

Strikes in the Canadian Higher Education Sector: The Feasibility of Compulsory Binding Arbitration

Sirvan Karimi¹, PhD

¹ Assistant Professor, York University, School of Public Policy and Administration, Faculty of LA&PS, Office: 133 McLaughlin College, Canada

Correspondence: Sirvan Karimi, PhD, Assistant Professor, York University, School of Public Policy and Administration, Faculty of LA&PS, Office: 133 McLaughlin College, Canada.

Received: December 3, 2019

Accepted: December 24, 2019

Online Published: December 27, 2019

doi:10.5430/ijhe.v9n2p54

URL: <https://doi.org/10.5430/ijhe.v9n2p54>

Abstract

The prevalence of labour disruptions in the Canadian education sector requires a comprehensive analysis of the adverse implications of strikes for stakeholders and Canadian society in general. Education is a kind of public good that generates positive externalities and strikes in Canadian universities and colleges engender negative externalities as manifested in the infliction of psychological and financial harms on students who become hostages to the hostility between unions and academic administrators. The overriding interests of students, families, faculty, educational institutions, and the broader community necessitate that impasses in collective bargaining negotiations be resolved without resorting to strike. Therefore, there are compelling, justifiable grounds to consider integrating compulsory binding arbitration in collective bargaining agreements as a mechanism to tackle and resolve impasses in collective bargaining negotiations in the higher education sector.

Keywords: higher education, collective bargaining, strike, academic performance, compulsory arbitration, charter, academic reputation

1. Introduction

Strikes in universities, colleges and schools have become a prevailing feature in public education systems across nations. During the 2017-2018 academic year, Ontario became the epicenter of two major strikes which, to a great extent, paralyzed academic activities in Ontario Colleges and York University. As a pressing public policy issue, the imperative for termination of these two long strikes propelled the Ontario Provincial Government to resort to back-to-work legislation mechanisms to facilitate the resumption of academic activities. The prevalence of labour disruptions in the Canadian education sector requires a comprehensive analysis of the adverse implications of strikes for stakeholders and Canadian society in general. Education is a kind of public good that generates positive externalities. As such, strikes in Canadian universities and colleges also engender negative externalities as manifested in the infliction of psychological and financial harms on students who become hostages to the hostility between unions and academic administrators. The overriding interests of students, families, faculty, educational institutions and the broader community necessitate that impasses in collective bargaining negotiations be resolved without resorting to strike. Therefore, there are compelling, justifiable grounds to consider the supersession of the right to strike as a tool in collective bargaining in the higher education sector with compulsory binding arbitration in order to prevent harms on students, striking faculty, educational institutions and Canadian society in general.

This paper is divided into five parts. The first part of the paper reflects on the historical development of collective bargaining in Canada. The second part discusses the judicial interpretation of the *Charter of Rights and Freedoms* (the "Charter") particularly, section 2(d) which guarantees freedom of association. Part three analyzes the adverse financial and psychological implications of strikes for students. Part four explicates how strikes can paradoxically be transformed into a self-destructive mechanism for strikers. Finally, part five highlights the adverse ramifications of relying on temporary teaching instructors for post-secondary institutions. In the concluding part of the paper, the main points will be recapitulated.

2. Historical Background to Collective Bargaining

In Canada, the right to collective bargaining has experienced a tumultuous transformation. Even though workers had already been allowed to organize and form unions in the late 19th century, collective bargaining in the education sector came to be gradually recognized in statutes in the 1960s and 1970s. In fact, unionization of faculty in the higher education sector first began in Quebec in the 1960s and became a reality in English-speaking Canada by the mid-1980s (Robinson, 2006). The right to collective bargaining was first granted to the private sector workers in 1944 through an order in council, P.C. 1003 (Glasbeek & Fudge, 1995). It was in 1967 that the right to collective bargaining was extended to public sector workers through the *Federal Public Service Staff Relations Act* (Gunderson & Hedbon, 2010). Though Quebec had granted the right to collective bargaining to its public sector workers in 1965, all other provinces followed the federal enactment of the right to collective bargaining in 1967. The economic crisis of the 1970s placed the right to collective bargaining under intense legislative pressures (Swartz & Panitch, 2003). By the 1980s, legislative enactment came to replace collective bargaining agreements (Gunderson & Hedbon, 2010). Both federal and provincial governments began to suspend wage increases and frequently resorted to back-to-work legislation in order to prevent and put an end to wildcat strikes (Panitch & Swartz, 2003). The early legislative curtailment of the right to collective bargaining coincided with the adoption of the Charter in 1982. For decades prior to the entrenchment of the Charter in the *Constitution Act of 1982*, unionized workers had already been granted limited statutory rights to strike. However, because the right to strike had not been constitutionalized, federal and provincial governments had an unfettered latitude in imposing legislative limitations on the right to strike.

With the advent of the Charter, labour unions began to contemplate utilizing the Charter as a bulwark against legislative intrusion into the realm of industrial relations and collective bargaining negotiations. However, in 1987, labour unions encountered a major setback due to the Supreme Court of Canada's rulings in three key labour related cases concerning the protection of the freedom of association: *Public Service Alliance of Canada v. Canada (PSAC)*, *RWDSU v. Saskatchewan (Dairy Workers)*, the *Alberta Reference* which are regularly referred to as the "Labour Trilogy". In these three cases, the Supreme Court ruled that legislative measures controlling wage increases, imposing back-to-work legislation and preventing strike were not in violation of the freedom of association protected in section 2(d) of the Charter (Hurst, 2017). In fact, the Supreme Court initially held that the freedom of association was an individual right not a collective right and therefore, it could not be extended to associations. As Peter Hogg (2011) has pointed out, in the early years of the Charter, the Supreme Court was adamant in asserting that the freedom of association:

...was possessed by individuals who wished to associate, but not by the association they formed. From that premise, the court reasoned that an association, once formed, was not guaranteed the right to engage in collective activity, even if the activity was a foundational or essential purpose of the association (p. 44.3,c) .

In a decisive shift of opinion, the Supreme Court recanted its previous ruling in the Labour Trilogy and recognized the right to collective bargaining in *B.C. v. Health Services and Support* (2007). The Supreme Court came to a conclusion that the freedom of association has no meaning if the right to collective bargaining is not protected under section 2(d) of the Charter and therefore, "a review of the jurisprudence leads to the conclusion that the holdings in the Alberta Reference and *PIPSC* (commonly known as the "Labour Trilogy") excluding collective bargaining from the scope of section 2(s)) can no longer stand" (Health Services and Support, 2007, para 36). However, while the Supreme Court recognized the constitutional protection of the right to collective bargaining, it eschewed from extending this right to the model of bargaining and the outcomes of collective bargaining negotiations. Even though the Supreme Court recognized collective bargaining as a right protected by section (2d) of the Charter, it did not include the right to strike in the right to collective bargaining.

3. The Right to Strike

Historically, the act of striking has been envisioned by labour unions as the most effective means to achieve major positive changes in their collective bargaining agreements. As Erik Loomis (2018) has pointed out, "strikes are moments of tremendous power precisely because they raise the stakes, bringing private moments of poverty and workplace indignity into the public spotlight" (para. 8). Unions' tactical calculation of the use of strikes is predicated on an assumption that the threat of resorting to striking is bound to exert pressures on employers to make concessions to workers. It has almost become a common tactic by unions to secure a strike authorization vote in order to display a credible threat to accomplish their objectives in collective bargaining negotiations. As a reflection of the breakdown in collective bargaining negotiations, strikes had occurred in different forms even before workers were first organized in trade unions. A limited right to strike was also included in legislative provisions governing collective bargaining

negotiations across Canadian provinces (Gunderson & Hedbon, 2010). However, strikes in the education sector are a 20th century phenomenon. The first strike in the education sector took place in Victoria, British Columbia in 1919 by the Victoria Teachers' Association (Arruda, 2017). In fact, it was in the second half of the 20th century that sporadic strikes in the higher education sector, particularly in colleges and universities became prevalent. These strikes in colleges and institutes were mainly driven by issues related to workload and salaries (Hogan & Trotter, 2013). Despite provincially enacted statutory provisions for dispute resolution mechanisms that ranged from the right to strike to binding arbitration, and arbitration at the request of one party to have a choice of procedure, strike was not regarded as a component of collective bargaining until 2015. Even with the advent of the Charter, the Supreme Court refused to interpret strike as a right protected under section 2(d) of the Charter. It was in *Saskatchewan Federation of Labour v. Saskatchewan* (2015) that the Supreme Court included strike in the right to collective bargaining, which had already been recognized by the Supreme Court in its ruling in the aforementioned *Health Services and Support Case* (2007).

Even though the ruling in *Saskatchewan Federation of Labour v. Saskatchewan* has been hailed by Public Sector Unions as a "game changer" in Canadian labour relations, it is imperative to analyze the most significant point that shaped the view of most of the Supreme Court judges in this case. The major flaw in the *Saskatchewan Public Service Essential Act* of 2005 which became the basis for striking down the law as unconstitutional was the absence of explicitly specified alternative such as arbitration to the prohibited right to strike in the act for resolving collective bargaining impasses. According to the majority's argument:

Where strike action is limited in a way that substantially interferes with a meaningful process of collective bargaining, it must be replaced by one of the meaningful dispute resolution mechanisms commonly used in labour relations (*Saskatchewan Federation of Labour*, 2015, para. 17).

In other words, had the Saskatchewan Government included an alternative dispute resolution mechanism, such as arbitration, in its law to deal with collective bargaining impasses, strike in essential services would not have been regarded as a right and the legislative restriction on strike would have been upheld by the Supreme Court. This aspect of the Supreme Court's justification to strike down the *Saskatchewan Essential Services Act, 2005* can be elaborated on and can be utilized to justify the substitution of the right to strike with a compulsory binding arbitration in collective agreements across Canadian post-secondary institutions. In fact, in a recent ruling by the B.C. Supreme Court on Ferry Workers' rights to strike, Justice Grace Choi stated that the "interest arbitration clause at issue is a legitimate dispute resolution mechanism consistent with the principles expressed and implied in the code [in the B.C. Labour Relations Board]" (Yu, 2019, p. 1). One of the significant legal implications of the ruling in *Saskatchewan Federation of Labour* is that governments, both as employers and legislators, should integrate alternative dispute resolution mechanisms, such as compulsory binding arbitration, in their collective bargaining agreements if they intend to limit or prohibit the right to strike (McDermott 2016, p. 220). Thus, the Supreme Court's indication to the centrality of an alternative to the right to strike in collective bargaining agreements provides a basis for eclipsing the specter of strikes in higher educational settings, which have lasting pernicious ramifications for students and their educational attainment.

4. Strike and Students

Despite economists' inveterate debates over whether education is a public or private good, education has in fact been recognized both as a human right as well as an essential public service (Daviet, 2016; Deacon, 2014; McMahon, 2009). As Craig Calhoun (2009) has pointed out, it is the overriding public mission of the higher education sector to equip students with skills needed by public service professions, informing debate in the public sphere and preparing students as citizens and workers to engage in producing new technologies and other innovations that would advance social mobility. The significance of education as an essential public good emanates from its positive spillover benefits that go beyond the person who receives education. Education not only benefits those who receive it but it also benefits society as whole (McMahon, 2009; OECD, 2008). Education, particularly higher education, is a wellspring of ideas behind innovations which can, in turn, function as an engine of economic growth and prosperity. An educated and informed citizenry is not only crucial for economic growth in an era of global competitiveness, but it is also a *sine qua non* for a vibrant and stable democracy (Riddle, 2014). It is due to this positive externality of education that the state is required to play a decisive role in the education sector through maintaining compulsory school attendance for children and subsidies for post-secondary education. Thus, it can forcefully be asserted that because education is a kind of good that is essential for the general well-being of society and is a prelude to

society's stability and prosperity, strikes in the education sector, particularly in higher education entities, directly and indirectly inflict harm on society.

It is also clear that strikes in the education sector are conducive to generating negative externalities. The prime victims of strikes in universities, colleges and public schools are students. More specifically, students become hostages to the adversarial nature of collective bargaining negotiations between unions and school administrators which can culminate in strikes or lockouts. Though students are not part of collective bargaining negotiations, strikes turn students into "human shields," where students and their education are used as a focal point in matters of strike (Albar & Onye, 2016, p. 48). Thus, students who are not part of labour disputes will be subject to enduring heavy financial and psychological costs and may face delays in completing their degrees. In order to adhere to their contractual obligation in delivering their services and obviate the possibility of facing legal challenges by students, universities and colleges are required to provide remediation after a strike. Remediation might take various measures such as re-scheduling lectures, classes and assessments. Even though universities and colleges would provide remediation for those affected students in order to minimize the harms on their educational attainment, remediation has the potential to adversely affect the quality of education. Remediation after strike has to address two crucial principles: maintaining academic integrity (for example, making sure students complete course requirements as scheduled) and applying equity to the accommodation of affected students (for example, shortening the duration of classes, providing more times for the completion of courses, leniency towards those who, for legitimate reasons, might not be able to attend rescheduled remediation classes). If a strike is prolonged, there is a greater possibility for an adjustment of academic expectations and graduation requirements which would in turn have potential negative implications for the value of degrees and certificates (Wichens, M, Christine, Labrish, Cathy, Masoumi, Azar, Fiksenbaum Lisa M & Greenglass, Esther R. 2016, p.3). Accommodation of affected students is inevitably conducive to infringing upon academic integrity and hence the quality of education. Therefore, these sequences of cause and effect ensuing a strike in a given college or university will have lasting adverse implications for society's general well-being. The long-term negative impacts of strikes have demonstrated to be substantial (Baker, 2013; Jaume & Willen, 2018). In a study completed on students who were subject to strike in both York and Toronto Universities, it was found that almost 75% of students reported experiencing anxiety, stress and worry concerning the impact of strike on their grade and quality of education. Furthermore, "approximately, 80% of students from both universities indicated that they had learned less than they should have in a course as a result of the strike" (Wickens et al., 2016, p. 3). Thus, prolonged strikes have the potential to lead to "production of half-baked graduates" in post-secondary institutions (Kimeu, 2018). Strikes in the higher education sector not only have significant financial, educational and psychological ramifications for students, but they also adversely affect striking faculty and contract faculty members as well.

5. Strikes and Teaching Faculty

Collective bargaining has been hailed as the manifestation of industrial democracy that is conducive to tackling and mitigating ingrained power imbalances in workplace relations between employers and employees. It is rightly asserted that collective bargaining would offset the powerlessness of individual employees and would enable workers to collectively negotiate the terms of employment in workplace settings. Furthermore, meaningful collective bargaining necessitates the right to resorting to strike as an effective mechanism to enforce industrial democracy. However, the assumption that collective bargaining mechanism is a toothless tool without the right to strike, has proven to be controversial. If powerful alternative dispute resolution mechanisms such as compulsory binding arbitration are integrated into collective bargaining agreements, collective bargaining negotiations in the education sector can be effective in peacefully advancing the interests of employees. As Elisabeth Gugl and Martin Farnham (2014) have pointed out, "all three BC universities (UNBC, UBC, and UVIC) with interest arbitration achieved monetary benefits exceeding the PSEC mandate in the last round of bargaining" (para. 2). The effectiveness of interest arbitration can also be demonstrated through comparing Ryerson University with York University. Faculty at Ryerson University does not have access to the right to strike in case of impasses in collective bargaining negotiation. The faculty association at York University enjoys such a right and went on strike in 1997. In comparison to Ryerson University where the teaching load for faculty had already been reduced to two full courses without resorting to strike, York University's faculty association was finally able to achieve the same goal but with certain qualifications in 2016.

Unions in the Canadian higher education sector resort to strike as a weapon to extract concessions (for example, raising salaries, improving fringe benefits and greater job security) from employers. In other words, unions envision strike as an effective and powerful weapon in their arsenal that can be utilized to advance the interests of workers in collective bargaining negotiations. However, in order to garner public support and rationalize their demands, workers raise the flag of fighting for improving the quality of education. Going on strike is an emotional rollercoaster for

striking members. When emotion runs high during strike, there is a natural proclivity within labour movement militancy to translate collective bargaining into a struggle against capitalism, neoliberalism, alienation, corporatization of universities, oppression and enhancing the accessibility and quality of education. Therefore, strikes in the education sector will flare into revolutionary demands and a catalyst for an expression of wider dissatisfaction far beyond workplace disputes. Consequently, educational institutions will be turned into a playground to indulge in revolutionary fantasy which has nothing to do with improving quality of education. In fact, union leaders and their social activist sympathizers do not conceal their motivation in turning strikes in educational institutions into a springboard to bring about a revolutionary transformation of Canadian society (Kuhling, 2002; Pason, 2008). When the discourse along the picket line shifts from resolving impasses in collective bargaining through negotiation to revolutionary restructuring of society and when university administration is depicted as the enemy of the working class, it would be a formidable task to foster cooperation and compromise. Invoking the charges of exploitation, injustice and unfairness against universities or colleges has the potential to create an impression that universities and colleges are plantations or sweatshops. However, as Reg Whitaker (2002) has meticulously pointed out,

despite pseudo-Marxist slogans, universities are not capitalist enterprises generating surplus value from the labour of their workers. Faculty are not a professorate or proletariat. Relatively speaking, professors are well paid and enjoy benefits and working conditions that would be the envy of many less fortunate (para. 22).

Furthermore, strikes in the education sector provide enough ammunition for certain politicians and politically motivated commentators to depict school educators as "militant hardliners who are unwilling to compromise" which would in turn engender a sense of public resentment and indignation towards strikers (Espinoza, 2016, para. 6).

One of the compelling arguments deployed in support of strikes in universities and colleges is that these educational entities are benefiting "from contract faculty who face high workloads, low job security and lower wages than tenured professors, leaving a mental health drain on ...educators" (Rutgers, 2017, para. 1). It should be noted that the pervasiveness of job precarity is not confined to Canadian universities and colleges. Temporary and contract jobs have become a striking dimension of workforces at both the national and international levels (Mosoetsa, Sarah, Stilleman, Joel & Tilly, Chris, 2016; Robinson, 2006). Despite the use of contract faculty in universities and colleges, it can also be argued that even contract faculty in universities and colleges are relatively well-paid and are, to a great extent, enjoying workplace fringe benefits that might not be available to workers in other sectors of the economy.

Strikes in colleges and universities have the potential to accomplish the opposite of what had been envisaged and promised by unions and their members. First, picketing in universities and colleges would inevitably engender a sense of hostility and frustration among students and parents towards unions. Shutting down classes, physically blocking roads, heckling and haranguing students who desire to attend classes or spend time in the library and asking commuters not to enter university facilities are conducive to provoking strong public backlash. Therefore, it would be a formidable task to shift public opinion in favour of strikers. Furthermore, strikes can damage the social fabric of the education community and it would take time for the animosity and resentment to subside and rebuild the damaged relationship. Additionally, most of these strikes that are launched under the banner of enhancing job security for contract and sessional teachers would paradoxically end up in generating more job insecurity. Repetition of strikes in a given university is conducive to tarnishing the academic image and reputation of the very university which might gain the reputation of not producing competent and qualified graduates. The same university might encounter a decline in student enrollment and hence fewer courses will be available for contract and sessional teachers (Rushowy, 2017). Consequently, a specter of insecurity, uncertainty and anxiety will haunt sessional and contract faculty after each strike. Thus, strikes launched by unions in order to advance the interests of their members, can in fact be transformed into a self-destructive mechanism. Furthermore, strikes also have pernicious and debilitating impacts on universities and colleges, which have become the frequent sites of labour disruption.

6. Strikes and Their Impact on Educational Institutions

Strikes can engender harmful consequences for universities and colleges, which are required to address and tackle the financial loss and tarnished academic reputation that would have lasting imprints on the well-being of educational institutions. Unlike the regular public sector, where strikes can only impose the cost of incontinence because the employer (government) does not incur earning losses, post-secondary institutions do in fact face financial losses. Like the private sector, where strikes can impose financial losses on the employer as customers are forced to shift to other producers that are not on strike, strikes in a university or college can propel incoming students

to consider other universities that are less susceptible to strikes. Thus, as a direct implication of strikes in higher education, reputational damage can adversely impact student enrollment and faculty recruitment (DeCew, 2003).

Due to academic disruption and cancellation of classes that impact students' learning and educational attainment, post-secondary institutions can encounter class action lawsuits launched by students in order to recover their tuitions. These lawsuits have so far been unsuccessful in Canada. In the fall of 2010, a judge rejected a class action lawsuit launched by York University students who had been out of class for three months in the 2009 academic year (Small, 2010). Though such student lawsuits have not been successful in forcing schools to compensate students, international precedent has already been set. Recently, United Kingdom (UK) universities and colleges were required by the *Office of the Independent Adjudicator* to compensate students for fourteen days of strike by staff, lecturers and academics from 65 universities across the UK in 2018 (Busby, 2019).

Strikes can also sow the seeds of negative impression among students towards universities that are the sites of recurring strikes (Amos, Maureen, Day, Victoria H. & Power, Elizabeth, 1993). Frequent strikes in higher educational settings can also pose serious challenges to the institutional ability of universities and colleges wrought by strikes to maintain higher level of enrollment. As has already been pointed out, strikes and the specter of looming strikes can discourage parents from sending their children to universities and colleges that have gained the reputation of being synonymous with strike. In her assessment of the impact of strikes on York University, where students have been hard hit by frequent strikes, Rose Steele, a professor of Nursing, has conspicuously highlighted the consequences of frequent strikes on future enrollment at York University:

So, if I was a councilor in high school, if I was a parent with a child looking at university, unfortunately ... I'd have to agree with those people who say, 'don't go to York'(cited in Selley, 2018, para. 13).

Strikes will have debilitating implications for universities' ranking, knowledge production, competition for national research funds and attracting talented and bright researchers, scholars and international and domestic students. Post-secondary educational institutions cannot extricate themselves from living with strikes if they heavily rely on casual and temporary teaching instructors. Unfortunately, there are incentives for universities and colleges to rely on these temporary instructors because it reduces costs. It is due to the low costs associated with relying on sessional and temporary instructors that in Ontario, "the proportion of permanent workers fell from 70.4% in 1998 to 61.5% in 2016. Conversely, the proportion of temporary workers has increased from 26.3% in 1998 to 37.7% in 2016" (Shaker & Shaban, 2018, p. 25). Given the rise in recruitment of part-time lecturers, it is not surprising that strikes in the higher education sector have been more prevalent among non-permanent lecturers. As David Robinson (2006) has pointed out, "the casualization of the academic workforce has been one of the most significant trends over the past decade" in liberal democratic societies (p. 1). Labour market flexibility is prevalent in business sector. However, labour market flexibility does not seem to be appropriate for the education sector, which entails research and competitiveness in recruiting bright faculty and students. Promising prospective students a superior, high quality education but relying on casual teachers with the aim of reducing costs is a contradictory and controversial hiring policy practiced by universities and colleges. Relying on casualization of employment in the education sector might benefit universities and colleges in the short term, but it will also expose these educational entities to bleak uncertainties in the long term. In his assessment of the 2009 strike at York University, Jeff Rybak (2009) has meticulously captured this dilemma:

The more universities rely on a casual workforce with no investment in the long-term health of the institution, the more they will be vulnerable to bitter and destructive labour actions. You can blame CUPE for this, and fairly point out that they don't seem to care about what they are doing to York and to York's students. But you can also blame York itself, for increasingly moving the bulk of instructor duties into the hands of people who have no real reason to care (para. 10).

7. Conclusion

Education, particularly post-secondary education, performs a vital public function in promoting and enhancing the general welfare of society. Strike and its ensuing disruption and delay in the completion of degrees is geared to unleash severe financial, psychological and institutional ramifications for students, faculty, educational entities and the general public. There is, therefore, a compelling case for rethinking the right to strike in the Canadian higher education sector. Substituting the right to strike with compulsory binding arbitration, which has occasionally been even espoused by faculty associations themselves, might be an appropriate policy instrument to deflect the threats of labour disruption in the education sector. The centrality of education to the general welfare of society, the negative externalities associated with strikes in the higher education sector and adverse psychological, financial and organizational implications of strikes for stakeholders and society justify the imperative for alteration in the structure

of collective bargaining in universities and colleges. Thus, deflecting the specter of strikes in universities and colleges requires the insertion of a no-strike clause in collective bargaining agreements and settling the impasses in collective bargaining negotiations through compulsory binding arbitration. Mandatory binding arbitration is conducive to fostering acceptance of outcomes as settlement of workplace disputes without an element of impartial arbitration may not facilitate the acceptance of the actual disposition of the dispute. Compulsory binding arbitration has gained popularity and may be the most effective alternative to strike as a mechanism to settle impasses in collective bargaining negotiations. Compulsory binding arbitration permits faculty to still negotiate their terms of employment with administrators without interfering with student's academic learning. Though adopting compulsory binding arbitration is not a common practice, it has gained growing momentum because the financial, psychological and social implications of academic disruption have become unpopular. In its plea for adopting compulsory binding arbitration as a mechanism to resolve impasses in collective bargaining negotiation at Simon Fraser University, the University's Faculty Association has outlined the advantages of such a dispute resolution mechanism and has tacitly encouraged members to entertain the utility of compulsory binding arbitration:

members would have to ratify a collective agreement that included provisions for dispute resolution and could opt to take the right to strike or to maintain binding arbitration. At UBC, for example, the Faculty Association has explicitly chosen to retain arbitration and to prohibit strikes and lockouts, and there is no reason members here could not do the same.

Strikes can be an effective tool, without question; and for many, the right to strike is seen as the most fundamental benefit of unionization. However, unions can and do rely on arbitration instead, achieving the benefits of unionization while avoiding the conflict and division that many people associate with strike action (SFUFA, 2013, para. 32).

References

- Albar, A. & Onye, U. (2016). The Influence of University Strikes on Educational Systems: An Explanatory Pilot Study on Nigerian students. *International Journal of Business, Humanities and Technology*, 6(3), 45-51.
- Amos, M, Day, V. H, & Power, E. (1993). Student Reaction to a Faculty Strike. *The Canadian Journal of Higher Education*, XXIII (2), 86-102.
- Andy, H. (2014). When Education and Legislation Meet: Teacher Collective Bargaining in Canada. *Perspectives*, Issue 13. March 7, 2014. <https://perspectives.ctf-fce.ca/en/article/3030/>
- Arruda, T. F. (2017). Canada's First Teachers' Strike: Victoria 1919. *Labour Heritage Centre*. http://www.labourheritagecentre.ca/wordpress/wp-content/uploads/2017/05/GVTA-1919-Strike-Final_web.pdf
- Baker, M. (2013). Industrial Actions in Schools: Strikes and Student Achievement. *Canadian Journal of Economics*, 46(3), 1014-1036. <https://doi.org/10.1111/caje.12035>
- Barbara, D. (2016). Revisiting the Principle of Education as a Public Good. *UNESCO, Working Paper* 17July. <http://unesdoc.unesco.org/images/0024/002453/245306E.pdf>
- Busby, E. (2019). Universities Told to Refund Half of Students' Tuition Fees for Failing to Make Up Missed Lectures During Strikes. *Independent*, Tuesday, May 14, <https://www.independent.co.uk/news/education/education-news/students-university-strikes-tuition-fees-compensation-office-independent-adjudicator-complaints-a8913806.html>
- Calhoun, C. (2006). The University and Public Good. *Thesis Eleven*, 84 (1), 7-43. <https://doi.org/10.1177/0725513606060516>
- Deacon, J. (2014). The Balancing Act Between the Constitutional Right to Strike and the Constitutional Right to Education. *South African Journal of Education*, 34(2), 1-15. <https://doi.org/10.15700/201412071108>
- DeCew, J. W. (2003). *Unionization in Academy: Visions and Realities*. New York: Rowman and Littlefield Publishers.
- Espinoza, J. (2016). Strikes are Futile and Harm Children's Education, teachers Told. *The Telegraph*, 4 July. <https://www.telegraph.co.uk/education/2016/07/03/strikes-are-futile-and-harm-childrens-education-teachers-told/>
- Glasbeek, H. & Fudge, J. (1995). The Legacy of PC 1003. *Canadian Labour and Employment Law Journal*, 3, p. 357-400.

- Gugl, E. & Farnham, M. (2014). Strike/Lockouts vs. Interest Arbitration. Department of Economics, Victoria University. <https://www.uvicfa.ca/wp-content/uploads/2014/04/Strike-vs-Arbitration-April-29-2014.pdf>
- Gunderson, M. & Hedbon, R. (2010). Collective Bargaining and Dispute Resolution in the Public Sector. In Christopher Dunn (Ed). *The Handbook of Canadian Public Administration* (pp. 186-202), (2nd ed), Toronto: Oxford University Press.
- Hogan, B. & Trotter, L.D. (2013). Academic Freedom in Canadian Higher Education: Universities, Colleges, and Institutes were not created equal. *Canadian Journal of Higher Education*, 43 (2), 68-84.
- Hurst, L. G. (2017). A New Hope or A Charter Menace? The New Labour Trilogy's Implications for Labour Law in Canada. *Appeal*, 22, 26-44. <https://journals.uvic.ca/index.php/appeal/issue/view/1224>
- Jaume, D. & Willen, A. (2018). The long-run Effects of Teacher Strikes: Evidence from Argentina. *JEL*. <https://ideas.repec.org/p/dls/wpaper/0217.html>
- Kimeu, P. (2018). Irreversible Effects of the Ongoing University Lecturers' Strike. *Focus Kenya*. <https://www.focuskenya.org/irreversible-effects-of-the-ongoing-university-lecturers-strike>
- Kuhlingm C. How CUPE 3903 Struck and Won. *Just Labour*, 1, 77-85. http://www.justlabour.yorku.ca/volume1/pdfs/jl_kuhlingm.pdf
- Loomis, E. (2018). *A History of America in Ten Strikes*. New York: The New Press.
- McDermott, P. (2016). Finally, the Right to Strike: But What About Organizing? *Alternate Routes: A Journal of Critical Social Research*, 27, 213-223.
- McMahon, W. W. (2009). *Higher Learning, Greater Good: The Private and Social Benefits of Higher Education*. Baltimore: The Johns Hopkins University Press.
- Mosoetsa, S. Stillman, J.& Tilly, C. (2016). Precarious Labor, South and North: An Introduction. *International Labor and Working-Class History*, 89,1-15. <https://doi.org/10.1017/S0147547916000028>
- OECD. (2008). Tertiary Education for the Knowledge Society, Volume 1: *Special Features: Governance, Funding, Quality*; Volume 2: *Special Features: Equity, Innovation, Labour Market, Internationalisation*. Paris: OECD. <https://www.oecd.org/education/skills-beyond-school/tertiaryeducationfortheknowledgesocietyvolume1specialfeaturesgovernancefundingquality-volume2specialfeaturesequityinnovationlabourmarketinternationalisation.htm>
- Panitch, L. & Swartz, D. (2003). *From Consent to Coercion: The Assault on Trade Union Freedoms*, (3rd Ed). Toronto: University of Toronto Press.
- Pason, A. (2008). We Are All Workers: A Class Analysis of University Labour Strikes. *Ephemera: Theory and Politics in Organization*, 8(3), 322-330.
- Riddle, S. (2014). Education Is a Public Good, Not a Private Commodity. *The Conversation*, Sept 30. <https://theconversation.com/education-is-a-public-good-not-a-private-commodity-31408>
- Robinson, D. (2006). The Status of Higher Education Teaching Personnel in Australia, Canada, New Zealand, the United Kingdom , and the United States. Report Prepared for *Educational International*, [https://www.caut.ca/docs/reports/the-status-of-higher-education-teaching-personnel-in-australia-canada-new-zealand-the-united-kingdom-and-the-united-states-report-prepared-for-education-international-\(mar-2006\).pdf](https://www.caut.ca/docs/reports/the-status-of-higher-education-teaching-personnel-in-australia-canada-new-zealand-the-united-kingdom-and-the-united-states-report-prepared-for-education-international-(mar-2006).pdf)
- Rutgers, J. S. (2017). Precarious Labour Is Exploiting University Educators. *The Coast*, August 31, 2017. <https://www.thecoast.ca/halifax/precarious-labour-is-exploiting-university-educators/Content?oid=9156196z>
- Rybak, J. (2009). What You Probably Do Not Know About the York strike: Three rarely talked-about facts make this strike unique. *McLean's*, Jan 22, 2009. <https://www.macleans.ca/education/uniandcollege/what-you-probably-dont-know-about-the-york-strike/>
- Rushowy, K. (2017). Ten Percent of College Students Drop Out After Teachers' Strike. *The Star*, Tuesday., Dec. 12, 2017. <https://www.thestar.com/news/canada/2017/12/12/more-than-25000-ontario-college-students-get-tuition-refund-after-strike.html>
- Selley, C. (2018). Combative Union Makes York University a Buyer Beware Situation for Students." *National Post*, May 8. <https://nationalpost.com/news/toronto/chris-selley-after-four-york-university-strikes-in-18-years-its-buyer-beware-for-students>. May 8, 2018

- SFUFA (The Faculty Association of Simon Fraser University). (2013). *The Unionization Question*. <https://www.sfu.ca/the-unionization-question/>
- Shaker, E. and Shaban, R. (2018). No Temporary Solution: Ontario's shifting college and university workforce. *Canadian Centre for Policy Alternatives*, February.
- Small, P. (2010). Judge Dismisses a Class-Action Suit Against York University. *The Star*, Thursday, Sept 9, https://www.thestar.com/news/crime/2010/09/09/judge_dismisses_classaction_suit_against_york_university.html
- Supreme Court: *Saskatchewan Federation of Labour v. Saskatchewan*. (2015) SCC 4, <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/14610/index.do>
- Supreme Court of Canada: *Health Services and Support-Facilities Subsector Bargaining Assn. v. British Columbia*, 2007 SCC 27. <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/2366/index.do>
- Weiss, J. (2014). Flexibilization Damages the University: Thoughts on The Mt. Allison Strike. *NB Media CO-OP*, Feb 13, 2014. <http://nbmediacoop.org/2014/02/13/flexibilization-damages-the-university-thoughts-on-the-mt-allison-strike/>
- Whitaker, R. (2002). What's Wrong with Canadian Universities. *Literary Review of Canada Magazine*. <https://reviewcanada.ca/magazine/2002/09/whats-wrong-with-canadian-universities>.
- Wickens, M.C, Labrish, C, Masoumi, A, Fiksenbaum, L.M, & Greenglass, E.R. (2016). Understanding the Student Experience of a University Labour Strike: Identifying Strategies to Counter Negative Impact. Toronto: *Higher Education Quality Council of Ontario*. http://www.heqco.ca/SiteCollectionDocuments/HEQCO%20Formatted_%20CAMH.pdf
- Yu, K. (2019). B.C. Supreme Court Dismisses Review Around Ferry Workers' Right to Strike. *Victoria News*, May 23, 2019. <https://www.vicnews.com/news/b-c-supreme-court-dismisses-judicial-review-around-ferry-workers-right-to-strike/>