

Strikes Again

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For the better part of a year, Israel has endured a cycle of public-sector labor unrest that at times has threatened to paralyze the entire economy. The conflict between the government and the Histadrut labor federation, prompted by a series of Finance Ministry proposals over the course of the year to reform the pension system and restructure government agencies, first erupted in thirteen days of severe labor sanctions that began on April 30, 2003. At the time, the bulk of the public sector—which numbers 700,000 employees, or one-third of the country's labor force—ceased to provide the public with services: Government offices were closed, as were the nation's ports; garbage piled up in the streets; even Ben-Gurion Airport, which handles almost all of Israel's commercial air traffic, was twice shut down for up to a day.

In the fall, further Finance Ministry proposals along the same lines sparked a narrower but much lengthier wave of unrest, during which civil servants closed all government offices to the public for more than three months, while deliberate slowdowns by customs workers severely impeded imports of raw materials and exports of finished goods. At several points during this latter strike, the Histadrut sought to up the ante by instructing

workers to prepare for the deployment of what Israelis call the labor federation's "doomsday weapon"—a general public-sector strike of unlimited duration, which would encompass not only the civil service, but also banks, ports, utilities, and other essential industries.

It is hard to overstate the significance of a general strike. The May 2003 strike cost Israel an estimated \$1.3 billion in direct damages, or 1.2 percent of gross domestic product (GDP), yet even that fell short of what a full-blown general strike would have caused.¹ A similar disaster was averted in November only by an eleventh-hour restraining order issued by Israel's National Labor Court. In early January 2004, following one hundred days of sanctions, the Finance Ministry and the Histadrut reached a compromise that ended the civil servants' strike and enabled them to go back to work. But the agreement left many fundamental issues unresolved, and within a month, a new public-sector strike had broken out—this time among municipal workers.

While so intense a storm of labor unrest has not been seen in Israel for many years, last year's events were symptomatic of a long-term trend. Strikes and slowdowns in Israel have increased sharply over the last two decades—a period during which they declined dramatically in other Western countries. As a result, Israel has emerged as far and away the most strike-ridden economy in the West, imperiling its ability to compete in an increasingly integrated economic environment.

Strikes cause hundreds of millions of dollars of direct damage to Israel's economy every year. But the true costs are undoubtedly even greater. By rendering Israeli products more expensive and making delivery times unreliable—two factors that significantly reduce Israeli companies' international competitiveness—strikes create a major drain on an economy in which exports account for more than one-third of the GDP.² And perhaps even more importantly, they have managed to force successive governments to back down on reforms that would have increased public-sector efficiency and led to major savings for the entire country.

While sustaining a burden of this magnitude would be difficult for any nation, for Israel—already saddled by an ongoing terrorist war and the

international recession in the high-tech sector—the consequences are especially acute. Yet unlike these other difficulties, the problem of strikes is largely within the government’s ability to solve. A reduced public sector, appropriate legislation limiting the right to strike and, above all, greater governmental determination in the face of strikes could restore labor’s role to its proper dimensions, just as they have in many other Western countries.

This does not mean that either the government or private-sector employers should be allowed free rein in the way they treat their workers: Unions play a crucial role in maintaining the balance of power between employers and workers through collective bargaining. Nevertheless, the power of Israeli unions has expanded beyond any justifiable measure, to the point that they defy court rulings and even the Knesset itself—a development that has resulted in incalculable damage to the country’s economy and its way of life.

From 1997 through 2001, Israel lost an average of 1.9 million workdays to strikes each year. To appreciate the enormity of this figure, consider that over the last decade, the United States averaged approximately 5.2 million strike days per year, fewer than three times as many as Israel—even though America’s population is 48 times larger. In 2001 alone, the most recent year for which comparative statistics were available at the time of writing, the Jewish state lost 2.0 million workdays to strikes—two-thirds *more* than the 1.2 million workdays the United States lost that year.³

That a country of 6 million could outpace the world’s largest economy in workdays lost to strikes illustrates both the severity and the uniqueness of Israel’s problem. Indeed, compared with other Western countries, Israel is in a class all its own. From 1997 to 2001, two of the West’s most strike-ridden economies, Canada and Spain, lost an annual average, respectively, of 170 and 143 workdays per thousand workers to strikes. In the United States and most European countries, the figure was below 75. Israel, in

contrast, lost an average of 889 workdays per thousand workers during this period, a rate more than 12 times higher than that of most countries in Europe.⁴

Strikes also affect a much wider segment of the workforce in Israel than in other countries. In 2000 and 2001, 1 out of every 6 Israeli employees was involved in a strike, compared to 1 out of 9 in Spain, 1 out of 50 in Ireland, and 1 out of 140 in Great Britain.⁵ In other words, strikes in Israel are not localized events concentrated in a particular company or industry, but tend to hit a broad swath of the economy every year. And while it is true that general strikes, in which the entire public sector is shut down, are relatively rare, “rolling” strikes, in which one government agency after another declares a work dispute on a different pretext, are common. In early 1999, for instance, the Interior Ministry, Labor and Social Affairs Ministry, and National Insurance Institute all went on strike within the space of two and a half months.⁶ Likewise, in the fall of 2001, the list of public-sector bodies on strike included the ports, the Customs Agency, the airport, the Labor Ministry, the Land Registry, and the National Insurance Institute, as well as the university professors.⁷ According to Labor Ministry statistics, the public sector accounted for 96 percent of all workdays lost to strikes from 1997 to 2001.⁸ Thus, even though strikes against privately owned businesses are virtually nonexistent, Israel’s public-sector workers strike so often and for so long that they have made Israel the most strike-ridden economy in the industrialized world.

This problem is not new, but it has become far more severe in recent years: The number of workdays lost to strikes in Israel in 1997-2001 was more than double that of 1985-1989. Competing Western nations, by contrast, have managed to reduce labor unrest significantly over the last two decades through a combination of economic restructuring and legislation.

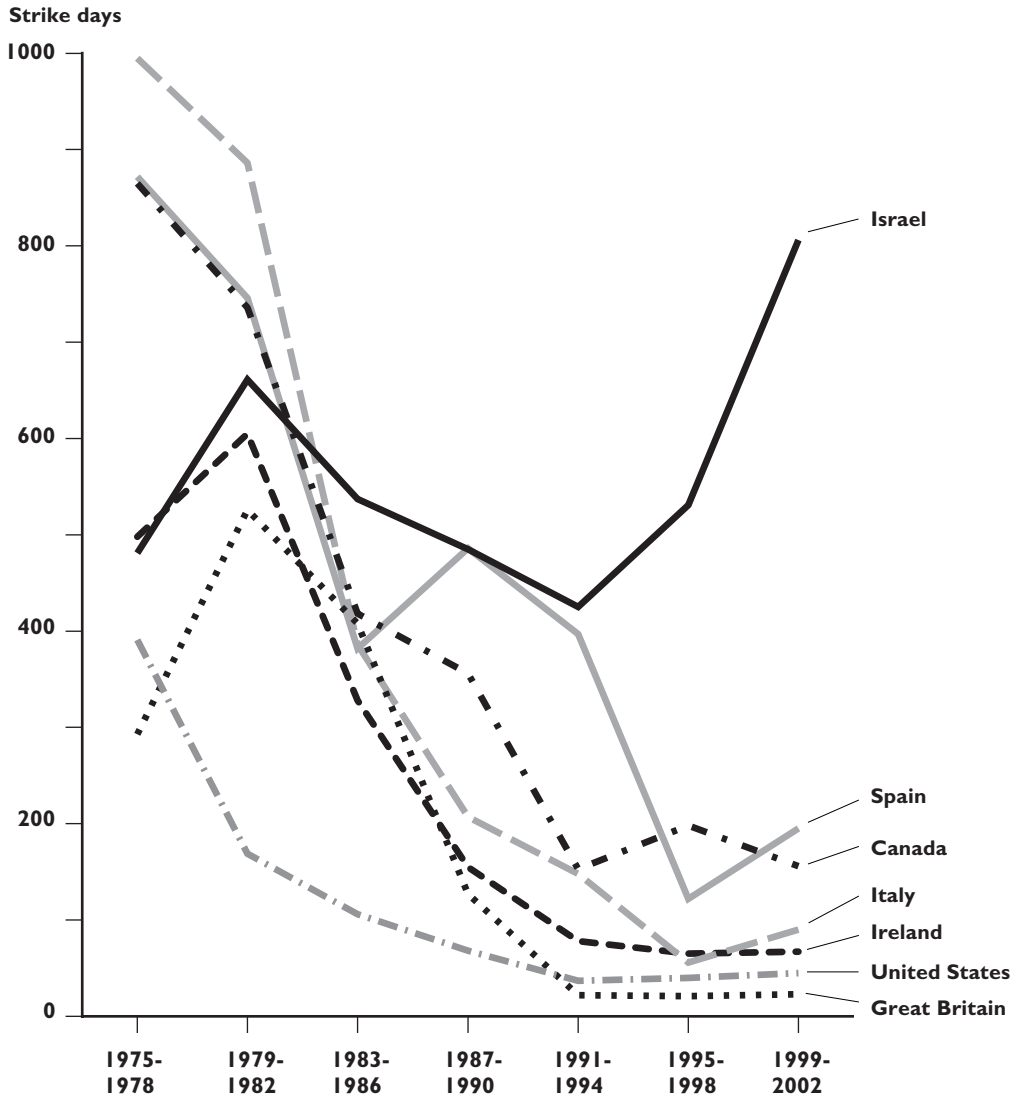
There was a time when Israel was one of the *least* strike-plagued countries in the West: From 1965 to 1974, Israel had fewer strike days per thousand workers than the United States, Great Britain, Italy, Canada, Australia, Denmark, Belgium, and France—and often by large margins.

The United States, for instance, averaged more than five times as many strike days per thousand workers as Israel did during that decade.⁹ But as the chart on page 63 shows, the last two decades have witnessed a remarkable decrease in strikes throughout the industrialized West. In light of this, Israel's swing in the opposite direction is all the more disturbing.

Strikes in Israel also tend to be more painful than those in other countries, since they generally occur in essential services such as health care, education, transportation, utilities, and sanitation. Indeed, in strikes of essential services—which in Israel are provided almost entirely by the public sector¹⁰—tiny Israel has become an unparalleled world leader. From 1997 to 2000, Israel lost an average of 1.80 million workdays a year in essential services (including education and public administration). This compares to 1.28 million in Canada, 1.21 million in the United States, 275,000 in Italy, 201,000 in Great Britain, 71,000 in Japan, and even fewer in other European countries, with Germany at the bottom of the list with a mere 7,360 lost workdays.¹¹

In some cases, the services affected by strikes in Israel are so important that they are considered off limits to strikers in other countries. The public-sector strike that took place last May, for example, twice shut down Israel's only major airport for up to a day, even though the International Labor Organization has ruled that vital services such as air travel cannot be shut down during a strike.¹² Similarly, employees of the Israel Electric Corporation cut off power to various parts of the country during strikes in both 1991 and 1994,¹³ and employees of Mekorot, the company that supplies water to virtually the entire country, turned off the taps to a number of localities on a rotating basis during a strike in 1999.¹⁴ Both of these instances go well beyond a strike in which workers simply refuse to provide a service: In these cases, the employees took action to halt the supply of a vital resource that otherwise would have continued flowing. Furthermore, both actions carried a potential risk to human health. The water strike, for example, took place during the heat of August, when the risks of fires and dehydration are at their peak. And according to experts in the field, the

Strike Days per Thousand Workers in 1975-2002 (Four-Year Averages)



Data on Israel taken from the Central Bureau of Statistics, *Statistical Abstract of Israel* (Jerusalem: Central Bureau of Statistics). Data on other countries taken from the International Labor Organization, *Yearbook of Labor Statistics* (Geneva: ILO).

workers' decision to turn the taps on and off also caused damage to the nation's water supply.¹⁵

While many Israelis sense that something is amiss with the country's culture of strikes, they probably are unaware of the problem's true dimensions. The grim reality is that Israel is hit more frequently by strikes, and suffers more intensely because of them, than any other Western country—and the disparity is only intensifying with time.

The damage caused by strikes is extremely difficult to calculate. What is clear, however, is that it goes far beyond the work hours lost by the strikers themselves. During the strike last spring, for instance, the Manufacturers' Association estimated that shipping delays in both the import of raw materials and the export of finished goods prevented factories from working at normal capacity, causing some 5,000 workers to lose their jobs.¹⁶ Even if some of these workers were eventually rehired, their lost income had a direct impact on consumer spending and investment, and therefore on economic growth as a whole. The same is true for the self-employed whose businesses are adversely affected. Truckers, for example, are forcibly idled every time there is a ports or customs strike—lost work time that only rarely can be made up after the strike ends. Furthermore, since contracts often require manufacturers to pay a stiff fine for late delivery, a strike that delays production forces factories either to put workers on overtime to complete the contract or to pay the penalty, both of which entail substantial costs.

This ripple effect makes strikes extremely costly. The May 2003 strike, for instance, cost the Israeli economy some \$90 million a day even by the most conservative estimate.¹⁷ The Finance Ministry estimates that partial public-sector strikes (comprising some 60 percent of the public sector, but excluding essential services) generally cost about \$55 million a day, while a full strike, which also encompasses essential industries such as ports and banks, costs between \$145 million and \$300 million a day.¹⁸ Indeed, at a conservative estimate, strikes cost the economy an annual average of some

\$675 million, or 0.64 percent of gross domestic product, between 1997 and 2001. Since average GDP growth during these years was about 2.9 percent,¹⁹ this means that strikes reduced economic growth by about a fifth during this period—and the real figure is probably even higher.²⁰

Strikes also cause indirect damage that is no less severe, even though the effects may not be felt until long after the unions go back to work. One example was the decision of the European Mediterranean Trade Association (EMTA), which controls more than 90 percent of shipping to and from Israel, to impose a “congestion surcharge” on all such shipping in response to a lengthy ports strike in 2001. Until this charge was rescinded, both exporters and importers—who together make up the majority of Israel’s economic activity—had to pay an additional 7 percent on every shipment.²¹

An indirect cost that is harder to quantify is the loss of export contracts. For most overseas customers, reliability is as important as quality and price. And while many would probably forgive strike-related delays if they were a rare occurrence, in Israel labor sanctions disrupt the flow of goods with grinding regularity. During the May 2003 strike, for instance, two companies reported suffering order cancellations totaling hundreds of thousands of dollars.²² Those orders were presumably transferred to foreign competitors, and unless the customers are dissatisfied with the new suppliers, the contracts are likely to be permanently lost.

Moreover, in an effort to avoid losing such contracts, Israeli companies are forced to protect themselves by maintaining large inventories of raw materials, or by keeping inventories of finished products overseas, both of which make their products more expensive and less competitive. The Manufacturers’ Association recently estimated these costs of “uncertainty and manufacturers’ lack of faith in orderly ports and customs services” at about \$28 million a month, or more than \$330 million every year.²³

The agreements that usually end these strikes constitute yet another long-term cost. Sometimes this damage is easily calculated, as when the issue of contention is a pay increase. For instance, when the government agreed in November 2001 to give 900 longshoremen a bonus of \$9,000

each plus a 10-percent raise over the next three years—only ten months after they had received a 3.6-percent raise, and at a time when inflation was running under 1.5 percent—taxpayers had to shell out \$8.1 million immediately, and then an additional \$4.6 million each year thereafter. Given the frequency of strikes and the size of Israel’s public sector, it is not hard to see that such generous settlements can quickly add up. And because these raises are in public-sector industries, they must be paid for through higher taxes and fees that further increase the cost of doing business in Israel—thereby further reducing the economy’s competitiveness.

Strikes have also frequently forced the government to back down on planned reforms aimed at making the public sector more efficient—a cost that is much harder to measure. In 2001, for example, a lengthy ports strike forced the government to scrap a plan to introduce competition into the ports, which currently function as a monopoly. Such competition is badly needed: According to the Ports and Railways Authority, every year from 1994 to 1997, ships wasted an average of about 2,500 days waiting for loading or unloading in Haifa and Ashdod Ports, where “waste” is defined as the amount of time they waited in excess of what the authority considers a reasonable level of service.²⁴ This waste is due, among other things, to the fact that Israel’s ports are among the few in the world that work only one, or occasionally two, shifts a day instead of the usual three.²⁵ Since the average cost of a day’s wait, according to the authority, is about \$10,000, and the shippers pass these costs on to the companies that use them, the slow pace of work at Israel’s ports cost the economy an average of almost \$25 million per year during that period.²⁶ The government therefore decided in August 1999 that the new Jubilee Port in Ashdod, which is due to open in 2004, should be privatized, and its wharves licensed to several franchisees, thereby creating competition not just between Jubilee and the veteran ports, but among Jubilee’s various wharves as well. This is the system used by 85 of the world’s 100 major ports, with the 15 holdouts comprising mainly Third World countries, plus Israel.²⁷ But the strike forced the government to

shelve this plan, and a reform that could have resulted in major savings was thus sacrificed to the interests of a relatively small group of workers.²⁸

The above figures illustrate the ongoing economic costs of strikes. Beyond these, however, there is the damage done to quality of life. At a minimum, strikes cause unpleasantness and inconvenience, such as the inability to renew a passport or mail a package. When sanitation workers refuse to collect the garbage, this creates a health hazard as well as an eyesore. For some people, however, the damage is far more acute. In November 2001, for instance, striking employees of the National Insurance Institute withheld monthly unemployment checks from 105,000 jobless people, leaving many of them with no income.²⁹ That same month, Labor Ministry employees refused to admit at-risk teenagers to shelters.³⁰ Even sanctions that seem comparatively harmless, such as a refusal by Interior Ministry workers to issue identity cards, can cause grave harm to certain individuals—as in the case of a mother who was unable to get her baby treated for pneumonia in fall of 2003, because the three-month civil service strike prevented her from obtaining an identity card for the child, and without this card, she could not prove that the baby had health insurance.³¹ Nor are the inconveniences always merely temporary: Teachers' strikes, for instance, which recur almost annually, seriously disrupt students' learning schedules. And even when the lost days are later made up, the strikes send a negative message to Israeli youth about how seriously their teachers take their education.³²

These ongoing irritants have a cumulative effect, making life in Israel—already not an easy proposition—even more difficult. No one is immune to their effects: Factory owners and businessmen, low-income families and the unemployed all suffer alike. And it goes without saying that the situation has hardly contributed to a positive national image. Strikes have made Israel less attractive—to its own citizens, to potential investors, and to many Jews who might otherwise make Israel their home.

Why is the problem of strikes so much worse in Israel than in other industrialized countries? One answer is Israel's highly centralized economy. Since the incentive to strike is much greater in the public sector, the size of this sector in Israel—constituting about 55 percent of the country's economic activity, the highest in the industrialized world—multiplies both the frequency and magnitude of strikes. The reason the incentive to strike is so much greater in this sector is simple: In private companies, workers are deterred by several factors, ranging from the fear that extensive strike damage could push an already ailing company to fold, throwing everyone out of a job, to the certainty that they will at least have their pay deducted for the days they miss. In the public sector, however, these dangers rarely apply. Government ministries and agencies are not going to close for lack of profitability, and even the danger of individual dismissals is minimal, since all government employees receive tenure after a relatively short time on the job (anywhere from six months to four years). And while docking pay is possible in theory, in practice most public-sector labor sanctions do not end until the government agrees to forgo this privilege almost entirely.³³ A typical settlement resembles that reached by striking municipal unions in November 2002, in which workers lost one day's pay for a strike that lasted nine days.³⁴

In Israel, moreover, most public services are provided by government authorities and state-owned monopolies, and are therefore not subject to the forces of a competitive environment. In countries with several independent ports, for example, port workers are deterred from striking by fear that business will shift to a rival port, thus leading to dismissals at their own. In Israel, however, where all ports are run by the same government authority, port workers are linked together by a single collective bargaining agreement. The monopolistic employer thus produces a monopolistic union: When one port strikes, they all do, leaving customers with no way to get merchandise into or out of the country. It is therefore no surprise that

strikes have become much less frequent in the few public-sector areas in which competition has been introduced. Television blackouts, for instance, were common in the days when the country's only station was state-owned, but have virtually disappeared since the establishment of a second, competitive channel a decade ago.

Because public-sector workers are practically immune to penalties, they can strike over issues that private-sector workers would find hard to fathom. One of the most common is a demand for real wage increases during periods of deep recession, when many private-sector workers are suffering either layoffs or pay cuts. The wave of strikes in November 2001 is a good example. According to data published in October and November of that year, the GDP fell 2.8 percent in the third quarter after a 1-percent drop in the second; meanwhile, unemployment had jumped to 9.3 percent in the third quarter from 8.1 percent in the second.³⁵ All of this growth in unemployment occurred in the private sector, which lost 73,000 jobs from April 2001 to January 2003; the public sector took on 46,000 new workers during this period.³⁶ Furthermore, the entire public sector (with the exception of municipal workers) had been granted a 3.6-percent raise just ten months earlier—an increase greater than the inflation rate for 1999, 2000, and 2001 combined.³⁷ Yet despite the benefits of job security at a time of growing unemployment, and a real wage increase at a time when private-sector wages were falling, each of the unions that struck in November 2001—dock, customs, and airport workers; Labor Ministry, Land Registry, and National Insurance Institute personnel; and university professors—did so in support of a demand for an additional wage increase. The professors, for example, wanted a 16-percent raise, and Labor Ministry employees wanted 7.5 percent, even though inflation that year was just 1.4 percent.³⁸

In addition to the incentives resulting from a centralized economy, strikes are also encouraged by the anomalies of Israel's legal system. One example is Article 24 of the Collective Agreements Law, which states

explicitly that “neither a labor organization nor an employers’ organization shall be liable for compensation for violating its obligations under a collective agreement.”³⁹ Though the phrasing may sound evenhanded, in practice it has meant that private-sector employers cannot sue unions for violating the no-strike pledge that is standard in almost every collective agreement, while public-sector employers, for whom this proviso is mitigated slightly by the Settlement of Labor Disputes Law, can do so only under limited circumstances.⁴⁰ The fact that unions can violate their no-strike pledge without risking a lawsuit significantly reduces the value of such a promise. Thus, from 1970 to 1980, for instance, more than two-thirds of all strikes erupted while a collective agreement containing a no-strike clause was in force.⁴¹

More important, however, is the almost complete absence of direct legal limitations on the right to strike, of the kind that exist almost everywhere in the industrialized world. Some countries, such as the United States, Canada, and Japan, have banned strikes outright in key public-sector industries, referring all labor disputes to binding arbitration instead.⁴² In Israel, however, such a ban exists only in one narrow area of the public sector: The police and other security services.⁴³ Though the idea of applying such a ban to the entire public sector has been considered occasionally—in response to a wave of strikes in 1976, for instance, five different bills calling for public-sector strikes to be replaced with binding arbitration were submitted by private Knesset members, and the government even considered submitting such a bill itself⁴⁴—no proposal to this effect has ever passed Israel’s parliament.

A common alternative to an outright ban on public-sector strikes is legislation permitting them only if they are approved by a majority of a union’s members voting in a secret ballot. This would seem to be a self-evident restriction: Since it is the workers who are most directly affected, they should be able to decide for themselves whether the potential gains are worth the risks. In Israel, however, each union’s “workers’ committee”—the handful of people on the union’s executive—has the power to decide

whether to put the union's thousands or tens of thousands of members on strike, regardless of the workers' views. Then-Prime Minister Benjamin Netanyahu pledged to introduce legislation to rectify this situation in 1998, but he never followed through; nor has he, as finance minister, kept a similar pledge made during the May 2003 strike.⁴⁵ According to media reports, a position paper prepared by the Finance Ministry in November did propose legislation conditioning the right to strike on a vote by union members. But as of this writing, and despite a new wave of crippling work stoppages in the public sector, the government has yet to submit legislation of its own on the subject, and it agreed to support the preliminary reading of a private member's bill to this effect only in exchange for a pledge that the bill would be frozen after the vote.⁴⁶

The lack of legislative controls, however, is only part of the picture. Equally troubling is the behavior of Israel's labor courts, an autonomous branch of the judiciary dedicated solely to settling individual and collective labor disputes. These courts have consistently demonstrated a pro-union bias, extending the right to strike well beyond what is implicit in the legislation, or what is accepted in other countries. Mekorot workers' "right" to turn off the country's water supply, for instance, was upheld explicitly by the Tel Aviv Labor Court when the company sought a restraining order to end the stoppages. When the company appealed, the National Labor Court lent implicit sanction to the practice by permitting it to continue for another four days while it tried to mediate between the parties.⁴⁷

Indeed, because of these courts, Israel may be the only industrialized country in the world in which the right to strike is protected even when the strike explicitly violates the law. For example, one of the few existing legal restrictions on strikes in Israel is the requirement of a 15-day cooling-off period between the declaration of a work dispute and the start of a strike. Yet the labor courts have overruled this law as a violation of the workers' right to strike. In December 1997, for instance, the Tel Aviv municipality sought a restraining order against the city's garbage collectors, who had walked off the job without waiting for the end of the cooling-off period.

The Tel Aviv Labor Court granted the order, on the grounds that the strikers clearly violated the law. But in a 2–1 decision, the National Labor Court overturned this ruling, declaring that the workers’ right to strike took precedence over the law. In the majority opinion, the court’s president and vice president, Steve Adler and Elisheva Barak, wrote: “The Labor Court is not obligated to issue a restraining order against strikers in every case of an unauthorized strike. It has discretion to uphold the freedom to strike in the event of a unilateral change in the nature of labor relations”—in this case, the municipality’s decision to outsource some of its garbage collection.⁴⁸ In fact, the labor courts have even permitted strikers to ignore restraining orders that they themselves issued, as in another case that year, when public-sector workers participating in a Histadrut-led general strike refused to work, in defiance of restraining orders issued by the Tel Aviv Labor Court. When the government appealed to the National Labor Court, Adler, rather than penalizing the unions for violating a court order, summoned Finance Ministry representatives to his office for a marathon negotiating session on the workers’ grievances.⁴⁹

The labor courts also have contributed to the unusual severity of Israel’s strike problem by neutralizing what few weapons the existing law puts in the government’s hands—in the process severely upsetting the balance of power between labor and government. For instance, a series of labor court rulings have declared that the government may deduct only 30 percent of a worker’s pay as long as he shows up at the office during a “partial strike,” even if his job consists entirely of functions barred by the sanctions, such as dealing with the public.⁵⁰ Not surprisingly, this is a common tactic in public-sector strikes, since in many government offices, dealing with the public is most employees’ full-time job. Thus, by declaring a partial strike, in which workers deny service to the public but continue to perform administrative duties, labor unions can produce almost the same effect as a full strike while risking only 30 percent of workers’ pay.

Similarly, the labor courts gutted the 1945 Emergency Defense Regulations, which entitle the government to issue back-to-work orders to striking

workers in essential public services in order to keep the economy functioning. The caveat is that in practice, such orders require the consent of the labor courts, which generally view their role as strengthening the right to strike. “Limitations on the right to strike make it difficult for unions to maintain their existing organizations, to fulfill their function, and to persuade unorganized workers to organize,” explained Adler in a 1997 essay. “The court takes into account the need to strengthen workers’ right to organize and recently has even acted to strengthen the right to strike and to reduce the restrictions imposed on [this right].... The court has adopted a minimalist policy with regard to issuing restraining orders against strikes.”⁵¹ Such a policy means that strikes are almost always an effective method of accomplishing what the unions want: If the government cannot ensure the continued functioning of essential services, it has little choice but to capitulate quickly in order to keep the country from being brought to its knees.

Employers’ organizations, led by the Federation of Israeli Chambers of Commerce, have argued recently that the only solution is to abolish the labor courts altogether and transfer their functions to the regular courts.⁵² Such a move would certainly make sense administratively, since maintaining two separate court systems is hardly cost-effective. But it would also probably reduce the pro-labor bias in the judicial system, both by broadening the spectrum of opinion involved in the decision-making process (there are many more regular judges than labor court judges)⁵³ and by eliminating the tendency—common to all niche institutions—to justify the system’s existence by taking an activist role.⁵⁴ Unfortunately, the government rejected a Finance Ministry proposal to include such a reform in the 2004 budget, and a “softer” version now being proposed by Justice Minister Yosef Lapid is unlikely to have much effect.⁵⁵

By far the most pernicious reason for the ongoing strikes, however, has been a consistent lack of governmental will in dealing with them. One example is the practice of “forgiving” most strike days in the public

sector, rather than docking workers' pay—a practice that makes strikes nearly cost-free to the workers and unions that precipitate them.⁵⁶ Government weakness is most apparent, however, in the generous settlements that have ended most strikes. Indeed, between 1977 and 2001, strikes resulted in full acceptance of 36 percent of workers' demands, partial acceptance of another 40 percent, and rejection of only 24 percent. By contrast, during those same years, disputes that were submitted to arbitration resulted in full acceptance of 24 percent of workers' demands and partial acceptance of another 28 percent, while fully 48 percent were rejected.⁵⁷

The settlements that resolved the strikes in the autumn of 2001 provide excellent examples of this generosity. In addition to the 10-percent raise and \$9,000 bonus received by port workers, airport workers obtained an 8-percent raise over a three-year period—both of these following a 3.6-percent raise just ten months earlier. For the airport workers, whose average salary that year was \$3,100 a month, this translated into an average raise of \$250 a month by the end of the three years, the equivalent of about two days' pay. In other words, a two-day strike (even in the unlikely event that the government were to deduct wages fully) would pay for itself within a month. For the port workers, whose average salary was about \$4,300 a month, the bonus alone was enough to pay for a strike of more than two months' duration. With gains of this size in the offing, strikes naturally become an appealing negotiating tactic.

The incentives created by the government's generous settlements are compounded by its reluctance to take any actions that might mitigate the damage that strikes cause. The government rarely even tries to issue back-to-work orders for essential personnel, although this reluctance is no doubt encouraged by the courts' tendency not to approve them. Nor has it ever tried to bring in temporary help to ease the problems caused by labor sanctions, as other countries sometimes do.⁵⁸ This is a critical factor, because the economic devastation brought about by strikes is the very reason unions find them so tempting. So long as the Histadrut can bring the economy to a virtual standstill, the government almost always will feel

compelled to capitulate quickly. The balance of power would be altogether different, however, if, through a combination of back-to-work orders and the use of temporary help, the government could reduce the damage enough to hold out for longer. Though almost all workers would be willing to sacrifice a few days' pay for long-term gains, many cannot afford to lose several weeks' salary all at once. And a lengthy strike reduces the likelihood that even a generous settlement will cover the losses.

Thus, the longer the government allows a strike to continue, the less attractive it is for workers—assuming, of course, that the government takes the necessary measures to make it unattractive: Refusing to compensate workers for days they did not work; ensuring that the final settlement is not so generous as to make the strike worthwhile; and mitigating the damage to the economy through back-to-work orders or the use of temporary replacements. Ultimately, this is all a matter of political will, requiring both strong leadership and a concerted effort to explain the necessity of the government's actions to the public. It was precisely such demonstrations of political will in the 1980s—by Ronald Reagan against the air traffic controllers and Margaret Thatcher against the coal miners—that enabled the United States and Great Britain to bring the problem of rampant strikes in their countries under control.

In light of the dramatic reduction in strikes throughout the rest of the industrialized world, Israel can no longer afford to maintain a system that provides public-sector workers with a nearly overwhelming incentive to strike. Fortunately, there are some indications that the time may be ripe for change. The present government, including both a finance minister dedicated to economic reform and two coalition partners that largely support his efforts—Shinui and the National Union—reflects a political constellation far better prepared for a contest of wills with the Histadrut than at any time in recent history. And indeed, in dealing with the past year's strikes, the government has shown occasional flashes of resolve. For

example, it insisted on docking 30 percent of workers' paychecks during the civil-service strike of fall 2003, though this cut was hardly commensurate with the damage caused by the three-month closure of government offices to the public.⁵⁹ The government also made efforts to circumvent a ports strike last fall, by requesting permission from Egypt and Jordan to ship Israeli merchandise through their ports and promising to subsidize the costs of trucking goods to and from them,⁶⁰ and by signing a deal with a private shipyard in Haifa Bay, under which the shipyard would upgrade its facilities in preparation for handling international freight should the strike continue.⁶¹ These measures, and others like them, may suggest a change for the better in the government's approach to the problem of strikes. Nevertheless, as the outcome of last fall's civil service strike clearly shows, much more is needed.⁶²

It is also encouraging that the government has finally begun to explore legislative measures. A Finance Ministry position paper published in November 2003 proposed a number of legislative changes, including a prohibition on strikes not directed at the strikers' employer (in effect, a ban on "sympathy strikes"); a prohibition on strikes against the government when it acts in its capacity as policy-maker, as opposed to in its role as employer; lengthening the minimum period of time between the declaration of a labor dispute and the onset of a strike from 15 to 60 days; and requiring public-sector strikes to be approved by a majority of a union's members in a secret ballot.⁶³ Only time will tell whether anything comes of these initiatives. It is clear, however, that the result would be a much-needed improvement in the labor situation in Israel.

The public, too, appears to be growing impatient. A poll commissioned by the daily *Ha'aretz* in May 2003, in the midst of a major strike, yielded surprising results. By a large margin, the public agreed with the Histadrut that the government's economic program—the official pretext for the strike—ought to be scrapped: Some 52 percent of respondents opposed the program, while only 26 percent supported it. Nevertheless, 53 percent of respondents opposed the strike, while only 32 percent supported it.⁶⁴ In

other words, many Israelis were unwilling to support the strike even though they supported the cause for which the workers were striking. One can only imagine the kind of public frustration that accompanies the majority of public-sector strikes, which are carried out in the name of causes in which most Israelis have little interest.

This conclusion emerges even more strongly from a survey conducted by the Ministry of Labor and Social Affairs in January 2002. That survey, which attempted to determine whether people would support curbs on strikes, found that fully 84 percent of the public favored instituting mandatory, binding arbitration for public-sector labor disputes, a procedure that necessarily entails a comprehensive ban on such strikes.⁶⁵

The present government has correctly understood that Israel's recession provides a unique opportunity for effecting major reforms. But unless it takes advantage of this moment to end the plague of strikes afflicting Israel, there is a good chance that these reforms will either be thwarted by strikes from the outset, or be rolled back by a new wave of labor unrest the minute the economy picks up again.⁶⁶ This does not mean that workers should be denied the right to unionize, to bargain collectively over the terms of their employment, or to strike when doing so is warranted. Rather, it means returning the right to strike to its proper dimensions. For in an increasingly competitive global economy, Israel's prosperity, including that of its workers, depends on an economy that functions smoothly, without constant, jarring interruptions. Creating such an environment will require a sustained and focused effort. But the benefits to Israel's economy, and to the enterprise of building a strong and attractive Jewish state, will endure for generations.

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Notes

1. Business Data Israel (BDI) report, "Israel Is Breaking Records for the Number of Strike Days," May 22, 2003. [Hebrew]

2. According to data from the Central Bureau of Statistics, exports accounted for about 35 percent of gross domestic product in 2002. Data taken from the Central Bureau of Statistics website: www.cbs.gov.il.

3. Data taken from the websites of the Israeli Ministry of Labor and Social Affairs (www.molsa.gov.il/ZhuitOvdim/laborRel/) and the U.S. Department of Labor (<http://data.bls.gov/cgi-bin/surveymost>).

4. Data on Israel taken from the Central Bureau of Statistics, *Statistical Abstract of Israel* (Jerusalem: Central Bureau of Statistics) for relevant years. Data on other countries taken from the International Labor Organization, *Yearbook of Labor Statistics* (Geneva: ILO) for relevant years. The CBS figures are also reported in the ILO yearbook.

5. BDI report, "Israel Is Breaking Records."

6. Evelyn Gordon, "Stream of Strikes," *The Jerusalem Post*, March 16, 1999.

7. Evelyn Gordon, "A Plague on Strikes," *The Jerusalem Post*, November 27, 2001. In Israel, dockworkers, airport workers, and university staff are all considered public-sector employees. The docks and the airport are state-owned; the universities are independent, but almost entirely state-funded.

8. See the Ministry of Labor website: www.molsa.gov.il. Interestingly, this was not always the case: In 1972 and 1973, for instance, the public sector accounted for only 45 percent and 50 percent, respectively, of total workdays lost to strikes. Over the last 30 years, however, this sector has steadily increased its share of the total. See Karen Finkelstein, "A Solution to Strikes in the Public Sector—Effective Use of the Institute for Agreed Arbitration" (Jerusalem: Institute for Advanced Strategic and Political Studies, 2003), p. 7. [Hebrew]

9. Arie Shirom, *Introduction to Labor Relations in Israel* (Tel Aviv: Am Oved, 1983), p. 238. [Hebrew] The actual figures are: Italy, 1,655 strike days per 1,000 workers; Canada, 1,644; United States, 1,350; Australia, 913; Britain, 743; Denmark, 511; Belgium, 334; France, 274; Israel, 252.

10. Essential services are defined as electricity, gas and water supply, transportation, storage and communications, public administration and defense, education, health, and community services. In Israel, with a few exceptions, these are all public-sector industries. (There are, for instance, a few private hospitals, but most are owned by either the government or the Histadrut. Similarly, the two major bus cooperatives are part public, part private: Employees are public-sector workers,

and usually join public-sector strikes, but cooperative members own their own buses, and therefore generally refrain from striking.) Israel's public sector also includes some elements that are not defined as essential services, such as two of the three largest banks and a few major state-owned industrial concerns. Overall, however, there is a very broad overlap between Israel's public sector and its essential services.

11. Data taken from the International Labor Organization, *Yearbook of Labor Statistics*, 2002, quoted in Finkelstein, "A Solution to Strikes," p. 28.

12. Ruth Sinai, "Limiting the Right Is Reasonable, But Abolishing It Is a Step Against Democracy," *Ha'aretz*, May 16, 2003.

13. Finkelstein, "A Solution to Strikes," p. 26.

14. Evelyn Gordon, "A Draining Strike," *The Jerusalem Post*, August 10, 1999.

15. Zafirir Rinat, "Experts: Water Stoppages in Large Cities Could Endanger Quality of Drinking Water," *Ha'aretz*, August 4, 1999.

16. Haim Bior, "Industrialists: Strike Damage Is an Estimated NIS 4 Billion," *Ha'aretz*, May 18, 2003.

17. This was the Manufacturers' Association's estimate. The Finance Ministry put the figure at \$220 million a day, while B.D.I.'s estimate, based on its total of \$1.3 billion for the entire strike, was about \$100 million a day. Both Finance Ministry and Manufacturers' Association figures taken from "The Growing Cost of the Strike," *Ha'aretz*, May 2, 2003.

18. Finkelstein, "A Solution to Strikes," p. 27.

19. Data taken from the Central Bureau of Statistics website.

20. There is no generally accepted method of calculating strike damage; the calculation depends on a host of variables, such as which industry is striking and how long each strike lasts (a lengthy strike, for example, is much more damaging than a series of one-day strikes scattered throughout the year). The simplest method of obtaining a rough estimate of the direct damage—which is universally agreed to be an underestimate—is to multiply GDP per worker per day times the number of strike days. In 1988, Adrian Zeiderman and Shoshana Neumann tried to determine how much of an underestimate this was by using a more complex formula for determining the damage for selected years in the 1970s, and concluded that the real damage was anywhere from 25 to 75 percent higher than the estimate produced by the simplistic method. Adrian Zeiderman and Shoshana Neumann, "The Economic Cost of Strikes in Israel: An Input-Output Approach," in Pinhas Susman and Yoel Natan, eds., *Studies in Economics* (Jerusalem: Israel Economics

Association, 1988), pp. 53-67. [Hebrew] To produce my estimate for 1997-2001, I used the simplistic method and then multiplied the results by 1.75, the higher end of the range that Zeiderman and Neumann gave. In fact, however, this is almost certainly still an underestimate, since Zeiderman and Neumann noted that the extent of the underestimate depends largely on which industries are striking—a ports strike, for instance, causes much more ambient damage than a strike at a swimwear factory—and public-sector strikes are at the top of the ladder in terms of causing damage. Roni Bar-Tzuri, “Strikes in Israel, 1983-1992,” *Economics and Labor* 9 (October 1994), p. 136. [Hebrew] Since public-sector strikes accounted for 45 to 80 percent of total strikes during the years of Zeiderman’s and Neumann’s calculations (Finkelstein, “A Solution to Strikes,” p. 7), compared to 96 percent during 1997-2001, it is reasonable to assume that the correct multiplier should have been even higher.

21. The additional tax went into effect on November 19, 2001, and was canceled at Haifa Port on December 22, 2001, and at Ashdod Port on January 1, 2002. Information can be found at EMTA’s website: www.containerconferences.org/emta/press/011220ni.htm.

22. Information provided to the author by the Manufacturers’ Association, which collected data from companies on damages caused by the strike in preparation for filing a suit against the Histadrut.

23. *Focus on Industry* (the Manufacturers’ Association’s online journal), June 11, 2003, www.industry.org.il/Magazine/Item.asp?ArticleID=298&CategoryID=3681&MagazineID=13. [Hebrew]

24. According to the 1997 State Comptroller’s Report, the Israel Ports Authority defines a “good” level of service as a wait of up to 2.2 hours. Yet in 1995, the average wait was 19.2 hours in Haifa and 14.4 hours in Ashdod. Figures quoted in Amir Etzioni, “Reforming Israel’s Seaports” (Jerusalem: Institute for Advanced Strategic and Political Studies, 1999), pp. 18-19. [Hebrew]

25. Nehemia Strasler, “Scandal at the Ports,” *Ha’aretz*, May 30, 2000.

26. The real figure is even higher, because the amount of time that ships spend waiting over the weekend (Friday afternoon through Sunday morning) is not included in the authority’s calculations. Etzioni, “Reforming Israel’s Seaports,” pp. 18-19.

27. Nehemia Strasler, “Sail, Sail, My Ship,” *Ha’aretz*, February 8, 2000. Of the 15 exceptions, 10 are in Third World countries and two others in Israel (Haifa and Ashdod).

28. In autumn 2003, the government once again tried to implement this reform and was met by another strike, which ended when the Finance Ministry

agreed to negotiate with the port unions over the plan. As of this writing, the negotiations are still continuing, but it appears that the ministry has already conceded major elements of its original proposal.

29. Unemployment checks were withheld for five days as a result of the strike. Moti Bassok, Haim Bior, "The Strikes Are Over at the National Insurance and Customs Offices," *Ha'aretz*, November 21, 2001.

30. Gordon, "A Plague on Strikes."

31. Relly Sa'ar, "A Baby with Pneumonia Was Refused Treatment," *Ha'aretz*, December 24, 2003.

32. Indeed, strikes were one of the factors cited by adults and students alike as contributing to Israel's poor showing in a comparative study of student achievement administered by the Program for International Student Assessment. The study, whose results were published in July 2003, found that Israeli 15-year-olds ranked 30th out of 41 countries in reading comprehension, 31st in mathematical skills, and 33rd in scientific knowledge—making Israel the only country to rank in the bottom third of the industrialized nations three years running. See www1.oecd.org/publications/e-book/9603071E.PDF.

33. The government's decision to dock paychecks, albeit partially, during both of the major strikes in 2003 was a rare exception to this rule.

34. Haim Bior, Haim Shadmi, Yam Yehoshua, "Local Councils Strike Ends; Trash Collection Begins," *Ha'aretz*, November 14, 2002. In addition, four days were deducted from municipal workers' annual vacation allowance, and they agreed to "return" the remaining four days by working extra hours. Neither of these measures, however, has anything like the deterrent effect of losing almost two weeks' salary.

35. Gordon, "A Plague on Strikes."

36. Avraham Tal, "Peretz's Empty Words," *Ha'aretz*, April 30, 2003.

37. Inflation was 1.3 percent in 1999, 0 percent in 2000, and 1.4 percent in 2001. Data taken from the Central Bureau of Statistics website.

38. What makes such strikes even more outrageous is that the strikers are already some of the best-paid workers in the economy. In 2001, the average wage for the economy as a whole was \$1,700 a month. By comparison, average wages that year at a sampling of public-sector agencies were as follows: Bezeq (the phone company), \$2,900; National Insurance Institute, \$2,600; Airports Authority, \$3,100; Ports and Railways Authority, \$4,300; Israel Broadcasting Authority, \$3,600; Israel Electric Corporation, \$4,000 (plus unlimited free electricity); and Mekorot Water Company, \$3,100 (data from the Finance Ministry's annual

report on public-sector wages). And these figures do not include the other huge financial benefit enjoyed by civil servants: Whereas private-sector workers were required at that time to deposit 5.5 percent of their salaries in pension funds every month—the figure was slated to increase to 7 percent at the beginning of 2004—the government picked up the entire tab for civil servants’ pensions until January 2004, and even after that, civil servants were required to contribute only 1 percent of their salaries.

39. Collective Agreements Law (1957), art. 24. [Hebrew]

40. The Settlement of Labor Disputes Law (1957) says that the no-lawsuit provision applies to all public-sector strikes called while a collective agreement is in force except for (a) those not authorized by the Histadrut and (b) those called over wages and benefits. The first exception obviously is not much of a restriction. The second seemingly is more significant, since, though strikes are often called over other issues as well (dismissals or demands for additional hiring, for example), wages and benefits are the pretext for about 20 to 25 percent of all strikes, according to Labor Ministry statistics (see the Labor Ministry website: www.molsa.gov.il). In practice, however, government agencies almost never sue over strikes, due to a combination of unwillingness to antagonize the Histadrut and the objective difficulties of winning such a suit in the pro-union labor courts. With a sympathetic court, it would be relatively easy for a union to argue that some change in circumstances (for instance, an increased workload) justified striking for higher wages despite the no-strike pledge in the collective agreement—and, as will be seen below, the labor courts have generally proven willing to seize any pretext for bending the law in the unions’ favor.

41. Shirom, *Introduction to Labor Relations in Israel*, p. 242.

42. Sinai, “Limiting the Right Is Reasonable”; Finkelstein, “A Solution to Strikes,” pp. 29-31.

43. The ban does not encompass all employees of the security services, however: The IDF has many civilian employees who are allowed to strike.

44. Finkelstein, “A Solution to Strikes,” p. 7. To avert the threat of such a bill, the Histadrut and the government signed an agreement to establish a voluntary arbitration mechanism. This has done almost nothing to solve the problem, however, since in practice, the unions have generally concluded that they can get more by striking than through arbitration. As a result, a grand total of one case a year was referred to arbitration in 2000 and 2001, though in each of those years, there were close to 100 public-sector strikes. See Finkelstein, “A Solution to Strikes,” pp. 8-10.

45. According to a Finance Ministry statement, this is what Netanyahu meant when he threatened on May 15, 2003, to enact legislation that would

“deprive the Histadrut of the ability to shut down the country.” *Ha’aretz*, May 16, 2003.

46. Zvi Zrahiya, “Finance Ministry Weighs Legislation Limiting Strikes,” *Ha’aretz*, November 24, 2003; Haim Bior, Gideon Alon, “The Government Will Support Restrictions on the Right to Strike,” *Ha’aretz*, December 21, 2003; Haim Bior, Zvi Zrahiya, “Netanyahu and Peretz to Meet Today; Exceptions Committees Get Back to Work,” *Ha’aretz*, January 1, 2004. The private member’s bill was submitted by MK Ruhama Avraham (Likud).

Two main arguments are usually raised by opponents of this proposal. One is that allowing workers to decide for themselves whether or not to strike somehow infringes on the right to strike—an argument that, despite its apparent incoherence, is nonetheless surprisingly common. Social Affairs Minister Zevulun Orlev, for instance, appealed the cabinet’s initial decision to back Avraham’s bill because he claimed that it would violate the right to organize. (In response to this appeal, the cabinet, at Prime Minister Ariel Sharon’s urging, rescinded its original decision and decided instead to set up a committee to study the matter.) *Ha’aretz* columnist Ruth Sinai said the bill “uproots one of the basic freedoms of any democratic regime: The right to strike.” Ruth Sinai, “Workers Without Tools,” *Ha’aretz*, June 8, 2003. Even the Association for Civil Rights in Israel charged in its annual report (released in July 2003) that such legislation would violate the right to strike as guaranteed by international treaties Israel has ratified. Moshe Reinfeld, “Report: Government Damaging the Social Fabric,” *Ha’aretz*, July 22, 2003.

The other argument is that, in most workplaces, particularly those where powerful union leaders have considerable control over workers’ job security and chances of promotion, a majority of workers would automatically approve any strike backed by the leadership. Since the bill has never been tried, the evidence against this argument is largely anecdotal. An example is Avraham’s claim that, after Netanyahu took the highly unusual step of docking workers’ paychecks for the full extent of the May 2003 strike, she received hundreds of complaints from public-sector workers who were furious at having lost pay due to a strike they were forced into against their will. It was these complaints, she said, that prompted her to submit her bill. Ruth Sinai, “Taking Away the Only Thing the Workers Have,” *Ha’aretz*, June 3, 2003. Another important piece of evidence in the bill’s favor is the fact that some 10 percent of ministry employees nevertheless came to work on the first day of the strike, April 30, 2003. Sami Peretz, Shlomi Shefer, Haim Bior, Michael Sabo-Weinberger, “Interest Rates Will Be Inflated by 0.3 Percent Because of the Strike,” *Ha’aretz*, May 1, 2003. If that many workers were willing to openly break the strike—even though they had no legal sanction for this move, as they were violating a legally declared strike and were thereby risking retribution from their unions—the number who would have been willing to cast a secret ballot in favor of not striking to begin with presumably would have been much higher.

47. Gordon, "A Draining Strike." When its mediation efforts failed, the National Labor Court did finally order the stoppages halted. But by allowing them to continue for four days while it tried to broker an agreement, it sent a clear message that the tactic was not illegitimate.

48. Haim Bior, "The Employers Are Fed Up with This Matter Called Law," *Ha'aretz*, July 7, 2003.

49. Bior, "The Employers Are Fed Up."

50. Nehemia Strasler, "Getting Paid to Strike," *Ha'aretz* English Edition, May 9, 2003.

51. Steve Adler, "The Right to Strike as Seen Through Court Rulings," in Aharon Barak and Haim Berenson, eds., *The Berenson Book* (Jerusalem: Nevo, 1997), pp. 487, 492 [Hebrew], quoted in Finkelstein, "A Solution to Strikes," p. 21. It is worth comparing this position to the attitude taken by courts in the United States. American law authorizes the president, with court approval, to issue restraining orders even against private-sector strikes (staged by miners, dockworkers, etc.) that he deems dangerous to the public order. Such orders are far broader than anything the Israeli government is authorized to issue: Back-to-work orders issued by the Israeli cabinet apply only to a handful of key personnel in any striking industry, whereas such presidential decrees bar every employee in the targeted industry from striking for the next 80 days. Yet since this law was introduced in 1947, the American courts have approved 29 of the 47 presidential requests for such an order, or just over 60 percent. Finkelstein, "A Solution to Strikes," p. 30.

52. Bior, "The Employers Are Fed Up."

53. Many supporters of the labor courts have used the National Labor Court's decision of November 2, 2003—which barred the Histadrut's planned general strike and limited the organization to a four-hour protest walkout—to claim that the court's pro-union bias is a myth. In fact, this case actually bolsters the claim that moving labor disputes over to the regular court system would probably produce less skewed results. Legal commentators, including Menahem Goldberg, Adler's predecessor as president of the National Labor Court, agree that Adler was forced to issue the restraining order that day by the existence of a rare High Court of Justice precedent. That precedent—from one of the few labor disputes that have ever reached the High Court—involved a planned strike by Bezeq workers in 1993 to protest the government's decision to open the telecommunications industry to competition. After the National Labor Court approved the strike, the government petitioned the High Court. In its ruling, the High Court distinguished among three types of strikes: Political (i.e., aimed at government policy), which are forbidden; economic (issues of employer-employee relations), which are permitted; and "quasi-political," meaning strikes aimed at economic policies such as privatization, which could indirectly affect public-sector

workers. On quasi-political issues, the court said, unions are permitted “only a short protest strike.” Since one of the main pretexts for the planned general strike in November 2003 was a pension reform law passed by the Knesset in May, commentators agreed that the High Court precedent left Adler no choice but to put the strike into the “quasi-political” category. See Ze’ev Segal, “Between Political and Economic Strikes—The Court Has Recognized Only Protest Strikes,” *Ha’aretz*, November 4, 2003; Ruth Sinai, “The Goal: Promoting Dialogue Rather than Judgment,” *Ha’aretz*, November 6, 2003.

54. Amnon Rubinstein, one of Israel’s leading constitutional scholars, recently cited this tendency as his main reason for opposing the establishment of a constitutional court. “If a special constitutional court is set up to annul laws enacted by the Knesset, it will annul laws,” he warned, since otherwise it will not be able to justify its existence. See Gidon Alon, “Even Ravitz Supports Enactment of the Basic Law: Legislation,” *Ha’aretz*, July 1, 2003. But the argument applies equally well to the labor courts: In order to justify these courts’ existence as a separate system, judges feel a need to distinguish themselves from the ordinary courts by offering a “service” that the latter do not provide. Adoption of a radically pro-labor stance that vastly expands workers’ existing rights is one way to do this.

55. Lapid’s proposal is to maintain the labor courts as an independent system, but with one change: Instead of being technically autonomous, they now will be subordinate to the Supreme Court. At first glance, this may sound like a major change, since Supreme Court review could conceivably curb some of the National Labor Court’s excesses. In practice, however, this “reform” leaves the situation virtually unchanged. Currently, though there is no right of appeal against the National Labor Court’s decisions, they can be challenged through a petition to the Supreme Court sitting as the High Court of Justice. The catch is that the High Court can choose whether or not to hear such a petition, and it only rarely chooses to do so. Under Lapid’s proposal, a decision by the National Labor Court could be appealed directly to the Supreme Court. However, since most cases begin in the regional labor courts and reach the national court only on appeal, a challenge to the national court’s decision would constitute a second appeal, and under Israeli law, only first appeals must be heard; second appeals are at the Supreme Court’s discretion, and it seldom chooses to hear them. Thus, in practice, it is unclear that Lapid’s proposal would result in significantly more cases reaching the Supreme Court.

56. Lately, however, there does seem to have been a change in governmental policy toward striking workers: The Finance Ministry did dock workers’ paychecks for the strike in May 2003, and it also cut 30 percent from workers’ salaries for the work sanctions that occurred in October, November, and December of that year.

57. Finkelstein, “A Solution to Strikes,” p. 24.

58. In one recent example, Britain's Prime Minister Tony Blair deployed 19,000 soldiers to replace striking firemen during a strike that ran from December 2002 to February 2003. Finkelstein, "A Solution to Strikes," p. 29.

59. It is not clear whether this cut in pay applied to all the workers who struck, or merely to a minority of them. Most news reports on the strike said that some 3,000 workers would be docked full pay, and all the rest would lose 30 percent. But one prominent economic commentator, Nehemia Strasler, claimed that most workers would lose nothing, while the remainder would lose 30 percent. Nehemia Strasler, "The Next Strike Is Already on the Horizon," *Ha'aretz*, January 6, 2004.

60. Moti Bassok, Haim Bior, Anat Georgi, "Goods Will Arrive via Egypt and Jordan; Exporters and Importers Will Be Compensated," *Ha'aretz*, October 2, 2003.

61. The ports strike came to a temporary halt—a month-long lull designed to allow negotiations to proceed—before the private Israel Shipyards wharves were up and running, and only a small amount of freight was actually shipped through Port Said and Aqaba. Nevertheless, both decisions represent a radical departure from past governmental practices.

62. The settlement that ended the civil servants' strike in January 2004 was not a clear victory for either side. The Finance Ministry won some significant achievements, particularly in the area of pension reform, but it also made major concessions that, according to one estimate, will reduce the savings it had hoped to achieve by as much as \$2.25 billion. What is clear, however, is that the duration of the strike represents a serious failure on the government's part. For 100 days, government agencies provided no service to the citizenry, seriously impairing both economic and ordinary life. Yet the government made no effort to mitigate this damage, as it did during the ports strike; nor did it attempt to make the strike harder on the workers, as it legally could have, by declaring a lockout—meaning that workers would do no work and receive no pay instead of performing administrative tasks and receiving 70 percent of their salaries. For costs of the settlement, see Haim Bior, "Government Offices to Open Today; Cost of Settlement Almost NIS 10 Billion," *Ha'aretz*, January 6, 2004.

63. Zrahiya, "Finance Ministry Weighs Legislation."

64. Nehemia Strasler, "The Majority Opposes the Strike—and the Cut-backs," *Ha'aretz*, May 2, 2003.

65. Ministry of Labor and Social Affairs, Department of Labor Relations, "The Salaried Public's Positions on Labor Relations Issues: Unionization, Strikes, Labor Disputes, and Job Security" (Jerusalem: Ministry of Labor and Social

Affairs, 2002), pp. 6-7. [Hebrew] The survey found that 54.4 percent of respondents “supported” mandatory arbitration for public-sector strikes and another 29.9 percent “tended to support” it; only 11.6 percent opposed it. When the question was asked in a different way—“Would you support a ban on strikes?”—the margin in favor shrank, but remained clear. The surveyors asked the latter question about four different areas of the public sector (electricity and water; government offices and local authorities; health; and education) as well as about a general strike, and, in each case, the number of those in favor ranged from 47.9 to 53.8 percent, while the number opposed ranged from 40 to 42.6 percent. The ministry concluded that the difference was largely semantic: People felt more comfortable declaring their support for binding arbitration than they did for a ban on strikes. However, the difference could also reflect a substantive concern: A simple ban on strikes does not necessarily leave workers with any alternative method of redressing their grievances, whereas the institution of binding arbitration does.

66. One of the main pretexts of the fall 2003 civil-service strike, for instance, was a demand that the government rescind a pension-reform law enacted by the Knesset in May 2003—a reform to which the Histadrut had acquiesced at the time. Several economic commentators attributed the turnabout in the Histadrut’s position to the fact that in May, the economic crisis was at its peak and the labor federation dared not push too hard, whereas by fall, signs of an upswing had started to appear, encouraging the unions to believe that the time was ripe for a repeal.