Public Sector Employment in a Time of Transition

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INTRODUCTION

Public Sector Employment Relations in Transition

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Pressures like those that led to the transformation of the private sector industrial relations system of the 1970s and 1980s are now affecting the public sector. Phrases like “reinventing” government (Osborne and Gaebler 1992), “re-engineering” the public sector, and “performance-based” government (Warrian 1995) illustrate the changes that are occurring. These pressures on employers in the public sector have concomitant implications for the employment relationship; they imply reinventing public sector labor relations, re-engineering the employment relationship, and instituting performance-based human resource practices. Issues of downsizing, job security, contingent employment, productivity bargaining, subcontracting, privatization, and succession rights are now prominent in the public sector. Joint ventures and alliances, mergers, separate business units, and internal pricing schemes—concepts that once were largely restricted to the private sector—are now common in the public sector. While the public sector was once regarded as a model for the introduction of progressive employment practices into the private sector, the pressure is now in the opposite direction, with the public sector often being called upon to be a model of restraint. Strategic choices that have been crucial for the development of human resource practices in the private sector will be equally crucial for all actors in the public sector.

Previous IRRA volumes on public sector bargaining focused on the establishment and maturation of collective bargaining in the public sector. Reflecting events of the 1960s and 1970s, the first IRRA public sector volume (Aaron, Najita, and Stern 1979) described the shift away
from the doctrine of the sovereignty of the state and toward the establishment of collective bargaining in the public sector. It focused on the rapid upsurge of unionization in the public sector in the 1960s and 1970s and the administrative and legal response to labor's newfound role.

Also reflecting events of the time, the second IRRA volume on the public sector (Aaron, Najita, and Stern 1988) detailed the maturation of the system. It focused on issues such as the legal acceptance of the collective bargaining framework, efforts to develop more effective means of resolving interest disputes (especially as alternatives to the strike), and the stagnation of union membership.

While the first and second public sector volumes dealt, respectively, with the establishment and maturation of collective bargaining, this third volume focuses on its transition and possible transformation to a different system. As well, while the previous volumes focused on collective bargaining, the emphasis in this volume is broader, dealing with the employment relationship in general. Issues of labor adjustment, workplace practices and human resource management policies are prominent, as are alternative dispute resolution procedures and labor-management cooperation in the collective bargaining arena.

While there is no consensus on the ultimate form of the new system, it will be shaped by the two main strategies that are being followed. One involves an emphasis on improving the efficiency of government through innovative practices and a movement away from the bureaucratic, civil service model. Examples of “reinvention” best practices are typically drawn from efficiency-directed reforms.

The other strategy is more sweeping and involves an emphasis on cost cutting—cutting that may well be over and above that which may be regarded as efficient in terms of the provision of public services and infrastructure. Such cost cutting may be regarded as an end in itself, rather than a means to achieve the efficient delivery of public services.

The goals may be simply service reduction, downsizing government, privatization of service provision, and reductions in real compensation, irrespective of their impacts on the efficient provision of public services.

Given the importance of political factors in the public sector, the process can involve excessive restraint, just as at one time it may have involved insufficient restraint.

The public sector appears to be in the early stages of a transition similar to that which occurred in the private sector in the 1970s and 1980s. The next section inventories those changes that have occurred in the private sector, with the following section highlighting their relevance to the public sector.

The Transformation of Private Sector Employment Relations

Over the 1970s and 1980s, fundamental changes have occurred in private sector employment relations in almost all developed countries. These interrelated changes have involved the inputs of the industrial relations system, the mechanisms for converting inputs to outputs, and the outputs of that system.

On the input side, increased competitive pressures have emanated from various sources including global competition, trade liberalization, and deregulation. Skill-biased technological change, associated with the computer revolution, may also be redistributing the demand for labor among markets. The macroeconomic environment has been characterized by deep and prolonged recessions and “jobless” recoveries. The supply side of the labor market has been affected by pronounced demographic changes, including aging workforces; the dominance of the two-earner family; and increased diversity with respect to such factors as age, gender, and ethnicity.

These changes in the environmental inputs of the industrial relations system have worked through various conversion mechanisms of the industrial relations system. While the conversion mechanisms are generally regarded as converting inputs into outputs, in the industrial relations arena, they are often regarded as ends onto themselves. Industrial restructuring has occurred, usually involving a shift from production of goods to services. Mergers, acquisitions, joint ventures, and business alliances have occurred with many organizations essentially becoming holding companies linked with downstream suppliers and upstream consumers by advanced communications, just-in-time delivery, subcontracting, and offshore production. Deunionization has been prominent, and the legislative environment has often responded as evidenced by changes in collective bargaining legislation and its application, as well as by increased emphasis on protection of individual rights through antidiscrimination and human rights legislation. Workplace and human resource practices have also changed in various interrelated dimensions: job enlargement and enrichment, broader job classifications and multi-skilling, part-time and contingent employment, contingent compensation and pay for performance, alternative work-time arrangements, employee involvement and reduced supervision, and an increase in
labor-management cooperation and a decline in the strike as a mechanism for solving differences at the workplace.

As indicated, many of these processes are often regarded as ends in themselves and as such are often considered outputs of the industrial relations system. Other outputs also have been dramatically affected. A large share of the workforce have suffered from wage stagnation, and those subject to job displacement often have weathered substantial wage losses and periods of long-duration unemployment. Many countries have experienced increased inflation and unemployment, while job creation has been scant. U.S. labor markets have performed better than those of many other countries along these dimensions but at the expense of increasing wage polarization.

Public Sector Pressures and Changes

In varying degrees, many of these same factors that have affected employment relations in the private sector have begun to play out in the public sector. Furthermore, the public sector itself is subject to additional constraints that have important implications for its employment relations.

The public sector clearly has the opportunity to learn from the private sector practices and to emulate “best practices.” There is also considerable pressure to do so. Private sector employers who are under increased competitive pressures want similar forces to be brought to bear on public services supported by tax dollars. Employees in the private sector often have similar feelings, especially when they themselves are subject to layoffs, expanded job assignments, wage stagnation, reduced union protection, and contingent work arrangements and compensation. These forces have been behind the notion of “reinventing government” (Osborne and Gaebler 1992) to facilitate incorporating “best practices” from the private sector as well as efficiency and customer orientation in the delivery of public services.

The public sector is also under severe budget constraints. Political emphasis on reducing budget deficits means that either expenditures have to be curtailed or taxes increased. The latter is not in the “political cards” because of taxpayer pressure. Furthermore, there is fear that high taxes will adversely affect business investment and plant location decisions and the jobs associated with those decisions. With greater global competition and reduced tariff barriers it is easier for capital to flow into countries with low taxes and few regulations and to export into the high-cost countries. Governments are under increased pressure to compete for business investment and the associated jobs, and this interjurisdictional competition may occur in the form of tax reductions and reduced regulations. The tax reductions directly affect the public sector budget constraint and employment relations, especially given the importance of labor cost in the provision of many public services. Reduced regulation indirectly reduces the demand for government services, since such regulation was often provided through the public sector.

Stagnant real incomes and growing income inequality also constrain demand for public services. While the growing portion of the population at the bottom of the distribution may have considerable need for public services, their incomes cannot provide the tax revenues required to support such services. The growing portion of the high-income population has the financial resources to pay for the public services but may see little benefit from taxes for services they are unlikely to access. Instead, they often prefer to opt for higher-end private services, feeling little need for a social safety net or the insurance of transfer payments should their situation deteriorate. Demand from the higher end of the income distribution for public services may come in the form of services to protect their position (e.g., police and prisons), but even these can be purchased privately (e.g., security systems and safe suburbs). In such circumstances, both the stagnant average real income and growing income inequality that are characterizing many economies combine to reduce demand for public services.

While the aging population is likely to lead to an increased demand for health care and pension support, and the increased number of two-earner families leads to an increase in the demand for childcare arrangements, it is unlikely that these will be met by significant increases in public spending on these social services. Rather the emphasis will be on cost saving through such processes as deinstitutionalization and community and family-based care as well as on providing more services by expanding the workload of the existing public sector personnel.

These changing constraints on the public sector have created pressure to emulate the changing workplace practices experienced earlier by the private sector. There will be greater pressure for broader-based job classifications and multiskilling, contingent employment, pay for performance, flexible and alternative work-time arrangements, employee involvement, reduced supervision, increased labor-management cooperation, alternative dispute resolution procedures for solving differences at the workplace, and restructuring away from centralized bureaucratic structures (with rigid distinctions between organizational divisions) and toward reintegration around operations.
Strategic Responses

Just as in the private sector, crucial strategic choices will be involved with respect to employment relations and human resource practices. The cost-cutting, "slash-and-burn" strategy emphasizes cost reductions through such mechanisms as employer-determined layoffs, often accompanied by privatization and subcontracting. The alternative strategy emphasizes labor not so much as a cost to be cut but rather a resource to be effectively utilized and involved in the process of where and how to reduce costs. Efficiency is to be attained through the changing workplace and human resource strategies discussed previously, with involuntary layoffs being a last resort. In unionized environments these issues would be subject to bargaining, with job security being a paramount issue in that bargaining.

Governments also have strategic decisions to make with respect to their role as legislator as well as employer. They can clearly influence public sector bargaining outcomes by changing the legislative environment within which such bargaining occurs. Elements of the legislative environment that can be changed include certification procedures and protections; management rights and the scope of bargaining; dispute resolution procedures (especially with respect to the right to strike and requirements for interest arbitration); the designation of employees who have the right to strike; back-to-work and national emergency legislation; legislative stipulations on criteria to be used by arbitrators, especially with respect to the ability to pay; abrogation of collective agreements and the suspension of bargaining rights; and the imposition of mandatory unpaid leave through legislation or failure to appropriate funds.

Unions will also be confronted with strategic choices in the public sector as in the private sector. Decisions include whether to follow a more cooperative, mutual gains approach or more conventional adversarial distributive bargaining. Furthermore, in the public sector the decision to try to influence the political process is even more important than in the private sector.

Clearly, strategic decisions will be required by all industrial relations actors in the public sector arena. This is even more true in the public sector than in the private sector because of the importance of the political process in public sector employment relations.

Diversity of Public Sector Responses

In the private sector, the imperatives of market forces often dictate the industrial relations response of the different actors. Organizations that do not respond often do not survive, albeit different employment-related responses could be appropriate to the varying circumstances of different organizations.

The public sector has more latitude of response, including no response or over-response. The political constraints of the public sector are less binding than the profit constraint of the public sector in disciplining inappropriate responses, in spite of the imperatives of deficit reduction, taxpayer resistance, and jurisdictional competition for physical and financial capital. Furthermore, different political and institutional conditions will give rise to responses which address the circumstances of a particular jurisdiction but are not readily applied to other public employers.

The public sector responses to changing conditions may also differ from that in the private sector because of other fundamental differences between the two sectors. The public sector labor force tends to be more educated and on the higher rungs of the occupational distribution than the workforce of the private sector. Public sector workers may already have had considerable independent discretion and empowerment at work, albeit centralized bureaucratic control and rigid civil service procedures may have inhibited even greater flexibility. Workers in the public sector may also be covered by broader rights through civil service procedures and even constitutional rights.

Managerial roles also differ between the public and private sectors. Politicians often play a key role, and decision-making authority tends to be more diffuse in the public sector. This can make restructuring more difficult and subject to reversals. Electoral changes, for example, can lead to pendulum-type swings in public sector labor relations policies. The vicissitudes of the political process can be more extreme than the vicissitudes of the market.

The extent of unionization is usually considerably higher in the public sector than in the private sector, and this obviously can give rise to different industrial relations responses to the pressures faced by employers. Collective bargaining can provide a viable arena to negotiate the restructuring and to confront the inevitable trade-offs especially with respect to job security. In contrast, it can also inhibit bargaining over these issues, especially if the adversarial mentality continues and fragmentation of bargaining units inhibits unions speaking with one voice. As well, unions may be wedged to narrow job classifications and seniority principles that may inhibit restructuring.

Attitudes toward the public sector are also changing. There appears to be a loss of faith in the efficacy of government to solve social problems
as well as a decreased trust of government and politicians. This can lead to a reduced demand for government services as well as increased pressure to curb public sector compensation and job security, especially as that security is eroded among private sector taxpayers. Rather than looking to government as a model employer, taxpayers may increasingly feel that governments should be emulating private sector practices, especially those that emphasize customer satisfaction. Given the importance of political pressures in public sector labor relations, these changing attitudes can have important implications for employment relations in the public sector.

Clearly, there is no easy answer as to whether public sector industrial relations will undergo a transformation that is similar to that of the private sector. What is clear is that the public sector is under extreme pressure for change and this will have important implications for employment relations in that sector. The exact nature of the transition is less clear, as is the expected structures of the system to come. The various chapters in this volume deal with the transition of public sector employment relations that is currently in progress.

As summarized in more detail in the next section, John Lund and Cheryl Maranto discuss the changing legislative environment, highlighting how it is becoming less favorable to the formation and retention of unions in the public sector. Richard Freeman provides new survey evidence on the attitudes of public sector workers and managers, suggesting that public sector employees are more favorable to unionization than their private sector counterparts and that this helps to explain the higher degree of unionization in the public sector compared to the private sector. Robert Hebdon focuses on the alternative dispute resolution procedures that are evolving to meet the changing pressures in the public sector. Dale Belman and John Heywood focus on wage determination in the federal public sector, with particular attention to the concept of private sector comparability and how it is measured and applied. Peter Doeringer, Linda Kaboolian, Michael Watkins, and Audrey Watson analyze the evolution of the federal public sector from the earlier patronage-spoils system to the merit model and then to the emerging system that involves mixtures of externally imposed cost cutting and downsizing as well as more internally driven reforms which emphasize efficiency through changing human resource and workplace practices (illustrated with case studies). Anil Verma and Joel Cutcher-Gershenfeld also utilize a number of Canadian and U.S. case studies to illustrate the alternative paths to reform, and they identify a number of key ingredients to such reforms. Morley Gunderson and Douglas Hyatt document the evolving employment relationship in the Canadian public sector with respect to such dimensions as legislation, compensation, unionization, dispute resolution, and changing workplace and human resource practices. Phil Beaumont provides a European perspective, with particular attention to alternative paths to reform.

**Overview of Chapters**

*Lund and Maranto: Legal Structure of Bargaining*

In the previous IRRA volumes on the public sector, the chapter on the legal structure of public sector bargaining was replete with descriptions of the passage of new bargaining statutes and the increasing sophistication of existing statutes. There were definite trends toward limiting government sovereignty; widening the scope of bargaining; formalizing bargaining structures; and mandating dispute resolution procedures such as fact finding, mediation, and binding arbitration.

This chapter reports both a slower pace of change and signs of re-trenchment and reversion since 1987. In the past eight years, only eleven bargaining laws have been enacted: only one is a new law (New Mexico), three are revisions which substantially extend bargaining rights (Texas, Delaware, and Nebraska), while six apply only to educational employees.

There have been a greater number of court decisions which have altered the legal framework of public sector bargaining. Although the courts, mostly at the state level, have not spoken with a single voice, there has been a trend toward reassertion of the sovereignty of the legislature and courts. For example, the Supreme Court of Alaska found that the legislature is free to underfund collective agreements, the Supreme Court of Florida found that the legislature may unilaterally change any monetary item in a contract, and the highest court in Nebraska declared both interest and grievance arbitration unconstitutional because they deprive court jurisdiction. Contrary trends may be found in Colorado and Louisiana, where the right to strike of public employees was upheld, and in Iowa, where AFSCME was supported in the enforcement of an arbitration award which the governor refused to fund.

With respect to agency shop fees and current disputes over chargeable expenses, this chapter traces the evolution of decisions of the U.S. Supreme Court, various U.S. Appeals Courts, and various state courts (notably Indiana, Wisconsin, Ohio, and Kentucky).
Numerous tables provide summary pictures of the current provisions of collective bargaining statutes by state and occupational groupings. These are based on various sources: an exhaustive review of state and federal court cases, legislative proposals and attorney general opinions from 1987 to 1994 using LEXIS, legal periodical data bases, and the BNA Government Employment Relations Reporter. This comprehensive summary of public sector labor law should prove invaluable to practitioners and researchers.

Although the “patchwork quilt” of public sector bargaining laws imparts considerable inertia and stability to the legal structure of public sector bargaining, the pronouned trend since 1987 has been toward circumscription of bargaining and toward support for unilateral action by governments. Continuation of this trend portends harder times for public sector unions, their members, and public employees.

Freeman: Employee Attitudes toward Unionization

While the legal environment may be changing in a direction that is less favorable to unionization, Freeman provides new survey evidence that the attitudes of employees in the public sector are more favorable to unionization than are those of their counterparts in the private sector.

There is notable divergence in the level of organization of the public and private sectors of the United States. While unions represent 11% of the employees in the private sector and unionization is declining by half a percent a year, union membership in the public sector has stabilized at approximately 40% of workers.

What explains this difference? Freeman argues that it is not the demographic composition of the public sector, since that composition is less favorable to unionization in the public sector than in the private sector. Similarly, the legal structure of bargaining is generally less favorable to unionization in the public sector than the private sector, and as discussed by Maranto and Lund (this volume), the legal environment is becoming less favorable for public sector workers (albeit due-process rights and merit-based promotion procedures afford public employees security in organizing, and dispute resolution procedures may make unionization palatable to employees in the public sector). Freeman suggests that much of the difference in unionization is due to more favorable attitudes of both employees and managers in the public sector with respect to the role of unions.

The picture developed in this chapter is drawn from an extensive, but nonrandom, survey of public employee attitudes which parallels a survey by Freeman and Rogers in the private sector. Similar to the private sector, in the public sector there is a substantial “gap” of about 35% between the desired and perceived level of involvement of employees in decisions about their employment. This gap is particularly large for teachers, and it tends to be larger for unionized employees than for nonunion employees. Employees in the public sector, however, express greater satisfaction with their jobs than do employees in the private sector, and this is true for both union and nonunion employees.

One of the more striking differences is the greater perceived willingness of managers to share power in the public sector. While public employees give their managers lower ratings on leadership and pay increases than do private employees, they give them much higher ratings on willingness to share power and authority. This holds true for both union and nonunion employees.

Freeman also reports that public employees, including nonunion employees in the South, have more favorable attitudes toward unions than do their counterparts in the private sector. They also believe that their managers are less likely to oppose union organizing than are private sector workers.

This survey also indicates that employee involvement is alive and well and possibly in somewhat better health in the public sector than the private sector. Compared to the private sector, public employees are 5% to 10% more likely to work where there are “town meetings,” open-door policies, or joint labor-management committees. Public employees are also more likely to be in a workplace with an employee involvement program and to participate in that program.

Overall, the attitudes of public employees and managers toward their work, toward employee involvement in the workplace, and toward employee representation provide a strong underpinning for public employee unionism. The underlying factors influencing these attitudes remains a topic of further study.

Hebdon: Dispute Resolution

Public sector dispute resolution procedures are intended to institutionalize conflict and protect the public from the consequences of such conflict, particularly from strikes. The decline in strike activity and the rise of new sources of conflict over issues such as privatization and contingent employment have posed challenges for procedures not intended to address these emerging areas.
The 1990s have seen increased aggression in public sector collective bargaining. Fiscal pressures and a more conservative political environment have combined to create the apparent need for major cost reductions and downsizing of the public sector workforce. Although public sector strike activity has fallen off over the last decade, conflict has often surfaced in other forms, notably in grievance filing, arbitrations, and unfair labor practice charges against employers.

Dispute resolution procedures are adapting to the changing needs of the public sector, albeit at a slow and uneven rate. Experiments with cooperative approaches to bargaining are being tried, and some state labor relations agencies are providing training in these techniques. There has been an increase in the use of special mediators for settling grievances and unfair labor practices and some use of preventative mediation to improve the relationships of parties away from the bargaining table. Although such methods appear useful when applied to particular issues, they appear less successful in resolving ongoing conflict between the parties.

The other major forms of dispute resolution, fact-finding and arbitration, have proven less adaptive. The use of fact-finding to resolve disputes has increased, but there is considerable dissatisfaction with its performance. Evidence is mounting that its usefulness is declining.

Arbitration is becoming increasingly popular as an alternative to courts through alternative dispute resolution (ADR) procedures, but interest arbitration is gaining under increased scrutiny in the public sector because of its perceived inability to handle economic issues. The focus of this scrutiny is the application of ability-to-pay criteria, with arbitrators failing to articulate clear standards to judge the issue and problems arising in the application to a fiscal structure dominated by discretionary expenditures. Criticism has also arisen over the reluctance of arbitrators to make decisions on issues which would fundamentally alter the relationship between the parties, thereby limiting the effectiveness of interest arbitration in addressing emerging issues such as privatization.

Existing evidence is not sufficient to tell whether public sector dispute resolution systems are undergoing a transition or a more fundamental "transformation." The move toward extensive restructuring in the public sector, however, will hasten its evolution by putting new demands on the system.

**Belman-Heywood: Compensation**

The appropriate level of compensation of public employees is one of the oldest and most contentious issues in public sector employment relations. Issues in the debate include the standards by which public sector wages are determined, the methodology used to measure public and private wages, and the components of pay to be included in the measure of compensation.

One area of general agreement, at least in principle, is that public sector employees should be paid comparably to equivalent employees in the private sector. Although other criteria exist, such as ability to pay or using the public sector to influence trends in the broader economy, comparability is the most widely accepted standard for setting public sector pay.

The practical application of this principle, however, is fraught with difficulties and controversy. Although there is general agreement that comparability should extend beyond wages, it is often difficult to collect data on nonwage compensation and to evaluate benefits like job security. Furthermore, there may be a divergence between the costs of providing fringe benefits and the value attached to them by employees. Difficulties also arise if there are no comparable jobs in the private sector or if comparator wages reflect noncompetitive factors or discrimination.

Comparability has been measured by two main approaches. Wage surveys have been used to compare wages in the same narrowly defined occupation or position in the public and private sectors. Regression analysis has been applied to large cross-sectional data sets to compare the wages of otherwise similar persons in the public and private sectors. The measures emerging from these alternative approaches have been rather different. Occupational wage surveys indicate federal wages are below those paid to equivalent employees in the private sector, while regression approaches generally find the opposite. This pattern is reversed for state and local employees, where regressions indicate underpayment and occupational wage surveys indicate overpayment. More recently, hybrid studies have been employed involving regression approaches which add controls for position, such as firm size and more detailed occupational controls, to the typical human capital characteristics. These studies tend to reduce the discrepancy between the typical regression and occupational wage survey results.

Disaggregate analysis also reveals that aggregate public-private sector wage differentials can mask considerable variability.
in the aggregate often reflects an offsetting “averaging” of large positive and negative deviations from comparability at the disaggregate level.

A clear pattern found in all studies is the decline of wages in the public sector relative to the private sector. Similarly, there is considerable evidence of wage compression, with the upper levels of the civil service being paid considerably less than their counterparts in the private sector. This is consistent with the work of Doeringer, Kaboolian, Watkins, and Watson in this volume, which suggests that the federal sector is having trouble recruiting and retaining an adequately skilled labor force.

_Doeringer, Kaboolian, Watkins, and Watson: New Directions at the Federal Workplace_

This chapter reviews the performance of the federal government’s employment system, with particular emphasis on developments since the 1970s. The current merit model originated in the late nineteenth century as an alternative to the patronage or spoils system. The intent was to ensure a reliable government infrastructure to support economic growth and development. The central features of this system are merit-based employment, the doctrine of sovereignty, the application of scientific management, and private sector pay equivalence.

The reforms in the 1970s could generally be labeled as “progressive.” The most notable were the introduction of collective bargaining to provide greater voice to employees, the implementation of equal employment opportunity, and improvement of the quality of federal management by reform and restructuring of the federal civil service system. These reforms have produced important changes in the federal employment system—for example, the federal government has been far more successful than the private sector in closing the gender gap in pay. However, problems arose, including those associated with maintaining pay competitiveness, opportunities for advancement, and recruiting a high quality federal workforce.

Reform proposals since 1980 have been in very different directions. Some have focused on externally imposed cost cutting and a reduction in the scope of direct federal activity through privatization, downsizing, and devolving federal powers to the states. Other proposals have focused on improving efficiency through internal reform. Total Quality Management (TQM) strategies were introduced by the Reagan and Bush administrations, and support for this approach was institutionalized in the Federal Quality Institute in 1988. The National Performance Review, championed by Vice President Gore, advanced earlier initiatives of improving service to citizens, increasing managerial flexibility, and empowering federal employees.

Although many agencies have been more adept at the rhetoric than the substance of these programs, and although an ongoing emphasis on cost cutting and reducing federal employment has, to some degree, undermined the legitimacy of the reforms, there have been notable successes. The Internal Revenue Service has been particularly successful at shifting from a hierarchical organization with adversarial labor relations and extreme problems in meeting its goals to a more productive and less adversarial organization through a TQM program and partnership with the National Treasury Employees Union. The Bureau of Printing and Engraving has also had notable success in transforming its employment structure. Historically, the bureau has had a fragmented craft production structure, a legacy of scientific management, and adversarial relations with multiple unions. The introduction of new technologies and consequent conflict over its effect on the existing employment structure led to a dialogue with the union leadership, the formation of a Joint Partnership Council with the unions, and movement by management toward more strategic assessment and planning of human resources.

These cases, among others, show that there are multiple routes to reform. The authors suggest that the implementation of reform is critically dependent on reducing the unilateral prerogatives of federal management and increasing the scope of employee involvement. They argue that a larger role for collective bargaining is concomitant with such changes. Failing this, efforts at reform are unlikely to produce the efficiency gains sought by reformers.

_Verma and Cutcher-Gershenfeld: Workplace Innovations_

The public sector employment relationship is dominated by the bureaucratic/civil service model. Although this structure affords employee advantages such as substantive and procedural due process, considerable job security, and hiring and promotion by merit and seniority, it is hierarchical and rule bound and provides employees little power over their work.

In parallel with trends in the private sector, there have been numerous experiments with alternative forms of employment involvement in the public sector. Verma and Cutcher-Gershenfeld review several of these experiments in both Canada and the United States: (1) a socio-technical employment structure at a greenfield site of the Ontario Office of the Registrar General, (2) a socio-technical systems approach to construction engineering employees at a Canadian Armed Forces
base undergoing a downsizing, (3) work teams at British Columbia Hydro, (4) continuous quality improvement methods in the Michigan Department of Natural Resources, (5) labor-management partnerships at the U.S. Department of Agriculture and the Norfolk navy yard, and (6) alternative dispute resolution systems at the Lansing Mail Sorting Center of the U.S. Post Office.

The authors highlight the two main motivations behind efforts toward workplace change: a value-added approach which emphasizes harnessing employee energy, effort, and know-how and a cost-based approach which emphasizes the reduction of labor costs. Both are present in most change initiatives, but value-added strategies with their emphasis on employee development, empowering lower-level employees, and the development of cross-functional teams are dominant in the cases studied in this chapter.

The authors conclude that the current stresses and constraints will force the emergence of alternatives to the bureaucratic, civil service model of employment relations. While the emergence of alternative models is driven by crises, their success depends on key ingredients: (1) the crises being neither too severe nor too mild, (2) a compelling case for change, (3) local autonomy among managers, (4) union involvement in the change process, (5) local bargaining that will destabilize a master agreement, and (6) union and management leaders who are skilled handlers of the change process.

The authors also suggest that efforts at workplace change in the public sector are particularly difficult because of the exposure to the political processes, the glare of publicity, and the instability of political goals. Whether the typical effort at change in the public sector can, under such burdens, emulate the success of some of the cases reviewed in this chapter remains to be seen.

*Gunderson and Hyatt: Canada*

Public sector labor relations have a longer history and are more varied and extensive in Canada than in the United States. Although Canadian law varies considerably by province and by employee function, it is typically more supportive of collective bargaining, more likely to permit bilateral decision making, and more permissive of strikes and binding dispute resolution procedures than are the comparable U.S. laws. The support for collective bargaining is reflected in the high level of union coverage in the Canadian public sector—between 50% and 80% depending on the level of government and function.

The authors provide considerable evidence that the historic support for collective bargaining in the public sector may be reversing. Canada faces pressures parallel to those bearing on other countries: an aging population which makes costly demands on services, a budget deficit combined with reluctance to raise taxes, a private sector which faces increasing competitive pressures, and a public desire to reduce the cost of government while maintaining services. This combination of forces has led to policies such as the overriding of the collective bargaining process and direct regulation of employment. It may also be leading to a more cooperative and service-oriented approach to labor-management relations; whether this will help preserve the bargaining process remains to be seen.

There have been some notable shifts in strike activity and in methods of resolving interest disputes in Canada over the past ten years. Strike rates are much lower in the public sector than in the private sector. Furthermore, strikes have declined in both sectors, although the decline has been smaller in the public sector so that the public sector accounts for a growing proportion of (declining overall) strike activity. While strikes are less common in the public sector, overall dispute rates (proportion of settlements which end in a strike or arbitration) are more similar (14% in the private sector and 11.5% in the public sector), reflecting the much greater use of interest arbitration in the public sector. A notable development in dispute resolution in the public sector has been the increased use of legislated interventions, such as wage controls, back-to-work legislation, and outright abrogation of the collective agreement; they are now the more common ways to conclude negotiations than strikes or arbitration.

As in the United States, comparability is the central principle for public sector wage determination under interest arbitration. Summarizing current research (largely based on regression techniques), the authors report that public employees earn between 5% and 10% more than otherwise comparable private sector employees. This favorable differential is largest for women and low-wage employees. Furthermore, the public sector likely provides somewhat better fringe benefits than the private sector. However, similar to the findings of Belman and Heywood for the United States, the public sector wage advantage is trending downward, particularly for males. There is also evidence that the impact of unions on wages is smaller in the public sector than in the private sector and that arbitrated wage settlements tend to be slightly higher than wage settlements achieved under right-to-strike regimes.
The Canadian system faces a number of challenges brought about by economic, budgetary, and social pressures that are affecting the functions and role of government. These in turn are creating pressures for privatization, subcontracting, performance evaluation, restructuring, and downsizing—all of which are influencing wages and job security. As such, the various actors in the Canadian public sector are facing key strategic choices with respect to such matters as labor-management cooperation and workplace restructuring and the potential for considerable conflict over the directions taken. These strategic choices will determine the shape of the public sector employment relations system for years to come.

Beaumont: Europe

Europe faces financial issues similar to those of the United States and Canada, but their social relations have sent them on different courses than their North American counterparts. With the exception of the United Kingdom, the more extensive role of labor and the strong support for social welfare programs have blunted tendencies toward downsizing, privatization, and internal transformation of government functions.

Relative to the United States, most European countries have a larger proportion of their GDP devoted to public expenditure and a larger share of employment in the public sector. For example, while 15% of U.S. employment is in the public sector and public spending is 36% of GDP, these figures respectively are 19% and 42% in the United Kingdom, 23% and 50% in France, and 32% and 55% in Norway. The European countries also face more severe debt and deficit issues than the U.S. The requirements of the Maastricht Treaty to reduce these debts and deficits and looming increases in social costs as the populations of these countries continue to age have focused attention on reducing government expenditures.

Virtually all European countries have used measures such as pay restraint and pay freezes and reduced indexation to reduce the cost of government. In the Netherlands, nominal pay cuts have occurred. Although these measures have succeeded in reducing public sector compensation relative to the private sector, they have not resulted in substantial reductions in budget deficits.

Efforts at broader reforms, such as privatization and moving the public sector toward a private sector bargaining framework as well as importing private sector human resource practices (e.g., performance-related pay standards), have been adopted to varying degrees by a number of countries, especially the United Kingdom. Driven in part by ideology, the British government has undertaken a wide range of reforms: transferring close to one million jobs to the private sector since 1979, requiring local public sector authorities to competitively bid on many projects and services, market testing many civil service jobs to determine if they can be done less expensively by the private sector, decentralizing public sector collective bargaining, and implementing performance-related pay systems for three-quarters of the civil service labor force. Efforts at reform in other European countries have been far more limited and, in general, based more on consultation and compromise with public sector employees and their representatives. This difference in approach reflects the strength of the public sector unions, their willingness to use strikes to oppose what are perceived as excessive cuts, and a less ideologically driven effort at change on the continent.

Although there is no doubt that all European countries will continue to reform their public sectors, it is far from certain what paths will evolve and whether the British model will be taken up by other European countries. Even more in doubt is whether these reforms will resolve the budget issues faced by these nations.

Concluding Observations

Clearly, employment relations in the public sector are in a time of transition. The public sector is under great pressure for change. Many of these pressures are the same as those faced by the private sector in the 1970s and 1980, but some are unique to the public sector. The emphasis is not simply on collective bargaining (as analyzed in previous IRRA volumes in the public sector) but on the overall employment relationship in general, especially with respect to human resource policies and workplace practices.

The chapters in this volume highlight that, although the pressures facing the public sector are similar, different paths to reform and restructuring are being followed. This applies to different countries, different jurisdictions within countries, different public sector functions, and even different units within the same country and jurisdiction. Clearly, the public sector is now facing crucial strategic choices involving alternative paths to reform. Those choices will shape employment relations in the public sector for years to come. Whether the transition that is underway will lead to a fundamental transformation of the public sector employment relationship will be played out over the next decade.
Public Sector Labor Law: An Update

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Law governing collective bargaining rights of state and local government employees continues to be a crazy-quilt patchwork of state and local laws, regulations, executive orders, court decisions, and attorney general opinions. This patchwork is far from static. For labor relations practitioners, academics, and policymakers alike, there is an ongoing need to update the status of these laws. That is the objective of this chapter.

To develop this update, a LEXIS® search of state and federal court cases, laws, legislative proposals, and attorney general opinions for each state was conducted from 1987 (the year the last IRRA research volume on the public sector was published) through 1994. Additionally, several CD-ROM literature databases, including a legal periodicals database as well as the BNA Government Employment Relations Reporter, were searched.

This chapter begins with a review of significant state legislative changes as well as selected court decisions, executive orders, and attorney general opinions since 1987 which affected collective bargaining rights in the public sector. We then summarize current legal provisions (the duty to bargain, terminal resolution procedures, and strike penalties) by state and sector (police and fire, state workers, etc.). Finally, we review and analyze two key post-1987 trends: (1) legislative and constitutional limitations on the finality of collective bargaining agreements or interest arbitration awards and (2) procedures for handling nonmember objections to agency shop fees in light of Hudson, 475 US 292, 121 LRRM 2793 (1986) and Lehnert, 111 S.Ct 1850, 137 LRRM 2321 (1991).