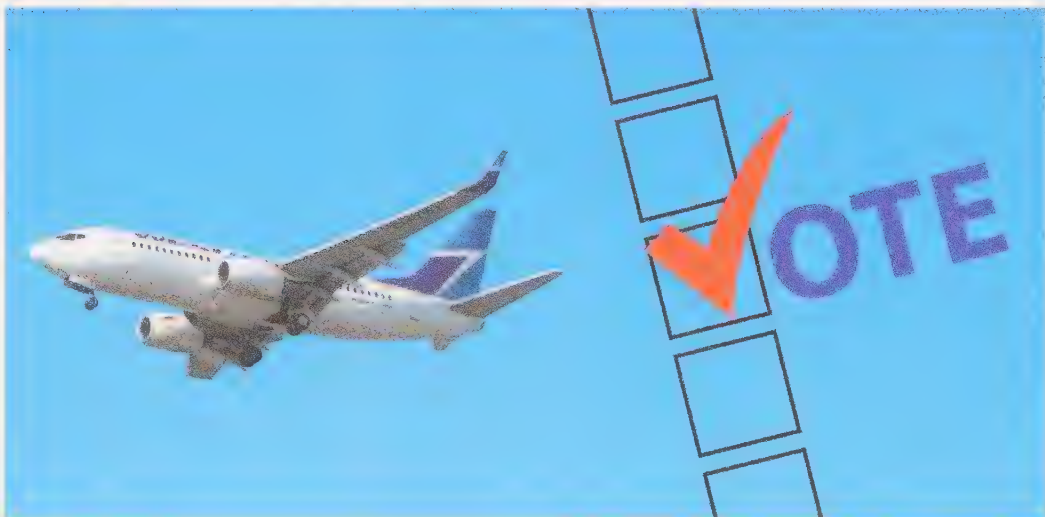


Labour Relations

WHAT DO I NEED TO KNOW?

After reading this chapter, you should be able to:

- LO1** Define unions and labour relations and their role in organizations.
- LO2** Identify the labour relations goals of management, unions, and society.
- LO3** Summarize laws and regulations that affect labour relations.
- LO4** Describe the union organizing process.
- LO5** Explain how management and unions negotiate and administer collective agreements.
- LO6** Describe more cooperative and collaborative approaches to labour–management relations.



Plane: © Ricky Deacon | Dreamstime.com, Vote sign: VectorPic/Shutterstock.com

WestJet's flight attendants recently voted in favour of unionization. CUPE (Canadian Union of Public Employees) represents WestJet's flight attendants and the Air Line Pilots Association represents WestJet's pilots.

Unionization is in the Air at WestJet

WestJet has built a reputation for having a culture and work environment that is caring and fun, providing an excellent guest experience, and sustaining a successful and profitable business that shares profits with its employees, “WestJetters.” However, WestJet narrowly averted a strike of its unionized pilots, and media reports cited “growing anger among WestJet flight attendants about a compensation model that restricts hourly wages to time actually spent in the sky.” For example, a full-time flight attendant (who spends half of an eight-hour day in the air) at a starting wage of \$25.29 per hour of flying time, is reported to receive the equivalent of \$12.64 per hour—because the other four hours of the shift are on the ground performing required but unpaid tasks such as preparing the airplane for service, and boarding and deplaning passengers.

WestJet’s 3,000 cabin crew are now members of the new CUPE Local 4070. Executives including a President and Vice-President have been elected and the Bargaining Committee that will negotiate a first collective agreement with WestJet’s Labour Relations team representing management, is in place.

During the unionization battle, WestJet management had argued against unionization saying, “It would harm the unique culture of the airline and its financial position.” However, following certification of the union representing cabin crew, WestJet CEO Ed Sims provided a statement saying: “We are disappointed by this outcome but respect the rights of our employees to choose their representation.” Sims added: “We now shift our focus to working effectively with CUPE in the interest of success for WestJet as a whole.”¹

Introduction

The presence of unions in a government agency or business changes some aspects of human resource management by directing more attention to the interests of employees as a group. In general, employees and employers share the same interests. They both benefit when the organization is strong and growing, providing employees with jobs and employers with profits. But although the interests of employers and employees overlap, they obviously are not identical. In the case of pay, workers benefit from higher pay, but high pay cuts into the organization’s profits, unless pay increases are associated with higher productivity or better customer experience. Workers may negotiate differences with their employers individually, or they may form unions to negotiate on their behalf. This chapter explores human resource activities in organizations where employees belong to unions or where employees are seeking to organize unions.

We begin by formally defining unions and labour relations, and then describe the history, scope, and impact of union activity. We next summarize government laws and regulations affecting unions and labour relations.

The following two sections detail types of activities involving unions: union organizing, as well as collective agreement negotiation and administration. Finally, we identify ways in which unions and management are working together in arrangements that are more cooperative and collaborative than the traditional labour–management relationship.

Role of Unions and Labour Relations

In Canada, most workers act as individuals to select jobs that are acceptable to them and to negotiate pay, benefits, flexible hours, and other work conditions. Especially when there is competition for labour and employees have hard-to-find skills, this arrangement produces satisfactory results for most employees. At times, however, workers have believed their needs and interests do not receive enough consideration from management. One response by workers is to act collectively by forming and joining labour **unions**, organizations formed for the purpose of representing their members’ interests and resolving conflicts with employers.

unions

Organizations formed for the purpose of representing their members’ interests in dealing with employers.

Unions have a role because some degree of conflict is inevitable between workers and management.² For example, managers can increase profits by lowering workers’ pay, but workers benefit in the short term if lower profits result because their pay is higher. Still, this type of conflict is more complex than a simple trade-off, such as wages versus profits. Rising profits can help employees by driving up profit sharing or other benefits, and falling profits can result in layoffs and a lack of investment. Although employers can use programs like profit sharing to help align employee interests with their own, some remaining divergence of interests is inevitable. Labour unions represent workers’ interests, and the collective bargaining process provides a way to clarify and systemize conditions of employment rather than relying on management’s discretion.

As unionization of workers became more common, universities and colleges developed training in how to manage union–management interactions. This specialty, called **labour relations**, emphasizes skills that managers and union leaders can use to cultivate effective labour–management cooperation, minimize costly forms of conflict (such as strikes), and seek win–win solutions to disagreements. Labour relations involve three levels of decisions.³

labour relations

A field that emphasizes skills managers and union leaders can use to minimize costly forms of conflict (such as strikes) and seek win–win solutions to disagreements.

1. **Labour relations strategy.** For management, the decision involves how the organization will work with unions or develop (or maintain) non-union operations. This decision is influenced by outside forces such

as public opinion and competition. For unions, the decision involves whether to resist changes in how unions relate to the organization or accept new kinds of labour–management relationships.

2. **Negotiating collective agreements.** As we will describe later in the chapter, collective agreement negotiations in a union setting involve decisions about pay structure, job security, work rules, workplace safety, and many other issues. These decisions affect workers' and the employer's situation for the term of the contract.
3. **Administering collective agreements.** These decisions involve day-to-day activities in which union members and the organization's managers may have

disagreements. Issues include complaints of work rules being violated or workers being treated unfairly in particular situations. A formal grievance procedure is typically used to resolve these issues.

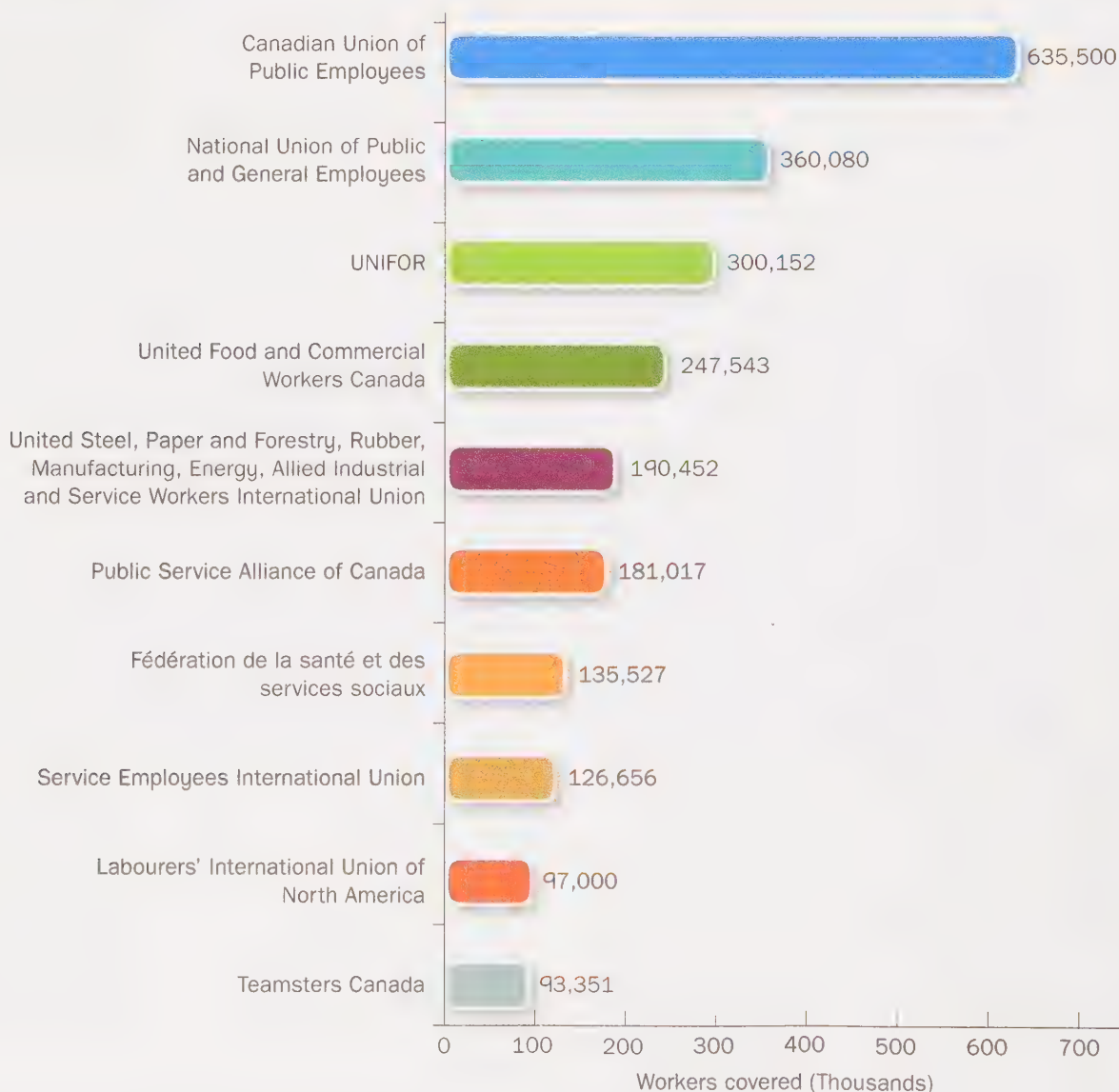
Later sections in this chapter describe how managers and unions carry out the activities connected with these levels of decisions, as well as the goals and legal constraints affecting these activities.

Types of Unions and Affiliations

Most union members belong to a national or international union. Figure 9.1 shows the number of workers covered by Canada's ten largest unions.

FIGURE 9.1

Canada's Top-Ten Labour Organizations



Source: "Labour Organizations in Canada 2015 Appendix 5 - Unions with 30,000 or More Unionized Workers, *Government of Canada*, https://www.canada.ca/content/dam/esdc-edsc/migration/documents/eng/resources/info/publications/union_coverage/UnionCoverage_EN.pdf retrieved May 29, 2018.

Traditionally, unions were characterized by being either *craft* or *industrial* unions. Members of a craft union had a particular skill or occupation, e.g., the International Brotherhood of Electrical Workers representing electricians (IBEW); whereas industrial unions comprised members who were linked by their work in a particular industry. These distinctions between types of unions are less clear today. For example, some “locals” of the IBEW now represent a variety of types of employees in the electrical industry and UNIFOR, Canada’s largest private-sector union (created in 2013 with the merger of the Canadian Auto Workers and the Communications, Energy, and Paperworkers Union of Canada), has members who work in every major sector of the Canadian economy.⁴ In addition, *public-sector unions* represent employees who work in the public sector. For example, the Public Service Alliance of Canada (PSAC) represents more than 180,000 members from every province and territory in Canada who hold diverse roles in federal government departments, airports, casinos, Indigenous communities, and the security sector, among others.⁵

Unions affiliate with labour congresses for assistance at national and international levels. The **Canadian Labour Congress (CLC)** is Canada’s largest labour organization. The CLC is the umbrella organization for dozens of affiliated Canadian and international unions, as well as provincial and territorial federations of labour and regional labour councils. The CLC represents more than 3.3 million workers—more than two-thirds of unionized workers covered by collective agreements.⁶ An important responsibility of the CLC is to represent labour’s interests in issues such as wages and benefits,

Canadian Labour Congress (CLC)

The umbrella organization for dozens of affiliated Canadian and international unions, as well as provincial federations of labour and regional labour councils.



THE CANADIAN PRESS/Ryan Remiorz

Hassan Yussuff, president of the Canadian Labour Congress (CLC), recently called on the federal government to take additional steps to protect workers from workplace harassment and violence. “In the era of #metoo and #timesup, we need to talk about the impacts these hazards can have in the workplace.”⁷

ensuring safe and healthy workplaces, environmental sustainability, and respect for human rights in Canada and throughout the world.⁸ The CLC also provides information, support, and analysis that member unions can use in their activities.

Local Unions

National unions consist of multiple union locals, the basic units of union organization. The **union local** consists of the unionized workers from a particular department, location, industry or sector that are covered by a specific collective agreement. For example, CUPE Local 4098 represents the more than 1,000 Air Canada Rouge Flight Attendants based in Toronto, Montreal, and Vancouver.⁹ Even when a national union plays the most critical role in negotiating the terms of a collective agreement, negotiation occurs at the local union level for work rules and other issues that are determined for a particular location. In addition, administration of the agreement largely takes place at the union local level. As a result, most day-to-day interaction between labour and management involves the union local.

Typically, the union local elects *officers*, such as president, vice-president, director, and/or secretary-treasurer. The officers may be responsible for negotiation of the collective agreement, or the local may form a bargaining committee for that purpose. When the union is engaged in bargaining, the national union provides help, including providing background data about other settlements, technical advice, and the leadership of a representative from the national office.

Individual members participate in local unions in various ways. At meetings of the local union, they elect officials and vote on resolutions. Most of workers’ contact is with the **union steward**, an employee elected by union members to represent them in ensuring that the terms of the agreement are adhered to. The union steward helps to investigate any complaints and represents employees to supervisors and other managers when an employee files a grievance alleging a term of the collective agreement was violated.¹⁰ It is valuable for managers to cultivate positive working relationships with union stewards because the stewards also have close involvement with employees.

union local The basic unit of union organization consisting of the unionized workers from a particular department, location, industry, or sector that are covered by a specific collective agreement.

union steward An employee elected by union members to represent them in ensuring that the terms of the collective agreement are enforced.

History and Trends in Union Membership

Unionism in Canada had early ties to Britain, as tradesmen active in the British trade union movement immigrated to Canada and settled in Atlantic Canada. The first national

labour organization, a forerunner of the Canadian Labour Congress, was formed in 1873. During the early 1900s, labour activities escalated as workers demanded better wages, shorter workdays, and improved working conditions. Strikes involving large numbers of workers were frequent, with the Winnipeg General Strike in 1919 being perhaps the most well known. As labour politics developed, unionization was supported by the Co-operative Commonwealth Federation (CCF), which later became the New Democratic Party (NDP). Collective bargaining was first recognized in 1937. Post–World War II, U.S. unions began to spread into Canada and influenced Canada's labour legislation. In 1967, the federal government passed legislation that extended collective bargaining rights to government workers, and today the majority of government workers have the right to unionize.¹¹ During the 1960s and 1970s, unions were highly visible champions for occupational health and safety as well as accessible and paid maternity leave benefits.

Unionization levels continued to grow in both the private and public sectors until the mid-1990s despite pressures on unions that labour costs had not kept pace with productivity.¹² Union membership in Canada

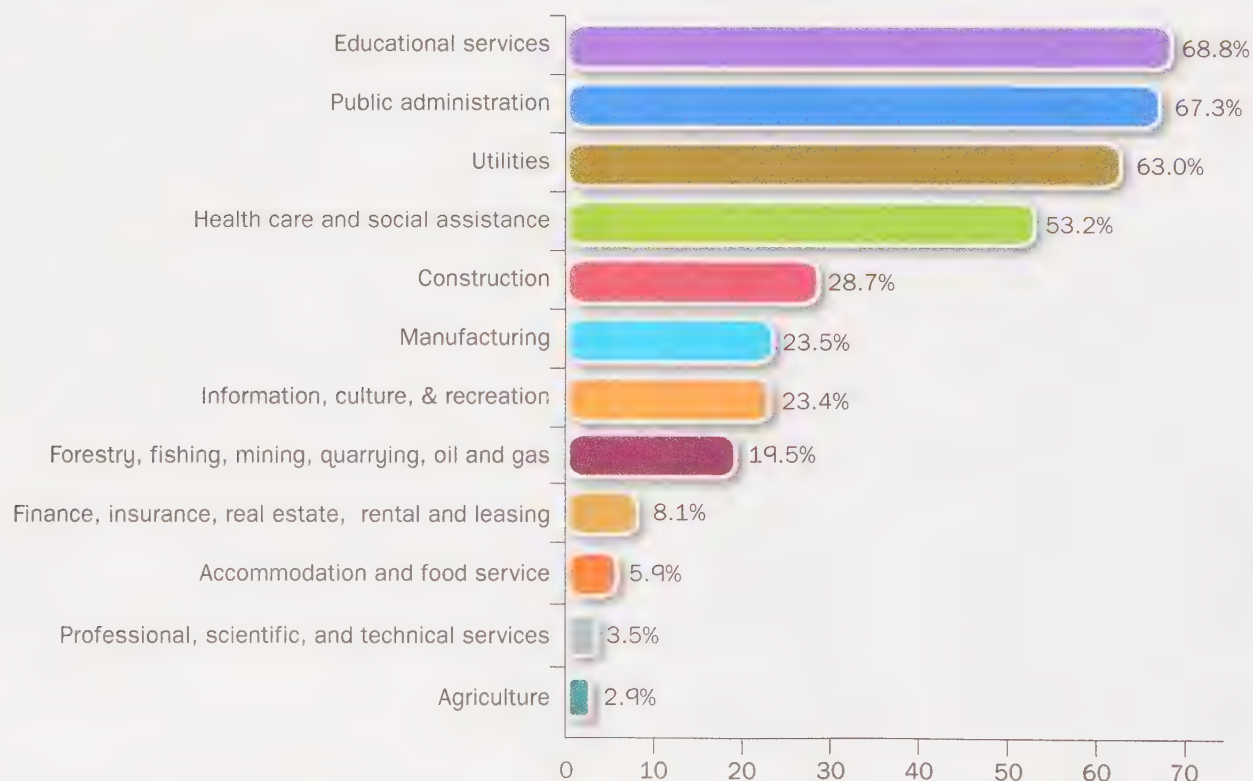
peaked in 1994, reaching 36.1 percent of employees.¹³ In 2016, labour organizations reported that 4.83 million workers in Canada paid dues to a union in Canada.¹⁴ The overall unionization rate or *union density* has remained relatively stable in Canada in recent years because a decrease in unionization in the private sector has been largely offset due to increased unionization in the public sector.¹⁵

In Canada, unionization is much higher in the public sector than the private sector—72.0 percent for the public sector, in contrast to 14.6 percent for the private sector.¹⁶ As illustrated in Figure 9.2, union membership is concentrated in public administration, utilities, educational services, health care, and social assistance. Among the least unionized sectors are agriculture; professional, scientific, and technical services; and accommodation and food services.

Figure 9.3 illustrates the significant variation in rates of union membership among the provinces. Newfoundland and Labrador (38.7 percent) and Quebec (38.4 percent) have the highest rates of unionization. Alberta (25.0 percent) and Ontario (26.8 percent) have the lowest rates of union density. Unionization also varies by firm size. Unionization is most common in large organizations.

FIGURE 9.2

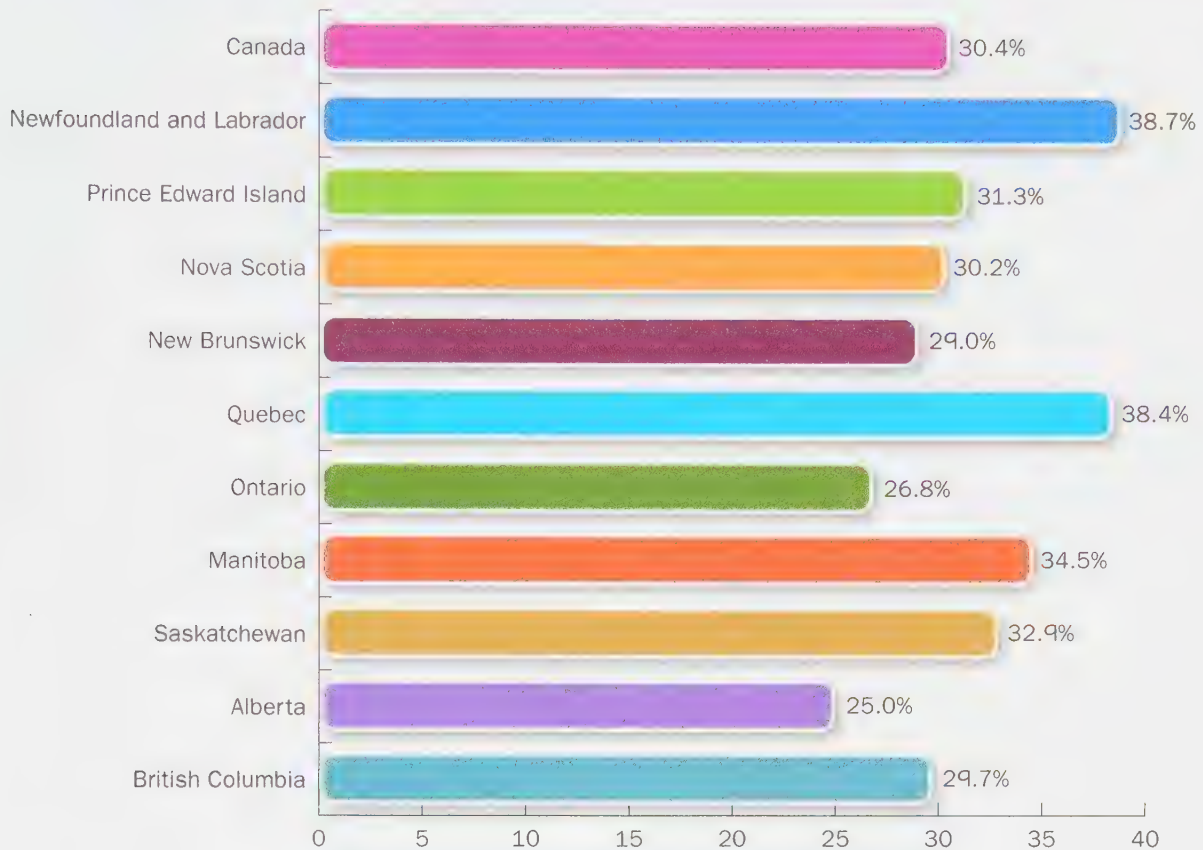
Unionization Rate (Density) in Canada by Industry



Source: Monica Haberl, "Industrial Relations Outlook 2017: Striking a Balance, Table 1: Rates of Unionization in Canada by Industry 2005–2015," December 2016, p. 9, Conference Board of Canada.

FIGURE 9.3

Unionization Rate by Province



Note: Data for 2017.

Source: "Union coverage rate in Canada in 2017, by provinces, *Statista 2018*, <https://www.statista.com/statistics/442980/canada-union-coverage-rate-by-province/>, retrieved May 28, 2018. Data from Statistics Canada.

The overall decline in union membership has been attributed to several factors:¹⁷

- **Change in the structure of the economy**—Much recent job growth has occurred in the service sector of the economy, while union strength has traditionally been among urban blue-collar workers. Service industries such as finance, insurance, and real estate have lower union representation than manufacturing.
- **Management efforts to control costs**—On average, unionized workers receive higher pay than their non-unionized counterparts, and the pressure to control costs is increasing because of global competition. In the past, union membership across an industry such as automobiles or steel resulted in similar wages and work requirements for all competitors. Today, North American producers have to compete with companies that have entirely different pay scales and work rules, often putting the North American companies at a disadvantage.

- **Human resource practices**—Another way management may be contributing to the decline in union membership is by adopting human resource practices that increase employees' commitment to their job and employer. Competition for scarce human resources can lead employers to offer much of what employees traditionally sought through union membership.
- **Government regulation**—Stricter regulation in areas such as workplace safety and human rights leaves fewer areas in which unions can show an advantage over what employers must already offer.

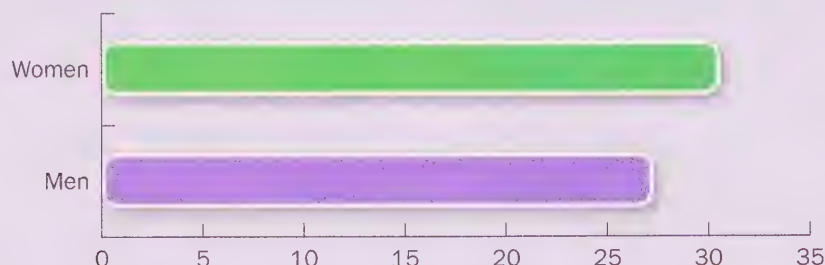
Unions have made strategic decisions in recent years to organize the growing private-service sector. This sector includes workers employed in hotels, home care agencies, and offices. Often, these employees are women. As reported by Statistics Canada, in 2014, 30.5 percent of women were members of unions in contrast to 27.2 percent of men.¹⁸ See Did You Know? The percentage of women who are members of



Did You Know?

Differences Among the Sexes—Unionization Rate

The gap between the unionization rate between men and women continues to widen.



Note: Data for 2014.

Source: Diane Galarneau, "Unionization rates falling Chart 1 Unionization rate of employed individuals aged 17–64, 1981–2014," *Statistics Canada*, May 17, 2018, <http://www.statcan.gc.ca/pub/11-630-x/11-630-x2015005-eng.htm#def1www.statcan.gc.ca/pub/75-006-x/2013001/article/11878-eng.pdf>, retrieved May 31, 2018.

unions has remained relatively stable over the past three decades (31.4 percent in 1981 to 30.5 percent in 2014), whereas the percentage of men who are members of unions has declined significantly (42.1 percent in 1981 to 27.2 percent in 2014).¹⁹

The mindset of younger workers about collective action and unionization is an important consideration for union leaders. Prem Benimadhu, Conference Board of Canada, suggests that younger workers are less likely to want or need union representation—"Once workers figure out that they can negotiate successfully on their own behalf, it will be hard for unions to convince them to join up and pay dues for the same service," he concluded.²⁰

The unionization rate of younger workers (17–24 years of age) has significantly declined²¹:

- In 2014, 13.4 percent of women aged 17–24 years were unionized—dropping from 23.1 percent in 1981.
- In 2014, 14.9 percent of men aged 17–24 years were unionized—dropping from 29.2 percent in 1981.

As Figure 9.4 indicates, the percentage of Canadian workers who belong to unions, although much higher than in the United States, is lower than some other countries. More dramatic is the difference in "coverage"—the percentage of employees whose terms and conditions of employment are governed by a union contract, whether or not the employees are technically union members. In Western Europe, it is common to have coverage rates of 80 to 90 percent, so the influence of labour unions far outstrips what membership levels would imply.²²

Also, employees in Western Europe tend to have a larger formal role in decision making than in Canada. This role, including worker representatives on boards of directors, is often mandated by the government. But as markets become more and more global, pressure to cut labour costs and increase productivity is likely to be stronger in every country. Unless unions can help companies improve productivity or organize new production facilities opened in lower-wage countries, union influence may decline in countries where it is now strong.

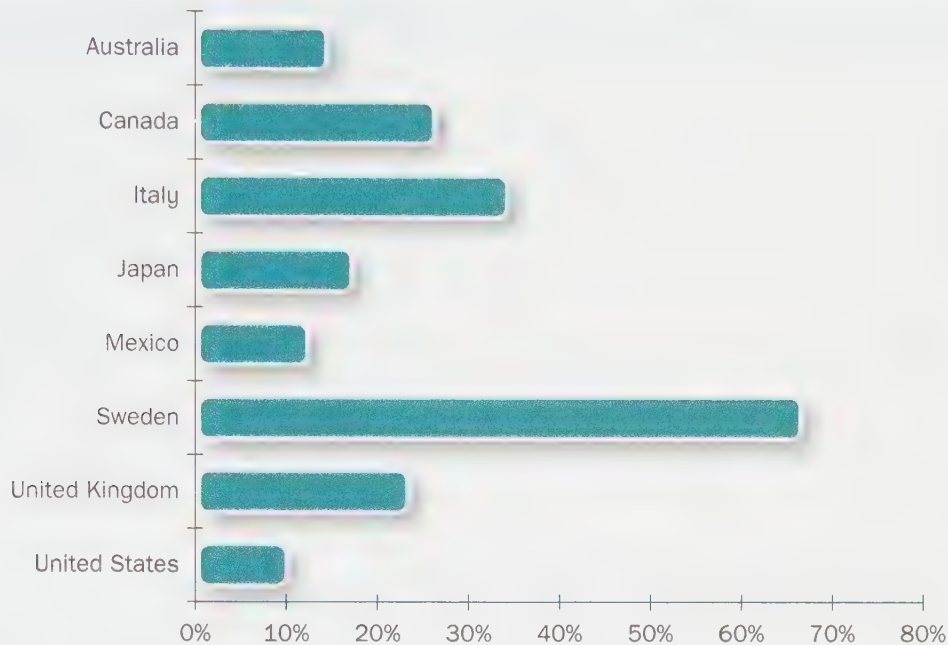
Impact of Unions on Company Performance

Organizations are concerned about whether union organizing and bargaining will hurt their performance, particularly unions' impact on productivity, profits, and stock performance. Researchers have studied the general relationship between unionization and these performance measures. Through skillful labour relations, organizations can positively influence outcomes.

There has been much debate regarding the effects of unions on productivity.²³ One view is that unions decrease productivity because of work rules and limits on workloads set by union contracts and production lost to union actions such as strikes and work slowdowns. At the same time, unions can have positive effects on productivity.²⁴ They can reduce turnover by giving employees a route for resolving problems.²⁵ Unions emphasize pay systems based on seniority, which remove incentives for employees to compete rather than cooperate. The introduction of

FIGURE 9.4

Union Membership Rates in Selected Countries (2016)



Source: Organization for Economic Co-operation and Development, OECD.Stat, <http://stats.oecd.org>, accessed May 30, 2018.

a union also may force an employer to improve its management practices and pay greater attention to employees' ideas.

Although there is evidence that unions have both positive and negative effects on productivity, most studies have found that union workers are more productive than non-union workers. Still, questions remain. Are highly productive workers more likely to form unions, or does a union make workers more productive? The answer is unclear. In theory, if unions caused greater productivity, we would expect union membership to be rising in the private sector, not falling as it has been.²⁶

Even if unions do raise productivity, a company's profits and stock performance may still suffer if unions raise wage and benefits costs by more than the productivity gain. On average, union members receive higher wages and more generous benefits than non-union workers, and evidence shows that unions have a large negative effect on profits. Also, union coverage tends to decline faster in companies with a lower return to shareholders.²⁷ In summary, companies wishing to become more competitive must continually monitor their labour relations strategy. These studies look at the average effects of unions, not at individual companies or innovative labour relations. Some organizations excel at labour relations, and some have worked with unions to meet business needs. Labour management cooperation and collaboration is discussed later in the chapter.²⁸

Goals of Management, Unions, and Society

Working together in a positive way is usually best accomplished when the parties involved understand each other's goals. Although individual cases vary, we can draw some general conclusions about the goals of labour unions and management. Table 9.1 provides a summary of priority issues from the perspective of management and unions. Society, too, has goals for labour and business, given form in the laws regulating labour relations.

Management Goals

Management goals are to increase the organization's profits and/or increase productivity. Managers tend to prefer options that lower costs and raise output. A concern is that a union will create higher costs in wages and benefits, as well as raise the risk of work stoppages. Managers may also fear that a union will make managers and workers into adversaries or limit management's discretion in making business and employment decisions.

When an employer has recognized a union, management's goals continue to emphasize reducing costs and improving output. Managers continue to prefer to keep the organization's operations flexible, so they can adjust activities to meet competitive challenges and customer

TABLE 9.1

Current Negotiation Issues

Management Issues	Union Issues
1. Wages	1. Wages
2. Flexible work practices	2. Employment security
3. Productivity	3. Health benefits
4. Business competitiveness	4. Outsourcing and contracting out
5. Health benefits	5. Pensions
6. Organizational change	6. Employment and pay equity
7. Outsourcing and contracting out	7. Organizational change
8. Pensions	8. Flexible work practices
9. Employment and pay equity	9. Variable pay
10. Employment security	10. Training and skills development
11. Technological change	11. Technological change
12. Training and skills development	12. Productivity
13. Variable pay	13. Business competitiveness
14. Other (e.g., vacation, type of work, etc.)	14. Other (e.g., vacation, type of work, etc.)

Note: Respondents were given a list of 14 possible choices and asked to indicate the top three negotiation issues for both management and union.

Source: Heather McAteer, "Compensation Planning Outlook 2018, Table 23: Current Negotiation Issues," October 2017, The Conference Board of Canada, p. 40.

demands. Therefore, in their labour relations, managers prefer to limit increases in wages and benefits and to retain as much discretion as they can over work rules, schedules, and other workplace decisions.

Union Goals

In general, unions have the goals of obtaining pay, job security, and working conditions that satisfy their members, and of giving members a voice in decisions that affect them. Traditionally, they obtain these goals by gaining power in numbers. The more workers who belong to a union, the greater the union's power. More members translates into greater ability to halt or disrupt operations. Larger unions also have greater financial resources for continuing a strike; the union can help to make up for the wages the workers lose during a strike. The threat of a long strike—stated or implied—can make an employer more willing to meet the union's demands.

As mentioned earlier, union membership is linked to better compensation. Statistics Canada reports that in

April 2018 the average hourly wage of employees with union coverage was \$30.46 per hour, almost 19.5 percent more than the \$25.50 per hour earned by employees without union coverage. However, from April 2017 to April 2018, employees *without* union coverage received a larger pay increase—4.3 percent in contrast to unionized employees who received only a 2.4 percent increase.²⁹ Benefits packages also tend to be more generous for union members.

Unions typically want to influence the way pay and promotions are determined. Unlike management, which tries to consider employees as individuals so that pay and promotion decisions relate to performance differences, unions try to build group solidarity and avoid possible arbitrary treatment of employees. To do so, unions try to have any pay differences based on seniority, on the grounds that this measure is more objective than performance evaluations. As a result, where workers are represented by a union, it is common for all employees in a particular job classification to be paid at the same rate. The Thinking Ethically at the end of the chapter discusses the

perceptions of fairness associated with the use of seniority provisions.

As well as working to advance the interests of members, unions often engage in **social unionism**, that is, activities intended to influence social and economic policies of government. For example, Unifor's Action Campaigns include addressing labour conditions in Mexico as a

part of a renegotiated trade agreement, and advocating for universal prescription drug coverage.³⁰

Ultimately, the survival and security of a union depends on its ability to ensure a regular flow of new members and member dues to support the services it provides. In 1946, Supreme Court of Canada Justice Ivan Rand brought down a significant decision that affected union financial security in Canada. The case came about as part of an arbitrated settlement of a labour dispute between the Ford Motor Company and the United Auto

social unionism

A type of unionism that attempts to influence social and economic policies of government.

Workers. The **Rand Formula** is a union security provision that makes the payment of labour union dues mandatory even if the worker is not a member of the union. The rationale for the principle was that every employee benefits from union representation.³¹ Unions typically place high priority on negotiating two types of contract provisions with an employer that are critical to a union's security and viability: checkoff provisions and provisions relating to union membership or contribution.

Under a **checkoff provision**, the employer, on behalf of the union, automatically deducts union dues from employees' paycheques (and remits the funds to the appropriate union). The HR Oops! describes issues encountered with

Rand Formula

A union security provision that makes payment of labour union dues mandatory even if the worker is not a member of the union.

checkoff provision

A requirement that the employer, on behalf of the union, automatically deducts union dues from employees' paycheques.

HR Oops!



Public Service Union Says It's Owed \$10 Million Due to Payroll Fiasco

The federal government's new computerized pay system, Phoenix, went live on February 24, 2016. Since then, "tens of thousands of workers have been burned" and the "growing list of victims" includes "countless spouses and dependants who have also had to bear the financial—and often emotional—burden" of the system that has caused employees to go unpaid.

In addition, the Public Service Alliance of Canada (PSAC), which represents 170,000 employees, says, "The federal government now owes more than \$10 million in union dues due to ongoing problems with the Phoenix payroll system." The union has stated that "a financial shortfall of this magnitude affects our ability to carry on operations and properly fulfill our statutory mandate." Debi Daviau, president of the Professional Institute of the Public Service of Canada (PIPSC) also says that her union "can't afford not to receive accurate union dues collected by the federal government's troubled new payroll system."

Despite commitments provided in the 2018 federal budget to take action to reimburse missing

and inaccurate dues owed to public-sector unions, PSAC officials claim they have not yet recovered any money. Michael Aubry, communications officer with the PSAC, explains the issue: "Phoenix is causing errors for the union, the government, and federal workers, so there's no easy way to do a proper accounting of dues owed."

Unions representing federal workers are also taking a stand for their members by requesting a payroll fix that ensures workers "are paid accurately and on time." In addition, union leaders are requesting employee compensation for "the suffering they have endured and continue to face."

Questions

1. Do you anticipate the issues described will affect the long-term relationship and bargaining climate for the federal government and its unionized employees? Why or why not?
2. What is your advice to these public sector unions? Are they doing enough to support their members?

Source: Julie Ireton, "Public service union says it's owed \$10M due to Phoenix," *CBC News*, March 19, 2018, www.cbc.ca, retrieved June 1, 2018; Julie Ireton, "As federal Phoenix payroll fiasco hits 2-year mark, families continue to bear brunt of it," *CBC News*, February 21, 2018, www.cbc.ca, retrieved June 2, 2018; "Pay public servants for Phoenix stress, unions tell PM," *CBC News*, February 16, 2018, www.cbc.news, retrieved June 2, 2018.

the federal government's payroll system that have resulted in errors and delays in compensating employees and unions. The strongest union security arrangement is a **closed shop**, under which a person must be a union member before being hired or the **union shop**, an arrangement that requires an employee to join the union within a certain time after beginning employment.

These provisions are ways to address unions' concern about "free riders"—employees who benefit from union activities without belonging to a union. By law, all members of a bargaining unit, whether union members or not, must be represented by the union. If a union was required to offer services to all bargaining unit members even though some of them do not pay dues, it may not have enough financial resources to operate successfully.

closed shop

A union security arrangement under which a person must be a union member before being hired.

union shop

A union security arrangement that requires employees to join the union within a certain amount of time after beginning employment.

Society's Goals

The activities of unions and management take place within the context of society, with society's values driving the laws and regulations that affect labour relations. As long ago as the late 1800s and early 1900s, industrial relations scholars saw unions as a way to make up for individual employees' limited bargaining power.³² At that time, clashes between workers and management could be violent, and many people hoped that unions would replace the violence with negotiation. Since then, observers have expressed concern that unions in certain industries have become too strong, achieving their goals at the expense of employers' ability to compete or meet other objectives. Overall, however, societal goals for government include ensuring that neutral rules exist to ensure balance is maintained between the powers of unions and employers and that the public interest is protected.

Rather than being left to the activities of unions and management, many societal goals are also enforced through laws and regulations. As discussed in Chapter 2 clashes between workers and management could be violent, and many people hoped that unions would replace the violence with negotiation. Since then, observers have expressed concern that unions in certain industries have become too strong, achieving their goals at the expense of employers' ability to compete or meet other objectives. Overall, however, societal goals include ensuring that neutral rules exist to ensure balance is maintained between the powers of unions and employers and that the public interest is protected.

Laws and Regulations Affecting Labour Relations

The laws and regulations pertaining to labour relations affect unions' size and bargaining power, so they significantly affect the degree to which unions, management, and society achieve their varied goals. These laws and regulations set limits on union structure and administration and the ways in which unions and management interact.

Canada's overall labour relations legal framework is decentralized and relatively complex. Responsibility for labour relations is primarily a provincial/territorial responsibility; however, federal labour legislation covers federally regulated employers. Distinct federal, provincial, and territorial laws cover their respective public-sector employees, and additional labour statutes apply to essential occupations such as law enforcement, firefighters, and health care professionals.

Although some differences exist among jurisdictions, the main features of labour legislation in Canada can be summarized as follows:

- methods to certify a union that will represent a group of employees
- requirement of the employer to recognize the union chosen by the majority of its employees and to accept the union as the employees' exclusive representative for bargaining purposes
- responsibility to bargain in good faith with the intention to reach an agreement
- requirement of the employer to deduct union dues from employees
- minimum length of a collective agreement (at least one year)
- regulation of strike and lockout activities
- creation of a labour relations board (or specialized tribunal) to interpret and enforce the labour laws in their jurisdiction
- prohibition of identified **unfair labour practices** by management and labour (see the HR How-To)

There is a **Labour Relations Board (LRB)** (or similar structure) in each jurisdiction that serves as a specialized quasi-judicial tribunal with authority to interpret and enforce the labour laws in its jurisdiction.

unfair labour practices

Prohibited conduct of an employer, union, or individual under the relevant labour legislation.

Labour Relations Board (LRB)

A specialized tribunal with authority to interpret and enforce the labour laws in its jurisdiction.

HR How-To



Avoiding Unfair Labour Practices

A common core of labour legislation prohibits employers, unions, and individuals from engaging in unfair labour practices. Each jurisdiction in Canada has specific provisions dealing with unfair labour practices by management and unions.

Some of the most common examples of unfair labour practices that management must not engage in are the following:

- interfering in the formation of a union or contributing to it financially (although there have been allowances for the providing of an office for the union to conduct business and for paid leave for union officials conducting union business)
 - discriminating against an employee because the individual is or is not a member of a union
 - discriminating against an employee because the individual chooses to exercise rights granted by labour relations law
 - intimidating or coercing an employee to become or not become a member of a union
- Activities that a union is not permitted to engage in include:
- seeking to compel an employer to bargain collectively with the union if the union is not the certified bargaining agent;
 - attempting at the workplace and during working hours to persuade an employee to become or not become a union member;
 - intimidating, coercing, or penalizing an individual because they have filed a complaint or testified in any proceeding pursuant to the relevant labour law;
 - engaging in, encouraging, or threatening illegal strikes; or
 - failing to represent employees fairly.

Source: Hermann Schwind, Hari Das, and Terry Wagar, *Canadian Human Resource Management*, 11th ed. (Toronto: McGraw-Hill Ryerson, 2016), p. 616.

Prevention of Unfair Labour Practices

When someone believes that an unfair labour practice has taken place, they may file a complaint with the appropriate Labour Relations Board for the jurisdiction. All parties are provided a copy of the complaint and the process usually involves the Labour Relations Board conducting a preliminary investigation to determine if the complaint has merit and if it may be possible for the parties to resolve the complaint themselves. If the Labour Relations Board finds the complaint has merit and determines the complaint cannot be resolved through the parties, the Labour Relations Board will conduct a formal hearing with the parties present. Either the case can be dismissed at this point or the Labour Relations Board has the authority to issue orders to halt unfair labour practices. If the union or employer does not comply with the Labour Relations Board order, the order can be referred to the courts for enforcement.³³

What Is the Union Organizing Process?

Unions begin their involvement with an organization's employees by conducting an organizing campaign. To meet its objectives, a union needs to convince a majority of

workers that they should receive better pay or other employment conditions and that the union will help them do so. The employer's objectives will depend on its strategy—whether it seeks to work with a union or convince employees that they are better off without union representation.

The Process of Organizing

The organization process begins with a membership application. Union representatives contact employees, present their message about the union, and invite them to sign an application for membership. By signing the application and paying a nominal fee; for example, \$5, employees indicate they want the union to represent them.

When the necessary number of employees have signed membership applications, the union will apply to the appropriate Labour Relations Board for certification. Requirements differ among jurisdictions. For example, in some jurisdictions a local union can be certified without an overall representation vote if a certain threshold of signed membership applications is provided.

Management Strategies

Sometimes an employer will recognize a union after a majority of employees have signed membership applications. More often, there is a hotly contested election

campaign. During the campaign, unions try to persuade employees that their wages, benefits, treatment by employers, and chances to influence workplace decisions are too poor or small and that the union will be able to obtain improvements in these areas. As described in the chapter opening, management typically responds with its own messages providing an opposite point of view.

Management messages may say the organization has provided a valuable package of wages and benefits and has treated employees well. Management may also argue that the union will not be able to keep its promises but will instead create costs for employees, such as union dues and lost income during strikes. Employers use a variety of methods to avoid unionization in organizing campaigns.³⁴ Their efforts range from hiring consultants to distributing letters to presenting the company's viewpoint at meetings of employees. Some management efforts go beyond what the law permits, especially in the eyes of union organizers.

Supervisors have the most direct contact with employees. Thus, as Table 9.2 indicates, it is critical that they establish good relationships with employees even before there is any attempt at union organizing. Supervisors also must know what *not* to do if a union drive takes place.

Can a Union be Decertified?

Union members' right to be represented by unions of their own choosing also includes the right to vote out an existing union. The action is called *decertifying* the union. Decertification follows the same process as a representation election. An application to decertify a union may not be acted upon during a legal strike or lockout. In some jurisdictions when a collective agreement is in place, decertification applications may be filed only during specified "open periods." Laws in some jurisdictions require the employer to post and annually circulate information related to union decertification.

TABLE 9.2

What Supervisors Should and Should Not Do to Reduce the Likelihood of Unionization

What to Do
Report any direct or indirect signs of union activity to a core management group.
Deal with employees by carefully stating the company's response to pro-union arguments. These responses should be coordinated by the company to maintain consistency and to avoid threats or promises. Take away union issues by following effective management practices all the time:
<ul style="list-style-type: none"> • Deliver recognition and appreciation. • Solve employee problems. • Protect employees from harassment or humiliation. • Provide business-related information. • Be consistent in treatment of employees. • Accommodate special circumstances where appropriate. • Ensure due process in performance management. • Treat all employees with dignity and respect.
What to Avoid
<ul style="list-style-type: none"> • Threatening employees with harsher terms and conditions of employment or employment loss if they engage in union activity. • Interrogating employees about pro-union or anti-union sentiments that they or others may have or reviewing union authorization cards or pro-union petitions. • Promising employees that they will receive favourable terms or conditions of employment if they forgo union activity. • Spying on employees known to be, or suspected of being, engaged in pro-union activities.

Source: J. A. Segal, "Unshackle Your Supervisors to Stay Union Free," in *HR Magazine*, June 1998.

100 Collective Bargaining

When a union has been certified, that union represents employees during collective agreement (contract) negotiations. In **collective bargaining**, a union negotiates on behalf of its members with management representatives to reach an agreement (contract) defining conditions of employment and to establish methods to resolve its interpretation for the term of the collective agreement. Typical collective agreements include provisions for pay, benefits, work rules,

collective bargaining

Negotiation between union representatives and management representatives to arrive at an agreement defining conditions of employment for the term of the agreement and to administer that agreement.

and resolution of workers' grievances. Table 9.3 shows typical provisions negotiated in collective agreements.

Collective bargaining differs from one situation to another in terms of *bargaining structure*—that is, the range of employees and employers covered by the contract. An agreement may involve a narrow group of employees in a craft union or a broad group in an industrial union. Agreements may cover one or several facilities of the same employer, or the bargaining structure may involve several employers. Many more interests must be considered in collective bargaining for an industrial union with a bargaining structure that includes several employers than in collective bargaining for a craft union in a single facility.

The majority of collective agreement negotiations take place between unions and employers that have been through the process before. In the typical situation,

TABLE 9.3

Typical Provisions in Collective Agreements

Rights of Parties	<p><i>Recognition of Union Security</i></p> <ul style="list-style-type: none"> • Union membership • Union security • Leave for union business • Restrictions on contracting out <p><i>Management Rights to Test</i></p> <ul style="list-style-type: none"> • Drug and alcohol testing • Intelligence and aptitude testing • Electronic surveillance • Internet/telephone monitoring • Medical examinations • Other tests <p><i>Employee Rights/Security</i></p> <ul style="list-style-type: none"> • Harassment protection • Employment equity program • Assistance programs, e.g., drugs and alcohol treatment
Organization of Work	<p><i>Technological Change</i></p> <ul style="list-style-type: none"> • Advance notice • Obligation to provide training, instruction, or retraining • Layoff protection • Wage protection • Special leaves, severance pay, and/or retirement offers <p><i>Distribution of Work</i></p> <ul style="list-style-type: none"> • Flexibility in work assignment • Job rotation • Semi-autonomous work groups or teams • Job sharing
Labour Relations	<ul style="list-style-type: none"> • Grievance procedures • Bargaining method or approach • Application of the agreement • Job evaluation (position evaluation) • Joint committees • Participation (other than committees)

continued on next page

TABLE 9.3

Typical Provisions in Collective Agreements (*continued*)

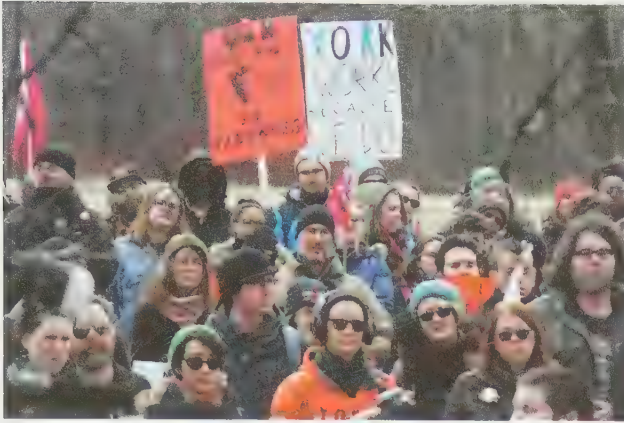
Education, Training, and Development	<ul style="list-style-type: none"> • Leave • Reimbursement for tuition fees and resources • Multiskilling, i.e., flexibility for the employee • Contribution to a training fund • Apprenticeship programs
Conditions of Work	<p><i>Work Schedule</i></p> <ul style="list-style-type: none"> • Normal hours of work • Type of work schedules • Special provisions <p><i>Overtime</i></p> <ul style="list-style-type: none"> • Clause limiting the use of overtime • Compensatory days in lieu of pay (banking) • Overtime pay • Meal allowance (overtime)
	<p><i>Job Security and Termination</i></p> <ul style="list-style-type: none"> • No layoffs while the agreement is in effect • Layoffs by seniority • Bumping rights • Retention of seniority • Work sharing (reduction in hours to avoid layoffs) • Education/training with pay • Supplementary employment insurance benefit <p><i>Pay</i></p> <ul style="list-style-type: none"> • Cost-of-living allowance • Wage guarantees <p><i>Leaves and Vacations</i></p> <ul style="list-style-type: none"> • Paid holidays • Annual vacation • Parental leave • Paid sick leave • Personal emergency, domestic, or sexual violence leave • Job-protected unpaid leave <p><i>Benefits</i></p> <ul style="list-style-type: none"> • Private group insurance plans • Pension plans (funding, administration) <p><i>Provisions Relating to Part-Time Workers</i></p> <ul style="list-style-type: none"> • Maximum hours of work normally allowed • Ratio of part-time to full-time workers • Holidays, vacations, sick leave, benefits, pension plan, seniority

Source: Based on "Collective Agreement Provisions," General Overview, The Labour Program—Working For You, www.hrsdc.gc.ca/eng/labour/overview.shtml. Human Resources and Skills Development website, www.hrsdc.gc.ca. Retrieved: November 2, 2004.

management has come to accept the union as an organization to work with. The situation can be very different when a union has just been certified and is negotiating its first collective agreement. For example, in Alberta, the Fair and Family Friendly Workplaces Act will permit employers and unions to apply to the Labour Relations Board for first-contract arbitration. If bargaining has not been successfully completed in 90 days, the first collective agreement can be imposed through a binding arbitration process.³⁵ Arbitration is discussed later in this chapter.

Bargaining over New Collective Agreements

Clearly, the outcome of collective agreement negotiations can have important consequences for labour costs, productivity, the organization's ability to compete, and creating positive conditions in the workplace. Therefore, unions and management need to prepare carefully for collective bargaining. Preparation includes establishing objectives for the agreement, reviewing the old agreement, gathering data (such as compensation paid by competitors and the company's ability



Steve Russell/Toronto Star via Getty Images

York University contract professors and teaching assistants on the picket line in 2018—the longest strike at an English-speaking university in Canada.

to survive a strike), predicting the demands to be made, and establishing the cost of meeting the demands.³⁶ Shifting demographics and priorities must also be carefully considered in developing a plan for how and what to negotiate. For example, it is crucial for both employers and unions to engage and understand Millennials and to be mindful of cultural differences and inclusivity opportunities arising from a workforce that is increasingly diverse.

Negotiations go through various stages.³⁷ In the earliest stages, many more people are often present than in later stages. On the union side, this may give all the various internal interest groups a chance to participate and voice their goals. Their input helps communicate to

management what will satisfy union members and may help the union achieve greater solidarity. At this stage, union negotiators often present a long list of proposals, partly to satisfy members and partly to introduce enough issues that they will have flexibility later in the process. Management may or may not present proposals of its own. Sometimes management prefers to respond to the union's proposals.

During the middle stages of the process, each side must make a series of decisions, even though the outcome is uncertain. How important is each issue to the other side? How likely is it that disagreement on particular issues will result in a labour disruption? When and to what extent should one side signal its willingness to compromise? In addition, both employers and unions have an interest in providing meaningful responses to changing social and economic conditions. Table 9.4 provides some examples of recently negotiated innovative collective agreement clauses.

In the final stage of negotiations, pressure for an agreement increases. Public negotiations may be only part of the process. Negotiators from each side may hold one-on-one meetings or small-group meetings where they escape some public relations pressures. A neutral third party may act as a go-between or facilitator. In some cases, bargaining breaks down as the two sides find they cannot reach a mutually acceptable agreement. The outcome depends partly on the relative bargaining power of each party. That power, in turn, depends on each party's ability to withstand a labour disruption that costs the workers their pay and costs the employer lost production and possibly lost customers.

TABLE 9.4

Innovative Clauses in Collective Agreements

Leave Clause

- HyLife Foods and the UFCW agreed on a new “citizenship leave.” Employees who have applied to become Canadian citizens will be granted one paid day of leave to take their oath of citizenship.

Protection from Harassment

- Loblaws Supermarkets Limited and the UFCW created a new policy on harassment, stating that there will be “zero tolerance” for customer rudeness, impropriety, and abuse. Under this policy, no employee shall be required to continue to serve a customer who has engaged in any of these behaviours and management shall take proactive steps to discourage improper customer behaviour.

Alternative Dispute Resolution

- In Chapel Island, Nova Scotia, Indigenous fishermen represented by the UFCW negotiated a clause that introduces a new conflict resolution approach. The fishermen, who are citizens of the Potlotek First Nation, will have the option of resolving contract disputes through a process called the Kisikuewey Wantaqo'suti Procedure, which permits mediation by Band Elders.

Transfer between Employees

- Yukon College and the Public Service Alliance of Canada negotiated a new provision that allows workers to transfer unused vacation time to other employees on compassionate grounds.

Sources: “Overview of Collective Bargaining in Canada, - 2015, *Government of Canada*, <https://www.canada.ca/en/employment-social-development/services/collective-bargaining-data/reports/collective-bargaining.html#innovative>, retrieved June 1, 2018; “Overview of Collective Bargaining in Canada, 2013,” *Government of Canada Labour Program*, www.labour.gc.ca/eng/resources/info/publications/collective_bargaining/collective_bargaining.shtml, pp. 7–8, retrieved April 12, 2015.

What Happens When Bargaining Breaks Down?

The intended outcome of collective bargaining is an agreement with terms acceptable to both parties. If one or both sides determine that negotiation alone will not produce such an agreement, bargaining breaks down. To bring this impasse to an end, the union may strike, the employer may lock out employees, or the parties may bring in outside help to resolve their differences.

Strikes and Lockouts

A **strike** is a collective decision of the union members not to work or to slow down until certain demands or conditions are met. The union members vote, and if the majority favours a strike, they all go on strike at that time or when union leaders believe the time is right. Strikes are typically accompanied by *picketing*—the union stations members near the work site with signs indicating the union is on strike. During the strike, the union members do not receive pay from their employer, but the union may be able to make up for some of the lost pay. The employer loses production unless it can hire replacement workers, and, even then, productivity may be reduced. Often, other unions support striking workers by refusing to cross their picket line—for example,

strike A collective decision by union members not to work or to slow down until certain demands or conditions are met.

refusing to make deliveries to a company during a strike. A **lockout**, on the other hand, is initiated by the employer. A lockout is a closure of a place of employment or refusal of the employer to provide work as a way to compel employees to agree to certain demands or conditions.

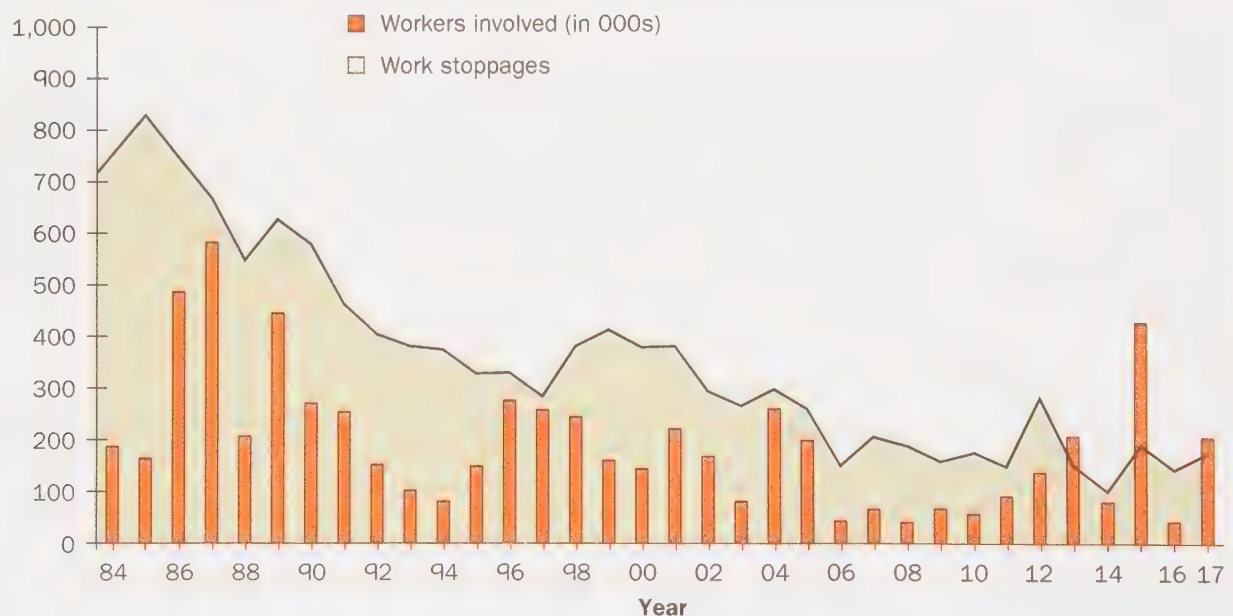
The vast majority of labour-management negotiations do not result in a work stoppage; i.e., strike or lockout. Figure 9.5 shows a chronological perspective of work stoppages in Canada for 1984–2017. The estimated number of person-days lost through work stoppages has also fluctuated significantly, ranging from more than 4.1 million in 2005 to 0.6 million in 2016. More than 1.2 million person-days were lost through work stoppages in 2017. In summary, from 2013–17, Canada's economy lost almost 7 million days of time not worked due to labour disruptions.³⁸

lockout A closure of a place of employment or refusal of the employer to provide work as a way to compel employees to agree to certain demands or conditions.

Not only do workers lose wages and employers lose production, but also the negative experience of a strike or lockout can make the union-management climate strained and uncooperative. When strikes or lockouts do occur, the conduct of each party during the strike can do lasting harm to labour-management relations. Violence by either side or threats of job loss or actual job loss because jobs went to replacement workers can make future relations difficult.

FIGURE 9.5

Number of Work Stoppages and Workers Involved (000s), 1984–2017



Sources: "Work Stoppages by Sector and Year," April 30, 2018, *Government of Canada*, <https://www.canada.ca/en/employment-social-development/services/collective-bargaining-data/work-stoppages/work-stoppages-year-sector.html>; "Overview of Collective Bargaining in Canada, 2013, Chart 9—Number of Work Stoppages and Workers Involved, 2004–2013," *Government of Canada Labour Program*, www.labour.gc.ca/eng/resources/info/publications/collective_bargaining/collective_bargaining.shtml, retrieved April 12, 2015; and Sharanjit Uppal, "Unionization 2011," Statistics Canada, Table 4, "Major Wage Settlements, Inflation and Labour Disputes," www.statcan.gc.ca/pub/75-001-x/2011004/tables-tableaux/11579/tbl04-eng.htm, retrieved May 21, 2012.

Alternatives to Strikes and Lockouts

Because strikes and lockouts are so costly and disruptive, unions and employers generally prefer other methods for resolving conflicts. Three of the most common alternatives are mediation, conciliation, and arbitration. All of these rely on a neutral third party, who usually is appointed by the federal or provincial minister of labour.

The least formal and most widely used of these procedures is **mediation**, in which a third party or *mediator* hears the views of both sides and facilitates the negotiation process. The mediator has no formal authority to impose a resolution, so a labour disruption remains a possibility. In a survey studying negotiations between unions and large businesses, mediation was used in almost four out of ten negotiation efforts.³⁹

Conciliation, most often used for negotiations with government bodies, typically reports on the reasons for the dispute, the views and arguments of both sides, and (sometimes) a recommended settlement, which the parties may decline. The public nature of these recommendations may pressure the parties to reach a settlement. Even if they do not accept the conciliator's recommended settlement, the hope of this process is that the conciliator will identify or frame issues in a way that makes agreement easier. Sometimes merely devoting time to this process gives the parties a chance to reach an agreement. In most jurisdictions in Canada, conciliation is mandatory before a strike or lockout can be called. Again, however, there is no guarantee that a strike or lockout will be avoided.

The most formal type of outside intervention is **arbitration**, under which an arbitrator or arbitration board determines a settlement that is *binding*, meaning the parties have to accept it. There is wide acceptance of "rights arbitration," which focuses on enforcing or interpreting agreement terms, but arbitration in the writing of collective agreements or setting of agreement terms has traditionally been reserved for special circumstances such as negotiations between unions and government agencies, where strikes may be illegal or especially costly. Occasionally, arbitration has also been used with businesses in situations where strikes have been extremely damaging. For example, when back-to-work legislation is imposed by a minister of labour, a provision to impose a settlement through arbitration is likely to be included.

mediation

Conflict resolution procedure in which a mediator hears the views of both sides and facilitates the negotiation process but has no formal authority to impose a resolution.

conciliation

Conflict resolution procedure in which a third party to collective bargaining reports the reasons for a dispute, the views and arguments of both sides, and possibly a recommended settlement, which the parties may decline.

arbitration

Conflict resolution procedure in which an arbitrator or arbitration board determines a binding settlement.

Collective Agreement Administration

Although the process of negotiating a collective agreement (including strikes or lockouts—or the threat of these actions) receives the most publicity, other union–management activities occur far more often. Bargaining over a new contract typically occurs only about every three years, but administering labour agreements goes on day after day, year after year. The two activities are linked, of course. Vague or inconsistent language in the agreement can make administering the agreement more difficult. The difficulties can create conflict that spills over into the next round of negotiations.⁴⁰ Events during negotiations—strikes, lockouts, the use of replacement workers, or violence by either side—also can lead to difficulties in working successfully under a conflict.

The duration of collective agreements in Canada has been increasing. In 1984, the average length of a collective agreement was 19.6 months; however, in both 2016 and 2017, the average length of a new collective agreement was more than 3.5 years.⁴¹

Longer agreements may result in either the employer or the union requesting amendments before the expiration of the contract. For example, Air Canada and its pilots recently agreed to an amendment of their 10-year collective agreement, which is not set to expire until 2024.⁴²

Collective agreement administration includes carrying out the terms of the agreement and resolving conflicts over interpretation or violation of the agreement. Under a collective agreement, the process for resolving these conflicts is called a **grievance procedure**. A grievance procedure may be started by an employee or discharged employee who believes the employer violated the agreement or by a union representative on behalf of a group of workers or union representatives.

For grievances launched by an employee, a typical grievance procedure follows the steps shown in Figure 9.6. The grievance may be settled during any of the four steps. In *Step 1*, the employee talks to their immediate supervisor/manager about the problem. If this conversation is unsatisfactory, the employee may involve the union steward in further discussion. The union steward and employee decide whether the problem has been resolved and, if not, whether it is a violation of the collective agreement. If the problem was not resolved and does seem to be an agreement violation, the union moves to *Step 2*, putting the grievance in writing and submitting it to the next level of management. The union steward meets with the management representative to try to resolve the problem. Management consults with the labour relations staff and puts its response in writing too at this second stage. If *Step 2* fails to resolve the problem, the union appeals the grievance to top management and representatives of the labour

grievance procedure

The process for resolving union–management conflicts over interpretation or violation of a collective agreement.

FIGURE 9.6

Steps in an Employee-initiated Grievance Procedure

Step 1

- Employee (and union steward) discusses problem with supervisor.
- Union steward and employee decide whether problem was resolved.
- Union steward and employee decide whether contract was violated.

Step 2

- Written grievance is submitted to production superintendent, another manager, or labour relations representative.
- Steward and manager discuss grievance.
- Management puts response in writing.

Step 3

- Union appeals grievance to top management and senior labour relations staff.
- Additional local or national union officers may be involved.
- Decision resulting from appeal is put into writing.

Step 4

- Union decides whether to refer unresolved grievance to arbitration.
- Union appeals grievance to arbitration for binding decision.

Sources: J. W. Budd, *Labor Relations*, 4th ed. (Burr Ridge, IL: McGraw-Hill/Irwin, 2013); T. A. Kochan, *Collective Bargaining and Industrial Relations* (Homewood, IL: Richard D. Irwin, 1980), p. 395; and J. A. Fossom, *Labor Relations* (Boston: McGraw-Hill/Irwin, 2002), pp. 448–52.

relations staff. The union may involve more local or national officers in discussions at this stage (see *Step 3* in Figure 9.6). The decision resulting from the appeal is put into writing. If the grievance is still not resolved, the union may decide (*Step 4*) to appeal the grievance to an arbitrator. If the grievance involves a discharged employee, the process may begin at *Step 2* or *3*, however, and the time limits between steps may be shorter. Grievances filed by the union on behalf of a group may begin at *Step 1* or *Step 2*.

The majority of grievances are settled during the earlier steps of the process. This reduces delays and avoids the costs of arbitration. If a grievance does reach arbitration, the arbitrator makes the final ruling in the matter.

Employers can assess the grievance procedure in terms of various criteria.⁴³

- **Effectiveness**—how well day-to-day questions about the collective agreement are resolved.

- **Efficiency**—whether issues are resolved at a reasonable cost and without major delays.
- **Adaptability**—how well the grievance procedure adapts to changing circumstances. For example, if sales drop off and the company needs to cut costs, how clear are the provisions related to layoffs and subcontracting of work?
- **Allows for resolving local issues**—in the case of collective agreements covering multiple business units, the procedure should allow for resolving local contract issues, such as work rules at a particular facility.
- **Fairness**—whether employees are treated equitably and are provided a voice in the process.

From the point of view of employees, the grievance procedure is an important means of getting fair treatment in the workplace. Its success depends on whether it provides for all the kinds of issues that are likely to arise (such as

how to handle a business slowdown); whether employees feel they can file a grievance without being punished for it; and whether employees believe their union representatives will follow through. Too many grievances may indicate a problem—for example, the union members or managers do not understand how to uphold the collective agreement or have no desire to do so. At the same time, a very small number of grievances may also signal a problem. A very low grievance rate may suggest a fear of filing a grievance, a belief that the system does not work, or a belief that employees are poorly represented by their union.

Labour–Management Cooperation and Collaboration

The traditional understanding of union–management relations is that the two parties are adversaries, meaning each side is competing to win at the expense of the other. There have always been exceptions to this approach. And, since at least the 1980s, there seems to be wider acceptance of the view that greater cooperation and collaboration can increase employee commitment and motivation while making the workplace more flexible.⁴⁴ Also, evidence suggests that employees who worked under traditional labour relations systems and then under the new, more cooperative systems prefer the cooperative approach.⁴⁵

Employers build positive relationships by the way they treat employees—with respect and fairness, in the knowledge that attracting talent and minimizing turnover are in the employer’s best interests. Opportunities to create a more collaborative workplace culture are needed to provide for the sustainability of business for the long term.⁴⁶

Cooperation and collaboration between labour and management may feature employee involvement in decision making, self-managing employee teams, joint labour–management committees, broadly defined jobs, and sharing of financial gains and business information with employees.⁴⁷ The search for a win–win solution requires that unions and their members understand the limits on what an employer can afford in a competitive marketplace.

Without the union’s support, efforts at employee empowerment are less likely to survive and less likely to be effective if they do survive.⁴⁸ Unions have often resisted employee empowerment programs, precisely because the programs try to change workplace relations and the role that unions play. Union leaders have often feared that such programs will weaken unions’ role as independent representatives of employee interests.

An effective day-to-day relationship between labour and management is critical to achieving cooperation and collaboration. In an adversarial type of environment, union–management communication consists of dealing with grievances; however, a cooperative or collaborative model requires effective communication, trust, and mutual

respect as the foundation for the day-to-day relationship. Many management and union leaders recognize that new approaches are needed to handle mutual concerns.

Improved labour–management relations may benefit both employers and unions by creating a work environment that is more appealing to younger workers by being less bureaucratic and rule-bound. HR has a significant role to play in creating these conditions; for example, reducing the complexity of the language used in collective agreements and working with senior leadership to avoid taking a “hard-line approach” on grievance arbitration and collective bargaining.⁴⁹

A recent example that contrasts with the strained relationship between WestJet and its pilots discussed in the opening feature is provided by Air Canada. Benjamin Smith, president, Passenger Airlines, at Air Canada described recent amendments to Air Canada’s historic long-term (2014–24) collective agreement with its 3,500 pilots represented by the Air Canada Pilots Association (ACPA): “These amendments voted on and ratified by our pilots further emphasize our pilots’ alignment with Air Canada’s successful business strategy to compete effectively in the highly competitive airline industry, and make adjustments of mutual benefit as the competitive environment evolves.” This ten-year agreement was Air Canada’s first deal with pilots since 1996, negotiated without arbitration or a strike.⁵⁰

Labour–management committees provide a relatively flexible approach to labour–management cooperation and collaboration in the workplace. Over the past two decades, the use of *joint labour–management committees* has been growing. More than 80 percent of labour and management respondents to a Conference Board of Canada study reported that they have experience in using joint labour–management committees. The most common issues that such committees deal with are summarized in Table 9.5.

TABLE 9.5

Most Common Joint Labour–Management Committee Issues

1. Pay; benefits; pensions
2. Business issues and updates
3. General labour relations
4. Training; apprenticeships
5. Job evaluation; classifications; postings
6. Operations; technology
7. Hours of work; scheduling

Source: Judith Lendvay-Zwicki, “The Canadian Industrial Relations System: Current Challenges and Future Options,” Conference Board Document, April 2004, p. 17, www.conferenceboard.ca, retrieved April 19, 2004.

An example of cooperation and collaboration in the organized construction industry takes the form of apprenticeships that are administered through labour unions and employer partnerships. Building-trades unions, along with their employer partners, have created Joint Apprenticeship Committees (JACs) in most provinces and territories. These partnerships are financed by industry training trust funds that own and operate training facilities.⁵¹

And in the public sector, employers and unions are finding common ground when focusing on workplace mental health. Younger employees are credited with making the topic of mental health less stigmatized and a topic of

conversation, which is motivating employers and unions to make mental health a priority. The Public Service Alliance of Canada (PSAC) and the federal government recently created a joint committee to study mental health, and it is anticipated that language addressing mental health will be included in forthcoming collective agreements.⁵²

The federal government's Joint Union Management Task Force on Diversity and Inclusion provides another recent example of collaboration under the joint leadership of the president of the Treasury Board and the heads of the bargaining agents. The task force recently released 44 far-reaching recommendations based on a

Thinking Ethically



Is the Seniority System Fair?

Traditionally, union contracts have called for pay and promotion systems that reward employees with higher pay and advancement as they achieve greater seniority; that is, more years on the job. In a company with a unionized workforce, employees with comparable amounts of experience would have comparable earnings. Employees with greater seniority would earn more than newer employees and employees with the most seniority would be promoted if they met the minimum requirements of the job opportunity.

Some people question whether tying pay and advancement to seniority is effective or even fair. For example, top-performing, recently hired employees with educational qualifications that exceed the requirements of a desired job may become frustrated when they are not even selected for an interview because many employees with greater seniority applied. However, many union leaders view the seniority clause as the means to ensure fairness in how employees are rewarded in an organization. This dilemma connects to balancing the needs of both older and younger workers to remain relevant. Younger workers tend to “have shorter tenure in organizations than older workers and are therefore less likely to benefit from seniority clauses.”

In a survey of Canadian organizations, consulting firm Watson Wyatt found that one of the top five

reasons that employees quit their jobs is dissatisfaction with promotional opportunities. In addition to promotion decisions, seniority clauses also affect other aspects of employees' experience at work including who receives a pay increase, who is eligible for a transfer, and when vacations can be taken. For example, participants in a recent roundtable discussion said that “younger workers do not want to wait until they are more established in their careers to have occasional weekends off or be able to take time off in the summer.”

Questions

1. Why do you think unions have traditionally favoured a system of linking pay, advancement, and scheduling to seniority? Who benefits? Why do you think management might favour a system of linking pay, advancement, and scheduling to performance? Who benefits?
2. What employee rights and expectations does a seniority-based pay, promotion, and scheduling system fulfill?
3. What employee rights and expectations does a performance-based pay, promotion, and scheduling system fulfill? What standards for ethical behaviour does it meet?

Sources: Monica Haberl, “Industrial Relations Outlook 2018: The Changing Face of Labour,” December 2017, *Conference Board of Canada*, p. 17; Yaseem Hemeda, “Attracting, engaging young workers,” *Canadian HR Reporter*, December 14, 2015, p. 19; Virginia Galt, “Stress, Not Money, Main Cause of Turnover,” *The Globe and Mail*, December 15, 2007, p. B10.

year-long consultative process that generated almost 12,000 responses to an online survey and 22 discussion forums with more than 500 participants. The recommendations are intended to provide a critical step to achieving the stated Task Force's diversity inclusion vision for the public

service: "A world-class public service representative of Canada's population, defined by its diverse workforce and welcoming, inclusive and supportive workplace, that aligns with Canada's evolving human rights context and that is committed to innovation and achieving results."⁵³

SUMMARY

LO1 Define unions and labour relations and their role in organizations.

A union is an organization formed for the purpose of representing its members in resolving conflicts with employers. Labour relations is the management specialty emphasizing skills that managers and union leaders can use to minimize costly forms of conflict and to seek win-win solutions to disagreements.

LO2 Identify the labour relations goals of management, unions, and society.

Management have goals to increase the organization's profits and/or productivity. Managers generally expect that unions will make these goals harder to achieve. Unions have the goal of obtaining pay and working conditions that satisfy their members. Society's values have included the view that the existence of unions will replace conflict or violence between workers and employers with fruitful negotiation.

LO3 Summarize laws and regulations that affect labour relations.

Laws and regulations affect the degree to which management, unions, and society achieve their varied goals. Canada's overall labour relations legal framework is decentralized with responsibility for labour relations shared among the federal, provincial, and territorial governments. A common core of labour legislation exists that includes prohibiting unfair labour practices by management and labour. Labour relations boards or similar quasi-judicial tribunals exist within each jurisdiction to administer and enforce labour laws.

LO4 Describe the union organizing process.

Organizing begins when union representatives contact employees and invite them to sign a membership application. When the required numbers of employees have signed membership applications, the union will apply to the appropriate labour relations board for certification. Requirements for certification differ among federal, provincial, and territorial jurisdictions.

LO5 Explain how management and unions negotiate and administer collective agreements.

Negotiations take place between representatives of the union and the management bargaining unit. The process begins with preparation, including research into the other side's strengths and demands. If bargaining breaks down, the impasse may be broken with a strike, lockout, mediation, conciliation, or arbitration.

Collective agreement administration is a daily activity under the collective agreement. It includes carrying out the terms of the agreement and resolving conflicts over interpretation or violation of the agreement.

LO6 Describe more cooperative and collaborative approaches to labour-management relations.

In contrast to the traditional view that labour and management are adversaries, some organizations and unions work more cooperatively and collaboratively. This relationship may feature employee involvement in decision making, self-managing employee teams, joint labour-management committees, broadly defined jobs, and sharing of financial gains and business information with employees.

CRITICAL THINKING QUESTIONS

1. Why do employees join unions? Have you ever belonged to a union? If you did, do you think union membership benefited you? If you did not, do you think a union would have benefited you? Why or why not?
2. Why do managers at most companies prefer that unions not represent their employees? Can unions provide benefits to an employer? Explain.
3. Can highly effective human resource management practices make unions unnecessary? Explain.

4. How has union membership in Canada changed over the past few decades? How does union membership in Canada compare with union membership in other countries? How might these patterns in union membership affect the HR decisions of a global company?
5. What legal responsibilities do employers have regarding unions? What are the legal requirements affecting unions?
6. “Management gets the kind of union it deserves.” Discuss.
7. If the parties negotiating a collective agreement are unable to reach a settlement, what actions can resolve the situation?
8. Why are most negotiations settled without a strike or lockout? Under what conditions might management choose to accept a strike?
9. What are the usual steps in a grievance procedure? What are the advantages of resolving a grievance in the first step? What skills would a supervisor need so grievances can be resolved in the first step?
10. Can the presence of a union enhance employees’ experience at work? What advice would you provide to union leaders to make unionization more relevant to younger employees?

EXPERIENCING HR—APPRECIATING SHARED NEEDS AND INTERESTS

Divide into groups of six students. List your names in order of your birthdates (month and day). The first half of the students on the list will be the management team in this exercise, and the second half of the students will be the union team. (If the class size results in a group with an odd number of members, the last person on the list in that group can choose which team to join.)

Imagine that you work for an employer that is interested in working with its union representatives to address areas of mutual interest in a cooperative and collaborative way. Your instructor will assign one of the following priorities to your management and union team:

- needs of LGBTQ2+ employees
- needs of Indigenous employees

- needs of employees who have experienced domestic violence or violence on the job
- needs of employees who have a critically ill child

Spend 10 minutes in your separate teams to identify some of the needs and priorities that may be particularly important to address. Review Table 9.3 as a starting point to identify areas of a collective agreement that may be relevant. Then spend 15 minutes together, seeking areas of mutual interest. After this discussion, work independently to write your own assessment: Do you think your company and union can arrive at a set of agreed-to needs and priorities? Why or why not? What have you learned about yourself or others from this exercise?

CASE STUDY: EVIDENCE-BASED HRM

Random Drug Testing at the Toronto Transit Commission (TTC)

The Supreme Court of Canada has tended to accept drug testing when there is reasonable cause or following an incident; however, *random* drug testing has tended to be more controversial. The Toronto Transit Commission (TTC) recently implemented random drug testing, which met with opposition from the Amalgamated Transit Union (ATU) Canada. However, the judge resisted the injunction request from the ATU, based on expert evidence provided by the TTC that oral fluid technology has the ability to determine impairment due to drug use. The TTC’s website provides a list of specific drugs the random drug tests are targeting; for example, cocaine, amphetamines, oxycodone, and marijuana/cannabis. These drugs were targeted

for testing because they “inhibit someone’s ability to perform their job safely and productively.”

The legalization of cannabis for recreational use in Canada has become a top-of-mind issue for both management and unions, and language in collective agreements that address its use likely requires revision. According to Linda Silas from the Canadian Federation of Nurses Unions (CFNU): “We as unions—but I think for employers too—are going to have to be very careful for a few years until the evidence is clear . . . the evidence is not there on what cannabis will do, how long it stays in your system, and what impairment [is].”

In addition to recreational users, it is estimated that “450,000 Canadians will be using cannabis for medical

purposes by 2024,” however, many organizations do not currently have bargained language in place.

Questions

1. What data and information do unions and employers need in order to develop effective collective agreement language related to worker impairment

associated with drug use/abuse (including prescriptions for opioids and cannabis)?

2. Once negotiated, what data and information do employers and unions need to assess whether collective agreement language related to drug use/abuse is supporting workplace health and safety?

Sources: Monica Haberl, “Industrial Relations Outlook 2018: The Changing Face of Labour,” *Conference Board of Canada*, December 2017, pp. 7–12; Nicole Brockbank, “Half of TTC employees who failed random drug test in first 6 months tested positive for pot,” November 15, 2017, *CBC News*, www.cbc.ca, retrieved June 4 2018; Jane Cooper, Shannon Jackson, and Lisa Irish, “Evidence-based labour relations,” *Canadian HR Reporter*, October 30, 2017, p. 14; “Random drug and alcohol testing at the TTC – Information Guide 2017,” www.ttc.ca, retrieved June 4, 2018.

CASE STUDY: HRM SOCIAL

UFCW Canada Uses Social Media to Engage with Young Workers

UFCW Canada has launched a new initiative called INCITE to engage and educate young workers about their rights at work. The INCITE activist team has a website and is also active on Twitter and Instagram (@incitemore), as well as Facebook (incitemore). The INCITE team was launched when it hosted a display and a series of in-class presentations to engage with students during George Brown College’s week-long Labour Fair. The goal of the INCITE team is “to improve the working and living conditions of young workers across Canada by providing knowledge and tools to address the realities and challenges that young workers face”; for example, unpredictable scheduling. Various social media platforms are used for advocacy and engagement.

UFCW Canada describes itself as “Canada’s leading union for young workers” and explains that INCITE builds upon its other young worker initiatives such as Students Against Migrant Exploitation (SAME) and the Youth

Internship Program (YIP). The INCITE website and social media recently promoted upcoming Youth Internship sessions in Moncton, New Brunswick; Barrie, Ontario; Gimli, Manitoba; and Harrison, British Columbia. The UFCW Canada website also features “Think Forward: Young Workers Blog” as well as a YouTube channel with videos targeted to young workers; for example, Students go #AllOut to #TossTuition.

Questions

1. What is your reaction to UFCW Canada’s efforts to engage with, support, and educate young workers? Do these efforts change your perspectives about the relevance of unions to young workers? Explain.
2. Do you think social media is an effective way to attract young workers to attend in-person events? Why or why not?

Sources: “UFCW Canada launches Incite initiative,” www.ufcw.ca, retrieved June 1, 2018, “Think Forward: Young Workers Blog,” www.ufcw.ca, retrieved June 3, 2018, <https://www.youtube.com/user/UFCWCanada>, retrieved June 3, 2018.