British Airways strike ruling a major attack on workers' rights

Robert Stevens
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The December 17 decision by High Court judge Mrs. Justice Laura Cox to declare illegal a planned strike by British Airways (BA) cabin crew is a major attack on workers' rights.

Banning the strike sets a dangerous legal precedent. In her ruling, Justice Cox stated that 811 crew members who had taken voluntary redundancy had wrongly been included in the ballot count by Unite. She also stated, "A strike of this kind over the 12 days of Christmas is fundamentally more damaging to BA and the wider public than a strike taking place at almost any other time of the year."

This is direct political interference by the judiciary into when and for how long trade unions are able to hold industrial action, overturning a clear mandate by BA cabin crew. It is, moreover, a ruling explicitly motivated by the fact that the strike would have been too effective to be allowed to go ahead.

The 14,000 staff are members of the British Airlines Stewards and Stewardesses Association, a section of the Unite trade union. They had voted by a margin of 92.5 percent on a turnout of 80 percent to stage a 12-day strike over Christmas and the New Year. The action was to last from December 22 to January 2.

The dispute centres on the airline's attempts to impose drastic changes in working conditions and pay. These would mean extended working hours for cabin crew and reduced wages for new employees.

The new attacks are part of an ongoing strategy by the company to impose the full burden of its financial crisis onto the backs of the workforce. BA reported a pre-tax loss of £292 million in the six months to 30 September, compared with a profit of £52 million for the same period in 2008.

In response, BA plans to slash costs by £140 million from the staff budget each year. In November, BA cut the number of cabin crew on long haul flights from 15 to 14 and pushed through a two-year pay freeze to be imposed from 2010. BA also announced last month that it was to shed a further 1,200 jobs, making a total of 4,900 jobs to go worldwide by March 2010.

In June it also demanded that its 40,000 employees volunteer for up to a month's unpaid leave, or even unpaid work. In the absence of any opposition from the unions, BA was able to announce that almost 7,000 staff took voluntary pay cuts or agreed to part-time working. These included 800 who agreed to work unpaid for up to a month.

Such was the overwhelming vote in favour of the strike (more than nine to one), that even if the workers cited by Cox as her excuse for banning the action had not been included in the ballot, it would have still resulted in a very large majority in favour.

However, according to the union there is evidence that the company did not assist the union in identifying exactly which employees had taken redundancy prior to the ballot being held. In a letter prior to the ballot, Unite had requested from BA that it provide "the most accurate information possible concerning the ballot."

At the High Court ruling John Hendy QC, representing Unite, said, "We did our level best to discover who these members were who were to be made redundant. In the absence of discovering them, BA [was] completely unhelpful and uncooperative, and in that regard we had no option but to include them in the [ballot] notices."

The case was brought by BA under the legislation contained within the 1992 Trade Union Act. The act is being increasingly used by firms in order to overturn legitimate votes for industrial action. According to Gregor Gall, a professor in industrial relations at the University of Hertfordshire, employers have used the act to apply for at least 11 injunctions this year, including the latest BA action. The courts have found in favour of the various companies on eight occasions. Of these, seven injunctions were called for by transport firms and two by Royal Mail. Twelve firms have threatened similar legal injunctions against trade unions.

According to Gall, "Because the demands [under the act] are so onerous, it provides a large enough canvas on which employers can look for mistakes to find the grounds for an injunction, or the threat of one. Because of the threat, quite a

lot of ballots have been stood down."

Among the companies to secure an injunction against strike action was Metrobus. Its workforce in London was due to strike on October 10. The bus company was granted an injunction on the grounds that the union, once again Unite, had taken too long to notify them of the ballot. Metrobus also argued before the court that it should have been told numbers of drivers to be balloted by category of driver. The injunction was granted despite Unite stating that it had not been asked for such information previously, and no such previous challenge had been mounted.

Metrobus employees and those at other London bus companies had been demanding a £30,000 salary for all drivers operating across the capital's 18 different bus operators. The injunction was then used successfully by other bus companies involved in the dispute, including First Group, Arriva, Metroline, East London Buses and East Thames Buses—in what amounts to a form of secondary legal action. Unite called off a planned 24-hour strike of 14,000 bus workers scheduled for October 22.

Under the 1992 legislation, companies can seek compensation retrospectively from unions for strike action that is subsequently found to be "unlawful." Addressing the importance of Metrobus case, Marc Meryon, who argued in court in favour of the company, said, "It means that unions cannot run with the argument that if they have a majority in favour of a strike, you should allow it even while overlooking technical defects."

An article published on the right-wing *Spectator* magazine Web site on Friday, whilst attempting to deny that the High Court action was political, was clear about the implications of the BA ruling as a weapon in the hands of big business. David Blackburn wrote, "That the result of the ballot would not have changed is immaterial, Unite broke the law." Letting the cat out the bag, he added, "In this instance, the legal decision will enable a sensible business plan time to develop. After years of procrastination and painting tail wings, the BA board is realistic about the challenge of survival, their employees are not. BA staff and Unite must acknowledge that the airliner is in a do or die situation."

Unite declared the decision to be a "disgraceful day for democracy." But it also marks a disgraceful day as far as the role played by the entire trade union bureaucracy is concerned. It is the refusal by the trade union leaders to oppose the anti-trade union laws over several decades that has laid the basis for such attacks.

The Trade Union and Labour Relations (Consolidation) Act 1992 was introduced by the Conservative government of John Major and consolidated the previous anti-trade union laws introduced by the administration of Margaret Thatcher.

On its election to office in 1997, with the rapturous support of the trade unions, the Labour government of Tony Blair pledged to retain all the anti-trade union legislation enacted by previous Tory governments. The anti-union laws were positively hailed by Blair as "the most restrictive on trade unions in the western world." Far from opposing this legislation, the unions have fully supported the Labour governments of Blair and his successor Gordon Brown, while observing the anti-union laws to the letter.

Unite, which is now Britain's largest union with nearly 2 million across the private and public sectors, is the Labour Party's biggest financial supporter. Last year the union donated to Labour nearly £4 million—nearly a quarter of the party's total funding. It maintains the closest political relationship with the Brown government. The political director of Unite is Charlie Whelan, who was the spokesman for Prime Minister Gordon Brown during his 10-year period as chancellor of the exchequer.

Even prior to the High Court ruling, Unite had done everything possible to prevent the strike from going ahead, even offering to suspend the strike if BA would merely discuss the cuts it planned to impose. Last week Assistant General Secretary Len McCluskey said that the strike had been sanctioned by the union with a "heavy heart." He added that Unite was "hoping that the company can still avoid it."

As the case was being heard in court, Unite's joint general secretary, Derek Simpson, attempted to distance the union from the proposed 12-day strike. He told a breakfast TV programme that the strike's planned duration was "probably over the top" and "unusual."

The High Court judgment clearly demonstrates the ruthlessness with which the capitalist class are using every means at their disposal to force workers to pay for a financial and economic crisis not of their making. It demonstrates just as clearly the thoroughly rotten character of the trade unions.

Unite has refused to mount even a token challenge to the judgment, as to do so would bring it into conflict with not only the particular balloting provisions in the 1992 act but with the entire framework of the anti-trade union legislation. Such a struggle is anathema to the trade union bureaucracy, who utilise this legislation as a means of policing its own members when things threaten to get out of control.