

Federal Labour Standards Review Commission

Summary of Report and Recommendations

Pressures

- Demographic change
- Global economy
- New technology
- New role for regulation

Strategic Priorities

- Moral imperative – decent working conditions
- Enhanced compliance
- Diversity in the workplace – inclusion and respect
- How to resolve work/life conflicts
- Workplace adjustment and productivity

Federal Jurisdiction

Unusual characteristics

- Large national enterprises
- Differences among sectors, especially trucking
- First Nations governments
- 86% of workers in large firms
- Higher rates of pay – 52% above \$ 20.00 per hour
- Higher rates of unionization – 32%
- Older workforce
- Male dominated, except banking

The Fundamental Principle

Decency at work

Labour standards should ensure that no matter how limited his or her bargaining power, no worker...is offered, accepts or works under conditions that Canadians would not regard as “decent”

.... No worker should therefore receive a wage that is insufficient to live on, be deprived of ... wages or benefits to which they are entitled, be subject to coercion, discrimination, indignity or unwarranted danger ... or be required to work so many hours that he or she is effectively denied a personal or civic life

Strategic Principles

- Market economy
- Flexicurity: combine flexibility for employers with security for workers
- The level playing field
- The workplace bargain
- Inclusion and integration
- Respect for international obligations

Operational Principles

- Effective and efficient use of public resources
- High level of compliance
- Regulated flexibility
- Clarity
- Circumspection

Coverage (Ch-4)

- Need for clarity, codify definitions of “employee”
- Partial coverage for autonomous workers
- Excluded employees (professionals, managers)
- Small business: cover but simplify administration

The Employment Contract (Ch-5)

Clear understandings

- Written notice
- Information re labour and human rights

Collection of unpaid wages

Rights and Respect (Ch-6)

- Human Rights: Overlap
- Human Rights: Conflict
- Psychological harassment

Control Over Time (Ch-7)

The debate

Pressures on Workers

- Two earners
- Jobs more demanding
- Take-home technology
- Insecurity

**Solution: protection –
right to say ‘no’**

Pressures on Employers

- Globalization
- Technological change
- Intense competition
- Supply responses

**Solution: flexibility –
right to hear ‘yes’**

Control Over Time (Ch-7)

The Debate - Why Labour Standards Fail

Workers

- Power
- Decline of collective bargaining
- Weak enforcement
- Employers rapacious
- Employers insincere

Solution: tighten legislation

Employers

- Employee veto
- Delay – ‘emergency’
- Cost
- Practicality
- Bureaucracy
- Good faith questioned

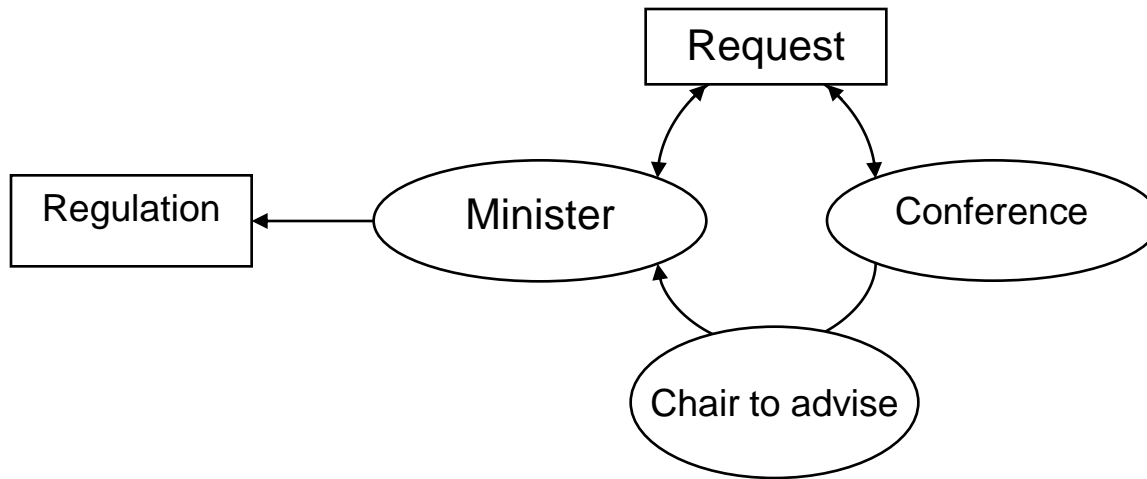
Solution: let the parties decide

Control Over Time (Ch-7)

- Flexibility does exist under present legislation
 - Regulation
 - Permits for excess hours
 - Averaging
 - Modified work week
 - Emergency work
- But the present Ministerial model has defects
 - Time consuming
 - Cumbersome
 - Limited scope for employee input
- So alternative models were proposed
 - Sectoral model
 - Workplace model

Control Over Time (Ch-7)

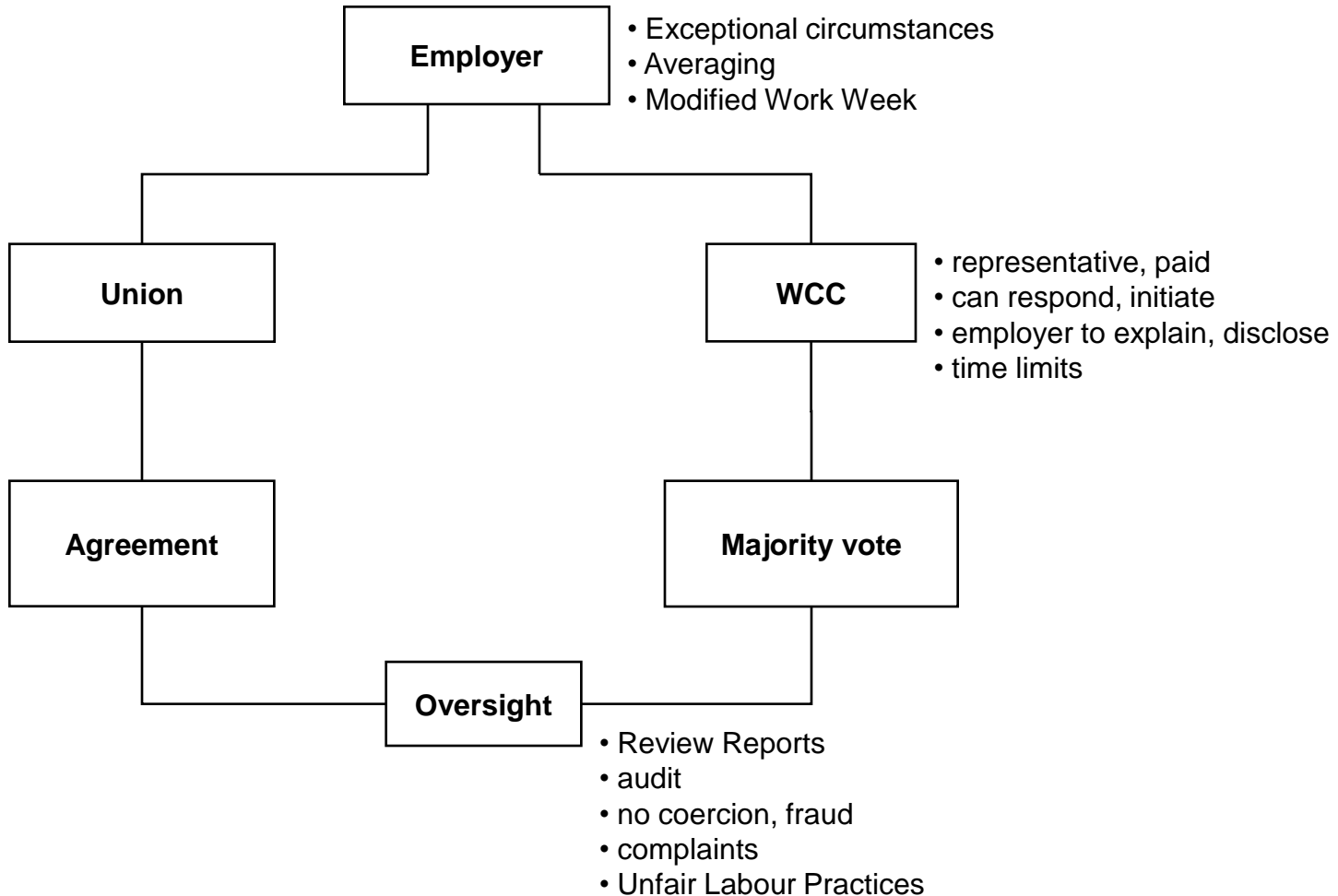
Sectoral Model



- informed
- participatory
- transparent
- criteria to evaluate advice
- chair / Commissioner
- force of law
- sector (open-ended)
- fixed duration

Control Over Time (Ch-7)

Workplace Model



Control Over Time (Ch-7)

- Hours of work
 - Wider scope for employers to respond to emergency situations
 - Alternative work schedules
 - Add clarity to existing permit system
 - Limited right to refuse overtime
 - Notice of shift changes
 - Individual accommodation
 - Greater flexibility if adjusted via WCC or Union

Control Over Time (Ch-7)

- Unpaid leaves for family and civic responsibilities
 - Family care, medical appointment, court, bereavement and public emergency
 - More flexibility for maternity, parental and compassionate care
 - Align to federal income security programs (EI)

Control Over Time (Ch-7)

- Health, Rest and Recreation
 - Breaks, rest periods, nursing mothers
 - Modest increase in vacation leave
 - Statutory holidays – new flexibility for religious or cultural groups

Termination of Employment (Ch-8)

- Reinforce adjudication procedures for non-organized workers who are unjustly dismissed.
- Improve notice requirements and severance pay for workers who lose jobs due to restructuring.

Compliance (Ch-9)

Most important issue confronting the Review

- Evidence of high rates of non-compliance
 - 25% non-compliance with most Part III obligations
 - 75% non-compliance with at least 1 provision
- Analysis of complaints
 - No strategy to forestall violations
 - 92% complaints are post-employment
 - lack tools to discourage repeat offenders
 - resources inadequate for education strategies

Compliance (Ch-9)

- Need both education of employers and empowerment of workers to forestall violations.
- Need real-time information, personnel and powers as well as strategic direction to enhance compliance.
- If can't forestall violations, need array of effective sanctions to deal with one-time offenders and 'bad actors'

Workers Most in Need of Protection (Ch-10)

- Everyone vulnerable, some more so
- The vulnerability syndrome
 - Occupational / sectoral factors
 - Contractual status (Temp / PT /Agency /etc.)
 - Very low wages / few or no benefits
 - Demographic (women, aboriginal, recent immigrants, etc.)
- Special legal status
 - Minors
 - Migrant / permit workers

- **Previous recommendations**

- especially compliance – benefit vulnerable workers most

- **Minimum Wage**

- Worker in full time work for a year should not fall below the poverty line.
- Adjusted to labour markets
- Automatically indexed
- Phased in

- **Improve protection for part-time and temporary workers**

- Equal pay for part-time and temporary workers doing same work
- Length of service for statutory benefits to be cumulative, not consecutive

- **Benefits**
 - Accessibility: Benefit Bank
 - Portability: Benefit Bank
- **Migrant / Permit Workers**
 - Better monitoring
 - Contract compliance strategy

Labour Standards in a Dynamic Economy (Ch-11)

- Role of labour standards is primarily facilitative
- Access to training
- Flexicurity
- Building trust and cooperation
- Promoting best practices

Labour Standards in a Dynamic Economy (Ch-11)

Flexibility + Security = Flexicurity

- Flexibility
 - Considerable, OECD
 - Portable benefits – Benefits bank
- Security
 - Severance: small increase
 - Improve EI interface
- Adjustment Process

Labour Standards in a Dynamic Economy (Ch-11)

Support for Training and Education

- Refuse OT for study
- Banked OT: time in lieu for study
- Up to 5 days unpaid study leave
- Explore options to encourage employers to provide
 - Levy
 - Credits
 - Subsidy
- Unpaid leave to access training related income support programs
- Must connect to national strategy

Labour Standards in a Dynamic Economy (Ch-11)

Trust + Cooperation

- Sectoral conferences and WCC as confidence builders
- Labour Program to revive existing partnership programs
- Promote voluntary codes + monitoring

Promote Best Practice

- Connect to federal workplace skills strategy
- Information
- Education
- Promotion
- ISO – type certification

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