

Labour Relation and Role of Strike in 21st Century

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INTRODUCTION

This paper is based on the author's experience as a former federal crown corporation employee and review of the literature on characteristic and needs of the workers of the 21st century. Although, the intention is not to single out any one specific group of workers, to make the arguments and discussion relevant, one of the recent news related to Canada's Foreign Service workers is used as an example in the discussion.

Most people who called or emailed a Canadian foreign office in summer of 2013, probably got a message telling them that the Foreign Service workers were on strike. A Canadian caller would probably have seen white-collar workers on strike before and would not be too surprised. However, to a client of the Foreign Service from a country with laws unfavourable to its labour it could have appeared that either the Canadian workers were in very dire shape that even their diplomats had to go on strike; or they could have assumed that the democratic processes in Canada were failing and the strike was a political strike.

Forming unions and bargaining collectively are within the rights of most workers in Canada. Unions are beneficial because they can help the workers, among other things, deal with the complex legal and financial aspects of employments. However, using the bargaining tools and negotiation tactics that were used in late 19th century seem to be hurting today's unionized workers, their families, the employers and the economy. One of the tools used by labour union to break through collective bargaining impasse is strike. Strike in the times when the lives of workers were at risk, such as in unsafe coal mines, or when the difference between what was offered and what was demanded was very large may have been justifiable. Today, however,

with the protections provided by the Canada's Labour Code and related acts such as Public Service Labour Relations Act (PSLRA), the underlying reasons for resorting to strike are not strong. One example of differences between the work conditions in 19th century and in 21st century is given below.

In 1872, when the Toronto Typographical Union went on strike, the workers worked 12 hours a day and 72 hours a week. Unions were illegal and there were not enough protection from exploitation, imprisonment and physical injury. The workers went on strike because they wanted to work 9 hours a day and 54 hours a week.

Today, the Canadian Labour Code limits the standard hours of work to 40 hours a week. When employees are required to work in excess of the standard hours, they are entitled to overtime at a rate of at least one and one-half times their regular wages. If the employees are asked to work on a holiday, they are entitled to the holiday pay and an additional wage at a rate of at least one and one-half times their regular wages.

For today's Canadian unionized workers when a labour dispute results in a strike or a lockout, the outcome and the net benefits are much less favourable than a settlement that does not result in work interruption. Work interruption hurts the workers in the form of lost wages and benefits, it hurts the employer in the form of loss of productivity in the short-term and loss of business in the long-term, and it can severely damage the employer-employee relationships. In the case of public sector, it also hurts the citizens due to interruption in economic activities and it tarnishes the image of the organizations and the country.

In organizations where the work is "thinking" and the product is "knowledge based creation," there is nothing more damaging and costly to the employer than having a workforce whose mind is preoccupied with labour dispute. When there is a perpetual and periodic threat of work interruption, and thus loss of income to the workers due to strike or lockout, productivity drops significantly.

The laws should provide for less disruptive tools for labour dispute resolution and should place very strict criteria for the use of strike and lockout. The empirical evidence seems to suggest that binding arbitration as an alternative to strike and lockout tend to result in less damaging and more dignified resolutions. The following sections present a review of the literature, an analysis and discussion of the labour actions and a final conclusion and recommendations.

LITERATURE REVIEW

The history of strikes in Canada is reported to have started with the Toronto Typographical Union strike in 1872 [1]. The union took up the cause of the "Nine-Hour Movement" and went out on strike on March 25, 1872 [1]. A few weeks later, on April 14, a parade was organized in Toronto to show support for the striking workers. George Brown, a politician and editor of the Toronto Globe, hit back by launching legal action against the striking workers. At the time, union activity was still a criminal act under Canadian law. Twenty four members of the strike committee were arrested and jailed for conspiracy. The arrests were protested, and the Prime Minister, Sir John A. Macdonald, promised to repeal the anti-union laws. The Trade Unions Act was passed by Parliament on June 14, 1872, legalizing unions [1] [2].

In 1967, as a result of Canadian Union of Postal Workers strikes, the government extends collective bargaining rights to the public service [1]. Where the public servants are prohibited from striking, they are provided access to an alternative dispute resolution mechanism, typically binding arbitration to resolve bargaining impasse [3].

The Canadian Labour Code [4] in its preamble states that *freedom of association* and *free collective bargaining* form the bases of effective industrial relations for good working conditions and sound labour-management relations. Although, unions bargain with employers primarily over wages, hours of work and working conditions; unions also satisfy employees' desire for self-expression and their wish to communicate their aims, feelings, complaints and

ideas to their employers [5]. It has also been argued that another major reason why people join unions today is that they want to make sure that their health and safety are protected, and they want to be treated fairly [1].

New research [6] [7] has shown that from total compensation point of view the employees in unionized and non-unionized companies, colleges and university are almost the same. A survey of 250 Canadian companies (totaling to more than 450,000 workers) in 2000 and 2004 showed that the total financial compensation between unionized and non-unionized organization was not significantly different [6]. In another study, Hedrick et al. [7] examined the salaries of 24,070 faculty members in 1,060 colleges and universities from 1988 to 2004 [7]. After making the necessary adjustments for cost of living and local factors, they found that the union wage premium was statistically insignificant.

An article by the Canadian Broadcast Company asked if strikes pay off [2]. It responded that it has to be answered on a case by case basis. However, according to the article there is one cost that was incomputable and states, "... strikes emphasize as nothing else can the 'us versus them' relationship between two groups of people who, in a perfect world, would have an effortlessly interdependent relationship. Labour and management need each other." The article goes on and says that though the rise of unions has meant that striking workers may get some small amount of money while picketing, a family that normally lives paycheck to paycheck faces quick crisis [2].

The recent strike by the Professional Association of Foreign Service Officers (PAFSO) which was reported to be the longest and "often acrimonious" strike in public service history, according to the newspapers battered the country's economy and Canada's reputation abroad [8]. It was estimated to have cost the Canadian economy, particularly the tourism industry and universities, close to \$1 billion [8].

PAFSO on its website stated that it was seeking wage adjustments to keep Foreign Service officers' pay in line with comparable employee groups in the federal government [9]. According to a release by PAFSO [10], the position of PAFSO and the Treasury Board of Canada on pay increase were as follow:

Effective Date for Pay Increase	PAFSO's Demand	Treasury Board's Offer
Effective July 1, 2011	2.50%	1.75%
Effective July 1, 2012	2.50%	1.50%
Effective July 1, 2013	2.50%	2.00%

According to Ottawa Citizen [8], PAFSO after six months of lost wages didn't get the wage increase it wanted for its 1,350 officers. However, they reportedly got more than halfway there. If the data from the above table is relied on, the difference between the two sides averaged to 0.75 % per year, half of which would be 0.4% per year.

DISCUSSION

Currently almost all Canadian unions are using the traditional "Wagner Model" for collective bargaining and for dispute resolution. Knowing that the labour laws have improved and there are large differences among the type of workers in the economy, the collective bargaining and the tools for resolving labour disputes should adapt to the realities of today. Holmes [11] argues that there is a pressing need for the labour movement to develop new "spatial fixes" to address new economic realities.

There is no denying that labour actions of 19th and 20th centuries resulted in significant changes in labour laws and gains for the workers. However, now that the difference between what is demanded and what is offered is very small and the labour laws protect the labour from many aspects of exploitation, the forms and tools of collective bargaining should change. Otherwise, we will not get any form of physical and psychological peace that our predecessors fought for.

Haiven [12] argues that exclusive reliance on the old Wagnerist organizing pattern is well past its prime and prevents unions from embracing new patterns. Haiven states that unions need to explore innovations that in effect will increase the demand for their services. Nelson and McCann [13] state that employers, should also show willingness to meet their employees' personal and family concerns and provide job recognition, career advancement opportunities, an attractive salary, and career and intellectual challenges.

When the compensation packages received by unionized and non-unionized workers are not significantly different, as controlled by market forces, the reason for striking is further weakened. Understanding the historical reasons for strikes and recognizing and comparing them to the realities of today, it could very well be less costly for the parties both in the short-term and in the long-term, better for the economy and more dignified if all disputes are resolved through negotiation and in the extreme case through arbitration. Even, in the unlikely, worst case scenario of a lopsided award by an arbitrator, the differences and stakes are not high enough to warrant resorting to strike or lockout. Rose [14] reported that there is substantial evidence that arbitration protects the public interest by preventing strikes.

In relation to arbitral award in the public service, PSLRA requires that the arbitration board considers (a) the need for attracting and retaining competent persons, (b) compensation that is comparable to the private and public sectors, (c) appropriate relationships between compensation and the classification levels and the occupations, (d) fairness and reasonableness and (e) the state of the Canadian economy and the Government of Canada's fiscal circumstances.

When the strike and lockout are available in the arsenal of the parties, each side will spend significant resources to gather ammunition and build fortresses. The unions increase union dues or borrow money; the employers hire contractors and spend money on fallback options. Behavioural studies have shown that in adversarial positions, unfortunately, even rational

people make irrational decisions. This could be due to egos, face saving, pressure of time, dwindling of funds, etc. The treat of strike not only hurts employer-employee relations, but it also forces the customers to find alternative suppliers for reliability, thus, the business, and as a consequence, the workers lose.

The author believes that if the adversarial positioning is removed from the collective bargaining, more workers will be attracted and benefit from the collective contract negotiation simply because the legal and financial matters of employment are so complicated that not everyone has the time to study them or the ability to understand them.

A US study by Freeman and Roger [15] based on a survey of 2,400 workers found that over 85 percent of worker surveyed wanted a form of collective representation. Sixty percent of them favoured a less confrontation from of labour-management committees. The study indicated that if worker groups have the collective power to represent workers but not resort to labour actions such as strike, more workers will join. Non-adversarial union representation would allow associations and societies to form in more work places.

CONCLUSION AND RECOMMENDATION

This paper argued that while the traditional labour practices for resolving an impasse in collective bargaining were effective and were probably needed in the past, today most of the disagreements are monetary in nature and over a very small percentage of overall compensation package value. With the provisions and protections extended by the various Canadian laws, there is less justification for resorting to strike or lockout.

Using the traditional union practices and dispute resolution for today's worker results in demotivation and loss of productivity, and consequently losses for the worker the employers and the public. To minimize the potential for work disruption, it is required that the labour

dispute resolution practices adapt to the types of work and workers of today and minimize or eliminate strike and lockout.

In organizations where the work is “thinking” and the product is “knowledge based creation,” there is nothing more damaging and costly to the employer than having a workforce whose mind is preoccupied with labour dispute. When there is a perpetual and periodic threat of work interruption, and thus loss of income due to strike or lockout, productivity drops significantly.

The unions, public service employees, policy makers and legislators can play a major part in reducing the opportunities for adversarial positioning between employers and unions by working collectively on designing provisions to be included in the labour code and similar acts that corresponds to the needs and realities of today. For example, the law could prescribe a monetary threshold as a percentage of the total compensation package; the unions will be able to hold a strike vote only if the monetary equivalent of all differences between the employer’s offer and unions demand are larger than the threshold. Even then, a two-third majority vote in support of a strike should be required to make it legal.

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