

The Right to Strike of Policemen

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A strike is an important collective instrument available to workers in their struggle for dignity and the protection of their interests in the workplace. The right to strike has been recognized in the principles of the International Labour Organization as a derivative of the right to organize.

In Israel, there is a legal restriction on police officers' organizing or going on strike. Over the years, the court has held legislation that denies the right to strike of policemen to be legitimate. The rationale behind the ban on strikes is the fear that police officers, who have control over weapons and violence, may use their force against democratic institutions. In police labor disputes, basic workers' freedoms to organize and strike are therefore in conflict with the public interest regarding the continuation of the provision of these services, and the ability of the state to function properly.

The existing literature dealing with strike in public services has addressed the issue of the cause of strikes and the use of proportionality. This article seeks to address a unique topic that has not yet been discussed in the literature—the right to strike of policemen and the present integrative global constitutional approach. The global constitutional approach implements global international standards set by the International Labour Organization (ILO)—principles anchored in the conventions and decisions of the organization. The use of these international standards as a basis for the recognition of labor rights as constitutional rights and their application is in accordance with the principles of the International Labour Organization.

According to the standards of the ILO, the denial of the right to strike of security forces is possible. However, the global constitutional approach holds that a sweeping denial of the right to strike from all those in office in a specific service raises a difficulty. A denial of the right to strike cannot be justified when policemen are not given an alternative mechanism designed to secure their interests.

The applicability of the integrative global constitutional approach characterizes the work of the Supreme Court of Canada and the European Court of Human Rights. These courts have implemented the approach for the purpose of recognizing the freedom to strike as a constitutional right, and even for the purpose of repealing laws that have allowed strikes to be restricted in an essential service such as health services.

The article will examine the possibility of applying the global constitutional approach as a basis for recognizing the right to strike of policemen, while referring to the existing arrangements in other countries. It should be noted that the prohibition on strikes and organizing by police officers in Israeli law is sweeping, with no distinction between different types and positions, the nature of the authority and the nature

of the function performed. The overall ban raises a difficulty and reexamination is called for, taking into account the global constitutional approach.