16</sup>

Civility is strengthened by institutional support. There must be debate and discussion about the goals and means towards those goals, about the ways to best exercise the craft of teaching. There must be a forum in which such debate and discussion can take place, and rules which enforce the requirement of restraint. Weakness of will exists in the case of the civic virtues as well as others. It is all too human when one loses a debate to be tempted to use means other than reasonable discourse and argument, all too human to be tempted to use means other than rational persuasion. People recognize this but also recognize that greater benefits in the long run arise from the exercise of the virtue of civility. They therefore establish rules and the institutional context which will help them resist temptation, rules of order and procedure and decorum that will help all continue to be able to work together in spite of differences.

It is civility in this sense, and its institutional safeguards, that has been weakened at some universities, as Whitaker has pointed out. If good governance and genuine collegiality is to be restored, then there must be civility,

and, after the confrontations that collective bargaining often involved, a return to civility. That is what is required of all parties, union and administration alike, if they are to work to further the good exercise of the craft of teaching.

There are no easy answers to the problems Professors Cameron and Whitaker have raised. It is certainly true that there have been pressures which brought about unionization of faculty at Canadian universities. And with that came the possibility, and at times the reality, of strikes and confrontation. There are no rules for settling these issues; they must be resolved in practice as both sides work together. It is that determination to work together and to interact civility in the best interests of the university and its students that is central to the ethics of strikes. That some behave in a way that is less than virtuous is to be regretted. But that is true not only of those situations in which there is collective bargaining and the possibility of strikes, it is true of any sort of arrangements for settling disputes that affect the craft of teaching. Unfortunately, civility cannot be legislated.<sup>17</sup> It must remain however, the ideal towards which we should consciously strive.

#### NOTES

<sup>1</sup> References are to (Plato, transl. Grube, 1974).

<sup>2</sup> Plato had in mind as a sort of model the harmony of the heavens, where there is everlasting motion without conflict.

<sup>3</sup> "Despite considerable rhetoric to the contrary, . . . faculty unions [in Canada] have from the beginning accepted the strike as a legitimate weapon in collective bargaining. . . . [T]he effectiveness of a strike by faculty depends almost entirely on the use of students (and their parents) as pawns to generate pressure on boards of governors in the first instance, and on provincial governments in the final analysis" (Cameron, 1991, p. 366).

<sup>4</sup> It can be argued in reply that collective bargaining has resulted in procedures for such things as programme elimination that conform to the principles of natural justice prevent arbitrary action on the part of administrators.

<sup>5</sup> Cameron (1991) argues that "The most compelling route to strengthening the management capacity within universities may well be to strengthen the role of governing boards" (p. 449).

<sup>6</sup> (Murray, 1981), with introductory notes of editors.

<sup>7</sup> For further on the pressures that led to and furthered the support of unionization, see (Buchbinder and Newson, 1985).

<sup>8</sup> York University in Toronto, Canada.

<sup>9</sup> This is the subtitle of Whitaker's essay (Whitaker, 2002). The essay is a review of (Pocklington and Tupper, 2002). The heading on the cover of the *Literary Review of Canada* number is "Why I Quit York U" with the subheading "The awful truth about today's multiversities."

Here is Whitaker's comment: "The immediate cause of my departure was the poisonous effect on university life of two prolonged and bitter strikes at York [University] – a two-month faculty strike in 1997 and a three-and-a-half month strike by graduate teaching assistants in the winter of 2000/01."

<sup>10</sup> It is the academic senate that is central to the collegiality of the university; for a description of the functions of a senate, both manifest and latent, see (Birnbaum, 1989).

<sup>11</sup> (King, 1973) with Introduction by D.J. Bercuson.

<sup>12</sup> In his Introduction to his edition of (King, 1973), D.J. Bercuson points out that this absence of a procedure for impasse resolution is a major defect of King's argument.

<sup>13</sup> See (*Toronto Star*, 1996).

<sup>14</sup> Whitaker mentions other issues besides that of remuneration that he sees having poisoned the atmosphere at universities and it difficult to work cooperative in the exercise of the craft of teaching: Good intentions on equity issues in the classroom and in hiring practices is, he holds, no longer enough; "They [the "equity seekers"] insist that academic human nature is irreparably sexist and racist and can only be kept in check through intensive regulation and control. Moreover, if these controls are allowed to relax for a moment, the old reflexes will snap right back into place. Everything that goes on must be monitored and policed."

Not everything requires a penal code; and the presence of such a code can in fact contribute to the breakdown of civil discourse, as Whitaker rightly notes. I have dealt with some these problems with the pursuit of equity in (Wilson, 1996).

<sup>15</sup> See (Kingwell, 1995).

<sup>16</sup> Whitaker makes the point about the necessity of civility this way: He took early retirement when "Looking ahead to years of frayed civility, snapped personal bonds, burned bridges and a pervasive culture of belligerent complaint allied to whining self-righteousness, I decided that a quick exit was the least painful course."

<sup>17</sup> Nor, as part of the effort to achieve civility, can decent speech be legislated; see (Wilson, 1996).

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