

**Public service labour relations:
A comparative overview**

**Giuseppe Casale
Joseph Tenkorang**

**Social Dialogue, Labour Law and
Labour Administration Branch
International Labour Office • Geneva
August 2008**

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First published 2008

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Casale, G.; Tenkorang, J.
Public service labour relations: A comparative overview
Geneva, International Labour Office, 2008

DIALOGUE Paper No. 17

Public service, labour relations, workers rights, tripartism, social dialogue, developed countries, developing countries.
04.03.7

ISBN 978-92-2-121510-3 (print)
ISBN 978-92-2-121511-0 (web pdf)

ILO Cataloguing in Publication Data

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Printed in Switzerland

Foreword

Within the current biennium (2008-09), DIALOGUE will intensify efforts to promote good governance using integrated approaches. In particular, it will enhance the framework for good governance with a view to strengthening labour administration systems and promoting sound industrial relations,¹ tripartism and social dialogue throughout the regions.

Against this background, increased knowledge and understanding of recent trends and issues concerning public service labour relations are of paramount importance. Specifically, the ratification and better implementation of ILO Convention No. 151 (1978) Convention concerning Protection of the Right to Organise and Procedures for Determining Conditions of Employment in the Public Service, and its accompanying Recommendation No. 159 (1978), are essential for extending sound labour relations to all persons employed in the public service.

Convention No. 151 represents the international legal framework within which national legislations and practices should adapt and evolve. In this context, this comparative study attempts to give an overview of recent trends and issues in public service labour relations in selected countries in different regions of the world. The procedures for determining the terms and conditions of employment, that is to say, the measure taken by countries to encourage and promote the development and utilization of machinery for negotiation (or other similar methods) between the public authorities and public employees' organizations are analysed. As well, a full description of the various labour dispute machineries is given. Emphasis is provided on the interaction that civil and political rights play in the public service. In fact, one of the major areas developed in this study is how far public employees enjoy the civil and political rights which are essential for the normal exercise of the freedom of association (subject only to the obligations arising from their status and the nature of their functions).

It seems that in the last two decades, public service labour relations have profoundly changed. Clearly, there is a downtrend in collective bargaining coverage, very probably as a consequence of public service/sector reforms aimed at more efficient provision of services. The process is still ongoing, albeit at a varying rates and degrees in different countries.

¹ The term 'labour relations' will be used throughout this paper, rather than 'employment relations' or 'industrial relations'.

The major role of public authorities now is to ensure that the reorganization of their services and structures are in step with the changing patterns in the world of work. This can only be done if the spirit of Convention No. 151 is truly implemented.

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Introduction

This comparative study examines the evolution of labour relations in the public service in several regions of the world. It looks at recent trends in public service labour relations in selected countries, with particular emphasis on the impact of reforms on this sector.

Labour relations in the public service has received little attention in terms of research (Treu, 1987). This is probably neither an oversight nor a lack of interest by experts, researchers and concerned actors in the field of labour relations. Rather, one can attribute it to the fact that for many years there had been no recognition of the right to form trade unions in the public service in many countries around the world (Ozaki, 1988: 4).

The public service sector throughout the world has been subject to numerous reforms in recent decades. In the United States, public service reforms were implemented in light of the report of the National Performance Review (NPR) in 1993² which encouraged federal agencies to find more effective means of carrying out their tasks. In the European Union (EU), various reforms were likewise put in place to promote efficiency in this sector. In other parts of the world – in Africa, Asia and Latin America – public service reforms underpinned structural adjustment programmes that began in the 1980s. As a result of these reforms, public service labour relations have been modified to suit the growth and development of the countries concerned.

Theoretical framework of public service labour relations

By definition, the public service sector includes organizational entities that are funded, owned and/or controlled by the State. The resources and activities of public service organizations are mostly controlled by the government; thus, managers and employees in the public service have a reduced decision-making margin in making organizational changes. In this study, public employees refer to civil servants, public servants and other employees at all levels of the government, including local government units, and employees of state-owned enterprises. Although in some countries labour relations in the public service have remained different from the private sector (i.e., in the past, the private sector was typically driven by profit, while the goal of the public sector was the provision of public goods and ensuring the general welfare and well-being of citizens), today the characteristics of the public service are becoming more similar to those of the private sector, and hence the increasing importance of good governance in public affairs.

Typically, public service collective bargaining takes place at the national level. Dialogue, consultation, and co-determination are its predominant characteristics. Because of the political context of the public service, collective bargaining is sensitive

² The NPR was the Clinton-Gore administration's interagency task force to reform and streamline the workings of the federal government.

to government policy, and public service labour relations is often characterized by excessive external political control of resources and activities.

In this regard, Osbourn & Gaebler (1993) offer four key approaches to overcoming the hierarchical bureaucratic procedures surrounding political administrations: (a) empowering public service employees; (b) injecting competition into service delivery; (c) making public service agencies mission-driven; and (d) focusing on customer need.

The different political systems around the world have resulted in diverse labour relations processes in the public service. While public service employees in some countries have the right to bargain collectively, others do not. In Italy, New Zealand, Spain and Sweden, central collective bargaining is practised. In some developing countries such as Pakistan and the Dominican Republic, the government unilaterally determines working conditions in the public service; in the latter, public servants are denied the right to collective bargaining (Neal, 2001: 248). Some categories of public employees have no right to strike or engage in other industrial action under any circumstances due to a “clause” that the functions of such employees are essential, e.g., those engaged in the provision of essential services such as electricity, gas and water supply, and medical services.

Legislative framework of public service labour relations

In many countries, the Constitution, complemented by national legislation, gives public employees the right to collective bargaining. Although the regulatory framework governing labour relations vary from country to country, the principle of bargaining in the public service is very similar across geographic regions. In general, labour relations in the public service are governed by separate laws.

In almost all reform programmes studied for this paper, efficiency and performance are the key underlying objectives (Hemerijck & Huiskamp, 2002). In 1997 Germany reformed its public service, with the objectives of improving the performance of the civil service, promoting the efficiency of civil servants, strengthening labour relationships and improving working conditions. In the case of the 1994 Public Service Act reform in Finland, the objective was to ensure that employment relations were similar to that in the private sector. In the United Kingdom, public service reforms in 1992 and 1996 focused on deregulation of pay structures and systems in government departments/agencies; subsequent reforms in 1997 integrated the bargaining structure of local governments into a national framework agreement. Similarly, in the United States, the reforms which followed the 1993 National Performance Review focused on efficient performance and delivery of public service. This trend can also be found in reforms instituted in developing countries such as Ghana and Uganda. However, the processes of reforming the public service are different and such processes have had significant impact on the conduct of labour relations.

In view of the fact that the public service is “owned” by the governments, it has a two-fold function: as employer and as national administrator. This dual function makes labour relations in this sector unique. Legislatively, government and workers’ representatives are the main actors in public service labour relations. While the

government is usually represented by ministries or departments (labour, finance, economics), the workers are typically represented by unions of civil servants or public employees. Thus, labour relations in the sector is essentially bipartite.

The role of international labour standards

The role of ILO labour standards in promoting sound labour relations in the public service cannot be overemphasized. In particular, the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), and the Right to Organize and Collective Bargaining Convention, 1949 (No. 98), have been ratified by the majority of ILO member States. As of 1 January 2008, 148 Members have ratified Convention No. 87; 158 Members have ratified Convention No. 98. The ILO uses its supervisory mechanism to enforce compliance with these two core international labour standards across all sectors throughout the world. This mechanism has significantly contributed to sound labour relations in all sectors of the economy in the member States.

Special mention should be made of two international labour standards, the Public Service Labour Relations Convention, 1978 (No. 151), and the Promotion of Collective Bargaining Convention, 1981 (No. 154), both focusing on the promotion of sound labour relations in all areas of economic activity, including the public service. Of the 180 ILO member States (as of 1 January 2008), only 44 and 38 Members have ratified Convention Nos. 151 and 154, respectively, showing that the majority have not yet ratified these two Conventions. Nonetheless their contribution in promoting sound labour relations in the public service cannot be overstated. The actors of labour relations in the public service take due notice of these standards in their policy and practice of labour relations.

Convention No. 151 states in Section 1, Article 1: “This Convention applies to all persons employed by public authorities, to the extent that more favourable provisions in other international labour Conventions are not applicable to them.” This Convention complements national labour laws to provide the right of freedom of association and collective bargaining for public employees. In addition, it empowers public employees’ organizations to protect the interests of public employees.

Convention No. 154 emphasizes the promotion of collective bargaining in all areas of economic activity, including the public service. It reaffirms certain provisions of the Declaration of Philadelphia which states that the principle of collective bargaining is “fully applicable to all peoples everywhere”. In principle, this Convention was expected to encourage national governments to promote collective bargaining in the public service where some categories of employees are denied the right to organize and the right to collective bargaining.

Not only ILO has worked to promote the ratification of Conventions relating to freedom of association, but, already some 60 years ago, it has established a special body entrusted whose mandate is to examine any complaint alleging that a Member State of the ILO has infringed the basic principles of freedom of association, as stated in the ratified ILO Conventions. Such complaints may be submitted by governments, by national employers or workers organizations directly concerned with the matter, or by certain international organizations of employers or workers. This body is the Committee on Freedom of Association (CFA) of the ILO Governing Body examines.

The CFA is a tripartite body where governments', employers' and workers' representatives seat on equal footing. It is composed of nine members of the Governing Body serving in their personal capacity, and nine deputies. It is chaired by an independent person of distinction. It meets three times a year in private session.

Since its establishment in 1951, the CFA has examined more than 2.500 cases thus building up a body of principles on freedom of association and collective bargaining, based on the provisions of the Constitution of the ILO and of the relevant Conventions, Recommendations and resolutions. This ensemble of principles has been created by a specialized and impartial international body which adopts a tripartite perspective and whose work is based on real and concrete allegations of violations of trade union rights throughout the world. It has therefore acquired recognized authority and it is increasingly being used for the development of national legislation. This bulk of case-law has been recently rearranged in the *Digest of Decisions and Principles of the Freedom of Association Committee of the Governing Body of the ILO*, which has been issued in 2006,³ providing valuable insights on the basic ILO principles concerning freedom of association.

Public service reforms

In many parts of the world, the public service is characterised by bureaucracy at all levels of the government administration. Bureaucratic management procedures have created the general perception of the public service as inefficient in the performance of its functions. A good system of labour relations is extremely valuable, both in private and in public sector, since it contributes to ameliorate the working conditions of the employee and therefore their well being. In such a context, workers find themselves in the best position to contribute to the firm's objectives, and in the case of public service, to deliver higher quality services to the public. If it is indeed not possible to prove a direct causal link between good labour relations and an increase in the employee's productivity, it is indeed true that the worse the working conditions of the workers the less they will be motivated to be efficient.

The negative general perceptions of the sector have compelled many public services around the world to undertake major reforms such as privatization, outsourcing, retrenchment and redeployment, subsidy removal, and fiscal and monetary policy discipline.

Privatization, retrenchment and redeployment are forms of public service reforms that have had serious consequences on labour relations. Privatization in general is the sale of public services or assets to a private entity. In the OECD⁴ countries, the sectors affected by privatization include manufacturing, banking, public utilities such as water, gas and electricity, public transport and telecommunications. According to the *OECD Observer* (Sep. 2004), privatization generated over USD three-quarter trillion in the last two decades. In developing countries, the privatization of state-owned enterprises (SOEs) was a major public sector reform initiative that

³ Available in electronic version at http://www.ilo.org/wcmsp5/groups/public/ed_norm/normes/documents/publication/wcms_090632.pdf

⁴ Organisation for Economic Co-operation and Development.

began in the early 1980s, including the structural adjustment programmes initiated by the IMF and the World Bank.

Outsourcing or “contracting-out” is another common public sector restructuring process today. Outsourcing is basically the relocation of a public service function to the private sector. This form of reform has become more accepted by the general public in the sense that the responsibility and financing for the type of service being outsourced typically remains in the public sector. Burgess & Macdonald (1999) group the reasons for outsourcing in the public service into two categories: (a) efficiency in terms of cost savings and service delivery; and (b) ideological and political in terms of the appropriate role and size of the public service sector. In Australia, outsourcing is one of the leading mechanisms of public service reforms. In the U.K., the delivery of front-line health services has similarly been outsourced. However, the United Nations *World Public Sector Report* (2005) points out that outsourcing leads to a substantial reduction in public employment.

The deregulation of financial controls and liberalization are some of the economic reforms associated with public service reforms in many developing countries. In several cases, these reforms were unilateral decisions of governments (no consultations with the social partners). While in some countries (Ghana and the U.K.), unions in the public service actively participated in the reform process, in the majority unions were left out (as in Sri Lanka and Uganda). These reforms directly affected labour relations. Liberalization, for example, introduced global competition into the local economies. Also, the removal of government subsidies on many public service programmes such as health, education, and transportation, as well as downsizing exercises, have unfortunately led to massive retrenchment of public employees.

Public service reforms and their impact on labour relations

Public service reforms are not new to labour administrations. The 1993 NPR in the U.S. was the eleventh federal reform document in the twentieth century alone. In many cases, public service reforms are in direct response to new priorities in a changing society. Such reforms ranged from changing organizational structures to improving management processes, the goal of which were efficiency and improved performance of employees. Even though it is widely documented that public sector reforms have realized some cost savings in the area of service delivery, the issue of efficiency remains questionable. In reality, when the cost savings is brought up against the social costs of job losses, the net social welfare benefit can be negative. The *UN World Public Sector Report* (p. 57) states that:

In 2003, the municipality of Copenhagen in Denmark outsourced payroll management of 50,000 employees to a private consulting company. It was envisaged that this arrangement would generate cost savings for the municipality of around \$7 million over a period of six years. Yet the outsourcing is now expected to increase costs by \$6 million.

In portraying the social costs often associated with reforms such as outsourcing, Burgess & Macdonald state that “the majority of opinions indicate that there are severe disadvantages for employees in terms of fewer jobs, increased work intensity, lower wages and earnings, longer hours and less pleasant work environments” (p. 45).

Public service reforms cover almost all areas of service provision at all levels of government service, from cleaning services and garbage collection to auditing and training. The reforms are extensive, though it differs from region to region. Regrettably, these reform processes have greatly contributed to the reduction of union strength and collective bargaining coverage in many countries. As employment in the public service has been significantly reduced, union density has declined worldwide. Indeed, trade union representation and collective bargaining coverage are fundamental indicators to assess and monitor progress regarding the component of labour relations.

As far as union density is concerned, it refers to the potential of those eligible to join a labour union, and is the most commonly used “summary measure” for evaluating the strength of trade unions. The union density statistic provides a useful comparative indicator in labour relations research, as was claimed by George Bain and Bob Price in their seminal work on union growth (Bain & Price, 1980). As for collective bargaining, it is the process of workers’ organizations and employers’ organizations (or individual employers) to negotiate on all areas relating to wages and terms of employment. Collective bargaining coverage not only reflects the number of collective agreements, but also how administrative regulations and labour law interact with the collective bargaining processes.

The many problems associated with the use of current measures of unionization are mainly due to issues of data collection, reliability and consistency of denominator and definitions, which is what the formulation of international statistical standards would help to alleviate. It is not easy therefore to depict a perfect picture of the actual situation at global level concerning the two indicators just mentioned, however a large number of studies has been conducted as well as many data collected, especially at ILO level⁵, and overall it emerges that in general, “unionisation and collective bargaining coverage is declining across all sections of the private sector, with density and collective bargaining rates still highest in private manufacturing and construction” (Lawrence-Ishikawa, 2005, 19). Indeed, it is widely acknowledged by labour studies that many countries around the world in the last two decades are facing a consistent decline in both union density and collective bargaining coverage (Visser 2000; 2002). However, some more recent studies tend to make a clear distinction between the private and the public sector. Although studies regarding the private sector are more developed, an author has recently pointed out – although on the basis of only a selection of countries – that “despite the difficulties encountered over recent decades by the trade union movement, particularly in terms of membership, it would appear that the fall in membership noted in many cases in the private sector is less significant in the public sector”. Such a discrepancy between public and private sector rates is confirmed also by empirical researches conducted recently by a prominent scholar in the field, although limited to Western countries and not always updated, where it is acknowledged that: “The decline in unionization is concentrated very strongly in the market or private sector of the economy, with rates of unionization in the public or government sector remaining very high in most countries. Depending on the size of the public sector – which is usually much larger in Europe (including the new transitional economies) than in, for instance, the United States – this has been an important resource for labor unions and federations” (Visser, 2006).

⁵ See, for example, the comprehensive study by Lawrence and Ishikawa 2005.

Despite such an interesting finding, it remains however still consistent to affirm that nowadays trade union density and collective bargaining coverage are declining across the world, although, unquestionably, at a slower pace in the public service. This is due to a number of factors. It has been argued, for example, that structural adjustment programmes pursued by many developing countries in the 1980s and 1990s, coupled with the current wave of globalization, have severely impacted the labour market situation in these countries, consequently affecting the world's overall trade union density and collective bargaining coverage (Schiphorst, 2002): between 1985 and 1995, the per centage of union density dropped from 38.9 to 29.6 in Egypt, from 41.9 to 16.9 in Kenya, from 34.8 to 25.9 in Mauritius and from 18.8 to 12.5 in Zambia.

Moreover, due to public service reforms, a large proportion of public service jobs were phased out in many countries, including many European countries. In Germany, "during the 1990s, liberalisation and privatization policies and downsizing exercises in the eastern municipalities resulted in more than a quarter of the country's overall public sector workforce being cut" (*EIRR*, 2005).

The impact of globalization on labour relations and employment in the public service

Globalization has become part of today's world order and a driving force in global economic development. It concerns all actors in the economy, ranging from individuals and households to governments, and it greatly affects the social partners too, since traditional labour relations must increasingly evolve in order to become actually able to deal with entirely new and very dynamic situations. Indeed, the increasing integration of world markets, coupled with rapid technological advancements, has made labour more mobile than ever before. It is therefore necessary for the mechanisms of labour relations to be modified in order to adapt to globalization⁶. Several factors ranging from a changing labour force composition, a shift from blue-collar to white-collar workers in developed countries, rising self-employment and a growing informal sector of the economy in developing countries, to a flexibilisation of employment contracts everywhere in the world, a permanent need for businesses to recur to socially painful corporate restructuring processes which involve severe redundancies, and many others have put trade unions increasingly under pressure to maintain their current membership levels and/or coverage rates. The need for labour relations systems to adjust to the globalising world economy comes from the very fact that should this not be done the danger will be huge for companies will relocate their production to countries with fewer restrictions on business activities, such as countries with less regulated labour markets and lower labour costs.

Similar challenges, as mentioned, are not only faced by private sector trade unions, but also by public sector trade unions, since globalisation is beginning to affect also the public administration. Clearly, globalization is transforming both the processes and dynamics of labour relations in the public services. The fierce competition being faced by public administration is compelling management to demand more concessions

⁶ On these very general trends, see the very recent study published by EIRO and directed by K. Philips and Raul Eamets, *Impact of globalisation on industrial relations in the EU and other major economies*, Luxembourg: Office for Official Publications of the European Communities, 2007, available at <http://www.eurofound.europa.eu/pubdocs/2007/85/en/1/ef0785en.pdf>

from unions in order to avoid relocating jobs to external services. The outsourcing of certain public service functions in some countries has gradually shifted jobs from their regular locations to different geographic locations. This trend clearly poses a major challenge to unions in their effort to promote labour relations activities.

Faced with the dilemma of either accepting the demands of management or losing jobs for their members, unions have come up with new approaches to labour relations. One such approach was to form strong alliances among different unions, shifting away from traditional bargaining to putting emphasis on increased productivity and investment in new technology. Of course, the extent of the consequences of globalization on public service labour relations will vary from country to country due to differences in culture, political systems, and relative economic strength.

However, in the public sector unions can count on an overall still rather strong power, especially across Europe, where “public sector trade unionism is remained significant in many of the Member States; this is largely as result of loss of power in the private sector and an enhanced mobilisation in the public sector due to increased privatisation and the introduction of new management principles”.⁷ Among these, one is particularly worth being mentioned here, since the diffusion of new technology is propelling a new system of governance, the so-called “e-government”.⁸ Such a new use of information technologies is often celebrated as a very promising innovation for developed countries, but also for developing ones (Krishna & Walshan 2005). The European Union for example has been investing considerable resources on it for some 10 years now and has launched a comprehensive plan in 2006 to foster the action in this sector.⁹ Alas, research seems to show that for developing countries the results are much worse, and e-gov tends to be more often a failure than a success.¹⁰ However, since e-government requires access to internet and to computers, once these instruments will be commonly available also in developing countries it is highly probable will spread also there. Indeed the most recent researches show that less developed countries are, although very slowly, converging with more developed ones, in terms of Internet¹¹ and computer¹² usage. Consequently, it is a very realistic forecast that e-government will quickly grow in importance having also an impact on public service labour relations.

⁷ Philips and Eamets (2007), 15.

⁸ According to the definition elaborated by the World Bank (<http://go.worldbank.org/M1JHE0Z280>) “E-Government” refers to the use by government agencies of information technologies (such as Wide Area Networks, the Internet, and mobile computing) that have the ability to transform relations with citizens, businesses, and other arms of government. These technologies can serve a variety of different ends: better delivery of government services to citizens, improved interactions with business and industry, citizen empowerment through access to information, or more efficient government management. The resulting benefits can be less corruption, increased transparency, greater convenience, revenue growth, and/or cost reductions. Traditionally, the interaction between a citizen or business and a government agency took place in a government office. With emerging information and communication technologies it is possible to locate service centers closer to the clients. Such centers may consist of an unattended kiosk in the government agency, a service kiosk located close to the client, or the use of a personal computer in the home or office”.

⁹ See the Commission’s Communication : i2010 eGovernment Action Plan - Accelerating eGovernment in Europe for the Benefit of All - COM(2006)173 final.

¹⁰ For an updated and comprehensive literature review, see Dada 2006.

¹¹ See the recent study edited by Cuberes 2008.

¹² See Caselli 2001.

Against the very general background which has been just sketched, the following sections will provide a comparative outlook of the most recent changes in public service labour relations in the following regions: the European Union (Finland, France, Germany, and the U.K.), North America (Canada and the United States), Asia and the Pacific (Australia, New Zealand and Pakistan), and Africa (Ghana, South Africa and Uganda).

I. The European Union

Background

Public service reforms are occurring in many European Union countries, changing the conduct of labour relations. Integration into the EU is in itself a major reason for changing the model of labour relations. Together with globalization, the new public management model introduced in these countries poses major challenges to the social actors who have begun to reengineer the overall systems of labour relations in the public sector. According to the European Commission (2002:11), “industrial relations will have to find a new role within the EMU given the shift of economic and monetary responsibility to the European level. Clearly, the workings of public service labour relations have to change as a result of the continuing integration of European economies, the blowing winds of globalization, and the politicising actions of public service reforms in Europe.”

European countries tend to have higher collective bargaining coverage rates in the public sector than in the private sector. In order to improve or maintain this level of collective bargaining coverage and union densities enjoyed by the public service in European countries over the past decades, the approaches and strategies of labour relations through the machinery of collective bargaining also have to evolve in response to political and economic realities in the region.

The social partners have greatly contributed to the development of social dialogue for the purpose of improving governance at the European level. In the past decades, sectoral social dialogue committees (SSDCs) have proliferated in many European countries. According to Carley (2005a: 4), “more than 50 per cent of the European economy is now covered by SSDCs”. Social partners have actively embarked on consultations on the reform of the public service and provided significant contributions to the overall development in European countries.

The first three countries examined in this section, Finland, France and Germany are all characterized by strong labour market institutions and effective regulatory mechanisms although they differ greatly as far as union density is concerned: France has an overall union density of around 12 per cent ranking one with the lowest unionised country in the world; Germany is somewhere in between with some 30 to 35%; while Finland ranks extremely high with some 70% of workers being unionised. The discussion on Finland is particularly interesting because the detailed analysis conducted on the labour relations systems in both the public and private sectors shows that there is no significant difference between the two sectors, particularly in the area of collective bargaining.

On the other hand, the case of UK is fairly different, since for a long time British labour law provided only a minimal framework for labour relations in general, and collective bargaining in particular, reflecting the traditional reluctance of the state to regulate the economy. In the tradition of *laissez-faire* liberalism, British governments have in varying degrees held the belief that trade unions and employers should carry out their relations with the minimum of state interference. This is an attitude which is normally referred to as “voluntarism”. This is known as “voluntarism”.

Finland

Introduction

Unlike many EU countries, there is no big distinction between the public and private sector systems of collective bargaining in Finland. All levels of government – central, state, and municipal – are typically involved in collective bargaining. Legislation regulating public service labour relations differs slightly in some areas. Public service bargaining is highly centralized, more so than in the private sector. In addition, the *peace obligation*¹³ clause stated in Collective Agreement Act 436/46 (1946) is not applicable to the public service. In the public sector, especially at the municipal level, the Commission for Local Authority, employers' and workers' representatives negotiate and conclude collective agreements.

There are two distinct types of public sector employees: civil servants and non-civil servants. Employees of both the state and the municipal administration are categorized as civil servants. Finland has a unique system of defining its public sector. For instance, not all state-owned enterprises can be classified as belonging in the public service for administrative purposes. The Government reserves the right to unilaterally transfer state enterprises to the private sector. Classic examples of this transfer include the postal and telecommunication services and railways. Public sector reforms, focusing on commercialisation and privatization of certain functions of municipalities and local government administrations, have substantially changed the traditional system of collective bargaining in the country.

The legal framework

According to Finland's Ministry of Labour, "labour law is built largely on the concept of an employment relationship in that it applies to all legal relationships that meet the criteria for an employment relationship".¹⁴ The Employment Contracts Act (320/1970) as amended in 2001 is the fundamental labour legislation that governs all employment contracts in the country. This Act is the foundation of the country's labour laws. The right to freely organize and bargain collectively is guaranteed by the country's Constitution and national legislation provides the channel through which all other laws, including labour laws, are promulgated.

Two main legislations guarantee the right to freely organize and bargain collectively in Finland: the Collective Agreements Act 436/46 (1946)¹⁵ and the Mediation in Labour Disputes Act of 1962 as amended in 1987. Essentially, Finland's collective bargaining is based on these two pillars of labour law. The Collective Agreement Act provides for a binding agreement between employers and employees. This Act further states that "a collective agreement is binding not only upon the parties to the agreement but also on such associations, employers, employees, as are directly or through one or more employees' intermediate associations, members of associations

¹³ No industrial action by either party – the peace obligation – is allowed during the course of a collective agreement, either in the private or public sector.

¹⁴ See The Finnish Labour Legislation, Ministry of Labour (1994), p. 7.

¹⁵ Employment Observatory. 1996. "Basic Information Report on Employment Policies in Europe: Finland, Institutions, Procedure and Measures" (European Commission (MISEP)), p. 9.

which are parties to the agreement” (European Industrial Relations Review, 1991:16). This labour law covers all issues concerning the country’s collective bargaining, providing all legal definitions for the application of collective bargaining. It was extended in the 1970s to cover public sector employees. In addition, the Act makes provisions for resolving industrial disputes in order to ensure industrial peace.

The Mediation in Labour Disputes Act provides for the regulations and functions of the labour court. In addition, it regulates the conciliation of labour disputes.

In addition to these labour laws, the public sector has specific legislations exclusively governing the sector. The Local Authority Collective Agreement Act of 1970 as amended in 1993 further strengthens the rights of both workers’ and employers’ organizations to freely negotiate and peacefully conclude collective agreements. The Main Agreement of 21 December 1993 exclusively regulates the state sector social partners.

Parties to public service collective bargaining

Workers’ organizations

The Public Sector Branch of the Finnish Confederation of Salaried Employees (STTK-J) and the Joint Organization of State Employees (VTY) represent most civil servants and other employees of the State. These two trade union organizations are empowered by the Main Agreement of 1993 to freely negotiate and peacefully conclude collective agreement for state employees. In the case of municipal employees, four trade unions that are party to the Main Agreement are responsible for negotiating and concluding collective agreements: the Municipal Sector Union (KU), the White Collar Negotiating Organization (TNJ), the Confederation of Unions for Academic Professionals – Public Sector (Akava-JS), and the Municipalities’ Technical and Basic Services Negotiating Organization (KTN).

Employers’ organizations

Finnish public service employers include the state, municipalities, local government administrations, some public enterprises and public institutions. At the state level, the Department of Public Personnel Management within the Ministry of Finance is responsible for negotiating collective bargaining for state employees. Some ministries and authorities within the state are the main employers’ representatives in collective bargaining. At the municipal level, the Local Authority Employers’ Commission represents all municipal and inter-municipal organizations. Essentially, collective bargaining is carried out at the municipal level.

Structure and levels of collective bargaining

Finland has a multi-level, interrelated bargaining system. The three main levels are the centralized, sectoral, and enterprise levels. The social partners conduct negotiations at each level. Similarly, both public and private sectors use all three levels of collective bargaining systems.

Finland is one of the few countries with a very high level of collective bargaining coverage, one of the highest in Europe. Average recorded collective

bargaining coverage of the labour force in the country has remained over 90 per cent since 1990. This high coverage rate can be explained by the procedure of automatic extension to all employees and employers in a given sector regardless of membership. In addition, the amendment of the Employment Contracts Act in 2001 extended coverage to all employees.

Finland also has a Ghent System, whereby unions manage their own unemployment insurance schemes.

Centralized level

Collective bargaining always begins at the central level of an organization. In principle, negotiated agreements at the central level are not *actual* collective agreements; rather, these agreements negotiated by the central organizations, referred to as “income policy agreements”, serve as the general framework for the contents of collective agreements at both sectoral and local levels, ultimately used by the state, municipalities and sectoral level organizations as the bases for negotiating actual collective agreements.

Collective agreements typically last for a period of one or two years. However, central organizations have signed pockets of agreements that last for an indefinite period. The central organizations tend to frame issues concerning wages, working time, social policy, and training. In evaluating Finland’s public sector labour relations, Olsen (1996:43) states that “minimum terms of remuneration as well as basic terms of sickness and maternity leave, annual leave, and working hours are still determined at the national level”.

In the civil service, collective agreements are exclusively centralized, usually specifying all the issues of collective agreement that can be delegated to the other levels for bargaining. It is important to note that trade unions can negotiate at both sectoral and enterprise levels only when central organizations have already established an environment of industrial peace.

Sectoral level

The majority of negotiated agreements for both blue and white-collar workers are done at the sectoral or local level. While framework agreements are negotiated at the central level, actual collective agreements are negotiated at the sectoral level. In the absence of a central organizations’ framework agreement, the sectoral organizations are required to frame and negotiate branch-specific and binding agreements about all conditions of employment.

Negotiated collective agreements are typically based on tripartite wage policy agreements among employees, employers, and the government. Each sector has its own collective agreement covering the entire country.

In Finland, unionized employees are covered by collective bargaining agreements. There are various categories of collective agreements in the industry. For instance, blue collar workers, technical white-collar workers, and supervisory staff often have their own collective agreements in each branch of the industry. Lower-level white-collar office workers, predominantly female employees, often sign a single collective agreement in all branches of industry.

Enterprise level

Since 1993, the municipalities and inter-municipal authorities have had some level of jurisdiction in negotiating and concluding collective agreements at the local level. Typically, an employer and a branch of a union at the workplace can independently enter into local agreements to regulate the terms of employment specifically at the workplace. Such local agreements tend to complement the overall union and central national agreements. The enterprise-level bargaining actors have the flexibility to deviate from the general framework agreement of the central organizations. However, the final collective agreements at the enterprise level must be consistent with the overall labour laws in the country.

Collective bargaining at the enterprise level tends to cover issues such as working hours and pay levels, taking into consideration the overall growth and development of the enterprise.

Although enterprise level bargaining is growing in Finland (enterprise level collective agreements range between 600 and 700), they are not as many as those of the sectoral level (European Employment Observatory, 1996: 13).

Contents of collective bargaining agreements

One remarkable feature in Finland's labour relations system is that negotiated wages and all benefits covered in the collective agreement are applicable to all workers, whether unionized or not. Similarly, all enterprises in a sector are legally obligated to comply with negotiated collective agreements binding the sector.

Unlike many other countries, Finland does not negotiate the statutory minimum wage in the central general collective agreements framework. Instead, wage determination follows minimum terms of employment as laid down in the various collective agreements. Typically, a collective agreement at the central, sectoral or local level clearly lays down the minimum terms for all future contracts. Any employment contract that fails to comply with the relevant collective agreement is considered invalid. Typically, Finland's national incomes policy settlement sets a pay increase across the board, with the details negotiated at the enterprise levels.

The first collective agreements in Finland were principally concerned with wages. Today the country's agreements have grown from their historical beginning to cover non-traditional collective bargaining issues pertaining to social and economic policy, now including working conditions and employment relations such as: working hours; work performed; mediation, conciliation, and arbitration; training; and continued wage payment in case of sickness. Other essential issues include annual holidays, unemployment benefits, study leave, family leave, maternity leave, and family life arrangements. In certain cases, issues concerning gender equality and low pay supplements are also contained in collective bargaining agreements.

Workers' and employers' organizations tend to agree on issues such as flexible working hours, improvements in productivity, and staff remuneration schemes. Finland's standard working hours per week are 37.5 hours, as in many other industrialized countries. Depending on the enterprise, employees in Finland have the flexibility to negotiate their stipulated hours of work per week.

Pension arrangements have become an important issue in the country's national central bargaining agreements. Recently, the pension scheme was reformed with the introduction of a flexible retiring age between 63 and 68 years, collectively negotiated between the social partners.

Finnish workers actively participate in decisions relating to work and the workplace, at all three bargaining levels. The Codetermination in Companies Act of (725/78) provides for workers' participation in all decisions affecting the company's operations and working conditions. This particular labour law specifically deals with companies employing at least 30 workers. Among other issues, the Act makes provisions for the impact on staff of issues such as changes in ownership, training, rationalisation and staff activities.

Although the issue of subcontracted labour has not been a regular part of collective bargaining negotiations in the country, it recently featured in negotiations in the Finnish paper industry. It resulted in a labour dispute where employers locked out workers for over six weeks (Carley, 2005b).

Finnish labour law often outlines specific issues that are to be excluded from collective agreements. For instance, the Collective Agreements for State Civil Servants Act of (664/70) excludes the following issues from collective agreements: the creation or abolition of a post, the qualifications/requirements for a post, grounds for promotion, and civil servants' duties.

Labour dispute resolution

All employees in Finland enjoy the right to strike, subject to rules and regulations. Employees can embark on industrial action only if certain conditions are duly satisfied. For instance, employees can strike only after the expiration of a collective agreement and before the creation of a new one has been concluded. Employees intending to embark on a strike action are legally required to follow certain procedures before a strike can be deemed legal, including giving notice to the National Conciliator's Office. The Office then intervenes with the attempt resolve the dispute. Parties involved in a dispute are by decree required to participate in conciliation. However, they are not obligated to accept a compulsory agreement. Some categories of State civil servants are denied the right to participate in a strike action and other forms of industrial actions, such as civil servants who are appointed to represent the employer.

The Civil Service Disputes Committee has the right to intervene in an intended strike action that has the potential to affect the overall economic activity of the country by postponing the strike for two weeks effective on the date of the notice. The Ministry of Labour can similarly intervene by postponing the strike action for a maximum period of two weeks. These periods allow the parties concerned to participate in dispute resolution. If the labour dispute remains unresolved after all the available procedures have been exhausted, the parties are required to follow the grievance procedure stipulated in the Main Agreement of 1993. The matter is then referred to the Labour Court if it remains unresolved after all the avenues are thoroughly pursued as outlined in the Agreement of 1993. The decision of the Court is final. The Court reserves the right to impose a fine on workers for an illegal industrial action.

Changes in collective agreements

Since 1994 the Finnish system of labour relations has undergone profound changes. Notably, state civil servants (excluding municipal civil servants) have acquired the right to bargain individually. Thus, individual civil servants now have the right to negotiate for better conditions of employment than those contained in the collective agreement. This individual system of bargaining is uncommon in the history of labour relations. While some labour relations experts and practitioners criticise this model of individual bargaining, others do not. Obviously, the opponents argue that such a model can severely undermine the fundamental principle of labour relations in general and collective bargaining in particular. The proponents of such a model argue that in this era of globalization, workers in general should have the option of bargaining individually (in addition to collective bargaining), taking into account the differences in individual competencies and contributions.

The European Employment Observatory Basic Information Report (1996: 14) on Finland's labour relations system states that "since 1992 collective bargaining has been decentralized". This decentralization allows more roles for workplace-level bargaining. According to Carley (2005b), this process is expected to widen the scope for additional bargaining at the enterprise level with specific clauses allowing companies to diverge from certain terms agreed at central level bargaining. The decentralization programme has enabled enterprise-level actors to have more flexibility in enforcing the provisions of collective bargaining. Undoubtedly, decentralizing collective bargaining is a significant trend in the labour relations system in Finland. It is important to note that the overwhelming majority of collective agreements in Finland are based on centrally negotiated income policy agreements.

However, tripartite cooperation continues to remain an essential element in Finland's collective bargaining system. However, at the local (enterprise) level, bipartite negotiations, usually between the employer and the employees, have been strengthened.

France

Introduction

With an average recorded union density of about 12 per cent, France ranks very low among EU countries in terms of union density. However, despite such a low density it is very effective in term of both coverage and strength. This low density can be attributed to the fact that French unions generally cover a relatively small portion of the labour market. The labour relations system is mostly influenced by the state through regulations. For instance, many issues in collective bargaining (e.g., working hours) are exclusively determined by legislation. In general, agreements play little role in public service labour relations.

Over 80 per cent of French public service employees are civil servants. Since the implementation of public service reforms, public service employees have had virtually no job security. New recruits to the sector (e.g., in telecommunications) since 1992 have been denied civil servant status. These measures have resulted in very low union

density in the public service, approximately 25 per cent, considered the lowest among public service employees in the industrialized world.

The legal framework

The 1950 Labour Code, with major amendments in 1971 and 1982, continues to regulate labour relations in France. It governs labour relations in both private and public sectors, and strictly prohibits civil servants from entering into genuine collective bargaining.

The 35-hour week legislation

Article L.212-1 of the French labour code (LOI no. 2000-37 du janvier 2000) legislated a statutory 35-hour working week (down from 39 hours). It took effect from 1 January 2000 for all establishments employing more than 20 people and on 1 January 2002 for smaller firms and companies employing less than 20 people. Passed by Parliament on 19 May 1998 and validated on 10 June 1998 by the Constitution Council, this law, however, did not apply to civil servants until July 2001. This was due to the fact that all the trade unions representing the civil service (except the *Confédération française démocratique du travail* (CFDT)) rejected the framework agreement concerning the implementation of the 35-hour week in the civil service on the grounds that the government could not guarantee job creation. In July 2001 a framework agreement was reached between the Ministry of Defence and the six representative trade unions. The Ministry of Defence is on record as the first government department in France to sign and implement the 35-hour week agreement.

The agreement is applicable to all civil service employees regardless of location, whether in metropolitan France or in overseas territories, with the exception of military personnel. In the agreement, working time is calculated on an annual basis, totalling 1,600 hours of stipulated working hours per annum. As part of the agreement, the government had to recruit over 1,100 new workers and over 900 state-employed manual workers. In addition to the regular 25 days of paid annual leave, the framework agreement provided for a maximum of 18 extra days of vacation per year. To date, the 35-hour week legislation applies to all employees in almost all establishments in France, regardless of sector.

The implementation of this working hour legislation introduced substantial changes in labour relations, including the public service. Prominent among such changes was the priority given to collective bargaining by both public sector employers and unions. Priority was also given to collective bargaining on issues specific to reducing working time per week from 39 hours to 35 hours. The new law offered incentives (i.e. state grants) to some state-run organizations that successfully negotiated the implementation of the 35-hour working week through collective agreements and recruited new employees or saved jobs. “Companies which reduce the length of working time before the deadlines for the implementation of the 35-hour working week (2000 and 2002) through application of a collective agreement and which, as a trade-off, recruit new staff (the “offensive” section of the law) or save jobs (the “defensive” section) will receive an ‘incentive’ grant” (Bilous).

Parties to public service collective bargaining

Workers' organizations

Public service employees have various groups of trade unions. These unions usually do not affiliate with any of the five confederations that typically represent private sector employees. Public service trade unions are usually found in public enterprises and state institutions such as health care, educational centres, the post office and the police service. Unions representing the public sector are fragmented across all sectors in the country.

Unions representing civil servants include the *Confédération française de l'encadrement – confédération générale des cadres* (CFE-CGC), the *Confédération générale du travail* (CGT), the *Fédération générale du travail – Force ouvrière* (CGT-FO), the *Fédération syndicale unitaire* (FSU), the *Confédération française démocratique du travail* (CFDT), the *Confédération française des travailleurs chrétiens* (CFTC), and the *Union nationale des syndicats autonomes* (UNSA).

Employers' associations

The principal employers in the French public sector include the national, regional, and local levels of government administrations, as well as public enterprises and public institutions such as the health care service. The Prime Minister represents the employers in the public service. The Ministry of Finance is charged with the responsibility of all financial issues during negotiations for collective agreement.

Structure and levels of collective bargaining

Unlike in the private sector, collective bargaining in the public service sector is heavily centralized. Public service wages are largely negotiated at the central level. Specifically, wage indexation exists at the central level in order to allow for the general price levels (inflationary rates) to be factored in automatically. The government has the prerogative to unilaterally determine the levels of wage increase in the public sector, or to impose a freeze on wage increases.

Any concluded agreement or form of agreement by the Ministry of the Public Sector is generally considered a framework agreement. Framework agreements are not binding on both employers and workers, but are subject to modifications by either party. Interestingly, the duration of collective agreements in the public service is usually unspecified, implying variable periods of time. Negotiations in the public service are generally bipartite, between workers' and employers' organizations.

Contents of collective agreement

The main issues negotiated in public service collective agreements are wages, hours of work, annual leave, and other conditions of employment. Recently hours of work have been a major contentious issue across all sectors in France.

Labour dispute resolution

Unlike other countries, France's public service employees have the right to strike. This right is enshrined in the country's labour law. Disputes between workers and the government are often considered politically motivated. Public service collective

agreements are in principle not binding and therefore, political decisions are usually taken to resolve disputes in the sector. Usually, public sector disputes are referred to consultative bodies to facilitate resolution. However, records indicate that this procedure has not yielded any positive results for the interest and benefit of both parties.

Changing trends in labour relations

The labour relations system in France continues to be strictly regulated by the central government. Thus, legislation determines the majority of issues in collective bargaining. Public sector union density remains the lowest among the industrialized countries. French civil servants have no right to bargain, let alone conclude collective agreements.

Wages and other conditions of employment in the public service are most often determined by the government through legislation. Thus, the government has the authority to unilaterally determine wages in the public service. However, unions indirectly and informally maintain consultations with the government on wages and conditions of employment.

The public sector labour relations system is characterized by centralized bargaining along with wage indexation. Public service negotiations continue to remain bipartite between workers' and employers' organizations. In general, labour relations in the public service in France remains fragmented with unstable labour market institutions.

Germany¹⁶

Introduction

Germany's reunification introduced profound challenges for the country's labour relations system, especially public service labour relations. In particular, the three levels of government as well as public enterprises and institutions face the challenge of harmonising collective bargaining with respect to wages, taking into consideration the differences in both competency and productivity levels. As a result of the reunification, the structure of the public service may need to be redefined to ease the reintegration transition process. The reunification coincided with the country's public service reforms, which focused amongst others on privatizing certain public enterprises.

In the last few years, most of the states (*Länder*) have been facing rising administrative costs and have therefore started reengineering their respective administrative structures, reducing levels of administration and abolishing some administrative units and bodies.¹⁷ This often has been going parallel with a general reduction in the number of working posts in the public service, and the worsening impact on the working conditions of employees in the public service. In the course of these developments, practically all the collective agreements which determine the

¹⁶ The section on Germany includes revisions by N. Fischer, Labour Administration Officer, DIALOGUE, ILO Geneva.

¹⁷ For a general overview, see http://www.bund.de/nn_418222/DE/VuI/A-Z/V-wie-Verwaltungssprache/Verwaltungsmodernisierung/Verwaltungsmodernisierung-Laender-seite.html

working conditions of public service employees without civil service status have been renegotiated.

The legal framework

The Constitution of Germany and the Collective Agreement Act¹⁸ of 9 April 1949 are the main statutes which govern the system of labour relations in Germany. They guarantee the right of both workers' and employers' organizations to freely form associations and bargain collectively. The Collective Agreement Act is one of the major acts regulating the labour relations activities of social partners.

Parties to public service collective bargaining

Workers' organizations

Until 2001, six trade unions were identified as representing public service employees in Germany. These included the Public Services, Transport and Traffic Union (ÖTV) (the largest public sector trade union), the Educational and Academic Union (GEW), the Police Union (GdP), the Horticultural, Agricultural and Forestry Union (GGLE), the German Post Office Union (DPG) and the German Railways Union (GdB). Since 2001, some of these public sector unions have merged with other unions and affiliated with the German Federation of Trade Unions (DGB). Two other trade unions represent employees in the public sector: the German Union for Employees (DAG) and the German Civil Servants Association (DBB).

The majority of Germany's public sector employees are trade union members. In March 2001 the DAG (the union representing the commercial, banking, and insurance sector and the media sector) and the ÖTV merged to form the German United Services Union (Ver.di). According to the International Reform Monitor, Ver.di is now the world's largest trade union, with approximately three million members.¹⁹ Members of Ver.di are predominantly public sector employees.

At the enterprise level trade unions representing both private and public sectors undertake bargaining through the Works Council or Staff Councils, elected at a given establishment and acting as the workers' representatives in collective bargaining. In this regard, the role of trade unions is to ensure the formation of a Works Council at the enterprise level. Typically, negotiations in the public service are bipartite in nature, involving the Works Council or Staff Council and government representatives at enterprise level.

The public service in Germany comprises mainly the administration at federal and state level, municipal administrations and entities of public or private law mostly at the municipal or local level which are under the full control of the municipality and which provide services of common interest to communal residents.

There are two distinct categories of workers within Germany's public service. The first are civil servants (*Beamte*) of the federal Union (*Bund*), of the states (*Länder*) and at communal level, who are nominated and whose status is governed by statutes

¹⁸ Collective Agreement Act of 9 April 1949, as amended up to 31 October 2006.

¹⁹ "Social policy, labour market policy and industrial relations", in *International Reform Monitor*, Issue No. 5, Oct. 2001 (Gütersloh, Bertelsmann Foundation Publishers).

and laws and is not determined by a labour contract. The second category comprises employees of the federal Union, the state or at communal level, whose employment relationship is determined by a labour contract. Less than 50 per cent of public service employees have civil servant status. The federal Union, in consultation with civil servants' organizations, determines status related rights and duties for all civil servants whereas the states have the sole legislative power to enact conditions of career, pension schemes and remuneration relating to their civil servants.

Only employees without civil servant status within the administration at different levels have the right to bargain collectively, by virtue of the Collective Agreement Act of 1949. The collective agreement for the public service for employees within the federal administration and at communal level (*Tarifvertrag für den öffentlichen Dienst – TVöD*) and the collective agreement for the public service of the states (*Tarifvertrag für den öffentlichen Dienst der Länder – TV-L*) are the major collective agreements governing conditions of employment of practically all public service employees without civil servant status.

Employers' associations

As in many countries, Germany's public service employers are the federal Union (Bund), the states (Länder), the municipalities and state enterprises and institutions such as public transport systems, utility corporations, health care and educational institutions.

Three employers' associations represent the public sector. The federal Union as an employer is represented by the Ministry of Federal Interior Affairs. The state governments, with the exception of the states of Berlin and Hessen, are represented by the Collective Bargaining Association for the German Länder (*Tarifgemeinschaft deutscher Länder – TdL*). The municipalities and the state enterprises and institutions at the local level are represented by the Association of Local Government Employers (*Vereinigung der kommunalen Arbeitgeberverbände – Vka*). These three employers' associations are independent of all the various levels of governments. .

Structure and levels of collective bargaining

Collective bargaining in the public service takes place at the central level. Thus, all the three levels of government (Land, federal level, commune) centrally undertake collective bargaining negotiations, coordinating their bargaining in order to ensure uniform agreement for employees within a given sector.

Collective agreements are negotiated at the central level and are thus often applied at the enterprise level. However, there is a strong agitation for decentralizing collective bargaining in the public service. In the private sector there are two main levels of collective bargaining: sectoral (regional) and enterprise level, the former being dominant; bargaining does not take place at either national or inter-sectoral levels.

Contents of bargaining agreements

The majority of collective agreements are flexible, focusing on finding a balance between job security and productivity. Public service employers (all three levels of governments) ensure that the traditional contents of collective agreements are more

explicit on the issues of wages, working hours, hiring and termination of employment and other conditions of employment. As there is no legislation on determining the minimum wage, all wage issues are set exclusively by collective bargaining. Typically, public service collective agreements last for at least one year. However, framework agreements tend to have variable durations. Framework agreements usually cover issues such as hours of work, annual leave, sick leave, and other conditions of employment.

Cases of collective bargaining agreements and disputes

Since early 1990s, the German public service has concluded several collective agreements for its employees. A historic collective agreement was signed in April 1998 to cover over 3.3 million public service employees after negotiations broke down in 1997. Both collective bargaining parties accepted the conciliator's proposals and concluded the collective agreement on 2 April 1998. The public service employers were represented by the Federal Ministry of the Interior, the Federal states, and the Association of Local Government Employers; the employees were represented by the Public Services, Transport and Traffic Union (ÖTV). Among other contentious issues negotiated were wages, holiday bonuses, working hours, and pension schemes. Table 1 shows the various positions of the bargaining parties and the final outcome of the agreement.

**Table 1. The 1998 collective bargaining round in German public services:
Positions of the collective bargaining parties**

Issue	Unions' demand	Employers' demand	Result of the joint dispute resolution/ final agreement
Overall demand	Package worth a total of 4.5%	Reduction of labour costs	–
Wage increases	At least compensation for inflation	Increase of 1.0% and freeze of trainee payments	1.5% increase in wages and trainee payments from 1 Jan. 1998
Adjustment of eastern pay and conditions of western levels	Further adjustment through extra pay increase in east or cut in weekly hours from 40 to 38.5	No further adjustment	From 1 Sep. 1998, eastern wages rose from 85% to 86.5% of western levels; no further adjustment before end of 1999
Christmas bonus	–	New calculation method leading to cuts for some employees	No change
Holiday bonus	–	New calculation method leading to cuts for some employees	No change
Continued remuneration during sickness	Retention of 100% continued payment	1% cut in Christmas bonus for every day of sickness and new calculation method leading to cuts for some employees	No changes, 100% payment retained

Issue	Unions' demand	Employers' demand	Result of the joint dispute resolution/ final agreement
Occupational pension scheme	No employee contribution	Employees' contribution of 0.4% of pay from 1 July 1998, increasing in stages in following years	Increase in employers' contribution from 4.8% to 5.2% of pay. From Jan. 1999 employees will contribute for the first time – all contribution increases will be paid half by employees and half by employers. Employee representatives will join the scheme's governing board.
Time spent in health resorts for medical reasons	–	For every week spent in resort, employer deducts two days' holidays	No change
Working time	General hours reduction, reduction of overtime, introduction of working time accounts	Extension of working time. Saturday to become normal working day without special bonuses. Core working time, attracting no overtime premiums, to be extended	No major changes. Parties declare readiness to negotiate on further flexibility and reduction of overtime.
Partial retirement	Agreement improving pay during partial retirement and containing binding provision on compensation by the creation of new jobs	Introduction of provisions of the partial retirement law which gives employees taking partial retirement 70% of former net wage	Employees taking partial retirement receive 83% of former net wages
In February 1999, the government and			
Provisions to safeguard jobs	Creating new jobs through further working time cuts. Every trainee to receive permanent contract after training	Eastern Germany: opening clause on working time: reduction to 26 hours with no wage compensation or below 26 hours with partial wage compensation	Eastern Germany: opening clause on working time: reduction to 32 hours with no obligatory wage compensation, or 30 hours with obligatory partial wage compensation. Employers' declaration of intent to keep 1998 number of trainees. Every trainee to receive job for at least six months after training

Source: adapted from ÖTV, at www.eurofound.europa.eu/eiro/1998/04/feature

Public sector unions concluded a one-year collective agreement covering over 3.2 million public sector employees (Zagelmeyer, 1999a). Among other traditional bargaining issues such as a pay increase of 3.1 per cent, this agreement introduced working time flexibility which continues to remain in force. The flexibility in working hours had become necessary due to the increasing changes in both work structures. The concluded agreement was extended to some privatized companies such as the Deutsche Post, the Postbank and the Deutsche Telekom.

During the same period, the trade unions concluded collective agreements with the Association of Local Government Employers, covering over 110,000 employees in public utility companies. This agreement provided for the regulation of issues at the local level between unions and management and served as a pilot for reforming labour relations in other areas. A remarkable achievement of this agreement was the abolition of the distinction between salaried employees and blue-collar workers, who previously had separate agreements. The present agreement is more structured than before.

The agreement was designed to completely reform the civil service pay scale, introducing a uniform grading system and a uniform pay system. This change in the public service agreement did not have a negative impact on labour standards. In the opinion of Zagelmeyer (1999b), the “ÖTV regards the deal as a milestone for the modernisation of collective bargaining in the public sector, which proves that modernisation is not associated with the reduction of labour standards”. The concluded agreement itself is flexible enough to allow the public utility companies to be competitive in the liberalized economy.

After the expiry of the February 1999 collective agreement, a new one was concluded in June 2000 between the public sector unions and public sector employers, in time to avert a possible strike in the public sector (Schulten, 2000). Prior to the signing of the new agreement, the public service union members had unanimously voted for a strike action even though union leaders had earlier recommended acceptance of the proposal of the Arbitration Commission. As a result of the strike threat, employers offered new proposals that served as reference point for the new collective agreement. In this agreement, employees achieved a substantial wage increase lasting 31 months. This new agreement covered over 3.1 million employees in the public sector. Table 2 shows the processes and the final agreements of the 2000 collective bargaining round in the German public service.

Table 2. Claims, offers and outcomes in the 2000 collective bargaining round in the German public sector

Issue	Original trade unions' claims	Initial employers' offers and claims	Arbitration commission proposals	Final agreements
Pay increases	Increases in basic payments and annual bonuses by an overall total of 5%	1% pay increase from 1 June 2000; 1.3% pay increase from 1 June 2001; no pay increase for April and May 2000; annual Christmas bonus to be partially negotiated at district level	1.8% pay increase from 1 April 2000; 2.2% pay increase from 1 April 2001	2% pay increase from 1 Aug. 2000; 2.4% pay increase from Sep. 2001; flat-rate payment of DEM 400 for April to July 2000
Duration of pay agreement	12 months	24 months	24 months	31 months

Issue	Original trade unions' claims	Initial employers' offers and claims	Arbitration commission proposals	Final agreements
Adjustment of East Germany pay to West German levels (currently an average of 86.5%)	Binding plan for step-by-step adjustment of East German pay to 100% of West German levels	No offer of adjustment of East German pay levels	Adjustment of East German pay levels to 87.7% of western levels from 1 July 2001 and 90% from 1 Jan. 2002	Adjustment of East German pay levels to 87.0% of western levels from 1 Aug. 2000, 88.5% from 1 Jan. 2001 and 90% from 1 Jan. 2002
Duration of adjustment agreement for East German pay levels	No proposal for concrete date	–	Until 31 March 2003	Until 31 Dec. 2002
Public sector supplementary pensions scheme	Exclusion of issue from 2000 collective bargaining round; separate negotiations on supplementary pensions reform	Changes in calculation method for supplementary pensions, aiming at significant reduction of payments	Freeze of supplementary pensions until end of 2003	No new agreement in current bargaining round; both parties agreed to find new agreement on supplementary pensions reform by end of 2001
Partial retirement	Introduction of partial retirement for part-time employees	Introduction of partial retirement for part-time employees	Introduction of partial retirement for part-time employees	Introduction of partial retirement for part-time employees
Promotion of vocational training	Increase in vocational training places; vocational trainees to be taken on for at least 12 months at end of training	No commitment to take on vocational trainees after end of training	Current level of vocational training places to be maintained; vocational trainees to be taken on for at least 12 months at end of training, as long as there are no more trainees than establishment needs	Current level of vocational training places to be maintained; vocational trainees to be taken on for at least 12 months at end of training

Source: adapted from WSI Collective Agreement Archive 2000, at www.eurofound.europa.eu/eiro/2000/06/feature

In January 2003, a controversial wage agreement was reached between Ver.di (the union representing public sector employees) and public sector employers for a total duration of 27 months (Schwarz, 2003). For the settlement, a wage increase of 2.4 per cent for 2003 and an extra one per cent each at the beginning and in the middle of 2004. As part of the deal, employees sacrificed one holiday and payment of wages at the end of the month instead of the middle of the month. This settlement was reached at the brink of a strike action by German public sector employees after public employers rejected a settlement that was reached between mediators and the trade unions. The negotiated agreement was fiercely criticized by the business community, prominent political leaders, and representatives of the states and local authorities. Some state representatives and local authorities threatened to compensate for every wage increase by cutting down on personnel, investments and services. The negotiated

outcome reinforced agitation for local-level wage bargaining versus nationally agreed public service wage levels.

As mentioned above, most of the former collective agreements covering public service employees have been renegotiated, beginning with the TVöD, which superseded the previous collective agreements for the public service, in particular the BAT (*Bundesangestelltentarifvertrag*), and which came into force 1 October 2005. Unlike the BAT, it only covers employees of the federal administration and employees within communes and commune-controlled private entities delivering services of common interest. Because an agreement of common working hours could not be obtained with the Collective Bargaining Association of the Länder, the Länder negotiated their own collective agreement with their employees within their public administration systems, the so-called TV-L. The introduction of the new collective agreement has to be seen in context with the ongoing reforms of public administration in the Länder, which are facing ongoing cost increase and have been therefore urged to reduce their administration structures and have been trying to reduce expenditure for their personnel.

The substitution gave rise to different industrial conflicts, because the new TVöD and the TV-L resulted in lower payments for employees of the public service: payments are no longer based on seniority, but on performance and experience, and several bonus payments have been reduced or abolished. In a lot of Länder, working time has increased. Furthermore, performance pay has been introduced.²⁰ It was the first time that the Länder did not align with the federal Union as they wanted different rules on working time.

For instance, in February 2006, public service employees working for 16 regional states embarked on one of the largest public sector strikes in over 80 years (Williamson). The strike action which was called by Ver.di (approximately 94 per cent of union members voted for strike action) lasted for 14 weeks, considered the longest in the history of public service labour relations. Over 20,000 public sector employees were involved, including regional authority staff such as nurses, cooks, and cleaners.

The workers also protested against the extension of working hours from 38.5 to 40 hours per week. In addition, the regional government employers (the Länder) either reduced end-of-year bonuses and holiday payments or withdrew these payments altogether. The dispute ended in favour of the union, with the new agreement covering over 800,000 employees of the regional government. In addition to maintaining 38.5 hours per week, the agreement included a pay increase of three per cent in 2008, lump sum payments over the next three years, and continued payment of both Christmas and holiday bonuses. This new agreement is expected to last till the end of 2009.

The negotiated agreement, the TV-L, differs slightly from one federal state to the other. It introduced flexible opening clauses allowing both unions and public municipal employers in each federal state to negotiate new working hours to a maximum 40 hours per week, resulting in different total weekly working hours among the various states. In Baden-Württemberg for example, a new collective agreement (Dribbusch, 2006) covering over 200,000 municipal employees was signed on 5 April

²⁰ R. von Steinau-Steinrück and P. Schmidt, p. 518 ff.

2006 between the United Services Union and the Municipal Employers' Association of the state to increase working hours from 38.5 hours to 39 hours per week. Interestingly, in Hamburg and Lower Saxony, the concluded agreement on working hours was between 38 and 40 hours per week, depending on age, pay levels, and parenthood. For instance, municipal employees over 50 years in the lower pay band work for 38 hours per week and employees in the higher pay band work 40 hours a week. Regardless of pay level, employees with children under 12 years old have their stipulated hours per week reduced by half an hour. This collective agreement is considered remarkable as it is the first time an agreement in the public service has taken account of working time and parenthood.

Labour dispute resolution

In Germany, public service employees, *except civil servants*, have the right to strike to back their demands for wage increases and better conditions of service. Strikes are strictly reserved for achieving one major objective; to have a collective agreement on an issue involving conditions of employment. Strikes are usually decided by trade unions' ballot box, requiring a vote of 75 per cent of union members. German workers frequently embark on warning strikes, as in 2002 when the public sector union issued a large-scale warning strike to back its demand for wage increases on account of inflation rates and productivity gains. As a result of this strike threat, public sector workers successfully negotiated lump-sum payments of 7.5 per cent of one month's pay, an increase of 2.4 per cent in wages in 2003, with a further 1 per cent increase in 2004.

In settling disputes between the social partners, German labour law does not impose compulsory arbitration. Thus, the parties have no obligation to reach an agreement in the course of dispute settlement. In the event of a dispute during negotiations, concrete efforts are made to resolve the conflict through arbitration to prevent industrial action.

Changing trends in labour relations

The majority of public service collective bargaining is centralized. There is a growing debate on decentralising public service collective bargaining to the enterprise level. Both workers' and employers' organizations have undertaken major restructuring, including forming mergers. The public service sector in Germany has grown since reunification. However, there has been no significant change in the country's labour laws. Public service reform in the form of privatization remains one of the major issues among social partners. The ongoing administrative reforms in the different states are also an ongoing source of concern.

There have been some profound developments in the trade union landscape ongoing in the last years, which have been triggered to some extent by the renegotiation of the collective agreements for all public service employees. Small profession related trade unions have started taking industrial actions as they feel that the interests of their members are no longer represented by the big trade unions. These concerns, for instance, VC (*Vereinigung Cockpit*), representing cockpit staff, the *Marburger Bund*, representing doctors in hospitals, employed or with civil servant status, or GdL (*Gemeinschaft deutscher Lokführer*), one of the trade unions

representing locomotive drivers. This led to different industrial actions, which have not only concerned the public sector, but also the private sector, and which have had a big impact on third parties. For instance, the Marburger Bund took the occasion to renounce its membership in the trade union Verdi and successfully negotiated its own collective agreement with respect to employed doctors in communal hospitals in 2006.

In 2008 and 2007, the GdL went on strikes to negotiate profession related collective agreement with the *Deutsche Bundesbahn AG*, the German railways, which is a private share corporation of the federal Union. Likewise, the Vereinigung Cockpit took industrial actions several times in 2007 and 2008.

These recent developments induced a still ongoing debate²¹ on if and under which circumstances a strike in an entity providing fundamental services of public interest would be considered disproportional and thus unfair when only a small part of workers of the entity would benefit from a collective agreement, but would be able to deploy an enormous pressure particularly on third parties, that is, the population depending on the service. In addition, a debate has been launched about how to deal with concurrent and parallel collective agreements, under which conditions concurrent collective agreements should be accepted, and whether – in view of the new type of recent industrial actions – the rules concerning industrial actions should be profoundly changed, for instance via the introduction of compulsory arbitration prior to industrial action.

United Kingdom

Introduction

There are two distinct categories of public sector employees in the U.K.: civil service and public service employees. Civil servants are often referred to as employees of the central government, and public servants as employees of local administrations, public enterprises and public institutions. For instance, employees of health care, electricity, gas, and water industries have the status of public servants. Public service reforms focusing on privatizing public enterprises have had a severe impact on the labour relations system in the U.K, as it will be shown.²²

The legal framework

Collective bargaining can be described as the foundation of labour relations in both the public and the private sectors in the U.K. Although England does not have a written Constitution as most of the countries – and therefore nothing is provided at such a level, surprisingly there is no substantive statutory regulation governing collective bargaining either. Instead, as mentioned above, the parties concerned undertake collective bargaining purely voluntarily. However, the Employment Relations Act of 1999, as it will be underlined, provides clear definition for recognizing and establishing bargaining units.

²¹ See S. Greiner, p. 1023 ff.; H. Reichold, p. 1262 ff.; F. Bayreuther, p. 12 ff; M. Jacobs, p. 325 ff.; and F. Bayreuther, p. 642 ff.

²² For a comprehensive and elaborated analysis of the structure and functioning of collective bargaining in the UK, with specific emphasis also on the public sector, see Davies & Freedland, 2004 .

Traditionally there is no record of legislative intervention in the labour relations system in the U.K. Only trade unions are allowed to negotiate and conclude collective agreements. Works Councils and other employee representatives are not required to conclude collective agreements. The major actors involved in public sector collective bargaining are union representatives and government representatives.

Parties to public service collective bargaining

Workers' organizations

The majority of public service employees are unionized. Indeed, although trade union density is declining in UK as in the rest of the world, being at 28.6% in 2006, if public sector and private sector levels are compared, widely different trends can be discerned. Public sector unions have been able to maintain and even increase their membership levels. According to the most recent available data,²³ almost three in five (58.8 per cent) public sector employees in the United Kingdom were union members in 2006 and public sector union density even rose by 0.2 per centage points in that year. Collective agreement coverage in the public sector was 69.0 per cent, three times greater than in the private sector. Trade unions were present in 86.8 per cent of public sector workplaces in the United Kingdom. Several trade unions represent employees of the public sector, the largest of which is UNIOSON (a merger of three unions in 1993).

There also are several unions in the civil service, notably the Professional, Technical and Commerce Union (PTC), the Inland Revenue Staff Federation (IRSF), and the First Division Association (FDA).

Employers' organizations

There are two employers' associations in the public service: the Association of Metropolitan Authorities (AMA) and the Association of County Councils (ACC), both with jurisdiction in determining wages and salaries. In the civil service, the National Whitley Council and the Joint Consultative Committee are the principal negotiating committees which conclude collective bargaining. The civil service and the public service have different sets of collective agreements.

Contents of collective agreements

The contents of collective agreements in the public service have remained unchanged over the past two decades. As in the private sector, collective agreements in the public service deal with wages, hours of work, annual leave, and other general conditions of work. Collective agreements also provide various mechanisms and procedures for resolving disputes at all levels in the public service. Documentation on national-level collective agreements does not exist in the U.K.²⁴

Unlike many European countries, the U.K. does not have mechanisms for extending agreements to non-members. In other words, concluded collective agreements cover exclusively the members of the workers' and employers' organizations that negotiated the agreement.

²³ See: Trade union density 2006, 2007 at www.dti.gov

²⁴ However, relevant data on can be obtained from the monthly publication, *Workplace Report*, produced by the Labour Research Department, U.K.

Structure and levels of collective bargaining

Negotiated agreements at the national level often focus on traditional issues contained in collective agreements such as wages and conditions of employment. In some public sector enterprises, bargaining takes place at the enterprise level. In examining the U.K.'s public sector labour relations, Olsen (1996) writes: "in other parts of the public sector, for instance local government and formerly the electricity, gas, and water industries, centrally negotiated agreements on pay and conditions left considerable room for local interpretation and application of the provisions, and also left many areas unregulated at national level and therefore open to local bargaining" (p. 23). In the case of the civil service, bargaining for wages and salaries no longer takes place at the national level.

Collective bargaining in the U.K. is relatively decentralized.²⁵ Various government administrations have consistently opposed national-level bargaining in the public sector. As a result, national-level bargaining no longer takes place in the majority of public sector enterprises. However, national bargaining still continues to be significant in the public sector, especially among the core public sector workers, and recent developments in the NHS aimed at removing the two-tier workforce signals a return to national level pay bargaining. In 1997 a single status pay and conditions agreement was signed by the Local Authorities. This agreement harmonised separate agreements for manual, administrative, professional and clerical staff (UNISON 2004). In higher education teaching unions employed successfully industrial action in 1997 to protect national bargaining. Enterprise-level bargaining is more predominant than the other levels of bargaining. Even though tripartite consultation on the minimum wage exists, there is no bargaining on the national minimum wage, nor is there tripartite concertation on wage bargaining. The average duration of collective bargaining agreements in the public service is one year.

Privatization and collective bargaining

Privatization in the U.K. has touched virtually all public service sectors, including traditionally sensitive areas such as support services for prisons, police, and the army. Many public entities, including public utilities such as water, energy, and telecommunications, have been completely privatized. Since the privatization of British Telecom in 1984, many other utilities such as British Gas (1986), British Rail (1993-96) and British Energy (1996) have been fully privatized. In the 1990s, the process of privatization involved large-scale sales of public enterprises. The Labour Government has since 1997 intensified the country's privatization programme by selling a 49 per cent stake in the National Air Traffic Services in 2001.

The privatization of public utilities was aimed at reducing the power of monopolies and enhancing efficiency. To ensure that private monopolies are not created, the Government established regulatory agencies to monitor their operations. According to the World Bank (1995), "the regulatory agencies adopted price capping (rather than rate-of-return regulation) to limit the exercise of monopoly power and simultaneously sought to stimulate entry".

²⁵ On the issue of decentralisation in UK, see Neal 2003.

Similarly, the various privatization exercises were aimed at eliminating excessive political influence in determining public sector wages. As a result, the power of both government and public sector trade unions in fixing wages significantly declined. Notably, job losses were recorded in certain privatized companies such as the British Telecom and the National Health Services (NHS). However, the conditions of service in privatized companies did not undergo any significant change. For instance, in November 2004 when the NHS outsourced certain functions of its operations, affected employees were transferred to the private company but such employees retained their NHS conditions of employment (UN World Public Sector Report, 2005). Collective bargaining continues to be important in the industrial governance between employees and employers in privatized utilities.

Labour dispute resolution

English Common Law enshrines the right to strike of all workers regardless of sector. However, certain categories of employees working in enterprises considered essential services are denied the right to strike, e.g., the police and the army.

In the event of a dispute between workers and employers, an attempt is made to resolve it voluntarily. If the dispute remains unresolved after this initial attempt, the Advisory Conciliation and Arbitration Service intervenes to resolve it in order to maintain industrial harmony.

Changes in labour relations

One of the remarkable changes in the public service labour relations system in the U.K. is in the area of collective bargaining. There has been a gradual shift from bipartite bargaining (usually involving the union and management) to multilateral bargaining involving several parties, with the public sector employer often represented by divisional management teams.

In multilateral bargaining, the sharing of information between the key actors involved in public service labour relations has increased, expanding the issues involved in bargaining for the benefit of all parties. As well, the bottom line positions and preferred settlement positions of each party involved in multilateral bargaining are freely negotiated to a level acceptable to the parties. One can reasonably assert that the favourable outcomes of negotiations witnessed in the public sector in the past two decades are largely attributable to this bargaining approach.

The U.K. has also seen a complete shift in bargaining from multi-employer to single-employer. While employers' organizations favour this trend, workers' organizations are less satisfied. Until the 1980s, centralized bargaining structures in the public service were typical features, but since 1990 there has been a significant decentralization of collective bargaining, leading to the phasing out of national-level bargaining in this sector.

During the same period, collective bargaining coverage in the public sector in general has substantially declined. This decline cannot be directly linked to the changes in the various levels of bargaining, but rather to changing global patterns of work and the general decline of employment around the world.

The enactment of the Employment Relations Act of 1999, which defines the recognition and establishment of bargaining unions, is a milestone in Britain's labour relations system.

Conclusions

Indeed, in the traditional structure of labour law sources, state law or collective agreements with *erga omnes* effect, as functional equivalent of the former, were considered the main vehicles of social regulation, the space left to the decentralisation of collective agreements being very limited. However, since the end of the 1970s, there has been a mounting tendency towards decentralisation and enterprise-level collective bargaining²⁶. In many Member States, this rule is accompanied by a number of differing rules to decide which union or how the unions have to work together at company-level to reach a collective agreement²⁷. Some of the main lines of evolutions of the decentralisation process can be identified in the reinforcement of the powers of the actors at the level of the company and a change in the attitude of the actors, moving from distributive to cooperative bargaining under a model of partnership at the level of the company.

Despite a general trend towards decentralized collective bargaining, in many European countries²⁸, public service bargaining still remains centralized, although it is moving toward the lower level since the decentralization of collective bargaining is expected to transfer more power and autonomy to actors at the enterprise level. For instance, when comparing two of the main economies of Europe, Britain and Germany, in both countries, a decentralisation of collective bargaining has taken place, however degree and timing of these processes have varied considerably²⁹. Indeed, while decentralisation took place in a rather uncoordinated and uncontrolled way in Britain, the opposite has been the case in Germany, where both employers' organisations and unions have retained control over the process. In Germany, only certain aspects of collective bargaining are delegated to the company level, while the practice of concluding overarching framework agreements at sectoral level continues, giving social partners a degree of control over collective bargaining at company level³⁰.

²⁶ For some useful comparative figures on this and related issues, see "Organising for Social Justice, Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work" (Geneva, ILO), 2004, pp. 64.74, and references within.

²⁷ For specific information on the 25 countries of the European Union, see the recent EC Directorate-General for Employment and Social Affairs, *Industrial Relations in Europe 2006*, http://ec.europa.eu/employment_social/social_dialogue/docs/ir_report2006_en.pdf; and Van Gyes 2007. For a more theoretically based approach, with particular emphasis on the legal dimension, see the comparative research project on current trends in the evolution of collective bargaining within the European Union, directed by S. Sciarra: "The evolving structure of collective bargaining in Europe. A comparative analysis based on national reports in the countries of the European Union", http://www.unifi.it/polo-universitario-europeo/ricerche/collective_bargaining.html

²⁸ See, for example, Alaluf & Prieto (2001) who already highlighted this trend some years ago.

²⁹ For a critical evaluation, see Wergin (2002).

³⁰ F. Traxler (1995) terms this process 'organised decentralisation', as opposed to 'disorganised decentralisation' or 'de-collectivisation' used by J. Visser (1996) to frame the process which has taken place in Britain.

Collective bargaining in Germany has been comparatively centralised until a process of decentralisation has taken off at the beginning of the 1990s. The British collective bargaining system, on the other hand, has always been traditionally decentralised, although to a minor extent in the field of public service.

Finland began in 1992 to allow enterprise-level actors to have more flexibility in negotiating collective agreements, a major change in the country's history of collective bargaining. While the decentralization of collective bargaining may be advantageous to employers, it can have a negative impact on union density, which can indirectly reduce the bargaining strength of workers' organizations. Available literature generally points to an indirect relationship between union density and centralization of collective bargaining (Western, 1998; Visser, 1994). However, it may be worthwhile for public service workers' organizations to redirect their strategies and resources towards strengthening social dialogue and labour relations at both sectoral and enterprise levels in order to overcome the perceived fear of weakening trade unions in the public sector.

Even though collective bargaining on many issues in the public service is decentralized, this is not the case as regards wages and salaries which remain centralized in many European countries. Issues involving wages and salaries are key elements in collective bargaining, and thus the principal actors in public service bargaining focus more on wage negotiations. Public service employers (usually the government) tend to have more influence than public service employees on determining wages and salaries.

The traditional contents of collective agreements in the public service include working hours, training, dispute resolution, sick pay, leave, family holidays, and maternity leave. Public service employees actively participate on decisions affecting the general conditions of service, as well as general labour relations. Flexible working hours is a major concern for employees in Finland.

The collective bargaining systems in many European countries are multi-level: central, sectoral, and enterprise level. Some levels of bargaining are more dominant than others. For instance, in Finland sectoral level bargaining is more dominant, with the enterprise level having the flexibility to modify the centrally negotiated general framework agreements. Sectoral and enterprise-level bargaining is mostly bipartite.

Collective bargaining remains an important aspect of public service labour relations in many countries in the EU. In Finland, on some public service issues there has been a shift from collective bargaining to individual bargaining; bipartite negotiations and consultations predominate. In the U.K., the multilateral concept of collective bargaining (where negotiations include several parties) is gaining ground.

Legislations (except for UK as mentioned), agreements and consultations continue to be the major determining factors with regards to the contents of collective bargaining in the public service. The integration of the EU and the various public service reforms in the Member States are the major agents of change in public service labour relations in Europe.

II. North America

This section examines the public service labour relations systems in both Canada and the U.S. In the 1990s these two countries experienced profound changes in their public service labour relations.

Canada

Introduction

Canada has a unique public sector. In addition to the three levels of government – federal, provincial, and municipal – each with public service employees, there are also public enterprises (Crown Corporations) and public institutions such as school boards and health care institutions. The three levels of government, public enterprises, and public institutions are the principal public service employers. Also within the public sector are numerous quasi-public enterprises and institutions.

In the 1990s, the public service in Canada was marked by retrenchment, part of massive restructuring efforts in the public sector aimed at restoring fiscal stability. Until 1998, the federal government and provincial governments pursued several reforms to make the public service more efficient, reforming collective bargaining by cutting government expenditure on wages to overcome the fiscal stress confronting the economy. Public service employers³¹ adopted severe bargaining measures that consequently weakened public sector unions. Some of these measures continue to remain in the public service collective bargaining process.

In 1998 public service bargaining entered a new stage, consolidation. The Canadian economy grew stronger during this period, with substantial growth in public service employment and a remarkable record of budget surpluses. The economic boom of the late 1990s significantly explains the improved fiscal conditions and employment growth in the public sector – 1.2 per cent between 1998 and 2002 (the average recorded public sector employment growth as a per centage of the total economy for 1998 and 2002 were 25.1 per cent and 22.8 per cent, respectively) (Rose, 2004). In the same period union membership and union density also grew substantially in the public sector – by 13 per cent and 0.8 per cent, respectively (see table 3).

³¹ Public sector employers refer to the federal, provincial, territorial, and municipal governments as well as educational and health care institutions.

Table 3. Canada: union membership (in thousands) and union density (in %) by sector, 1998 and 2002

Sector	Union membership		% change	Union density (%)		% change
	1998	2002	1998-2002	1998	2002	1998-2002
Education	635.5	656.3	+3.3	68.9	70.2	+1.3
Health care and social assistance	654.7	749.6	+14.6	53.4	54.2	+0.8
Public administration	507.0	523.1	+3.2	64.1	67.5	+3.4
Public sector	1,851.4	2,091.6	+13.0	71.7	72.5	+0.8
Overall economy	3,565.2	3,891.7	+9.2	30.7	30.3	-0.4

Source: adapted from J.B. Rose, 2004.

The Constitution Act of Canada, the Canadian Labour Code and the various provincial labour laws govern labour relations and collective bargaining in Canada, complementing the Public Service Labour Relations Act of 1967 in promoting labour relations in the Canadian public service. In 2003, the new Public Service Labour Relations Act was passed by Parliament and came into force on 1 April 2005. The legislative framework in Canada provide for the right to freely form an association and bargain collectively. In some areas, federal and provincial laws overlap; for instance, non-discrimination in employment is a clause firmly stated in both federal and provincial labour laws.

Numerous institutions are charged with regulating and administering labour relations and collective bargaining in Canada, making the definition of employer somewhat complex. As J. Fudge writes, “in Canada, a variety of institutions administer the different dimensions of labour regulation, and several are involved in adjudicating whether or not an entity should be legally responsible for employment-related obligations” (Davidov & Languille: 304-305). This complexity partly results from the unclear definition of public sector employer and the growing categories of employees such as consultants, part-time and temporary workers, agency workers, etc.

The Public Service Staff Relations Board was created as a quasi-judicial tribunal charged with the responsibility of promoting labour relations through collective bargaining and grievance adjudication in the federal public service. Its main functions include: administering collective bargaining and grievance adjudication, issuing applications for bargaining agent certification, ensuring revocation of such certification, and receiving complaints on unfair labour practices. Another important function of the Board is administering certain provisions of Part II of the Canada Labour Code concerning occupational health and safety within the public service.

In the province of Newfoundland and Labrador, the Public Service Collective Bargaining Act was amended on 12 December 2006 to strengthen collective bargaining in the province. However, in the province of Nova Scotia the Trade Union Act as amended on 23 November 2006, strictly removed the right to strike for police officers and members of police bargaining units, as well as their employers’ right to lockout.

Legislation plays an important role in all aspects of labour relations in Canada's public service. Rose (p. 275) writes: "a comprehensive analysis of government restraint and restructuring at the federal and provincial government levels found that 11 of the 15 governments in power in the 1990s relied on legislative action exclusively or in conjunction with adversarial bargaining to achieve their objectives". Some of these legislative measures deal with restraints on wages and no-strike provisions. In Ontario, the largest Canadian province, certain categories of public service employees are prohibited from going on strike, to wit: the police service, the fire service and the health care service. The Police Act, the Fire Department Act, the Hospital Labour Disputes Arbitration Act and the Crown Employees Collective Bargaining Act are specific no-strike laws governing Ontario's public sector labour relations system. Similar legislations regulating labour relations exist in many other levels of government across Canada. Some of these labour laws are unilaterally applied by governments for regulating labour relations in the public service.

Parties to public service collective bargaining

Workers' organizations

Unlike many European countries, Canada has many public sector trade unions representing public service employees. The Canadian Union of Public Employees (CUPE) is the largest public sector union, representing the majority of public workers. Twenty-five per cent of its members are part-time employees. This organization represents the majority of municipal and health care employees and is affiliated with the Canadian Labour Congress.

Another union that represents public service employees in Canada is the National Union of Public and General Employees (NUPGE).

Table 4 shows Canada's union membership and density by sector from 1997 through 2006.

Unionized public service employees in Canada are covered by collective bargaining. Thus, average union density as well as collective bargaining coverage in the public sector tends to be much higher than the counterpart in the private sector. Between 1997 and 2006 the average union density for the public sector was 70.99 per cent and 18 per cent for the private sector; it grew modestly from 69.74 per cent in 1997 to 71.01 per cent in 2006 in the public sector, while in the private sector it remained virtually unchanged during the same period. Public sector unionization is more than three times that in the private sector.

Employers' associations

The main public service employers include the federal government, provincial and territorial governments, municipal governments, public enterprises and public institutions such as health care and education. The Treasury Board of Canada represents the federal government in all labour relations negotiations. Many provincial and municipal governments negotiate directly with trade unions. Similarly, public enterprises and public institutions negotiate directly with representatives of workers' organizations.

Table 4. Canada: Union membership and union density by sector, 1997-2006

Year	Union membership		Union density (%)	
	Public sector	Private sector	Public sector	Private sector
1997	1,849,100	1,653,200	69.74	18.99
1998	1,850,500	1,693,900	70.08	18.82
1999	1,901,800	1,676,500	70.40	18.08
2000	1,961,100	1,764,600	70.04	18.40
2001	2,029,400	1,789,200	71.36	18.21
2002	2,102,100	1,804,000	72.26	17.88
2003	2,128,000	1,868,800	71.99	18.12
2004	2,190,600	1,820,200	71.95	17.42
2005	2,218,200	1,846,200	71.03	17.52
2006	2,270,800	1,837,400	71.01	17.03
Average	2,050,200	1,775,400	70.99	18.00

Source: Statistics Canada, *Labour Force Survey*, 2007.

Structure and levels of collective bargaining

Public service collective bargaining in Canada is mostly bipartite, between unions and employers. Contrary to trends in other parts of the world, in the 1990s public service collective bargaining completely shifted from decentralization to centralisation. This shift can be attributed to the amalgamation of Canadian municipalities and other public institutions such as school boards and health care centres as part of public sector restructuring processes. It reflects governments' decisions to substantially cut down on expenditures in order to ensure fiscal stability. As a result, many sections of the public service such as school boards and health care institutions consolidated their collective bargaining.

In the province of Alberta, the government introduced Bill 27 in 2003 to amend its Labour Relations Code specifically to centralize collective bargaining in the health care sector. Part 2.1 section 162.1 (a) of Bill 27 states: "providing for the establishment of region-wide functional bargaining units as bargaining units for the purposes of this Act for all regional health authorities and their employees who are represented by a bargaining agent".

Almost all provinces have streamlined collective bargaining in regard to school boards and health care institutions. Some public service unions bargain directly with the province. In New Brunswick and Québec, the provincial governments bargain directly with public service unions in the health and education sector. Public service teachers and nurses negotiate collective agreements on a province-wide basis.

Contents of collective bargaining

Wage settlements remain a crucial issue in Canadian public service collective bargaining. The various reforms pursued by governments, coupled with unilateral

legislations restraining public service collective bargaining in the 1990s had a profound impact on wage levels. The wage restraint measures made public sector employees worse off in terms of real wages as employees' wage adjustments lagged behind changes in the Consumer Price Index (CPI) from 1990 through 1997 (the restructuring period). During the same period, public sector wages lagged behind private sector wages for each consecutive year. For instance, the average annual increase in employees' base wage rates substantially declined from 5.6 per cent in 1990 to 0.5 per cent in 1996.

Table 5 shows the major wage adjustments and changes in the CPI from 1990 through 2006. During this period, wage increases in the public sector were not commensurate with the annual change in the CPI. Clearly, public sector wages are volatile, going up in periods of economic growth and declining during economic downturns.

Job security is one of the major issues that continue to remain on the list of public service collective bargaining. Negotiating for job security in the public service tends to entail trade-offs. Like many other countries, Canadian public service employees are considered to have more job security than their private sector counterparts. However, recent government legislations have unilaterally determined a range of bargaining issues, threatening job security for public service employees.

Despite many challenges facing public service unions, in Canada, they have successfully negotiated both maternity and paternity leave. Other major issues in collective agreements are hours of work, annual leave, sick leave and study leave.

In Canada, extension of collective agreement privileges to non-union members is virtually non-existent. However, non-union members are not strictly excluded from the benefits of negotiated agreements.

Labour dispute settlement

With a few exceptions, public service employees in Canada have, in principle, the right to strike. In reality, there were many instances, particularly in the early 1990s, when the right to strike was denied and legislations forcing striking workers to return to work were unilaterally passed by governments. In the 1990s, public service reforms including wage restraints and back-to-work legislations throughout all levels of government had a profound impact on strike actions. As a result, the average number of public sector work stoppages due to strike actions significantly dropped from 144.5 between 1980 and 1989 to 80 between 1998 and 2002. As soon as wage restraints and no-strike legislations were relaxed in 1998, the average number of work stoppages due to strikes increased to 106 between 1998 and 2002. Similarly, the average personal days lost significantly declined from 1,513,000 between 1980 and 1989 to 875,000 between 1990 and 1997. However, this average number increased to 1,019 between 1998 and 2002. Table 6 shows the overall trend in Canada's public sector work stoppages from 1980 to 2002.

Table 5. Public and private sector per cent wage adjustments and changes in the CPI, (1990 – 2006)

Year	Public sector	Private sector	All	Annual change in CPI
1990	5.6	5.7	5.6	4.8
1991	3.4	4.4	3.6	5.6
1992	2.0	2.6	2.1	1.5
1993	0.6	0.6	0.7	1.9
1994	0.0	1.2	0.3	0.2
1995	0.6	1.4	0.9	2.2
1996	0.5	1.7	0.9	1.6
1997	1.1	1.8	1.5	1.6
1998	1.6	1.8	1.7	1.0
1999	2.0	2.7	2.2	1.7
2000	2.5	2.4	2.5	2.7
2001	3.4	3.0	3.3	2.6
2002	2.9	2.6	2.8	2.2
2003	2.9	1.2	2.5	n.a.
2004	1.4	2.2	1.8	n.a.
2005	2.2	2.4	2.3	n.a.
2006	2.6	2.1	2.5	n.a.

Source: adapted from J.B. Rose, 2004. *Workplace Bulletin, Labour Policy and Workplace Information, HRSDC – Labour Program.*

The Crown Employees Collective Bargaining Act of 1993 provides public enterprises the right to strike, and allows employers of Crown corporations to lock out employees. However, such industrial actions can only be undertaken on condition that essential services will not be affected in the event of a strike or lockout.

In Canada, labour disputes are governed by the Public Sector Dispute Resolution Act of 1997. Labour disputes are typically resolved through various labour institutions such as labour courts or tribunals, adjudication boards, etc. The Public Service Staff Relations Board has jurisdiction to adjudicate labour disputes. As part of its responsibility, the Board provides dispute resolution services in the form of mediation and conciliation. In the province of Ontario, the Ontario Labour Relations Board is an independent adjudicative agency responsible for the resolution of labour and employment disputes. Following the enactment of the Crown Employees Collective Bargaining Act of 1993, the Board obtained jurisdiction in undertaking collective bargaining in the public service.

**Table 6. Public sector work stoppages (in thousands),
1980 – 2002**

Year	No. of stoppages	% of total	Person days lost	% of total	Year	No. of stoppages	% of total	Person days lost	% of total
1980	244	23.7	3,193	35.0	1990	119	20.6	786	15.5
1981	271	25.6	2,210	25.0	1991	115	24.8	1,429	56.7
1982	121	17.8	895	15.7	1992	80	19.8	496	23.5
1983	95	14.7	2,129	47.9	1993	85	22.3	355	23.4
1984	108	15.1	572	14.7	1994	55	14.7	414	25.8
1985	158	19.1	628	20.1	1995	55	16.8	183	11.6
1986	128	17.1	796	11.1	1996	76	23.0	1,389	41.6
1987	105	15.7	885	23.2	1997	56	20.1	1,948	54.6
1988	76	13.9	2,167	44.2					
1989	139	22.2	1,658	44.8					
Mean	144.5	18.49	1,513.3	28.17		80.13	20.26	875	31.59
1998	119	31.5	642	26.0					
1999	135	32.7	1,038	42.4					
2000	100	26.5	586	35.5					
2001	114	29.9	1,164	52.8					
2002	61	20.8	1,667	54.9					
Mean	106	28.7	1,019	43.2					

Source: adapted from J.B. Rose, 2004.

Changing trends in labour relations

In the last decade or so, Canada's collective bargaining has shifted from decentralization to centralization. Since 1997, public sector union density increased only marginally from 69.74 per cent in 1997 to 71.01 per cent in 2006. Similarly, collective bargaining coverage in the public sector has remained virtually unchanged since 1997. Wage issues continue to dominate public service negotiations; however, unions have not been successful in achieving appreciable wage increases for their members. During the period under consideration, annual wage adjustments lagged behind annual changes in CPI.

The "basket of bargaining issues" in the public sector continues to narrow as unilateral legislation by governments gradually replaces agreements. In some cases, legislation has been used by governments to determine the contents of collective agreements, as in the provinces of British Columbia, Nova Scotia, Ontario, and Québec. Governments which have not been successful in negotiating certain issues with their unions have resorted to unilaterally legislating those issues. Governments have used threats of reforms such as privatization, contracting-out, and cutbacks of programmes to weaken public sector labour unions. Public service employers have increasingly gained power over negotiations.

Public service unions have limited rights in negotiating certain issues such as pensions, job classifications, promotions, transfers, hiring and firing.

United States of America

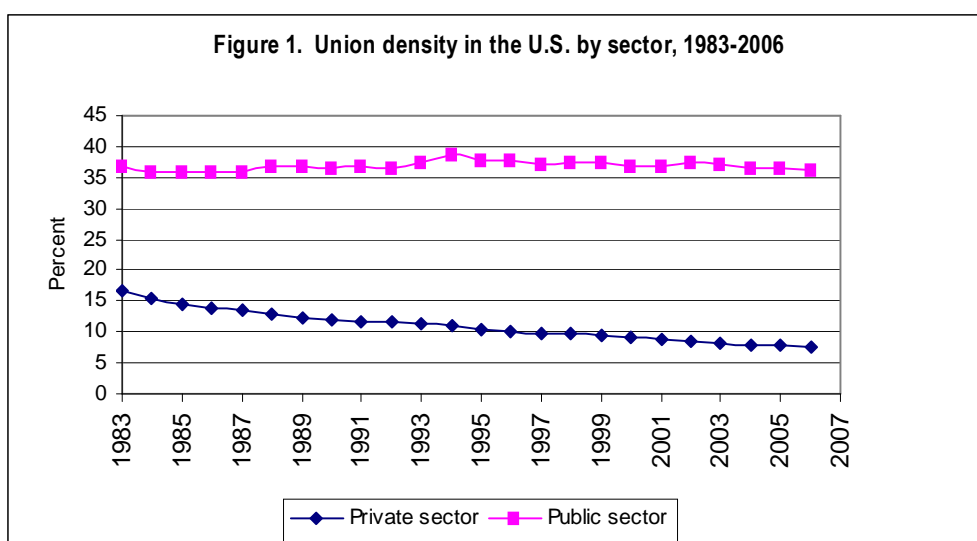
Introduction

The United States, like Canada, has three levels of governments: federal, state, and local.³² However, American labour relations is generally more complex, as it is governed by many statutes and legislations. In addition, there are many actors involved in labour relations, ranging from the legislature, unions, employers, independent negotiators, to citizens. Each state has a wide leverage in carrying out labour relations. Both federal and state labour laws have grey areas for the courts' intervention.

In addition to the three levels of governments, there are public enterprises, public institutions, as well as quasi-governmental agencies. Massive public service reforms coupled with the recession in the U.S. economy in the last decade are expected to affect employment and union membership growth. Across the country, union membership growth has not been proportional to employment growth in both the public and private sectors in the past decade. According to the U.S. Bureau of Labour Statistics (1997, 2007), the total number of employed government workers grew from 18.15 million in 1997 to 20.39 million in 2006 (approximately 12 per cent). In the public sector, union membership marginally increased from 6.75 million in 1997 to 7.38 million in 2006 (9 per cent). During the same period, the total number of private sector employees grew moderately from 96.39 million to 107.85 million (12 per cent), while union membership in the private sector actually declined from 9.36 million to 7.98 million (15 per cent drop). While private sector union density has consistently declined since 1983, in the public sector it has virtually remained unchanged. Figure 1 shows the trends in union densities in the U.S. by sector from 1983 through 2006.

The slow growth in employment in the past decade will inevitably affect union membership and density levels. Tables 7 and 8 show the trends of union membership and density from 1997 through 2006. During this period, both union membership and density fluctuated: the highest recorded public sector union membership between 1997 and 2006 was in 2005, at nearly 7.43 million, marginally dropping to 7.38 million in 2006. Similarly, union density peaked in 1998, 2000, and 2002 at 37.5 per cent, and dropped to 36.2 per cent in 2006. During this period, public service union membership and density remained virtually unchanged. Approximately 36 per cent of public sector employees are union members, compared to about 9 per cent of private sector employees. Overall, the rate of unionization is very low in the U.S., especially in the private sector where forming or joining a union is not encouraged.

³² Local government refers to county and city government administrations.



Source: Current population survey, Bureau of Labour Statistics, 2006.

In addition to reforms and organizational restructuring that contributed to this decline, various actions of employers also fuelled the situation. According to Herzenberg (2002: 106), “while many other countries consider that the decision to join a union is for workers to make without interference from employers, U.S. employers have extensive rights to persuade workers not to join unions”.

Table 7. Union membership* of employed wage and salary workers by sector
(numbers in thousands)

Sector	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
Private**	9,363	9,306	9,419	9,148	9,201	8,756	8,452	8,205	8,255	7,981
Public**	6,747	6,905	7,058	7,110	7,186	7,351	7,324	7,267	7,430	7,378
Federal govt.	1,030	1,105	1,047	1,033	1,046	1,063	1,004	985	954	960
State govt.	1,485	1,431	1,527	1,641	1,737	1,758	1,706	1,751	1,838	1,843
Local govt.	4,232	4,370	4,484	4,436	4,403	4,530	4,614	4,532	4,638	4,575

** Data refer to members of a labour union or an employee association similar to a union.

**From 1997 through 2002, private sector refers to private wage and salary workers and public sector refers to government workers.

Source: Bureau of Labour Statistics, *News of the U.S. Department of Labour*, various editions, 1997–2007.

Table 8. Union density* of employed wage and salary workers by sector
(numbers in per centages)

Sector	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
Private**	9.7	9.5	9.4	9.0	8.9	8.5	8.2	7.9	7.8	7.4
Public**	37.2	37.5	37.3	37.5	37.2	37.5	37.2	36.4	36.5	36.2
Federal govt.	32.0	33.8	32.1	32.0	31.5	32.3	30.9	29.9	27.8	28.4
State govt.	29.5	27.8	29.2	30.0	30.3	30.8	30.3	30.7	31.3	30.2
Local govt.	42.7	43.8	42.9	43.2	42.8	42.8	42.6	41.3	41.9	41.9

* Data refer to members of a labour union or an employee association similar to a union.

** From 1997 through 2002, private sector refers to private wage and salary workers and public sector refers to government workers.

Source: Bureau of Labour Statistics, *News of the U.S. Department of Labour*, various editions, 1997–2007.

The right of all workers (regardless of sector) to form and join a union is guaranteed by federal law and reaffirmed by numerous decisions of the U.S. Supreme Court. However, this is not the case as regards the right to collective bargaining. Although in most state and local government administrations, public employees have collective bargaining rights, this is not so in the following ten states: Arkansas, Louisiana, Mississippi, North Carolina, South Carolina, Virginia and West Virginia.

The legal framework

The American Constitution and specific labour laws in both the federal and state governments govern labour relations in the U.S. The Federal Labour Relations Authority established by the Civil Service Reform Act of 1978 governs labour relations in the federal public sector. The rights of federal employees are governed by federal labour laws, while state and local level employees are governed by state labour laws. However, it is the federal law that establishes minimum wage and working conditions such as minimum workplace safety standards.

Labour legislation in the U.S. public service varies according to the type of work, as well as by state. Federal labour laws apply only to federal employees and private sector employees, and not to state and local government employees.

Many employment laws in the U.S. have roots in the traditional principle of common law called “at-will employment”.³³ The Federal Labor Relations Act restricts the exercise of union rights of federal government employees.

Parties to public service collective bargaining

Workers’ organizations

U.S. public sector workers’ organizations are active political campaigners. The activities of unions have in one way or the other greatly influenced legislations and the outcomes of elections at all levels of government in the country; unions often combine politics with the traditional union activities of bargaining, organizing and consultation.

³³ This common law principle states that any of the parties to an employment relationship can choose to terminate it at any time with or without a reason.

The majority of trade unions representing public sector employees are affiliated with the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO). The American Federation of State, County, and Municipal Employees (AFSCME) is the largest public sector trade union, representing over two million public sector employees (Herzenberg: 118). Another union representing county and city employees as well as employees of educational and health care institutions is the Service Employees International Union (SEIU), with a membership of about 1.8 million.³⁴ SEIU members include over 900,000 health care workers, considered the largest health care union. It is also the second largest public services union after AFSCME, with more than 850,000 state and local government employees as members. It is affiliated with the AFL-CIO. Unions representing public service employees negotiate directly with employers.

Employers' associations

Federal government representatives – the heads of various agencies and departments – negotiate general conditions of employment. However, wages and salaries and personnel issues are not negotiated but are strictly determined by the U.S. Congress. The legislatures are the employers' representatives in the case of state and city governments. In many cities, county boards, city councils, and school boards are often the principal representatives in negotiating conditions of employment. Some governmental units and agencies have specialized labour relations departments or professional negotiators to represent their various agencies in labour negotiations.

Structure and levels of collective bargaining

The majority of States promote collective bargaining in their various labour legislations by recognizing the bargaining units of many public employees. However, public service employees in such States can choose whether to exercise the right to bargain collectively or not. Thus, not all public service employees are covered by collective bargaining agreements. In 1995, there were a total of 673 agreements covering 2.8 million employees in both state and local governments.³⁵ Collective agreements are considered important documents that enhance the joint decisions between public service employers and employees. In the U.S., collective agreements are not extended to non-negotiating parties.

Generally, collective bargaining takes place at all levels: national, sectoral, local, and enterprise. At the federal level, heads of various government agencies negotiate directly with workers' representatives. The negotiated agreement is binding on all union members and agencies concerned regardless of geographic location.

Collective bargaining is now becoming more coordinated with the budgeting processes of various government administrations. Also, in some U.S. cities (such as Detroit) citizens participate by voting on the negotiated wage increase of some categories of public service employees such as policemen, firemen and public transport drivers.

³⁴ See <http://www.seiu.org>

³⁵ See Bureau of Labour Statistics. *News of the U.S. Department of Labour*, 1996.

In the public service, conditions of employment are determined by a combination of three methods: bipartite negotiation between the employers' and employees' representatives; unilateral decision by the employer; and arbitration.

Contents of collective bargaining

The traditional issues of collective bargaining continue to dominate public service negotiations. These include wages, hours of work, training, annual leave, sick leave, maternity leave, job safety, and job security. However, in many states and local government administrations, wages and other monetary issues are determined by unilateral decision of the employer; the employer has the discretion whether or not to consult workers on this issue.

Labour dispute resolution

Federal employees in the U.S. have no right to strike, nor do some state and local government employees. Approximately 33 per cent of states have legislations denying their employees the right to strike. In the few states (including Minnesota, Oregon, Pennsylvania, and Vermont) and local governments where strikes are allowed, limitations have been put in place. For example, strikes are prohibited when a collective agreement has not expired. Article 28 of the current collective agreement between the State of Minnesota and the workers' union indicates that "the Union agrees that it will not promote or support any unlawful strike under the Minnesota Public Employment Labour relations Act". Similarly, in the Master Memorandum³⁶ between the Commonwealth of Pennsylvania and Council 13, the American Federation of State, County and Municipal Employees (AFL-CIO) strongly recommends no strike action. In addition, many states require advance notice, and only after all dispute resolution procedures have been exhausted can state employees embark on a legal strike.

There are three categories of labour disputes in the U.S. public service: representation disputes, interest disputes, and grievances disputes. The majority of disputes in the public service are grievance type disputes. Representation disputes are resolved by legislation, usually through the state and federal courts.

The available data on work stoppages show all work stoppages involving 1,000 or more workers in both public and private sectors combined. Table 9 illustrates work stoppages involving 1,000 or more workers from 1990 through 2006. Economic issues are the principal causes of work stoppages. Overall, the number of work stoppages in the U.S. has significantly declined from 44,000 in 1990 to 20,000 in 2006. During the same period, the number of man-days lost in terms of days idle drastically declined from 5.9 million to 2.7 million approximately.

³⁶ This Master Memorandum provides guidelines for collective bargaining between State employers and unions in Pennsylvania. The current Memorandum is for the period 1 July 2003–30 June 2007.

Table 9. Work stoppages in the U.S. involving 1,000 or more workers, 1990–2006

Period	No. of work stoppages beginning in period	No. of workers involved (thousands*)	Days idle** (thousands)
1990	44	185	5,926
1991	40	392	4,584
1992	35	364	3,989
1993	35	182	3,981
1994	45	322	5,021
1995	31	192	5,771
1996	37	273	4,889
1997	29	339	4,497
1998	34	387	5,116
1999	17	73	1,996
2000	39	394	20,419
2001	29	99	1,151
2002	19	46	660
2003	14	129	4,091
2004	17	171	3,344
2005	22	100	1,736
2006	20	70	2,688

* Number of workers involved includes only those who participate in work stoppages that began in the calendar year. Workers are counted more than once if they are involved in more than one stoppage during the period. Numbers are rounded to the nearest thousand.

** Days idle include all stoppages in effect during the period. For work stoppages that are ongoing at the end of the calendar year, only those days of idleness in the calendar year are counted.

Source: Bureau of Labour Statistics, *News of the U.S. Department of Labour*, 27 Feb. 2007.

Changing trends in labour relations

There has not been any significant change in labour laws governing labour relations in the U.S. since 1990. Although labour laws guarantee the right of workers to form and join a union, union membership and density have remained virtually unchanged in the past decade, attributable to the overall slow growth in the U.S. economy, as well as public service reforms in the early 1990s.

Significant variations in labour relations systems exist in the public sector. This is because states have a wide range of discretion in establishing their system of labour relations.

Although collective agreements are regarded as important means for employers and employees to make joint decisions, some key issues such as wages and other monetary issues are unilaterally determined by legislation. Thus, the contents of bargaining have narrowed. There is a rising trend of coordination of collective bargaining and budgeting processes in many governmental units. Despite the fact that collective bargaining in the public service is typically bipartite and only exceptionally

tripartite, both these bodies are not fully developed institutions as in the case of other European countries.

Collective bargaining coverage in the U.S. has steadily declined in the last decade. Strike actions (work stoppages) have also declined since 1990, which may be due to the corresponding decline in unionization in the country.

Conclusions

There has not been any significant change as regards the traditional bargaining issues in both Canada and the U.S. Collective bargaining continues to focus on issues of hours of work, job security, annual leave, and other conditions of employment. Similarly, in both countries, while public service sector union density has remained static, that in the private sector have steadily declined since the 1990s. In addition, the issues for collective bargaining in both countries have narrowed as wages and other monetary issues are unilaterally determined by legislations.

Unlike many other industrialized countries, there is a steady trend from decentralization to centralization in collective bargaining in Canada and the U.S. This trend is mostly explained by various public service reforms in these two countries. In the U.S, there are more actors involved in labour relations than in other countries. Overall disputes as measured by work stoppages have consistently declined in the U.S., while continuing to fluctuate in Canada. At the federal levels of both countries, collective bargaining is typically bipartite.

III. Asia and the Pacific

Background

Public service reforms within the framework of globalization have impacted the regions of Asia and the Pacific, completely transforming labour relations in many countries. Australia, India, New Zealand, and Pakistan have undertaken at least two major public sector reforms in the last two decades. In Asia, globalization has contributed to the shrinking of the public sector and growth informal sector. According to Candland,³⁷ “the urban informal sector grew twice as fast as the organized sector in the 1980s. In South Asia, which contains nearly 20 per cent of the world labour force, more than 90 per cent is in the informal sector”.

Many social and economic problems of numerous countries in the region are often blamed on the huge size and management of the public service, and in some instances, reform measures are aimed at staff reduction. Obviously, this will have implications on labour relations in general and labour relations in particular. Therefore, it is imperative that regardless of the need for reforms, stakeholders and concerned citizens must actively participate in such decisions to ensure strong collaborative partnership.

As part of the reform process, new models of public sector management, including personnel and labour relations have been introduced, changing the face of traditional public administration many countries. In Australia, the heads of public service agencies, instead of labour commissions and institutions, are empowered to directly negotiate the terms and conditions of employment. Almost all countries in the Asia and Pacific region have shifted to this *new* management model. Regrettably, in many countries public service workers’ organizations are neither informed nor consulted concerning the modalities and implementation of these changes. In some cases, labour organizations were involved only came after intense resistance on their part to changes such as privatization and outsourcing.

The reforms in the region have focused on *managerialism* and *marketisation*. As in many other regions, these reforms include privatization, outsourcing, contracting out, downsizing, and amalgamation of government agencies. These reforms are typical features of the market mechanisms, geared towards improving efficiency in the public service (using the private sector model of management and performance as the yardstick for measuring efficiency). The reaction of unions to these reforms consisted of measures such as amalgamation, focusing on promoting unity and better coordination, as in Australia. In Pakistan, rivalry among unions in Pakistan has substantially declined as a result.

Legislations have played significant roles in changing public service labour relations in the region. In Australia and New Zealand, recent labour laws have been widely described as anti-union. The Employment Contracts Act of 1991 in New Zealand makes union membership voluntary. In Australia, the Work Choices Act of 2005 gives the federal government more influence on labour relations in the country.

³⁷ See www.antenna.nl/~waterman/candland.html

In the case of Pakistan, labour law prohibits a large section of civil servants from forming and joining a union.

This section focuses on the unique experiences of public service labour relations systems in Australia, New Zealand and Pakistan.

Australia

Introduction

Australia's labour relations system has witnessed a profound transformation since the early 1990s. The transition has largely been influenced by public sector reforms, coupled with the enactment of various labour legislations, especially the controversial Work Choices Act of 2005. The Public Service Bill of 1997 backed these various reforms undertaken in the Australian public service. Since 1996 new labour law amendments principally focused on promoting non-union agreements.

In addition, the New Public Management (NPM) approach was put in place in the entire public administration, adopting the focus of the private sector on *commercialisation* and *marketization*. As part of this new approach, all decisions including labour relations issues are being decentralized. Forsyth (2006) writes: "over the last fifteen years, Australia's labour relations system has been totally transformed – from a highly centralised system based primarily on the determination of wages and working conditions through industrial tribunals, to one centred on decentralised bargaining at the workplace or enterprise level".

The Australian Industrial Relations Commission (AIRC) provided significant support in reforming the country's public sector. Fairbrother & Macdonald state that "the 1987 Restructuring and Efficiency (Second Tier) and the 1988 Structural Efficiency (Award Restructuring) Principles were introduced by the Australian Industrial Relations Commission in an attempt to modernise work practices and job classifications in all the awards under its jurisdiction". The unions in Australia became strongly involved in the process after several attempts to resist certain aspects of the public sector reforms. Other labour relations institutions also played significant roles in such reforms, including the Department of Industrial Relations which was given the important role of overseeing sector-wide labour relations (Macdonald).

The Australian Public Sector (APS) employees comprise all employees of the Commonwealth departments, the statutory agencies (employed under the Public Service Act), and executive agencies (created under the Public Service Act). Public service employees in Australia are all employees of the Commonwealth. In general, employees working for each jurisdiction (federal, state, and territory) are considered public service employees, as are employees of public institutions such as health care and education.

The legal framework

The Australian Constitution and the various labour laws provide the legal basis for the country's labour relations system. Public service employees have the right to freely unionize and bargain collectively. Legislation plays an important role in the labour

relations system in the country. Since 1990 many labour laws have been introduced to regulate public service labour relations in Australia.

In general, the system of labour relations in the Australian Public Service is governed by Workplace Relations Act of 1996 as amended by the (Work Choices) Act of 2005, the Public Service Act of 1999, and the Public Service Regulations. Industrial legislations in Australia allow for the creation of Federal Awards,³⁸ Federal Certified Agreements, Federal Australian Workplace Agreements (AWA), State Awards, and State enterprise bargaining agreements.

Most of the provisions of the Workplace Relations Amendment (Work Choices) Act of 2005 took effect in March 2006. This controversial labour legislation faced much resistance from organized labour and high profile political officials as it completely changed the system of labour relations in the country by promoting non-union agreements. Many stakeholders are of the view that the Work Choices legislation is anti-labour; the Australian Greens are hoping to have this law abolished.

The Work Choices Act of 2005 principally amended the Workplace Relations Act of 1996. It regulated labour relations in the Australian public sector, relying largely on the Australian Constitution and empowering the Federal Government to unilaterally control state labour relations.

In addition to the Work Choices Act of 2005, the Public Service Act of 1999 specifically regulates labour relations in the public service. This particular labour law vested many powers into the hands of the heads of government agencies; for instance, section 24 empowers the heads of APS agencies to unilaterally determine terms and conditions of employment.

Parties to public service collective bargaining

Workers' organizations

The Community and Public Sector Union (CPSU) is one of the largest federal unions, covering employees in every state and territory in Australia. It was created in 1994 after the amalgamation of two public sector unions, the State Public Service Federation (SPSF) Group and the PSU Group, but its history reveals a series of amalgamations dating back to 1989 (see Table 10). The SPSF and the PSU Group have a national membership of approximately 100,000 and 60,000 respectively. While the SPSF typically represents employees of the state public service, including university general staff, the PSU Group represents employees of the Commonwealth.

The various unions realized the need to merge in order to face the challenges resulting from the country's public service reforms that were impacting on the policies and practices of labour relations.

³⁸ Federal Awards are binding orders from an industrial tribunal containing the terms and conditions of employment for certain employees. Both federal and state industrial tribunals can issue Federal Awards.

Table 10. CPSU amalgamation history

Date	
1 July 1994	CPSU, the Community and Public Sector Union Public Sector, Communications, Aviation and Broadcasting Union The State Public Services Federation
12 Feb. 1993	Public Sector, Professional, Scientific Research, Technical, Communications, Aviation and Broadcasting Union Public Sector, Professional, Technical, Communications Union CSIRO Staff Association
1 Oct. 1992	Public Sector, Professional, Technical, Communications, Aviation and Broadcasting Union Australian Public Sector, Professional and Broadcasting Union, Australian Government Employment Professional Radio and Electronics Institute of Australia
2 March 1992	Australian Public Sector, Professional and Broadcasting Union, Australian Government Employment Australian Public Sector and Broadcasting Union, Australian Government Employment Professional Officers Association (Australian Public Service)
1 June 1991	Australian Public Sector & Broadcasting Union, Australian Government Employment Australian Public Sector & Broadcasting Union, Australian Government Employment Meat Inspectors Association, Australian Public Service
4 Aug. 1989	Australian Public Sector & Broadcasting Union, Australian Government Employment Administrative and Clerical Officers Association, Australian Government Employment Australian Public Service Association (Fourth Division Officers) ABC Staff Union

Source: <http://www.cpsu.org.au>

Employers' associations

Prior to 1987, the Commonwealth Public Service Board was the employer of the country's public servants. In 1995, as part of public sector reorganization, the Public Service Commission merged with the Merit Protection and Review Agency to form the Public Service and Merit Protection Commission (PSMPC), now the main public service employer in Australia. The heads of the various Commonwealth agencies have the legal authority to represent the Commission at negotiations. Essentially, labour relations matters are handled by departmental heads as opposed to the previous system where they were centrally controlled.

Structure, types and levels of collective bargaining

The structure of bargaining in the public service is bipartite, between employers (the heads of Commonwealth agencies) and worker's representatives, the CPSU. The two parties negotiate *workplace agreements*, so renamed by the Work Choices Act of 2005. These agreements are in fact collective agreements and contain the terms and conditions of employment for all public service employees. Prior to the Work Choices Act of 2005, the average duration of collective agreements in Australia was three years, but has now increased to five years.

Unlike many other countries, Australia has many types of workplace agreements. In principle, all forms of agreements available in the country can apply in the public service. These agreements include Union Collective Agreements (or Federal Certified Agreements), Australian Workplace Agreement (AWA), Union Greenfields Agreements, Employer Greenfields Agreements, Multiple-business Agreements, Employee Collective Agreements, and State Enterprises Bargaining Agreements.

The terms and conditions of a Federal Certified Agreement are at least equivalent to an applicable award. However, unlike the other agreements, Federal Certified Agreements need to be approved by the Australian Industrial Relations Commission. This type of agreement in Australia is equivalent to regular union collective bargaining agreements.

Australian Workplace Agreements (AWAs) are *individual* agreements between an employee and an employer. The terms and conditions of employment are approved by a federal agency, the Employment Advocate. In October 1996, the first non-union certified agreement was approved by over 85 per cent of public service employees in a ballot. As a result of this agreement, the terms and conditions of service in the public service substantially changed.

In Employer Greenfields Agreements, the employer unilaterally determines the terms and conditions of employment. Multiple-business Agreements, as well as the various Greenfields Agreements, allow collective agreements to be made with multiple employers at a given period of time. In the case of State Enterprise Bargaining Agreements, employers and employees in all States can enter individually into enterprise agreements. The terms and conditions of such agreements, in principle, should not be less than the stipulated applicable state award.

Collective bargaining in the public service is no longer centralized, but takes place at the enterprise level. Despite the availability of numerous agreements in Australia, collective bargaining is the most dominant. Table 11 shows that about 55 percent of public sector employees are covered by collective agreements while only one per cent are covered by individual contracts. It is interesting to note that over 59 per cent of employees in high wage levels are covered by collective agreements. Workers with low wages have the least collective bargaining coverage. This confirms the evidence that there are more benefits to be gained in collective agreements than without. The proportion of public service employees covered by State awards (29 per cent) is much more than Federal awards (nine per cent).

Table 11. Estimated per centage of employees covered by different systems of wage determination, by sector and wage levels, 1995

Workplace characteristics	Covered by State Awards	Covered by Federal Awards	Covered by collective agreements	Covered by individual contracts
All workplaces	21	12	44	9
Private sector	17	13	38	14
Public sector	29	9	55	1
High wage level	7	4	59	20
Medium wage level	19	9	47	10
Low wage level	30	23	33	4

Source: adapted from P. Waring, 1999.

In Western Australia, the majority of public sector employees are covered by agreements; employees covered by workplace agreements are fewer than employees

with Federal and State agreements. However, there is a trend of increasing workplace agreements. Table 12 shows the various types of agreements covering public sector employees.

Table 12. Coverage of public sector employees by agreement type in Western Australia

Year	Total coverage by agreements	Workplace agreements	State industrial agreements	Federal agreements
June, 1997	95%	12%	41%	42%
June, 1999	98%	21%	40%	37%

Source: adapted from R. Fells, 2001.

Contents of collective bargaining agreements

The contents of collective agreements in Australia include wages, hours of work, overtime wages, annual leave, family/care leave, parental leave, long-service leave, and accident pay and worker's compensation.

Labour dispute resolution

In principle, workers in the public service have the right to strike. Similarly, employers have the right to lockout. However, the Work Choices Act of 2005 imposed severe restrictions on the processes of embarking on a strike, requiring all workers to vote through a secret ballot box before an industrial action can be authorised. Work Choices essentially aims to abolish all forms of industrial actions by unions. Briggs (p. 11) writes: "*Work Choices* extends the circumstances under which industrial action is prohibited, imposes a legalistic secret ballot process for unions and creates almost open-ended rights for the suspension or termination of industrial action."

In addition, the Minister responsible for Workplace Relations has unilateral authority to intervene in an industrial action, and in certain cases can declare an industrial action illegal. On the other hand, the new labour law provides fewer restrictions on lockouts by employers.

Australia has a compulsory conciliation and arbitration system for handling industrial disputes. With the exception of the State of Victoria, each state has a well-functioning Industrial Relations Tribunal, with the authority to arbitrate as a means of last resort but only "where the dispute threatens the national economy or health and safety" (Briggs: 7).

Changing trends in labour relations

Total public sector employment has declined from 1,733,200 in 1990 to 1,476,200 in 1997 (Macdonald). This decline is mostly attributed to the various reforms, especially privatization of state enterprises. Employment in the public service has increasingly become contract-based and statute-based, implying a contractual relationship between each employee and employer (the Commonwealth).

Even though *collective* bargaining remains dominant in the country, *individual* bargaining is growing, encouraged by the government through legislations. This shift

of the collective bargaining system from a centralized to a decentralized enterprise-level system began in the early 1990s. The decentralization of bargaining, strongly backed by the Work Choices Act, has focused on promoting workplace awards. As a result, the role of industrial tribunals in determining awards has substantially diminished.

The various reforms in the public service have greatly reduced union membership in the sector. Fairbrother & Macdonald (p. 351) write: “privatisation and outsourcing also have adversely affected public sector unions as the shift in employment to the private sector usually means a loss in coverage for those unions”. In addition, the role of the independent Australian Industrial Relations Commission has been significantly reduced. In its place, the Employment Advocate and the Minister have been granted more powers in dealing with labour relations in the country.

Public service unions and public service employers have been transformed by the reforms in the sector. As a result, many public sector unions have merged in order to promote unity. In addition, the recent labour law reforms have granted employers in the public service more power over unions and/or employees than ever before. Individual heads of government agencies have been given the right to undertake labour relations on behalf of the Government, resulting in more autonomy in dealing with labour issues for individual agencies and departments.

New Zealand

Introduction

Until 1988 the Public Service in New Zealand was heavily centralized and controlled by the State Services Commission. Since 1990, numerous reforms have been undertaken, with a focus on decentralizing the sector. The reform strategies included restructuring, privatization, downsizing, and outsourcing (Venkataratnam & Tomoda, 2005: 27). As in other countries, these reforms were geared towards improving the performance of the public service in the country.

As part of the reform programmes, some ministries were transformed into SOEs (including the Ministry of Works and Development, the Ministry of Energy, and the Forest Service). Other reform measures consisted of privatizing and selling some state assets. According to the Public Services Commission (1998), “between 1988 and 1993 the Government obtained \$13 billion from the sale of assets in New Zealand”. Contrary to expectations, the public sector unions were in favour of the reforms. From the outset, the Public Service Association (PSA) strongly advocated for union and citizen participation in the design and implementation of the reforms.

The public service reforms have considerably reduced the numbers of public service employees: core public service employees declined from 88,000 in 1984 to 35,000 in 1995. Since the implementation of the various reforms, the indicators of labour relations – such as union membership, union density and collective bargaining coverage – have not proportionately increased with public sector employment growth.

In New Zealand, the public service comprises over 39 departments of core public service, SOEs, educational institutions, health institutions, and several Crown

corporations and entities. Thus, all employees working for the federal government, as well as all levels of governments are included in the public sector.

The legal framework

Employment Relations Act 2000 (No. 24)

Labour relations in New Zealand is governed by the Employment Relations Act of 2000 (No. 24) which emphasizes the promotion of collective bargaining. This labour legislation applies to all areas of employment issues in both public and private sectors of the economy. Since its enactment, it has undergone various amendments. “Prior to introduction of the State Sector Act the Public Service was a single entity – all employees, regardless of which department they were working for, were part of ‘the Public Service’ and were employed by the State Service Commission” (State Services Commission, 1998).

Employment Contracts Act 1991

Unions typically describe the Employment Contract Act (ECA) of 1991 as the most unfriendly labour legislation in the history of New Zealand. Applicable to employees in both public and private sectors, this legislation makes union membership voluntary. Briggs (p. 7) writes that, “the ECA abolished the industrial tribunals and the multi-employer award system, replacing them with individual employment contracts and collective employment contracts (a contract between an employer and two or more employees), favouring individual contracts which were considered the natural state of affairs”. The contract between employee and employer can be either individual or collective, giving the employee the option to negotiate for an individual contract.

Parties to public service collective bargaining

Workers’ organizations

The Public Service Association (PSA) is the largest public service union in New Zealand, representing over 55,000 public employees in both the public and State sectors, including local government, crown agencies, educational institutions, and public and health services. It is affiliated with the country’s main trade union federation, the New Zealand Council of Trade Unions. The overall union membership in the public service has been increasing since 2001, from 170,342 in 2001 to 190,131 in 2004 – an increase of over 10 per cent. Table 13 shows union membership growth by sector between 2001 and 2004.

Table 13. Union membership growth by sector, 2001-2004

Year	Public sector	Private sector
2001	170,342	159,577
2003	181,423	160,208
2004	190,131	163,927

Source: *Unions and Union Membership in New Zealand: Annual Reviews, 2001 and 2004.*

Employers' organizations

Until 1988 the State Services Commission, the employer of all public servants, negotiated collective bargaining with public sector workers' organizations. With the enactment of the State Service Act of 1988, the chief executives of each government agency or department acted as the employer, representing the Government in all labour relations matters.

Structure and levels of collective bargaining

Public service collective bargaining in New Zealand is bipartite, involving representatives of the government and workers' organizations. The chief executive of each department is often involved in negotiating the conditions of employment. In 1990 collective bargaining was decentralized to the enterprise level. Prior to this period, collective bargaining was heavily centralized and exclusively controlled by the State Services Commission.

The national minimum wage is determined by the Minister of Labour in consultation with unions and employers, as well as with civil society groups such as women's associations. It is reviewed on an annual basis. There are two types of minimum wage in New Zealand, one for adults aged 18 years and above, and the other for youth aged 16-17 years, with the youth minimum wage set at 80 per cent of the adult minimum wage.

Since the beginning of public service policy reform, almost all key indicators of labour relations have been declining at an alarming rate in both the public and private sectors. As seen in table 14, collective bargaining coverage in the private sector declined from 413,600 in 1990 to 167,700 in 2003, a 59 per cent drop. Public sector coverage dropped 44 per cent over a 13-year period, from 307,800 in 1990 to 172,000 in 2003. Collective bargaining density in the public sector fell considerably from 97 per cent in 1990 to 61 per cent in 2003.

**Table 14. Private and public sector collective bargaining
New Zealand, 1990-2003**

Year	Private sector coverage (000s)	Public sector coverage (000s)	Density - private sector	Density - public sector	Ratio public/private sectors
1990	413.6	307.8	48%	97%	2.02
1995	217.0	156.1	21%	59%	2.80
2000	244.8	175.7	22%	69%	3.14
2002	218.1	181.0	18%	68%	3.77
2003	167.7	172.0	13%	61%	4.69

Source: adapted from R. Harbridge et al. "The current state of plays: Collective bargaining and union membership under the Employment Relations Act 2000".

Contents of collective bargaining agreements

The standard collective bargaining issues in New Zealand include wages, overtime wages, hours of work, annual leave, study leave, sick leave and training.

Labour dispute resolution

Public service employees enjoy the full right to strike. Employers similarly have the right to exercise lockout. The number of strikes substantially declined in the last decade, due to institutional and policy changes which indirectly imposed severe restrictions on unions' ability to embark on any form of industrial action. Accordingly, work stoppages declined to their lowest levels. Lockouts, as a proportion of overall labour disputes in New Zealand, have unexpectedly increased since the early 1990s. This increase reflects the growing aggressive bargaining on the part of employers, especially public service managers who have the power to operate like their private sector counterparts. In explaining this trend, Briggs cites globalization and competition which have reduced the bargaining strength of workers, as well as reforms increasing the resistance power of employers and government in terms of industrial actions.

Essentially, legislative reforms have completely changed labour relations. Briggs states that industrial disputes in general have seen a downward trend in the last decade.

Disputes between employers and individual employees or unions are adjudicated by the New Zealand Employment Tribunal. Since its establishment in the early 1990s, the tribunal has resolved the majority of industrial disputes; its workload concerns mostly individual dismissal claims (MacAndrew, 1999).

Changing trends in labour relations

The public service in New Zealand has completely shifted from a centralized to a decentralized bargaining system, following the introduction of the State Sector Act of 1988.

The Employment Contracts Act of 1991 allows an employee and employer to negotiate an individual contract. As in Australia, the number of public servants with individual contracts in New Zealand is growing; however, there are still more employees with collective contracts than those with individual contracts.

The State Services Commission is no longer the employer of public service employees. The heads (chief executives) of the various public agencies are the employers that negotiate collective bargaining agreement at the enterprise level. Managers of the public service have flexibilities in labour relations more than ever before, as much as their counterparts in the private sector. In addition, they have the overall authority to determine the general conditions of employment; they can make unilateral decisions regarding the type and number of personnel required in their departments. However, the Commission remains the main agency that determines guidelines for collective bargaining; it retains the function of determining the wages and salaries of public sector employees.

Compulsory conciliation and arbitration remains the primary means of settling industrial disputes between employers and unions. The New Zealand Employment Tribunal was established in the early 1990s.

The majority of changes in the public service have focused on human resources management. The contribution of public service unions in the reform process is an indication of the strong commitment of unions in collaborating with the government to promote social justice.

Pakistan

Introduction

Pakistan's traditional public service structure was patterned after the Indian Civil Service. Over the years, the country reorganized and remodelled the public service and its labour relations system to suit its unique political and socio-economic development. In the last two decades, significant reforms were introduced. The government introduced bilateralism as a mechanism to sensitise public service workers' organizations concerning the various reforms. Public service workers' organizations responded to the changes by promoting bilateralism in the various levels of government administration.

Rigorous measures introduced in the public service resulted in the loss of thousands of jobs, specifically as a result of privatization and downsizing aimed at reducing the government's management and administration tasks. As part of such measures, the 2002 labour policy focused on promoting bilateralism as a means of dealing with industrial disputes. Although the Pakistani public service has a record of unfair labour practices, the trend began to change as the government promoted social justice by providing fundamental rights of freedom of association and collective bargaining to workers.

Public service employees in Pakistan include workers at the state, federal, provincial and local levels, and public enterprises and institutions (e.g., employees in public telecommunications and railways). Of the population of about 150 million, the public sector workforce is slightly over 3.7 million. It is estimated that there are over 8,000 registered trade unions in both the public and private sectors, representing slightly over 2.5 per cent (approximately 1 million workers) of the total workforce. The union representation rate in the country was about 6 per cent in the 1990s.

The legal framework

The Constitution and the various labour laws (both federal and provincial) in Pakistan provide the legal framework governing labour relations in the country. Its labour laws have their roots in the time of the partition of the Indo-Pakistani subcontinent and were modelled after those in India. These laws evolved over the years to reflect the unique economic and political structures in Pakistan.

The Constitution of the Islamic Republic of Pakistan regards labour as a "concurrent subject", implying that both the federal and provincial governments are responsible for all issues involving labour. Each province has its own rules and regulations governing labour relations, framed in consultation with the federal Government. This ensures that all labour laws in the country are uniform and consistent with the federal Government's labour laws.

Article 17 of the Constitution recognizes the fundamental right to exercise the freedom of association and the right to form unions. Pakistan has ratified ILO Convention Nos. 87 and 98 concerning freedom of association and the right to collective bargaining, respectively. The ratification of these two key international labour standards has significantly improved labour relations in the country.

However, public servants in the state, federal, provincial and local government administrations do not have the right to organize and bargain collectively. Thus, civil servants in the country are denied the right to join or form a union. In addition, subsection 3 of Section 1 of the Industrial Relations Ordinance of 1969 as amended in 2002 (which essentially governs labour relations in both public and private institutions), **does not** apply to persons employed in certain governmental agencies. Some of these agencies are the following:

- the Police or Defence Services of Pakistan
- the State administration
- members of the Security Staff of the Pakistan International Airlines Corporation
- the Pakistan Television Corporation or the Pakistan Broadcasting Corporation
- the Pakistan Security Printing Corporation or the Security Papers Limited

Despite the absence of labour rights in some sectors in the public service, the Government stated in its recent labour policy document the commitment to promote social justice that enhances peaceful industrial relations. According to the labour policy, “the Government’s vision for a new Labour Policy focuses on the dignity of labour, strengthening bilateralism, elimination of animosity and antagonism by fostering social dialogue” (Pakistan’s Labour Policy, 2002).

Parties to public service collective bargaining

Government and public service workers’ organizations are the only social partners involved in the practice of labour relations in Pakistan’s public service. All institutions involved in the labour relations systems in the country are represented by representatives from each of these parties. For instance, members of the National Industrial Relations Commission are, in principle, tripartite in nature. However, it is noted that bipartite negotiation is not uncommon between the Government as an employer and the unions. As unions in Pakistan are mostly in the public sector, therefore all bipartite negotiations tend to occur between the Government (as employer) and the unions.

In the private sector, employers and workers have jointly established a bipartite council called the Workers and Employers Bilateral Council (WEBCOP). Kemal (2003: 98) writes: “WEBCOP provides a forum for the resolution of industrial disputes, and for social dialogue between producers and employers aimed at the promotion of educational and vocational training, better labour relations, determination of minimum wage rates, industrial legislations and their implementation, workers’ participation in decision-making, and for achieving higher levels of profitability and wage rates”. The Government of Pakistan acts as a facilitator for the WEBCOP.

Workers’ organizations

The Public Sector Employees’ Federation of Pakistan represents employees of the public service. In the few government agencies where freedom of association is allowed, it is not uncommon to find several trade unions. A typical case in point is the

Pakistan Railways where there are 13 registered trade unions and over 152 associations.

Many public service organizations do not allow or recognize the rights of workers to collectively bargain. In general, there are substantial restrictions on the freedom of association and collective bargaining in the public service. As previously mentioned, certain categories of public service employees considered as civil servants have no right to form or join a union; however, the Civil Service Act provides for the formation of associations to serve the interest of these categories of workers, but their functions are limited. For instance, they are strictly prohibited from embarking on or agitating for any form of industrial action. Also, the associations have no negotiating powers, but they do participate in the commissions that review the pay and salary of workers.

Generally, there has been a decline in union membership across all sectors in the country, due mostly to privatization and downsizing in the public service over the past fifteen years. The anti-trade union drive by various government administrations, the anti-labour laws, the lack of unity among unions, and the freeze on public service recruitment have all contributed to declining membership.

Employers' associations

The National Industrial Relations Commission (NIRC), established in 2002, represents public service agencies in handling all labour relations issues, including labour disputes.

Structure and levels of collective bargaining

Unlike the private sector where bargaining has been decentralized to the enterprise level, collective bargaining in the public service remains centralized. Institutions such as the Pay Commissions, established by the government, are responsible for determining the wages of employees. At the national level, the Government, in consultation with WEBCOP, determines the minimum wage and other labour related policies.

Bargaining in the public service is usually between the NIRC and public sector unions, the latter represented by collective bargaining agents. Since 2002 the trend in bargaining began to change towards more balanced negotiations between the government and the unions.

As stated, in Pakistan there is no bargaining in the civil service and therefore formal collective agreements do not exist for civil servants.

Contents of collective bargaining

The contents of collective bargaining in Pakistan's public service are limited. The Government, through the NIRC, has authority in determining public sector wages. Other dealt with in public sector collective bargaining include overtime wages, working hours, annual leave, compensations, and training.

Labour dispute resolution

The Essential Services Maintenance Act of 1952, which applies to many government agencies, prohibits strikes and any other form of industrial action. Categories of essential services include energy production, power generation and transmission, the state-owned airline, and ports. Even in areas where strikes are permitted, severe restrictions are imposed on such actions. For instance, the Government has a unilateral authority to ban any industrial action that is deemed as causing undue hardship to society. In addition, the Government reserves the right to end strikes that have lasted more than 30 days. Employees that fall under the category of essential services have no right to collective bargaining.

In the private sector, disputes are resolved by the WEBCOP. In the public sector, the NIRC, an independent institution, is charged with the responsibility of handling all disputes. In the event of an industrial dispute, the Industrial Relations Ordinance of 2002 empowers an employer or a Collective Bargaining Agent to communicate the issue in writing to the other party. The other party has a maximum of 15 days to make an effort to settle the dispute through bilateral negotiations. If the parties concerned are unable to reach a satisfactory settlement, either the employer or the CBA serves the other party conciliation notice. This notice must be made within 15 days after the last day of the deadlock. Copies of the conciliation notice must be made to both the Labour Court and the conciliator. If the conciliator or a tripartite board of conciliators is able to satisfactorily settle the dispute, detailed agreement of the settlement is sent to the Provincial or Federal Government.

When conciliation efforts fail, the dispute must be referred to arbitration, the last step in the dispute resolutions process in Pakistan. The parties concerned make a joint written request to an arbitrator through the assistance of the conciliator. Upon receipt of the request, the arbitrator has to give an award within 30 days. Typically, the award of the arbitrator is final and binding on both parties for a period of two years. The final award by the arbitrator is published in the official Gazette of either the provincial or federal government.

National Industrial Relations Commission

Subsection 1 of section 22A of the Industrial Relations Ordinance (IRO) of 1969 and section 49 of Industrial Relations Ordinance of 2002 provide for the establishment of the National Industrial Relations Commission (NIRC). The authority to appoint members of the Commission is enshrined in subsection 5 of Section 22-A of the 1969 IRO, stipulating that the Commission shall consist of not less than eight members, including the Chairman, all appointed by the Federal Government. Two of the members of the Commission act as advisors to the Chairman, one representing workers and the other, employers. The purpose of this independent Commission is to adjudicate on industrial disputes and promote the formation of trade union federations at the national level, in order to ensure fair labour relations at all levels in the country's public service. Some of the main functions of the Commission are:

- to adjudicate and determine any industrial dispute to which an industry-wide trade union or a federation of such trade unions is a party, and any other industrial dispute which in the opinion of the Federal Government is of national importance and is referred to it by that Government;

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- to register industry-wide trade unions, federations of such trade unions and federations at national level and carry out ratings of the trade unions and federations registered by it in terms of their standing and representative character;
 - to determine the collective bargaining agents of industry-wide trade unions and federations at the national level;
 - to deal with cases of unfair labour practices;
 - to facilitate the formation of federations at the national level.

In addition to conducting referendums, the NIRC works on a regular basis to hear single and Full Bench appeal cases. The Commission is the highest forum in the labour judiciary in Pakistan. During the year 2002 alone, it received 2,956 cases – plus 2,264 cases brought forward from previous years – and settled 3,436 cases. Given the involvement of the Federal Government in appointing the members and the Chairman of the Commission, the true independence of the Commission is questionable.

Changing trends in labour relations

Union membership as well as union density in the public sector in Pakistan continues to decline. It is evident that globalization has transformed the nature and pattern of work around the world, contributing to the decline of unionism in Pakistan. The various public service reforms introduced in the last two decades were also factors in the decline, changing the system of bargaining as well.

Public service unions in Pakistan have responded to the challenges in labour relations by adopting a number of new strategies. Some unions merged in order to reinforce their strength and unity, e.g., the Pakistan Workers' Federation (PWF) in March 1995. Other unions maintain their independence while fostering solidarity with other unions. In many public service agencies, unions no longer fiercely compete with each other in collective bargaining agent elections. Workers' organizations also provide training and education to their members to equip them with the requisite skills and expertise for today's job market.

The government of Pakistan has demonstrated its commitment to promoting social justice through harmonious labour relations based on consultations, bargaining and negotiations. It has recognized the mutual benefit of ensuring and promoting good labour practices within the framework of ILO's labour standards through bilateral labour relations. As a result, in its Labour Policy of 2002, the government encouraged bipartite negotiations between the social partners. Bipartism as a means of labour relations is thus gaining prominence in the public service. Public service unions have increased their processes of negotiations, consultations and bargaining with the government through the National Industrial Relations Commission.

Conclusions

As far as the three analysed countries are concerned, it emerges from the data provided above that in all of them the public service sector is shrinking, and labour relations faces severe challenges. In Australia and Pakistan especially, data show that the public sector is undergoing an unprecedented dwindling in union membership together with declining union density and collective bargaining coverage. The large

majority of civil servants in these countries continue to have no labour rights such as the right to join a union and bargain collectively. Prominent factors accounting for these downward trends are reforms enacted by the government, globalization, and competition.

Even though collective bargaining remains dominant, individual contracts and agreements are gradually gaining recognition, particularly in Australia and New Zealand. Labour legislation reforms have significantly contributed to the rise in the number of individual labour contracts and individual agreements. However, these reforms have also had the effect of weakening the workers' organizations. In the case of Australia, the controversial Work Choices Act of 2005 strongly threatens the fundamental principles of labour relations. In New Zealand, the Employment Contract Act of 1991, which makes joining a union voluntary, has had the same effect.

Profound changes are noted in the area of industrial disputes in the last decade in many countries in the region. Compulsory conciliation and arbitration have been introduced in both Australia and New Zealand as a means of last resort in resolving conflicts. In Pakistan, an independent Commission has been established to adjudicate industrial disputes, an indication of the Government's commitment to improving labour standards across all sectors of the economy. In New Zealand, an Employment Tribunal has been established to adjudicate industrial disputes. Bilateral relationships between the government and workers' organizations have increased. In Pakistan the Government is promoting bilateralism as the foundation for strong social dialogue. In New Zealand, the new changes allow heads of public agencies to have more flexible bilateral relationship with unions.

The shift from centralized bargaining to decentralize system of bargaining is a major change in the system of labour relations in the countries examined. The contents of collective bargaining agreement have remained either limited or unchanged.

Unions in the region have responded to the various reforms by merging and forming alliances, a phenomenon that continues in Pakistan. The largest public service workers' organization in Australia is an amalgamation of several unions, a process which started in 1989; this amalgamation has reinforced and strengthened the bargaining position of the Australian public service.

IV. Africa

Background

In many sub-Saharan African countries, labour relations in the public service has roots in the colonial era. At that time, the public service accounted for the majority of the employed in these countries. However, massive public service restructuring in the 1980s and 1990s significantly contributed to changes in the labour relations systems, substantially decreasing employment in the public service and affecting overall labour relations in the region.

The public service in many African countries continues to employ the majority of the workforce. However, the trends in collective bargaining coverage and union density in the public service have remained static over the past several decades.

Despite the fact that the public service was the pioneer of labour relations in many African countries, available literature on labour relations often focuses on the private sector. Data on labour relations in these countries concern either the private sector only or both sectors without distinction.

Labour relations in certain segments of the public services are highly political, often involving high profile government officials. Like other colonial countries, African countries inherited legacies of labour relations from their colonial masters. Even though workers' organizations in these countries are considered independent trade unions, they tend to have strong political links with the government, due to the formers' contribution in toppling colonial administrations. This relationship continues to influence the practice of labour relations in many countries up to the present. Such interdependent relationships have consequently shaped the overall trend of labour relations in the public service.

Until the 1990s, in many African countries there were many restrictions on the labour rights of public service employees. Prior to the 1990s many public service employees could not form or join a union, contrary to the provisions of ILO Convention No. 87 on freedom of association. While the Constitutions of many countries may have provided for freedom of association for all workers, their labour laws prohibited such rights to some sections of employees, e.g. South Africa and Uganda. However, the rise of democracy in many of these countries resulted in amendments which provided labour rights to public service employees. The end of the apartheid era in South Africa is a typical case in point.

In this section, the trends of public service labour relations in four English-speaking African countries are discussed: Ghana, Nigeria, South Africa, and Uganda. The changes in these countries in the area of collective bargaining with respect to the various levels of bargaining and key actors involved in negotiations are examined. Despite the lack of available data, effort is made to analyse the trends in union memberships, densities, and collective bargaining coverage, including the various factors that contributed to the evolution of industrial relations systems in each country since 1990.

Ghana

Introduction

Labour relations in the public service in Ghana has undergone numerous changes in the past three decades, due to a succession of military regimes and finally a return to constitutional democracy. The joint economic and public sector reforms resulting from the structural adjustment programme in the 1980s severely reduced public sector employment, changing the dynamics of labour relations in the country. The privatization of state enterprises compelled labour unions to negotiate deals against their wishes. Cost sharing and outsourcing were also introduced in the public service.

In Ghana the public sector consists of the national government, the various regional and district administrations, public enterprises, public institutions, and health care institutions. Quasi-governmental institutions as well as government-sponsored programmes also fall under the umbrella of the public sector. The military, police, and fire service are not covered by the labour laws in the country; employees of these institutions have no right to form a union, to strike or bargain collectively.

The legal framework

Industrial Relations Act 1965, (Act No. 299)

Until 2003, the Industrial Relations Act of 1965 (Act 299) was the main labour law governing labour relations in Ghana. This labour law provided labour rights to employees of both public and private sectors, and was the first labour law that validated collective bargaining between employee and employer. In 1971, a new Industrial Relations Act was enacted by the government purposely to abolish the Trades Union Congress (TUC). Kusi and Gyimah-Boakye (1991:8) are of the view that the abolition of the TUC in 1971 was politically motivated due to its strong ties with the Conventions People's Party³⁹. However, Act 299 was restored by the new government regime in January 1972. Aside from its brief suspension in 1971, Act 299 had been the main legislation governing labour relations in Ghana until 2003, serving as Ghana's longest standing labour legislation after many phases of amendments. This particular labour law provided that collective agreements would continue to be valid after its expiration until the parties agree to vary the agreement.

Labour Act 2003, (Act 651)

On 8 October 2003 a new legislation governing labour relations in Ghana, the Labour Act of 2003 (Act 651) was passed by Parliament and signed into law by the President of Ghana, replacing the four-decade old Industrial Relations Act of 1965 (Act 299). Unlike the latter legislation and the Trade Union Ordinance of 1941 which imposed a single trade union, the new labour law allows multiple trade union systems. This achievement came after many years of persistence on the part of the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) to make the country's labour laws consistent with Articles 2 and 3 of the Freedom of

³⁹ The Convention Peoples' Party (CPP) was formed in 1949 during the struggle for independence. Its founding father was Osagyee Dr. Kwame Nkrumah, Ghana's first President. The Party is traditionally committed to implement strong social justice.

Association and Protection of the Right to Organize Convention, 1948 (No. 87). In addition to extensive inputs provided by the CEACR in particular, the ILO in general provided substantial technical assistance in preparing the new labour law.

The Labour Act of 2003 made substantial changes in the area of trade union formation. Unlike the previous Act 299 which required a minimum of five workers for trade union formation, the new law states, “two or more workers employed in the same undertaking may form a trade union.” This change had a major impact on workers in the informal sector. The new labour law likewise validated compulsory collective bargaining, and firmly established the Government as an employer in matters involving labour relations, particularly on issues relating to labour disputes and collective bargaining.

Parties to public service collective bargaining

The social partners involved in the public service labour relations systems in Ghana include the Government and the various public sector workers’ organizations. The management of public enterprises and institutions are the principal representatives of public sector employers. Public service bargaining is typically between employers’ and workers’ organizations. Prior to negotiations, the parties often embark on consultations as well as informal meetings to establish the general framework of bargaining.

Workers’ organizations

The public sector workers’ organizations include the Public Service Workers’ Union, the Civil Servants Association (CSA), the Ghana National Teachers Associations (GNAT), the Ghana Registered Nurses Association (GRNA), and the Judicial Services Association of Ghana. The Public Service Workers’ Union is affiliated with the Trade Union Congress (TUC), the first and major trade union federation in Ghana. The Civil Servants Association is an umbrella organization that represents all civil servants; this workers’ association is not affiliated with the TUC, but it collaborates with the TUC in many areas involving labour relations. The GNAT and the GRNA have in the past always joined the TUC to negotiate the national daily minimum wage. The advent of the new trade union (GFL) has further strengthened their collective bargaining position. In Ghana, trade unions are the only workers’ organizations that have traditionally held collective bargaining rights.

Employers’ associations

The Ministry of Manpower Development, Youth and Employment is the government agency responsible for labour relations issues. It draws on the expertise of other government agencies such as the Ministry of Finance and Economic Planning, the Statistical Service, and the Prices and Income Board, in negotiating the national daily minimum wage. The national daily minimum wage is applicable to all employees regardless of sector.

Structure and levels of collective bargaining

Ghana’s collective bargaining in the public service is bipartite in nature, usually involving representatives of the union and the employer. However, in many cases, to ensure transparency, other social groups and independent government agencies are also

represented. The structure of bargaining in the public service is formal, involving high-profile government representatives and union officials. The duration of public service collective agreements vary between two and three years. Many collective agreements tend to have wage re-opener clause that allows the parties to review wages and salaries in order to account for real wage loss due to inflation. Some collective agreements also permit wage indexation that allows automatic adjustment of wages to reflect inflationary trends.

In the public service, collective bargaining takes place at all levels. Generally, collective bargaining can fairly be described as decentralized. However, the national minimum wage is centralized at the national level. The national minimum wage provides the base or benchmark for determining other wages and salaries across all sectors in the country. It is noted that wage negotiations are typically centralized. For the SOEs, collective bargaining takes place at the enterprise level.

Contents of collective bargaining agreements

Just like in the private sector, the public sector collective bargaining agreement covers wages, hours of work, annual leave, maternity leave, overtime work and payments, dispute settlement procedures, promotion and training.

Labour dispute resolution

Employees in the public sector have the right to strike. Similarly, public sector employers have the authority to lockout employees; the records show no lockouts of employees since 1990. The trend of strikes in the public service has substantially declined. Generally, strikes in the public service sector receive much more attention than in the private sector. For a strike to be legal, workers have to comply with all the procedures stipulated in the collective agreement. In principle, an illegal strike action can result in loss of pay during the strike action, and in some cases dismissal.

Section 135 of the Labour Act of 2003 encourages parties to settle their disputes through the laid down procedures in their various Collective Bargaining Agreements (CBAs) or contracts of employment. In the event that a dispute remains unsettled within seven days after following the laid down procedures, the issue is then referred to the National Labour Commission (NLC) for facilitating settlements. This institution provides service for both private and public sectors. Since 2003, this institution has been the main facilitator of Ghana's industrial disputes.

The National Labour Commission

Section 135 of the Labour Act of 2003 (Act No. 651) established a National Labour Commission (NLC), an independent commission charged with the responsibility of handling labour relations issues in Ghana. The institution of the NLC itself represents a significant change in the labour relations system in Ghana. Just like many other labour relations bodies, the NLC is tripartite in nature. Structurally, the commission is composed of seven members with two representatives from each of the three parties involved – the government, employers' organizations, and organized labour. The seventh member, the chairperson, is nominated by both employers' and workers' organizations. It is assumed that these organizations will nominate a chairperson who

is non-partial and non-partisan in order to ensure the integrity and credibility of the commission.

In the event of a labour dispute, the Commission has a set of competent independent mediators from which the parties involved in the dispute will voluntarily choose from to facilitate an acceptable resolution. Since the new labour legislation considers government as an employer, the government can no longer serve as a mediator. Until the enactment of the new labour legislation, the government was a principal mediator in labour disputes. Therefore, the current structure of resolving labour disputes has significantly changed. Interested parties are looking forward to seeing if the newly formed NLC will pass the test of time. It is important to emphasize that even though the Commission is an independent body, all seven member nominees must be approved by the President of the Republic of Ghana. Given the involvement of the president in the approval of nominees, one may doubt the true independence of the Commission.

The National Labour Commission

To avoid an excessive influence of government and other political actors on labour relations issues, the NLC was established with the mandate of pursuing independent labour relations. Similarly, the Commission was established to promote fair and harmonious labour relations within the country. Essentially the creation of the Commission was aimed at enhancing the resolution of labour disputes in the country. The Commission has a legal mandate to not be influenced by any individual or group of individuals or institution in its adjudicating and dispute settlements. Its legal stature permits the Commission to receive complaints from workers, workers' organizations, employers, and employers' organizations. It must be reiterated here that the Labour Act of 2003 (Act No. 651) recognizes government as an employer in all matters involving labour relations. Section 136 of the Labour Act of 2003 (Act 651) states the functions of the Commission as follows:

- to facilitate the settlement of industrial disputes;
- to settle industrial disputes;
- to investigate labour related complaints, in particular unfair labour practices, and take such steps as it considers necessary to prevent labour disputes;
- to maintain a database of qualified persons to serve as mediators and arbitrators;
- to promote effective labour co-operation between labour and management;
- to perform any other function conferred on it under this Act or any other enactment.

It is expected that the Commission, through the functions stated above, and backed by various legal statutes of the Labour Act of 2003 (Act No. 651) will promote a peaceful and harmonious labour relations environment. However, in the event that a dispute remains unresolved after exhausting all the procedures of the Commission, it reserves the right to impose compulsory arbitration. According to the legislation, the Commission members involved in compulsory arbitration are tripartite in nature. Such matters would be handled by three of the Commission's members with one member

from each of the three parties of the Commission being represented. The final decision of the majority of the arbitration members shall be final and binding on all parties.

Changing trends in labour relations

Negotiations of minimum wage in Ghana continue to remain centralized at the national level. The negotiation of the national minimum wage is tripartite in nature involving representatives of government, employers' and workers' organization. The determination of the national minimum wage is very crucial as it represents a benchmark for which all other wages and salaries are bargained. The bargaining of wages and salaries is exclusively bipartite in nature involving public sector employers and union representatives. The contents of public service bargaining has expanded to include many more issues such as promotion, job classification, and public policy issues. Even though collective bargaining takes place at all levels, is dominant at the enterprise level.

In the past decade, Ghana has enacted a new labour legislation (Labour Act of 2003) purposely to strengthen labour relations in accordance with changing labour relations in the country. This new labour law mandated the establishment of the National Labour Commission to promote peaceful labour relations in the country. The success of NLC in promoting harmonious labour relations in the country, especially in the public sector has been phenomenal as evidenced by an overall decline in labour disputes in Ghana. Other industrial conflicts have also substantially declined more than ever before. Since 1992 Government has become more sensitive to labour issues and as a result every effort has been made to promote social dialogue at the national level, particularly in the public service.

As a result of massive retrenchment of public sector employees in the 1980s and 1990s, as well as the privatization of SOEs public sector union membership and density in Ghana have steadily declined since the early 1990s. For the same reason, collective bargaining coverage in the public service has also consequently declined. Even though the numerical strength of public sector workers' organizations has considerably declined, it is noted that the bargaining strength of these workers' organizations have rather been strengthened.

South Africa

Introduction

The abolition of apartheid ushered a new democratic period in South Africa, with profound changes in labour relations. The country's labour laws were among the first areas of law to be reformed soon after the abolition of apartheid, demonstrating the commitment of the *new* South Africa to respect labour rights and social justice. The country's new labour laws provide for the legal enforcement of collective bargaining agreements between employers' and workers' organizations. In addition, the new government administration made collective bargaining in the public service a priority.

Unlike many countries, South Africa's overall union density and collective bargaining coverage have been increasing during the 1980s and the 1990s, which was primarily the result of full trade union rights being extended to public sector employees. This was a remarkable achievement in an era when many countries around

the world were facing a decline in their key labour relations indicators. Several factors explain this trend in South Africa, primarily the change in legislation allowing the majority of public service employees to be unionized and covered by collective agreements. An equally important factor is the major role of unions in the abolition of apartheid.

However, over the past five years, trade union density rapidly declined in South Africa, falling from close to four million members in 2001 to about three million members in 2006. This is due to tighter regulations in relation to trade union registration and to the fast casualisation of the workforce (Philips & Eamets 2007).

The public service in South Africa includes employees in the Central State government and nine provincial governments. Public sector employment accounts for the great majority of the country's labour force. Public enterprises, public institutions, and the health care service are also included in the definition of the public sector – public sector employees range from civil servants, teachers, health care workers, to public enterprise workers. However, public service employees working in areas classified as essential services are denied the right to form or join a union.

The legal framework

The Constitution Act 108 of 1996, which came into effect on February 4, 1997, and the Industrial Relations Act 66 of 1995 govern the practice of labour relations in South Africa. The Labour Relations Act of 1995 as amended by Labour Relations Amendment Act 12 of 2002 empowers workers and employers to freely negotiate all labour issues. The rights of workers, in terms of freedom of association and collective bargaining, are adequately enshrined in this labour law. This law is the main document shaping the country's labour relations systems. In addition, the Public Service Labour Relations Act of 1993 specifically governs labour relations in the public service – on record as the first labour law in the history of South Africa to provide labour rights to public service employees.

Industrial Relations Act No. 66 of 1995

This Act was approved by the President on 29 November 1995 but did not come into effect until 11 November 1996. Over the last ten years, it underwent four phases of amendments. The purpose of this Act was to regulate the right of workers to organize and promote and facilitate collective bargaining at all levels. Like other labour laws, the Act of 1995 clearly provides for the rights of both workers and employers in all sectors, both public and private. In particular, it permits union pluralism and the right to strike. This Act is the only labour legislation that governs labour relations for the public and private sectors, abolishing the old system of labour relations where each sector had its own labour legislation.

Act No. 66 of 1995 has greatly transformed labour relations by simplifying collective bargaining in the public sector, as well as decentralizing negotiations across all levels. It allows public service employees to be covered by the same provisions as the broader workforce. As a result, bargaining councils can pursue a single bargaining agreement to cover members under its jurisdiction, as opposed to multiple bargaining agreements. However, it is not applicable to employees in the National Defence Force, National Intelligence Agency, and the South African Secret Service.

Public Service Labour Relations Act of 1993

This Act exclusively governs labour relations in the public sector. This law was the first to provide labour rights in the public service. Among other rights, it provides for the right to freely organize and collectively bargain; it established the national level Public Service Bargaining Council (Central Chamber) and the Departmental and Provincial Bargaining Councils. Essentially, this labour law was enacted to streamline collective bargaining in the public service.

In addition to these labour laws, the government enacted the Employment Equity Act of 1998 (Act No. 55) to ensure workplace equity. This Act strongly prohibits discrimination of all forms such as race, ethnicity, and gender. The Act provides for equal employment opportunities and fair treatment of all workers. As part of its efforts to correct the past injustices of the apartheid government, the Employment Equity Act requires certain employees to implement affirmative action measures to ensure diversity and fair representation in the workplace.

Parties to public service collective bargaining

In principle, there are two main parties to the public service collective bargaining in South Africa. There are 12 public service unions representing public service workers and the Department of Public Service and Administration (DPSA) represents the government. Collective bargaining in South Africa's public service is typically bipartite involving unions and employers. However, to ensure transparency, there is a gradual trend of involving civil society representatives. For instance, the composition of National Economic, Development and Labour Council (NEDLAC) is quadripartite involving government, organized labour, organized business, and organized civil society.

Workers' organizations

Public service workers in South Africa are represented by 12 trade union organizations. Four of these unions are affiliated with the Congress of South African Trade Unions (COSATU), the largest trade union federation in South Africa. Another four trade union organizations are affiliated with the Federation of Unions of South Africa (FEDUSA), the third largest trade union federation in the country. The other four union organizations are independent unions.

The largest of the public service unions is the National Education, Health and Allied Workers' Union. Other trade unions include the South African Democratic Teachers Union, Police and Prisons Civil Rights Union, and the Nurses Organization of South Africa. These four workers' organizations are affiliated with COSATU.

The four unions affiliated with FEDUSA are the Public and Allied Workers' Union, the Hospital Personnel Union of South Africa, the Public Servants Association, and the Onderwyserunie.

The independent trade unions representing public service workers include the National Union of Public Servants and Allied Workers Union, the South African Police Union, the National Professional Teachers Organization of South Africa, and the National Public Service Workers' Union.

Employers' associations

Chief negotiators from various organs of the government such as the Department of Public Service and Administration and Bargaining Councils represent the State in collective bargaining. In addition, representatives of the various national departments and provincial administrations in the public service join the team of State employers at negotiations.

Structure and levels of collective bargaining

Act No. 66 of 1995 promotes collective bargaining between employers and employees at all levels in the public and private sectors, as well as trade union cohesiveness, inter-union cooperation, and union amalgamation. Similarly, it provides parameters for managing industrial disputes in order to ensure industrial harmony. Sections 35 and 36 of the Act specifically provide for the establishment of the Public Service Coordinating Bargaining Council (PSCBC) as a bargaining council for the entire public service in South Africa. The main objectives of the PSCBC are as follows:

- to negotiate, bargain, and conclude collective agreements;
- to enforce those collective agreements;
- to prevent and resolve labour disputes;
- to provide mechanisms to ensure harmonious labour relations in the public service;
- to perform the dispute resolution functions referred to in section 51 of the labour Act of 1995;
- to determine by collective agreement the matters which may not be an issue in dispute for the purposes of a strike or a lockout at the workplace.

The PSCBC is a central bargaining council for public service social partners, comprising four sectoral level bargaining councils: the Education and Labour Relations Council, the General Public Service Sectoral Bargaining Council, the Public Health and Welfare Sectoral Bargaining Council, and the Safety and Security Sectoral Bargaining Council. The PSCBC and these four sectoral Councils operate independently; however, these bargaining machineries often collaborate to ensure an efficient and effective uniform bargaining system. The PSCBC has the constitutional authority to coordinate the functions of the four sectoral Councils.

The PSCBC plays a significant role in consulting with social partners in executing its labour relations functions. Consultations among social partners can be formal or informal. Even though a collective agreement is legally binding on all parties involved, either party can terminate it at any time with reasonable notice. The duration of a concluded agreement in the public service can vary among the nine provincial governments, the average being two years.

The role of NEDLAC

The National Economic, Development and Labour Council (NEDLAC) was launched in 1995 after the country's Parliament passed the NEDLAC Act in September 1994. NEDLAC obtains its legislative and operative powers from the Labour Relations Act No. 66 of 1995. Unlike many other social dialogue institutions, NEDLAC is quadripartite in nature, comprising representatives from the State, business, labour, and

the civil society. It is the highest statutory body for social and labour policy formulation in South Africa. NEDLAC acts as a negotiating, decision-making, and advising institution for social partners (Fashoyin, 1998: 47).

Act No. 66 of 1995 charges NEDLAC with the overall responsibility of formulating policies on social and economic issues. According to subsection 1 of Section 5 of the NEDLAC Act No. 35 of 1994, the functions of the Council are to:

- Strive to promote the goals of economic growth, participation in economic decision-making and social equity;
- Seek to reach consensus and conclude agreements on matters pertaining to social and economic policy;
- Consider all proposed labour legislation relating to labour market policy before it is introduced in Parliament;
- Consider all significant changes to social and economic policy before it is implemented or introduced in Parliament;
- Encourage and promote the formulation of coordinated policy on social and economic matters.

Moreover, according to Section 77 of the Labour Relations Act, NEDLAC serves as a major actor in case of protest action brought by workers to promote or defend socioeconomic interests: if a registered union wishes to call a protest action it must serve a notice on NEDLAC explaining the reasons and the nature of the protest at least 14 days in advance. During this period the NEDLAC serves as a forum for discussion among all the parties concerned in order to resolve the matter avoiding the protest. This instrument has been used successfully several times in the public sector.

The Department of Labour, Trade and Industry, and the Department of Finance and Public Works represent the Government/State at the NEDLAC. The Business Unity of South Africa, the Black Business Council, and the Business South Africa represent employers' organizations. The labour movement is represented by the three major trade union federations: the COSATU, the FEDUSA and the NACTU. The South African Youth Council, the National Women's Coalition, the South African National Civics Organization, the Disabled People of South Africa, the Financial Sector Coalition, and the National Co-operatives Association of South Africa represent the organized civil community.

NEDLAC consists of four specialized chambers: the Labour Market Chamber, the Trade and Industry Chamber, the Development Chamber, and the Public Finance and Monetary Policy Chamber. These chambers undertake the Council's work programmes. The Executive Council is the highest decision-making body of NEDLAC, consisting of heads or senior members of the four parties of the Council. The Executive Council meets four times a year to review and discuss policy issues relating to the economy.

NEDLAC is a major actor in the country's labour relations systems. Edigheji & Gostner (2000) are of the view that NEDLAC is South Africa's peak social dialogue institution. The role of NEDLAC has immensely contributed to correcting the imbalances and social injustices created by apartheid, especially in the labour market.

One of its contributions to a stable labour market is its recommendation to the South African Parliament to ratify 14 ILO Conventions (Edigheji & Gostner: 87).

Contents of collective bargaining agreements

As in many other countries, South Africa's social partners in the public service continue to negotiate traditional issues in collective agreements. The scope of PSCBC's bargaining includes wages and salaries, hours of work, promotion, training, medical aid and housing allowances. Other issues in South Africa's collective bargaining include sick leave, maternity leave, paid leave, and family responsibility leave.

Labour dispute resolution

Until the introduction of the Public Service Labour Relations Act of 1993, public service employees had no right to strike. At present, only public sector employees who are classified as essential service workers are denied the right to strike. Employees of the following public agencies have no right to form or join a union or to strike: the National Defence Force, the National Intelligence Agency, and the South African Secret Service. The PSCBC has the jurisdiction to manage disputes between parties. In collaboration with the Sector Councils, the PSCBC appoints independent conciliators and arbitrators to undertake dispute resolution functions in the public service. As in of many other countries, South Africa's arbitrations awards are final and binding on parties.

The Public Service Commission is charged with the responsibility of determining grievance procedures in the public service. Under the new labour Act of 1995 any party has the right to refer a dispute to a bargaining or statutory council, the Commission for Conciliation, Mediation and Arbitration (CCMA), or the Labour Court. All complaints to any of these bodies are required to be in writing. If the dispute remains unresolved at this level, the parties may refer it to the Labour Court for settlement. The decision of the Court is usually final and Court may award compensation to the losing party.

South Africa's public service strike, June 2007

On 1 June 2007, public service employees embarked on a nationwide strike that lasted four weeks, the largest recorded strike in post-apartheid South Africa. The strike lasted 28 days and involved 700,000 workers—professional, skilled and unskilled. It received widespread support amongst the rest of the working class in South Africa. It is estimated that about one million employees were involved, implying an average of 800 million man-hours lost, at the cost to public servants of about R3 billion in lost wages (Isa, 2007).

The strike received strong support from the general public and other labour organizations such as the South African Municipal Workers' Union (Samwu), which embarked on a one-day sympathy strike in solidarity with the public service employees. The public service workers involved in the strike action included teachers, nurses, immigration officers, and other civil servants. The strike affected some sensitive areas in the public sector such as prisons and health care institutions; schools were closed down and public services such as health care were interrupted. During the course of the dispute, striking workers faced violence Picket lines were repeatedly

attacked by police using tear gas, rubber bullets, stun grenades and batons. Thousands of soldiers were deployed as strike-breakers in hospitals throughout the country. Armed soldiers were stationed outside hospitals and schools and near protest marches. The dispute was mainly over a demand by public service employees for a wage increase of 12 per cent (the Government's offer was six per cent), in addition to other conditions of employment such as housing allowance, health care coverage, and night and weekend pay. The dispute was finally settled with a negotiated agreement of 7.5 per cent general pay rise and increases in housing and health benefits.

In the course of the strike, the government fired thousands of striking nurses for violating the essential services clause in the labour law (nurses are included in the category of essential services and are therefore legally prohibited from striking). According to the *Mail & Guardian* (26 June 2007), "more than 600 essential-service workers had been given letters of dismissal". Even though the action of government was constitutionally justified, it was perceived by many trade unions and labour analysts as a threat to labour relations.

Throughout the strike action, mediators representing both the Government and the unions engaged in a series of negotiations to ensure an acceptable settlement. The Public Service Coordinating Bargaining Council (government negotiators) consistently met with COSATU (public employees' representative) to discuss various proposals from each party. According to the unions, their demand for a pay rise was necessary towards reducing the social inequality that had persisted in the country for many years; some union employees stated that social inequality among black Africans had dramatically increased in the post-apartheid period.

Changing trends in labour relations

South Africa's public service has moved from a system in which few labour rights were granted – and only to white public sector workers – to one of full labour rights for all workers, with key labour institutions responsible for managing collective bargaining and dispute resolution. The changes in the country's Constitution and labour laws to provide equal rights for all workers since 1993 is a remarkable achievement for the social partners. For the first time in the history of South Africa's labour relations system, public service employees gained the right to freely form or join a union and collectively bargain, same as their private sector counterparts. Under the new Labour Act of 1995, Bargaining Councils pursue a single bargaining agreement to cover members under their jurisdiction, as opposed to multiple bargaining agreements that existed in the past. The Employment Equity Act of 1998 is a testimony to the Government's commitment to promote social justice, equity and democracy at the workplace.

Collective bargaining in the public service is no longer exclusively limited to representatives of unions and employers; civil society can be represented as ex-officio participants. The participation of civil society in public service negotiations promotes trust, accountability and transparency. NEDLAC, a quadripartite social dialogue institution established in 1995, has greatly contributed to the present trend of the country's labour relations system. Through NEDLAC, the labour unions across all the country, as well as civil society are able to actively participate in important national policies such as the Growth, Employment, and Redistribution (GEAR).

Union membership and density is rising, especially in the public service, as has collective bargaining coverage for public sector employees. Industrial conflicts in the public sector has substantially declined since 1990, as has as the length of time it takes to resolve disputes. The enactment of new labour laws and the establishment of labour relations institutions such as the PSCBC and NEDLAC mostly account for these achievements in South Africa's labour relations system.

Uganda

Introduction

The Public Service Reform Programme (PSRP) that was embarked on by the government of Uganda in the 1990s greatly affected all aspects of the public service, including labour relations. The key tenets of the reform included cost effective delivery of public services and improvement in growth and national development. To achieve these key objectives, the government employed the means of retrenchment and contracting out of certain public sector services with the aim of reducing the public sector wage bill. Since labour and wages are major components of the country's labour relations system, it goes without saying that this reform policy indeed introduced a major challenge to the sector.

It is important to underline that the Civil Servants in Uganda had no right to form or join a trade union prior to 1993. Civil servants classified as permanent in the pension category were legally forbidden to form or join a trade union. In the case of the education sector, teachers were denied the right to form or join a union. But non-teaching employees were allowed to form a union. In Uganda, the public sector includes the national government, the various government administrations, public enterprises, and public institutions. There are four main public service commissions in Uganda. These commissions are the Public Service Commission, the Judicial Service Commission, the Health Service Commission, and the Teaching Service Commission. In the context of collective bargaining, non-civil employees of government are not considered as public servants.

The legal framework

The Constitution of 1995 and Public Service Act No. 18 of 1969 govern the public service labour relations system in Ghana. Since 1993, there have been several amendments to the country's labour laws which extended the right of freedom of association to employees in the public service, resulting in the formation of new unions in this sector.

Parties to public service collective bargaining

Workers' organizations

The main workers' organizations representing the public sector workforce are the Uganda Civil Service Union, the Uganda Medical Workers' Union, the Uganda Public Employees' Union, the Uganda Civil Servants' Association and the Uganda Teachers' Association. Prior to 1993 the two latter groups did not have the status of a trade union

and thus had no bargaining rights; during that period, these two associations could more appropriately be described as welfare organizations.

Employers' associations

The Ministry of Public Service is the main government agency responsible for labour relations in the public service. It regulates and determines employment conditions in the public service, in consultation with the Public Service Commissions.

Structure and levels of collective bargaining

The Public Service (Negotiating Machinery) Act and the Uganda Government Standing Orders allow the Minister of Public Service to influence the composition of the Joint Staff Council which negotiates employment conditions in the public service.

Collective bargaining and consultations are the main instruments of negotiations in the public service. Negotiations are bipartite between public sector workers' organizations and the Ministry of Public Service. For the first time in the history of Uganda, in 1993 the public service unions began to actively participate in decisions involving the conditions of employment, specifically concerning job evaluation, the management and distribution of the public wage bill, and overall adjustments in the annual salary structure.

As in Ghana, Uganda's public service collective bargaining is centralized at the national level. Collective bargaining agreements concluded between a particular Commission and a union covers all employees under the jurisdiction of the Commission. Unlike many countries, Uganda's labour laws do not provide for the fixing of a nationwide minimum wage: wages are exclusively determined by collective bargaining. Similar to many African countries, the structure of bargaining in Uganda's public service is formal, involving high-profile government and union officials.

Contents of collective bargaining

The main issues in collective bargaining are wages, hours of work, and various forms of leave such as compassionate leave, sick leave, and maternity leave. Conditions of employment are not uniform across the public service sector. Some employees have benefits such as housing, recreation, medical and education benefits.

Labour dispute resolution

In principle, public service employees have the right to strike. Similarly, employers have the right to lock out employees. However, there are lengthy procedures for making a strike or lockout legal. In the event of a dispute between workers and employers on issues relating to employment conditions, the Minister of Public Service has the unilateral power to make an award. Individual grievances are typically settled through procedures established in the Standing Orders. If an individual dispute remains unsettled after established procedures are followed, the Permanent Secretary of the Ministry concerned makes an award and the decision is final and binding on both parties.

Changing trends in labour relations

In 1993, Ugandan labour laws gave public service employees in Uganda full trade union rights (section 3 of Article 40 of the country's Constitution of 1995 grants every employee in the country to have the right to form or join a trade union). In addition, collective bargaining rights have been extended to almost all public service employees, except essential services employees.

Conclusions

The majority of African countries are facing declining trade union membership, density, and collective bargaining coverage. This study finds that the size of the public sector in many African countries is continuing to shrink. These trends are largely due to the various public sector reforms pursued by many countries. As well, changing working structures resulting from globalization have similarly influenced the approach and perception of key labour relations actors.

The factors causing the changes in labour relations systems in African countries are both external and internal. Labour relations actors had little or no control of these factors. In the case of South Africa, the abolition of apartheid and the institution of democracy were pivotal in bringing massive change in all areas, including labour relations. A new labour law was enacted that provides labour rights for public service employees. Similarly, in Ghana, Nigeria, and Uganda, the establishment of constitutional democracies became a condition for continuing aid, grants, and loans from donor countries and international financial and multilateral institutions. Thus, the transformation of the political environment has been the major agent of change in Africa's labour relations systems.

The changing trends in Africa's labour relations systems can be described as a mixed blessing. While overall labour relations indicators are steadily declining, the changes in labour laws in the majority of these countries enable many public service employees to enjoy labour rights such as freedom of association and collective bargaining for the first time. In addition, workers in general, especially public service employees are represented on public policy decision-making processes more than ever before – as is organized civil society in some African countries – increasing transparency and trust in this sector. Labour relations institutions have been revitalized and strengthened to more adequately address labour relations.

Collective bargaining in the public service takes place at all levels. Although the level varies from country to country, centralized bargaining of wages and salaries is the norm in the majority of countries in Africa. For most SOEs, collective bargaining often takes place at the enterprise level. Unlike countries in North America where the contents of collective bargaining are shrinking, in some African countries they are expanding to include, for instance, unions are allowed to participate and negotiate on employment policies and tax reforms.

In conclusion, despite the various challenges facing public service labour relations in many African countries, some remarkable achievements have been made. Labour rights have been extended to many more public service employees. Labour relations institutions have been established and existing ones have been revitalized to

strengthen and promote harmonious labour relations. Social dialogue in the public service in African countries has become more vigorous.

Conclusions

Public service labour relations in many regions of the world are in a state of flux, and the changes bring new patterns in the conduct of labour relations. In many countries, the lead actors in public service labour relations are elected officials. Politics plays a major role in this sector, often to the detriment of the public service.

Since 1990 almost all countries in this study have undertaken public sector reform, imposing unprecedented challenges on both management and workers, and in many instances leading to chronic *government failure*⁴⁰ in the area of labour relations. In some cases, the reform processes conflicted with or were at the expense of the core values of labour relations, i.e., consultation and collaboration between unions and public sector management.

In some countries, public service employees are divided into two groups: those with and those without trade union rights. Non-unionized groups within the public service, especially civil servants, become *freeriders* on the outcome of collective negotiations. Public sector unions have therefore become benevolent providers of the collective good as the outcome of their collective bargaining negotiations often determine the conditions of employment of non-unionized workers as well.

In addition, public service labour relations now face the challenges brought by increasing technological advancements. The speedy growth of *e-commerce* and *e-government* continues to introduce new elements in the conduct of labour relations. The advent of electronic means of transactions and service delivery in this realm can give rise to *e-labour relations* in the public service, the global ramifications of which can only be speculated on presently. To meet the challenges, labour relations actors, especially workers' representatives, will need to acquire new skills and knowledge in order to be in a better position to deal with labour relations in the new environment.

Overall changes

According to the findings of a very recently published international research carried out by the Economic and Social Affairs Department of the United Nations on the role of public enterprises, it is acknowledged that:

... in recent times, globalization, liberalization and ongoing structural transformations of national economies contributed to an expansion of the private sector, on the one hand, and downsizing of the public sector including dismantling or divestment of public enterprises, on the other.⁴¹

Similar findings are consistent with the present research, although the latter is limited to some countries selected by various world's area and intended to analyse the impact that shrinking public sector has on the structure and functioning of public labour relations. Although the selection presented here is more limited, however the

⁴⁰ 'Government failure' in the context of industrial relations can be defined as a systemic problem that prevents an efficient government solution to the challenges of public sector labour relations.

⁴¹ See UN Economic and Social Affairs Department (ed.). *Public enterprises: Unresolved challenges and new opportunities* (New York), 2008: <http://unpan1.un.org/intradoc/groups/public/documents/un/unpan022073.pdf>, p. iii of the foreword.

conclusions are the same: an overall trend of increasing decline of the public sector is taking place at all levels of governments. This brings about a number of consequences having a direct impact on labour relations since governments have taken deliberate and drastic measures to reduce the size of their operations and their workforce. Such a decision has had as a chain effect of the various public sector reforms illustrated in the present paper a substantial decline in union membership. In the majority of countries, the indicators of public sector labour relations, such as union density and collective bargaining coverage rates, have been most of the time declining or remaining unchanged since the early 1990s, but only extremely rarely increasing.

Another significant factor related to the shrinking public sector is the fact that national governments are gradually relinquishing their roles as employers. An increasingly large number of governments around the world are transferring most of their traditional functions to the private sector, with the aim of promoting efficiency in service delivery. Governments are focusing more on their roles in governance and policy-making, reducing their management functions or contracting out them out.

This new model of management is referred to as “new public management”, focusing on efficiency in service delivery. It is hoped that public service managers will gain the element of flexibility in executing their function in the same manner as their private sector counterparts. Many of the countries studied, including Australia, Canada, France, Germany, Ghana, South Africa, and the United States have embraced this new concept.

A trend that does stand out is the effect that New Public Management and organizational reengineering/ reform of the public sector in OECD countries and of structural adjustment in developing countries has had on employment and employment relations. This appears to have been accompanied by the articulation of different issues at different levels and a more multi-tiered bargaining structure in the public sector.

Governments around the world are in the process of finding ways of dealing with globalization. While some countries are promoting smaller government administrations, others are using the phrase *appropriate* public service. However, an OECD report⁴² finds that the new management model was not producing the expected results:

The reality of reform has not lived up to the rhetoric. In many cases, reforms have not produced the changes in behaviour and culture needed to sustain them over the longer term. Indeed, some reforms have produced unintended consequences, and have damaged underlying public sector and governance values.

Individual forms of bargaining and labour contracts are increasing, notably in Australia and New Zealand. One can argue that this can potentially undermine the fundamental principles of collective bargaining. However, individual bargaining provides options for individuals to negotiate with employers for their specific needs.

Public service negotiation takes place mainly at the national level, but there is more and more pressure to decentralize it. This push towards decentralization is consistent with the changing trends of public service reforms.

⁴² OECD Policy Brief, Nov. 2005, p. 2.

In addition, the rapid growth of technology is expected to profoundly change the system of labour relations in public service. Governments, organizations, and businesses are increasingly using electronic means of communication, affecting both the manner and the pace of conducting labour relations.

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