10 December 1982

Arbitrary actions

NO OTHER INSTITUTION in Israel is regarded with such faith and respect as the judiciary; and its reputation extends far beyond Israel's borders. Its members may sometimes err in their judgments, but to the nation, the judiciary has been – and remains – the most solid pillar of Israel's democracy, its independence and probity beyond question.

This fact is doubly emphasized by the intellectual capacity of the judges in meeting the challenge, day after day, of the infinite variety of problems with which they are confronted. Sometimes their capacity to sort out the most complicated issues is, to the layman, awe-inspiring.

The judge cannot have expert advance knowledge on every subject that comes up before him, yet he is expected to absorb and evaluate its contents down to the last detail. He does, and Israel is proud of the result.

These may be trite observations; and they are designed precisely to emphasize the one great exception to the rule. Only one area in regular dispute is presumably regarded as being beyond the mental powers of our judiciary: Labour relations. If negotiations between workers and employers break down, you do not go to court; you go on strike. (Sometimes the employer shuts out the workers, but this is a rare occurrence.)

For the workers' right to strike in all circumstances has become a sacred cow, now an elderly cow, and foolish to boot, and capable of infinite harm.

The original cause of strikes (in Britain) was the appalling social and economic weakness of the workers, who were underpaid and overworked in ghastly conditions of toil. The strike weapon evolved, after a long struggle for the right of workers to organize at all, as the only means of bringing about an improvement in the lot of the worker in face of harsh and powerful employers – themselves the product of the heartless industrialization of the late 18th and early 19th centuries.

These capitalists were backed, moreover, by the power of the Establishment and its laws, often specifically designed to keep the workers in a state of subjection.

BUT TODAY? In Israel? What would we say if in a dispute between two men over, let us say, land, one of the men – the stronger of the two – insisted that instead of going to court the issue should be decided by a fistfight – and society supported his insistence? In what way would this be less civilized than the decision of workers, living in a democratic state, with progressive social legislation and an impeccable judiciary, to strike because they can thereby hold up to ransom not some predatory capitalist employer but the whole of society?

That, after all, is the nature of most of the strikes in Israel. They have become a chronic malady. The strikers are usually comparatively small groups of people who, in utterly disproportionate use of power entrusted to them, can, even without warning, paralyze whole segments of industry and society – plunge the nation into darkness, cut off its internal or external communications, disrupt its health system, its education system. The sufferer is always society as a whole or in part.

As this is being written a national strike, albeit to last only 48 hours, is in progress involving some 400,000 workers in public services, with widespread disruption in nearly

all sectors of life and work. Today, it was announced that a strike of academics had just ended. On Saturday, three weeks ago and then again two weeks ago, the workers at Ben-Gurion Airport closed it down without prior warning, stranding many hundreds of foreign visitors and undermining what shreds of prestige still remained to Israel's air services after the repeated assaults of the El Al airline workers.

Indeed, almost every day the media report strikes that have just ended, strikes in progress and strikes promised.

Why cannot these disputes be settled by a panel of Israel's judges – who are deemed capable of adjudicating in every other dispute imaginable?

Labour disputes are not nearly as complicated as many of the cases handled in the courts. Sitting as the regular members of a national arbitration court and, if necessary, helped by experts on labour relations, they could pass judgment with all due dispatch – while the country continues confidently to work and teach and study and cure and entertain.

Why must Israel continue to undergo, month after month, year after year, these interminable cycles of suffering, of losses and damage, sometimes of far-reaching economic significance? Why should this subversion of public morality, and sometimes public order, go on unabated? (The law in Israel does allow for arbitration of labour disputes, but only at the request of the parties, and its impact is demonstratively insignificant.)

ONE DOES NOT hear of Histadrut personalities even trying seriously to refute the arguments for obligatory arbitration. They have no rational explanation. They appear to think it is enough to call it "reactionary."

However true that may have been 100 or 60 years ago in some countries, today in Israel this would mean simply that a decision by a Tel Aviv District Court judge would be reactionary, while a group of workers holding a pistol to the head of the people of Israel must be regarded as "progressive."

The real reason, it must be assumed, is power. The worker-politicians make a simple calculation: By causing suffering and loss to one or another sector of the population, they have more chance of achieving their objective (whether it is right or wrong) than by submitting their case to a panel of objective judges.

The fantastic earnings of some of the El Al workers (the classic practitioners of this tactic) proves how correct they were. The gradual undermining and bankruptcy of El Al is presumably to be regarded merely as fulfillment of the principle of "the right of the poor, oppressed workers to strike."

It is, however, the Histadrut which is the chief stumbling block to a rational attempt at stopping the rot. Its leaders evidently have their reasons. Neutral arbitration would reduce their role if negotiations in a dispute failed; and its own role of backing the strike threat (in essential and public services) will become obsolete.

Altogether it has been apparent in recent years that the militant workers' tail has been wagging the Histadrut dog; and it has watched with seeming indifference the spread of the strike malady.

This was true in the days of Alignment government. It has deepened under an equally timid Likud government.

ONE COHERENT argument that supporters of the strike system produce is that obligatory arbitration has not been accepted in other countries. This is largely true, but it is irrelevant.

On which of our problems do we determine our attitude automatically by emulating other countries, with other climates and problems of completely different proportions. How many Western democracies, even in these economy-troubled days, are subjected to anything like the flood of strikes suffered by Israel?

Yet there is one example that is relevant – and instructive: Britain. In that cradle of trade unionism and of militant workers' action, the onset of national emergency gave birth to agreement by the trades unions to a regime of obligatory arbitration.

In World War II, there were no strikes in Britain. What is perhaps more significant: for seven years after the war, the workers' leaders continued to maintain that agreement – in recognition of the severe economic crisis through which their people were passing.

IS ISRAEL'S emergency any less serious? War and the threat of war are its constant companions. One-third of its national budget is devoted to her armed security. Apart from the years of regular military service given by every young man and many young women, all adult males are forced to go on "strike" for weeks every year – to do their reserve duty.

No arbitration is available to replace this tremendous loss to the country's economy. The economy is, moreover, subjected continually to a variety of threats and blows, some as a function of world crisis, some as a concomitant of the "conflict" with the Arabs.

With national productivity thus bludgeoned on all sides, individual productivity is famously low. Israel's economic state is symbolized by the fact that it is partly dependent on a U.S. subsidy.

By what canon of morals, of political sanity, of national responsibility, can the refusal to act to solve industrial disputes by peaceful, equitable, judicial arbitration, be justified by the nation's leaders and tolerated by the nation which pays the price?

Reader's letter, 30 December 1982

STRIKES

To the Editor of The Jerusalem Post

Sir, – It is beyond my comprehension and probably that of many thinking striking public servants, how Mr. Meshel can believe in what he says, namely that the ministry of Finance is "threatening," when the opposite is the case. It is Mr. Aridor who defends the public and the economy against the threat of strike which would inflict immense losses on the majority of the defenceless population.

The strikers' show of strength has made for bad feeling. There must come a law prohibiting strikes by power groups including public servants. Their possibility justified wage problems will have to be solved by court arbitration.

I applaud Mr. Shmuel Katz for his article in your paper of December 10 and appreciate that *The Jerusalem Post* printed it.

B. WIESNER

Ramat Gan

Reader's letter, 31 December 1982

BINDING ARBITRATION

To the Editor of The Jerusalem Post

Sir, – Shmuel Katz (December 10) advocates binding arbitration for settling labour disputes, so that wasteful strikes can be avoided. When then does he lump university lecturers together with other labour groups who have "held the public up for ransom" by striking for higher salaries? The fact is that the lecturers' claims *were* submitted to binding arbitration (endorsed by the government) in order to reach a contract which addresses the real problems of wage erosion: this should have allowed a fair settlement without the disruption of sanctions which victimize university students. What happened? The government reneged on the results of the arbitration and tried to cancel the recommended settlement.

Shmuel Katz should therefore have praised the Organization of Professors and Lecturers because they agreed to arbitration in order to find a solution, as he recommends; he should not have identified this group with the "wanton strikers." Mr. Katz should also have emphasized that arbitration must be a final negotiating process. The government's rejection of the new contract written by impartial referees acceptable to all parties will unfortunately dissuade other labour groups from turning to arbitration in the future.

DR. LEONARD M. DRUYAN

Ramat Gan.