

A striking suggestion

Trash, rage, walkouts -- there must be a better way to deal with public-sector conflicts. And there is, say labour experts JOHN FRYER and JON PEIRCE

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The largest municipal workers' strike in Canadian history -- now under way in Toronto -- is just one of many public-sector disputes to occur in Canada over the past two years. Earlier this year, the Ontario Public Service Employees' Union staged a 54-day strike. And last year saw a cross-country wave of health-care disputes extending from Nova Scotia to British Columbia, a full-scale provincial government employee strike in Newfoundland, and transit strikes throughout Alberta and British Columbia.

At the federal level, it's generally acknowledged that only the terrorist events of Sept. 11 averted a nation-wide strike by the Public Service Alliance of Canada. As it was, PSAC staged a wave of one-day strikes across the country and lengthy full-scale walkouts at two federal museums in Ottawa.

Why so many public-sector strikes over such a short period?

One important reason is the substantial erosion in real purchasing power that most public-sector workers have experienced over the past decade or so due mainly to government-imposed salary freezes, rollbacks and suspension of normal collective bargaining. Reduced job security and increased workloads are two other sources of friction.

A less obvious but equally serious issue, both federally and provincially, is the lack of an effective mechanism for resolving disputes between governments and their employees. Both union and management lamented the lack of such a mechanism in their presentations to the Advisory Committee on Labour-Management Relations in the Federal Public Service.

The problem has been particularly severe in those bargaining units in which a large number of members are designated "essential." With high designation levels, these bargaining units can't carry on meaningful strike activity. Ottawa's suspension of arbitration, which continued for five years after public-service collective bargaining resumed in 1996, thus left them with no meaningful dispute-resolution mechanism at all for 10 years.

The problems the advisory committee observed around federal public-service dispute resolution were so serious that the committee decided to recommend a new mechanism, a Public Interest Dispute Resolution Commission, rather than tinker with the existing mechanism (which, at times when arbitration has not been suspended, lets the union to choose between arbitration and the traditional conciliation-strike route at the start of talks).

Modelled after a similar idea proposed in 1968, the commission would have at least nine part-time members and a full-time chair appointed for fixed terms by the Governor-in-Council. There would be an equal number of union and management representatives (at least three of each) drawn from lists submitted by the public-service unions and the government, respectively. The remaining, neutral members would be people experienced in labour-management relations to represent the public interest. The chair would be a respected, experienced individual with a national reputation in public-sector labour relations. To help prevent it becoming politicized, the dispute-resolution commission would report directly to Parliament.

And it would have a broad array of techniques available to it to assist the parties in resolving disputes. These would include referral back to the negotiating table, fact-finding, mediation, issuance of a preliminary report

commenting on the reasonableness of the parties' positions, and issuance of a report outlining the terms of a settlement that could be adopted by or imposed on the parties.

This "tool kit" of techniques would introduce an element of surprise, because the parties to a dispute wouldn't know in advance which technique the dispute-resolution commission could use. This in turn would make it likelier that the parties would choose to fashion their own settlement, rather than relying on the commission, which might use a technique either or both did not like.

While the dispute-resolution commission would not take away the unions' right to strike nor the government's power to use legislation to end public-service labour disputes, we believe both strikes and legislative intervention would become rarer. Both parties, in our view, would think twice before risking the embarrassment of going against the recommendation of a neutral commission representing the public interest. All in all, such a commission could do much to help raise public-service labour relations above the political fray. This in turn could help foster more co-operative relations between the parties.

Nor should this new approach be confined to the federal public service. The commission could prove a model for similar dispute-resolution mechanisms throughout the public sector.

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