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Thinking about Tomorrow: Collective Bargaining and Labor Relations in Higher Education

Cindy Oliver

Federation of Post-Secondary Educators

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Thinking about Tomorrow:
Collective Bargaining and Labor Relations in Higher Education

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Hunter College, City University of New York

Cindy Oliver, President
Federation of Post-Secondary Educators of BC
400-550 West 6th Avenue
Vancouver, BC, Canada, V5Z 1A1
coliver@fpse.ca

**REMIX: LESSONS LEARNED FROM
PUBLIC & PRIVATE SECTOR BARGAINING TABLES**

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INTRODUCTION

Good morning, and let me begin by thanking the organizers for including my organization in this panel discussion. I'm pleased to be here but, more than that, I'm very impressed by the work done at CUNY on the importance of collective bargaining. I have been involved in some form or other in the labour movement for most of my working life. At times you can't help but feel that the deck is stacked against you. Whether it is having to endure some commentary on Fox News about how unionizing is akin to devil worship, or a very right-of-centre rant about the virtues of supply-side economics, it's easy to get overwhelmed by the voices of those who oppose the labour movement. But on the flip side, you have those moments, most often in an organizing drive, when you see and hear the resolve that workers have to band together and get a better deal at their workplace.

It's refreshing, to say the least, to be invited to participate in a panel discussion organized by a Center that understands both the value and purpose of collective bargaining, plus just how interconnected that process is to high-functioning workplaces, and is working to expand that understanding not just to those of you here today but to a much broader audience as well.

OVERVIEW

My trade union experience comes largely from post-secondary education workplaces, and my comments this morning are going to draw upon those experiences. In my précis I referenced the work my organization has done in negotiating for faculty members who work and teach in both private and public post-secondary institutions. That experience has taught our organization a lot about how not only to connect with and mobilize members in both sectors, but also how to build support within a broader community for the objectives we want to achieve at the bargaining table.

In my comments this morning I will make the case that collective bargaining in both settings have important similarities, that inform how faculty members approach their negotiations, and what they need to do to make gains at the bargaining table possible. I will devote some time as well to talking about the important context around which collective bargaining must operate and the extent to which unions can develop strategies to support success in bargaining.

COLLECTIVE BARGAINING TRENDS: CANADA AND THE US

Let me start by commenting briefly on what I would call the “atmospheric conditions” within which collective bargaining exists today. Many of the

reference points I will be making on this front are drawn from my experience in Canada, but there are strong parallels between the US and Canadian experiences. In fact, there is a good case to be made that the trends in labour relations that we see in Canada get their test run in the US. And here I thought trade between our two countries was all about wooden products and cars!!

Three broad conditions have had, and continue to have, a major impact on collective bargaining. The first is labour law. The rules that define access to collective bargaining have moved significantly in favour of employers. In British Columbia we had a Labour Code that said if 50 percent of a workplace signed union cards, that was enough to grant certification or unionization. In 2002 that was changed to a mandatory vote system in which the signing of union cards was treated as a first step. After that step, there had to be a vote of the workers. At the same time, the jurisprudence in BC changed to allow what employer groups called free-speech provisions, but what we recognize as employer intimidation in the run up to that vote.

These labour law changes have undermined union organizing in a major way. Union density in BC has declined. Prior to 2001 about 37 percent of the BC workforce was unionized. Today it's about 30 percent. I know for some US members of the audience 30 percent might sound like nirvana, but my

point is the shift in both the balance of power and access to unionization.

The balance of power has shifted to employers and the barriers to access have had a chilling effect on union organizing.

The second major atmospheric condition is the precariousness of work. More and more work is done by small and medium sized employers, many of whom are, in effect, doing contract work for someone else. In BC, 80 percent of new jobs in the private sector are created by employers who employ fewer than 25 employees. Add in the fact that whether the work involves the making of widgets or the delivery of a service, that work is increasingly subject to outsourcing, off-shoring or significant technological change, all of which create the precarious sense that good jobs are not only hard to find, they're hard to keep.

What that does, over time, is suppress two things: wages and expectations. On the wage front, real wages in BC have not kept pace with either inflation or economic growth. And, not surprisingly, most collective bargaining sessions in my province focus on fighting concession demands more than anything else.

The third condition that also has an enormous chilling effect not just on access to collective bargaining but what takes place at a bargaining table

even if unionization is successful and/or well-established, is that full-employment is not an economic priority for a large number of national governments. I'm being polite when I give it that characterization, but the reality is that Reaganomics has never really gone away. Certainly, in my home province we have lived with a provincial government that is constantly defaulting to tax cutting; it is an affliction that makes governments believe that the answer to every public policy problem is to give high income earners another tax cut. I know the Obama administration has tried to change the channel on that front, but a US President that faces a hostile Congress can be easily sidetracked and left unable to make progressive change.

I know in Canada, our federal government is far more comfortable with tax cuts and shrinking the size and effectiveness of government, so much so that many of the important social programs that we have built up over generations are beginning to feel the pinch, which comes from looting the treasury with tax cuts rather than using public dollars to build and strengthen public programs.

Against that backdrop of collective bargaining, whether in the public or private sector, has more than its fair share of challenges to overcome. And, while pessimists might look at these challenges and feel overwhelmed, the

history of the labour movement has always been a history of struggle. As one BC union leader put it so succinctly many years ago when he was faced with some bleak prospects at the bargaining table, “we never won anything without a fight and we never held on to what we got without a fight.”

And if I can digress for just a moment, that notion of struggle is a narrative that doesn't fit easily into mainstream thinking either in Canada or the United States. I would argue that the prevailing view is that when you encounter a problem, you either fix it or it fixes you, end of story. However, the trade union experience sees things in a more dynamic environment, one where the challenge is to be as strategic as possible given the resources we have to take on various struggles. If we are going to prevail, we have to be smart about how we use the tools we have.

TAKING ON CHALLENGES

And it's in that context that my organization has approached collective bargaining and worked to improve conditions for our members. To some extent, we have benefited from an organizational structure that has allowed us to pool our resources more effectively and, in so doing, given us the capacity to take on challenges—whether it is at the bargaining table, through various targeted court actions or through specific public campaign efforts—

that provide us with better platforms from which we can advance member interests.

I am the first to admit that despite this more strategic approach we continue to face an uphill battle, a battle in which progress is often measured in inches. That said, there are important lessons to be learned from that approach and what I would like to do now is highlight three key examples of how our strategic approach is supporting the collective bargaining we do in both the public and private sectors.

By way of background, FPSE is a medium sized union in BC. We have close to 11,000 members in the province. Over 10,000 of them work in public post-secondary institutions. The remainder works in a number of private colleges that we have helped to organize over the last ten years.

How we pooled our resources is a critical piece to the work we have done. When FPSE was first formed more than thirty years ago, there was a call to establish a strike fund. Over the years, that fund grew and evolved to become a Defense Fund with a broad mandate not just to provide strike pay, but also to take on important legal, organizing and public policy issues.

The concept of a Defense Fund was not new at the time and is still very much a cornerstone of what many unions do. In our case, the importance of the fund was that it was recognition by our members that the collective part of collective bargaining had to have more meaning than just an agreement to bargaining as one. We had to also build capacity within our ranks to make bargaining as effective a mechanism for achieving gains as we could make it. We knew 30 years ago that it would take time to create the critical mass we needed. But we also knew that while operating as 20 independent Locals might satisfy some need to create a high degree of autonomy, it would run at odds with what we also knew as trade union activists: there is more power in the collective.

The best example of that power is the fact that we have been able to organize eight private colleges in the last five years under a provincial Labour Code that is heavily tilted in favour of the employer. That was achieved in large measure because we had the shared resources—in the form of our Defense Fund—to support the organizing effort and establish first collective agreements in those new certifications. Had faculty in each one of those colleges been left to organize on their own, I don't think the organizing drives would have succeeded or the first agreements achieved.

This notion of shared resources has also helped pay for a number of important legal challenges. For example, early on in the first term of a very right-wing government that took power in BC in 2001, it decided to pass legislation that effectively ripped up provisions in hundreds of public sector collective agreements. FPSE Locals were included in this attack—we referred to it as “legislative vandalism.” Along with protests and limited job action, public sector unions banded together to advance a court challenge of the legislation.

It took more than six years and many millions in court costs to get that legislation overturned by the Supreme Court of Canada, but that’s what happened. And had we not had the shared resources to take on that fight, that vandalism would have gone unchecked.

The last example I want to highlight is some work we are doing currently for the members who work and teach in BC’s public institutions. Like many critical public services across our province, post-secondary education relies heavily on public investments to make it affordable and accessible. Over the last fifteen years, however, those investments have not kept pace with much. Real per-student funding by the BC government of our post-secondary institutions has dropped by 20 percent.

The funding crunch has done enormous collateral damage. Tuition fees have more than doubled in that period. Student debt levels have also skyrocketed and the amount of program choice offered at our institutions has suffered. During this period as well, collective bargaining has taken a hit. Our salary scale is not keeping pace with inflation and, increasingly, employment security for our members is facing more and more pressure as administrators push to have work done by contingent faculty. We have succeeded, I think, in slowing that process, but the larger threat from chronic underfunding still remains.

And while addressing contract pressures at the bargaining table is critical, we know that we have to take on the broader question of underfunding. So this year we are working with student organizations and community allies to build the public case for post-secondary education as a public good that needs public support. The tag line for this campaign is "Open the Doors," and it uses the compelling stories of students to talk about how our institutions are not just about learning, but are places where hope and possibility exist.

It's a powerful message aimed at an equally powerful target: a provincial government that has the capacity to invest in our institutions but so far has not felt any real public pressure to make those investments. We know from

polling that we have done that faculty have enormous credibility with the public on this issues. We know as well that students have powerful and compelling stories to tell about their struggles to access post-secondary education. Our campaign will use both of those strengths to make the case for better funding of our institutions.

INCREASING CHANCES OF SUCCESS

I want to relate these examples back to collective bargaining because they identify for me some critical must-haves—regardless of whether you are negotiating in the public sector or private sector—if you hope to succeed in contract negotiations.

- First, unions need to foreclose the option that every employer looks for: the option to move work outside the bargaining unit. That's why organizing the un-organized is critical. If unions are not working an organizing strategy in tandem with bargaining, they are ultimately undermining what they are trying to achieve at the bargaining table.
- Second, unions need to develop a commitment to strategic use of shared resources. The Defence Fund example that I gave has been critical to the work that FPSE does. Without that shared resource in place, we simply wouldn't have the capacity to fight the important fights that we need to take on.

- Third and final point is unions need to negotiate with the public as much as they need to negotiate with employers. That's absolutely paramount in public sector bargaining, but it's also true of private sector negotiations. The public has to understand the narrative behind our priorities. The more they understand that narrative, the more capacity it gives to bargainers at a bargaining table to get a deal that works for the members.

I'm sure others on the panel have more to add to this important conversation so I would like to leave it there and I look forward to your questions at the end.

Thank you.