Hard Lessons from Alberta:
The Difficulties of Applying EU-style Social Dialogue in Canada
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Abstract:

Europe’s model of tripartite “Social Dialogue” has long been elusive in English Canada, yet unions continue to look at the model as a possible path toward greater policy influence. Is social dialogue possible in a Canadian context? Is it in the interests of the labour movement? Do recent weaknesses exposed in Europe’s model diminish its desirability for Canadian unions? This paper examines two cases studies from the province of Alberta which reveal that a complex decision matrix faces unions considering participation in social dialogue. The necessary structural prerequisites for labour-friendly policy outcomes continue to be absent, but the process may hold some promise in limiting employer initiative, at least in narrow policy fields. Unions also need to consider possible consequences for their capacity to organize and mobilize.

Introduction

Europe and North America have charted two distinct paths in terms of how to set economic and social policy. Many European nations and the European Union have developed an intricate, highly institutionalized form of tripartite decision-making between labour, capital and the state, most recently called “Social Dialogue”. The European labour movement has been relatively successful in utilizing the model to achieve a greater degree of policy influence than unions experience in North America. In Canada and the U.S., no such process exists, leaving unions to struggle with other means to achieve influence over the shape and direction of policy.

The Canadian labour movement currently is not and, arguably, never has been particularly influential in shaping public policy (Kwavnick, 1972; Panitch & Swartz, 2003), with the possible exception of Quebec. This reality has been a source of great frustration for union leadership and activists (Panitch & Swartz, 2003). Within the labour movement the question naturally arises of how to increase its influence on policy. Many look toward European labour and its relative success, wondering if the processes used in Europe can be successfully
transplanted to Canada. But how possible, or even desirable, is it for Canadian unionists to adopt and tailor the European model for a Canadian policy context? What ramifications are there for Canadian labour if it were to attempt the European model? Can it invigorate labour’s policy influence, or does it represent something of a primrose path?

This paper explores these questions by examining two cases studies from the Canadian province of Alberta. The case studies have been chosen because they are recent examples of tripartite process applied to a specific policy area, namely occupational health and safety. They represent a contemporary attempt to apply tripartite principles in a North American context, and therefore offer an opportunity to update and refresh our understanding of the potentials and limitations of such processes in North America. In particular, these studies offer a test of Haddow and Klassen’s (2004) speculation that social dialogue-style processes of more modest scale, examining narrower fields of policy, may possess some potential to succeed in Canada.

The case studies will be examined using power resources theory (Korpi, 1983; Stephens, 1979), which offers an explanatory lens in which to understand the structure and ultimate outcomes of the processes. The cases highlight the importance of power differentials in determining the prospects for and outcomes of tripartite-style processes, a key component in the power resources perspective. The case studies offer a warning to unions who wish to embark upon tripartite processes without having first established the necessary political power base from which to negotiate. To this end, power resources discourse offers the most powerful analytical tool for explaining why the processes went down the path they did. Labour in Alberta simply lacks sufficient organizational capacity to counter capital’s power advantage in tripartite processes.
More practically the two cases reveal that Canadian unions face a complex decision-matrix in assessing whether to participate in such processes. On one hand, they suggest that social dialogue, even in the absence of the necessary power balance, may have some limited potential to mute capital’s capacity to fully implement its agenda. Yet, on the other, unions may pay a price in their ability to mobilize through a creeping culture of compromise that can arise through participation in these kinds of processes. It is the accounting of this dilemma that may serve North American labour activists the most as they attempt to shape policy.

The “Social Dialogue” Model

The European model of policy making has been called many things over the years: the Swedish model, concertation, corporatism, social partnership, social pacts, tripartitism, and social dialogue. The term “Social Dialogue” appeared relatively recently, its emergence connected to the signing of the European Union Maastricht Treaty in 1992, yet it is best understood as an EU-level extension of a long-practiced approach of institutionalized, tripartite policy-making between labour, employers and the state (Keller, 2003). This article utilizes the phrase Social Dialogue (SD) as it is generally accepted as the natural offspring of earlier terms (Keller & Bansbach, 2001; Molina & Rhodes, 2002).

At its core, SD is a policy-making process involving industrial relations, economic policy and social policy. SD brings government, employer and labour representatives to the policy table for the purposes of coming to some form of issue or policy resolution. The agreements, which usually become binding on the partners, operate much like workplace collective agreements at a national or regional level. SD can be used to handle macro-economic issues such as wages,
inflation, training, pensions and industrial strategies, or narrower topics, including hours of work, technology, and harassment. SD can also be used by specific sectors or industries.

SD is built upon a number of premises. They include:

- A belief that collaborative policy-making leads to more legitimated, authoritative and durable policy;
- A recognition that the two central economic participants – employers and workers through their unions – have a legitimate economic and social function in society, and therefore should be at the policy table;
- A perspective that centralized, high-level officials are best placed to represent the interests of their respective constituencies, and to commit their constituents to a binding agreement;
- A commitment to creating structures and processes that place the partners on equal footing at the dialogue table. (Atkinson & Pervin, 1998; Keller, 2003; Regini 2003; Pizzuto, 2006; Mailand & Due, 2004; Schroeder & Weinhart, 2004)

Across jurisdictions, the specific shape, structure and dynamics of SD will naturally differ to reflect regional contexts.

SD is often evaluated by how it functions as a policy process, and by its capacity to successfully achieve policy agreement between the actors:

“Social dialogue should be seen in opposition to forms of regulation in which the state regulates unilaterally or regulation is left to the forces of the market. It is widely accepted that social dialogue can act as a means to avoid conflicts or help solve them as they arise, and can play a part in committing key societal participants to essential decisions, in turn, ensuring their implementation.” (Mailand and Due, 2004; 180)

The concern with such evaluations is that they do not consider the content of the policy resolution and how the outcome affects each of the parties to the agreement. In short, it does not
evaluate who gained and who lost. Policy processes cannot be severed from considerations of political power and each party’s relative strength in that dynamic (Hyman, 2001). Here rests the core of power resource theory’s critique of much SD-related literature, a critique that is shared by this paper.

**SD: Debates and Pre-Requisites**

In the 1970s interest arose regarding the so-called “Swedish Model” of tripartite neo-corporatism. Sweden during the immediate post-war period demonstrated a rapid advancement of labour’s agenda on both the economic and social policy front, which many attributed to the success of its “unique” model (Hadenuis, 1996). The apparent Swedish success sparked serious considerations of the transferability of the Swedish model to other nations and political systems. A large body of work appeared attempting to understand the dynamics that shape successful tripartitism, and in particular the conditions required for labour to make substantive gains through such processes. Esping-Andersen (1985a; 1985b), Korpi (1978), Schmitter (1979) all articulated basic pre-requisites for successful corporatist engagement by labour, as measured by the ability of the process to achieve gains for the working class. A strong labour movement partnered with a social democratic party capable of gaining electoral power is central to their analyses. “Trade union organization and the strength of left parliamentary-cum-cabinet control serve as the basic power resources in affecting state policies” (Esping-Andersen, 1985a: 223).

There is a high degree of convergence around the need for certain conditions to be in place for SD-style processes to be successful, on a national or sub-national level. These conditions can be articulated as three pre-requisites: a strong social democratic parliamentary force with a close relationship with the labour movement, unified central labour (and employer)
bodies possessing both credibility among state actors and authority among their constituent members, and state willingness to cede some of its traditional policy role and a motivation to coerce capital if necessary (Haddow & Sharpe, 1997a; Bradford, 1998; Regini 1997; Winterton, 2007; Atkinson & Pervin, 1998; Maier, 1984). These pre-requisites are deeply embedded in the institutional and systemic nature of a jurisdiction, affected to a great extent by electoral systems (Esping-Andersen, 1985b), industrial relations regimes (Regini, 1997), and macro-economic factors (Schroeder and Weinhart, 2004). However, at the centre of this institutional matrix rests the premier issue of the ebb and flow of the power relationship between labour and capital at any given time. That power relationship, while rooted in the structure of capitalist economics, is not wholly static.

SD is, indeed, borne of shifting power. As Schmitter (1979) highlights, SD arose out of the need for advanced capitalism to stabilize itself through the incorporation of the working (and other) classes into the political process, and thus permitting labour access to levers of power previously not available. What labour does with SD, however, depends heavily upon the strength it brings to the table. Assessing labour’s potential for policy change through SD is forcefully explained and predicted through power resources theory. It is not about equalizing power, but minimizing the institutional advantage held by capital. As Korpi explains:

“[T]he distribution of power resources in society is of crucial importance. In the tripartite societal bargaining between the state, labour and capital, the distribution of power resources and the political composition of the government can affect the pattern of coalition formation in this triad and the outcomes of bargaining. The smaller the disadvantage in power resources of the labour movement and the stronger the left party hold over the government, the more likely are state representatives to side with labour in the tripartite bargaining.” (1983; 25)

Korpi notes that for labour to make gains through tripartitism, the state must be willing to “side” with labour. In real terms, this means being willing to enact or enforce the compromise, making
it an act, ultimately, of coercing capital to comply. Korpi’s dynamic conceptualization of a shifting balance in power resources recognizes that labour gains its power not through dialogue tables, but through the dynamics that play out in workplaces and communities across the jurisdiction, suggesting that labour movements more adept at political and economic mobilization will both be more likely to have an opportunity at real SD and more likely to achieve real gains from it.

But this analysis begs the question of what is the source of union power? Does it lie in political dynamics and the strength of labour to affect electoral politics? Or does it lie, as Panitch (1986) and others suggest, in the ability to mobilize mass numbers of the working-class to political causes? If it is the latter, then participation in SD processes can have negative consequences for labour. “As for the question of corporatism bringing class struggle into the administrative heart of the state apparatus, such conceptions would indeed appear to be particularly barren. They involve an insufficient appreciation of the role corporatist structures necessarily play, as arenas of top-level bargaining, in forestalling or constraining working-class mobilization.” (Panitch, 1986; 208) Panitch is concerned that not only is tripartitism ineffective in bringing real power to unions by bringing them to a central table, it actually undermines the capacity of unions to effectively mobilize their members. Wahl (2004) points to developments in Europe as evidence of SD’s “softening” effects on European trade unions. Wahl argues European unions have become too engaged in cutting deals with the employer at the expense of mobilizing the working class. Wahl and Panitch are not without detractors, however, such as Higgins and Apple (1983) who contend that labour is able to effectively navigate both SD-type collaboration and maintain an independent source of power through rank-and-file mobilization. We cannot examine SD in a North American context without also examining this debate.
Contemporary European SD: A Shift in Power Resources?

Many commentators have observed that SD in Europe has entered a period of difficulty, with more frequent failed processes, fewer enforceable policy outcomes, reduced state involvement and a focus on smaller issues (for example see: Keller and Bansbach, 2001; Hancke and Rhodes, 2005; Bergene, 2007). In addition the author conducted a series of interviews with trade union officials and researchers, European Commission officials and Members of European Parliament in 2007 to evaluate perspectives on the state of contemporary SD in Europe. As the health of European SD is not the primary focus of this paper, it will not go into great detail in reporting the research findings. However, a short overview is useful, as it draws attention to important context and challenges facing SD. It also highlights the importance of shifting power balances, providing evidence for the relevance of power resources theory in assessing SD processes.

The interview respondents were generally pessimistic about the state of SD in Europe. A sampling of responses is illustrative:

“The principle of social dialogue continues to be of utmost importance, but on the other hand, the glass is rather empty in practice at the moment. Formal achievements have been limited. There is lots of talking but little outcome.” (TUC Official)

“Social dialogue is almost ceremonial and structural. There is no life in it.” (U.K. MEP)

“The successes [of EU-level SD] were in the early days. There has not been much to celebrate in the past five years or so.” (EC Official)

The factors leading to stagnation in SD can be grouped into three broad themes: employer resistance; loss of state intervention; shifting economic patterns. Employers were perceived as being less willing to compromise than in the past. Meanwhile the state has become less engaged in SD processes, often leaving the two other parties to negotiate on their own. “Without
government at the table, the parties can come to an agreement, but it is much more difficult to effectively implement that agreement” (EC Official). Many participants reported that the state has abandoned one of its key roles. One interviewee called it the “shadow of law” – the threat of unilateral government action, which increases the motivation by business and labour to come to an agreement. It is particularly important for keeping business engaged in dialogue. “If the [state] says they will regulate a working condition if dialogue fails, it gives the employers a choice of negotiation or legislation” (EC Official). Without the “stick”, as one described it, employers are free “to delay, obstruct and demand” (Union Official).

Third, the shifting economic structure of Europe was frequently identified as a key feature of SD’s difficulties. Increased multi-national influence in the European economy altered employer willingness to negotiate policy outcomes; one official described it as a process of the “Americanization of European business”. Shifting power between factions of the capital class also shaped SD. A number of interviewees identified the growing influence of financial capital as a factor behind weakening of SD, arguing that financiers have less interest the productive capitalists in labour peace.

Conditions required to allow tripartite processes to succeed are in flux in Europe, leading to a weakened reliability of SD. This is relevant for Canada, a country where the conditions have always been less well-established. The themes highlighted by the interviews point to a shifting terrain of political and economic power, which directly affects the capacity of tripartite processes to achieve outcomes acceptable to labour. This offers support for adopting power resources theory to serve as an explanatory vehicle for the link between SD success and macro-level.

A final observation proves to be relevant for consideration of the case studies below. The interviews revealed an active debate within labour about the ongoing desirability of participation
in SD processes. One faction believes that labour “compromise too much to get a deal” (Union Official), and thus weaken their ability to make political change. The other side asks “how could opponents of the compromise have done any better by simply saying no?” (TUC Official) This reveals a complex dilemma facing labour groups who participate in tripartite processes – a question of which path possesses the most substantive benefits for labour in the long term. This theme will arise again in the Alberta case studies.

**Canada and SD**

Canada, and more specifically English Canada, would not be regarded as a prime prospect for successful SD. I will intentionally exclude the province of Quebec from this discussion, as its more European tradition of policy-making charts a somewhat different course from the rest of Canada (Johnson, 1997). English Canada scores poorly on all three pre-requisites outlined earlier. First, Canada fits clearly in to Esping-Andersen’s liberal economic matrix “where electoral-system properties combine with an overwhelming hegemony of liberal-bourgeois parties to marginalize, or outright prohibit, labor-party formation.” (Esping-Andersen, 1985a; 244) As for the second requirement, Canada’s highly decentralized industrial relations system, where the bulk of bargaining occurs at the workplace (Gunderson et al, 2001) reduces the potential for strong central labour bodies. In particular, the weakness of the Canadian Labour Congress and provincial Federations of Labour (Kwavnich, 1972; Haddow & Klassen, 2004) make the act of legitimizing high-level centralized policy difficult (similar concerns hold true of employer bodies). Third, there is no tradition or forceful motivation for the state to subsume its supremacy in setting economic and political policy, nor to coerce capital on labour’s behalf. As a result, English Canada has witnessed few attempts at true SD policy making.
Those few experiments attempted have not, on the whole, fared well. For example the results of what may be the largest effort at tripartite policy-making - Labour Force Development Boards – have been labelled “unspectacular” (Haddow & Sharpe, 1997b). Similar experiments with SD-style processes in the 1990s regarding labour policy in B.C. (Haddow, 2000), and Ontario (Bradford, 1998; Haddow & Klassen, 2004) offered few positive outcomes. The enduring constraints of institutional legacies – Canada’s history of a liberal power matrix – construct significant limits on the potential for SD. Recent attempts at SD-style processes highlight the importance of power resources in shaping potential for success, both at the level of partisan, electoral politics (Haddow & Sharpe, 1997b), and of extra-parliamentary mobilization, through pressure on capital from workers to recognize the outcomes of dialogue (Bradford, 1998). The debate between Korpi and Panitch cannot yet be resolved.

Recent SD attempts in Canada leave one remaining question. Haddow & Klassen note part of the reason for failure was the scope of the reforms attempted. They wonder, thought if “[c]oordinative reforms might have succeeded if they had been attempted on a more modest scale.” (Haddow & Klassen, 2004; 156) The Alberta case studies provide a convenient test case for their hypothesis.

One note about the limitations of the case studies should be articulated. As is discussed below, the structure and process engaged in both examples possessed significant shortcomings when measured against the ideal of SD. Government commitment to the process was inconsistent, employer and labour representatives had unequal voice at the table, and the processes lacked sufficient institutional gravitas. Some could argue the cases do not reflect a SD-style process. The cases are, however, unequivocally tripartite processes as representatives of the state, capital and labour were present and equally involved in the process. Indeed, even in Europe
some efforts at SD fall short in key ways in meeting the definition, particularly recently as the state’s commitment to tripartitism was weakened (Keller & Bansbach, 2001). Policy making in a real world context often deviates from ideal. It is important to acknowledge the shortcomings of any given process without losing sight of its potential to offer insights into broader questions. This author believes the case studies possess sufficient features of SD-style decision-making to allow them to serve as a proximate for what SD might look like in a North American context, and the lessons they reveal are beneficial for labour in Canada and the U.S. The reader is encouraged to reach their own conclusions in this matter.

**Alberta Case Studies**

Power resource theory would not predict Alberta to be a prime candidate for experiments in SD decision-making. Its political economy, tied as it is to the energy sector, gives it a frontier mindset and a deeply entrenched electoral arrangement (Harrison, 2005). Alberta’s political culture is also more accepting of neo-liberal, laissez-faire ideology (Haddow, 2006), more akin to Texas than most Canadian provinces. Importantly, Alberta also possesses a unique history of unchallenged one-party rule for long periods (Lisac, 2004). The current Conservative government – during the 1990s considered one of the most aggressively neo-liberal in Canada (Soron, 2005) – has been in power since 1971, most of the time facing diminutive opposition parties.

Alberta has the lowest unionization rate in Canada (AFL, 2007a) and is regarded as having the most pro-employer industrial relations environment (AFL, 2007b). In a comparative study of labour standards Alberta ranked 51 out of 63 jurisdictions (Block et al, 2003) putting it behind a majority of U.S. states for labour protections. In addition, Alberta was one of only three
provinces that refused to set up a Labour Force Development Board (Haddow & Sharpe, 1997a); a sharp indication of its reluctance to adopt SD.

However, in the early 2000s the government of Alberta decided to alter its approach in occupational health and safety (OHS), adopting a more consultative, collaborative model for determining amendments to the OHS Code (the regulations governing safety standards in the province). The government has since engaged in multiple processes amending the OHS Code using this new model, which can be described as an attempt at tripartite process (elaborated below), in contrast to previous government engagements with “stakeholders”.

This new process was a marked shift from the approach of the previous 15 years which had witnessed reduced legislative enforcement, greater employer flexibility in complying with regulations, a focus on collaborative partnerships with employers, and a growing role for self-regulating employer-operated safety associations (Haddow, 2006). During this period unions and workers were marginalized from policy-making, which is not unexpected.

How are we to understand this sudden shift in approach, especially when no obvious shift in power resources had occurred? The coming together of three variables created a rare political opportunity. First, the OHS regulations had not been seriously reviewed since the mid-1980s and many technical aspects of the rules were becoming significantly out-dated, creating concern across many sectors and among both employers and unions. The government could no longer ignore the legislative issue. Second, both employer and union advocates were becoming restless with the lack of progress in safety. Accident rates had plateaued in the mid-1990s (WCB-Alberta, 2008) and a general malaise has fallen over the partnerships efforts within government. Both labour and capital were advocating for a greater role in revamping the OHS regime. Third, Clint Dunford, the Minister of Alberta Human Resources and Employment (AHRE) -
responsible for OHS - ran a human resources consulting business before entering politics, and publicly admired the capacity of unions and employers to get together to solve problems (Dunford, 2002). He championed the idea of a new process to shake up the safety sector, and the model shaped his personal stake in developing a more collaborative model for policy-making. Dunford instructed department officials to construct a new kind of consultation, one that provided a more direct influence for the partners around the table.

The fact that these processes developed in Alberta is interesting in itself, but the case studies’ greater value is their suitability for revisiting the conditions required for successful SD-style decision-making. In particular, they offer a testing of Haddow and Klassen’s supposition that a more “modest” effort at SD-style process might succeed in a Canadian context. Also, they offer a test for whether a strong “personal” (i.e. from a single politician) political commitment can act as a surrogate for the partisan-linked commitment identified by Sharpe and Haddow. More broadly, the case studies provide a fresh opportunity to examine the consequences of power resources on the outcomes of SD processes.

Methods

In the two cases discussed below, the author was a member of the working group representing the Alberta Federation of Labour. The data compiled on the cases come from two sources. First, direct documentary evidence, such as minutes, terms of reference and draft reports were made available to the author due to his membership on the working group. Second, insights and opinions from labour and employer representatives on the working groups were gathered through interactions with other working group members. These interactions took two forms: informal communication with both employer and labour representatives during the course of the working
group activities, and a formal debriefing session with labour representatives following the disbanding of the groups. No attempt was made to debrief with employer representatives.

**Provincial Strategic Working Group on Workplace Safety**

*Structure*

In 2002, Dunford announced his intention to revamp the workplace health and safety branch through a new initiative called Workplace Safety 2.0. He set a goal of a 41% reduction in the lost-time claim rate, and established a Working Group to guide achieving that goal (Dunford, 2002). At first the Provincial Strategic Working Group on Workplace Safety (PSWG) was established solely to build a strategic action plan. The mandate was subsequently extended to oversee the implementation of the strategic plan (AHRE 2002a; AHRE 2002b). The PSWG was struck in March 2002 and wrapped up in May 2005. It was made up of eight employer representatives from major industry associations, two labour representatives, and three government representatives. The unequal weighting is the first indication that power was not equally distributed between the partners.

Decision-making was based upon consensus. “Decisions of the working group are reached through consensus” (AHRE 2002b: 3), defined as unanimous concurrence. Non-consensus items would be forwarded to the Minister for his decision. The government did not articulate in writing its commitment to implement the strategy, however the Minister verbally committed to implement the strategy, reserving the right to alter recommendations to ensure it complied with government policy. This less-than-firm commitment to be bound by the PSWG decisions hints at a weakness in the state’s willingness to coerce capital.
Strategies and Mobilizing Power Resources

The labour representatives on the PSWG made some effort early on to coordinate and strategize their participation, identifying a handful of priority issues on which to advocate. These priorities included enhanced enforcement procedures, increased funding to enforcement programs, inclusion of farm workers in the OHS Act, and new OH&S curriculum in schools. As the process was new, representatives were not sure how much to expect, but entered the process hopeful that some headway would be made in priority areas. They report that the make-up of the task force did dampen expectations for much progress.

However, coordination did not last long as the representatives quickly came to disagree on a key issue (drug and alcohol testing), leading to a breakdown in joint strategizing. The labour representatives report that they did not make attempts to mobilize union membership or other union leadership to assist in building power resources as they were unsure how best to channel such mobilization into the process. They instead respected the PSWG internal processes, and indicate they tried to win points through negotiation and persuasion. This tendency was compounded by the structural relationship of the representatives to their labour organizations. The representatives were perceived as the “health and safety experts” and therefore provided a great deal of latitude with which to negotiate. In addition, working with labour-friendly opposition parties was resoundingly rejected, as they were considered too weak and not positioned to be a threat to the government.

The employer approach contrasted. Employer representatives (each of whom represented a different industry) made no attempts to coordinate their agenda or strategy. Each brought their own set of issues to the table individually. However, the employer representatives report more actively engaging their own membership to push politically outside the PSWG (through lobbying
of the Minister and senior bureaucrats) for outcomes aligning with their interests. Their expectations were, surprisingly, no more ambitious than labour’s, as they expressed doubts about the government’s willingness to follow through. Many employers feared the exercise was “all public relations”.

Process

As allowed by the mandate, the PSWG discussed a wide range of topics and concerns. The government maintained a relatively passive role in the discussions, allowing employer and worker representatives to take the lead.

Patterns in the group’s process quickly emerged. Areas of disagreement were quickly abandoned by both sides. Employer and labour representatives admit that consensus decision-making limited their motivation to dig in their policy heels. Instead the PSWG quickly found where common ground lay and used the bulk of its time working out compromises in areas of mutual interest. Negotiations were amicable and discussion revolved around the concept of making workplaces safer in a practical way. This common conceptualization aided resolution-finding.

Naturally, the areas of disagreement revolved around more aggressive or radical suggestions from either of the parties. On the employer side, arguments for penalizing workers for safety violations and calls for drug and alcohol testing received a rough ride from labour. Conversely labour demands for enhanced right to refuse provisions and inclusion of farm workers evoked strong response from employers. With the exception of farm workers and drug testing, each party quickly retreated upon recognizing the force of the response. Representatives acknowledge making strategic calculations to drop demands in the interests of moving matters
forward – a form of “trading away” some positions for other gains. The exceptions are noteworthy, as they were seen by the other party as key points of principle that could not be compromised.

An additional dynamic identified by the parties was the tendency to cede areas when their direct interest was not affected. Labour allowed proposals to proceed around greater mentorship role among employer groups, as in their eyes it did not affect worker safety. Employers agreed with labour’s call for stiffer penalties under the Act, as most employers at the table would remain unaffected by higher fines. It is in this fashion that some ground was made by labour. It required casting labour’s position as not harming employer interests.

Following the release of the strategy, the PSWG crafted an implementation plan which included timelines for action and tracked the state of implementation (discussed below). The PSWG was quietly disbanded shortly after a cabinet shuffle in 2005. The new minister was not as committed to the new tripartite process and desired a return to traditional policy setting. Labour representatives also believed that employers grew tired of the slowness of the process and wanted a more direct relationship with the new minister, one that cut out labour.

Results

The PSWG’s strategy consisted of 32 specific actions grouped under six themes, with only drug testing moving forward as a non-consensus item. The government committed to implementing 30 of 32; two legislative amendments were rejected (AHRE 2002b).

The accepted recommendations covered a wide range of topics including education initiatives, legislative amendments, enhanced enforcement protocols and additional research into prevention. This suggests the process was successful in establishing clear policy outcomes.
However, the unilateral rejection of two consensus decisions reinforces the awareness that the government was not fully committed to a tripartite approach to policy setting. Rather than exert a veto at the discussion table, it chose to use its initiative at the end of the process, undermining the effectiveness of the PSWG.

Examining the implementation phase, shortcomings in the process become evident. Of the 32 actions, 11 were not implemented by the time the group was disbanded (AHRE, 2005). Actions not implemented included a number of significant legislative changes (such as including farm workers in safety legislation), adding units about safety into school curricula, public reporting of best and worst performers, encouraging joint committees in all workplaces. Implemented actions involved public awareness campaigns, research and statistical tabulation, enhanced enforcement activities (including the creation of a “targeted employer program” for worst offenders) and information sharing (AHRE, 2005). Failure to implement recommendations came from three factors: lack of political support from government caucus, inability to compel industry to cooperate, and lack of cooperation from other government departments.

How did the outcomes compare to labour’s agenda entering the process? A number of noteworthy gains were accomplished, including increased resources for enforcement and a new strategy of targeting enforcement resources to worst offenders, higher penalties for contraventions of the Act, and a new method for calculating workplace injuries. However the bulk of actions did not substantially move labour’s OHS agenda forward in the opinion of labour representatives and of others in labour. The labour representatives report feeling mixed about the results, feeling in many ways that a theoretical opportunity for bigger changes was lost due to the need to compromise to achieve consensus.
If we examine the PSWG as an example of tripartite decision-making, we observe three weaknesses with the process. First, group representatives lacked the ability to compel implementation from either the government or their own constituent members, and thus many recommendations floundered. Second, the process embedded a bias against more aggressive policy solutions and favouring moderate recommendations. Third, the atmosphere of compromise limited the effectiveness of labour representatives to fully articulate their position on the issues.

**OEL Review Working Group**

*Structure*

The Occupational Exposure Limit (OEL) Review Working Group (RWG) was established in March 2006 by AHRE to update the chemical hazard exposure regulations relating to upper limits of exposure. The RWG completed its work in March 2007, issuing a final report to the government.

The RWG consisted of 16 representatives: eight employer (representing different sectors), four labour, three government, and one from the American Industrial Hygiene Association in Alberta. The RWG’s mandate was to “prepare a regulatory proposal to update the OELs in keeping with the established principles of regulatory review balanced with the need to protect worker health and safety.” (AHRE, 2006a: 1) The decision-making process was consensus. “Consensus means the unanimous concurrence among the members of the Working Group.” (AHRE, 2006a: 2) The government committed to enact all consensus decisions without amendment. “AHRE will make final decisions where consensus is not achieved based on its responsibility to reflect public policy.” (AHRE, 2006a: 2) The commitment to be bound by
consensus decisions and the adoption of consensus are key elements that distinguish it from the PSWG experience.

Strategies and Mobilizing Power Resources

As in the case of the PSWG, labour representatives met before the first meeting to plan strategy and coordinate priorities. It was decided to attempt to push a more radical interpretation of exposure limits that better reflected the “precautionary principle” and acknowledged differential sensitivities. Recognizing the magnitude of the task (thousands of chemicals are listed in the OELs), the representatives also selected a short list of about 12 chemicals on which to focus, including benzene, coal dust, formaldehyde, wood dust and a handful of other known carcinogens.

As in the first case, the representatives were reluctant to spend time mobilizing union activists in aid of the cause. They felt the subject matter was too technical and activists too difficult to mobilize around chemical exposure. However, unlike the first case, the labour representatives continued to discuss and plan cooperatively throughout the process. Labour representatives expected less of the process than in the PSWG. Despite the ambitious goal around defining OELs, much of the strategy was a defensive one – preventing the loosening of worker protections. The handful of chemicals targeted represented widely used chemicals where an OEL reduction would benefit a great number of workers.

The employer approach to the RWG differed significantly from the PSWG. Employer representatives were scientists and technical staff of large corporations, as opposed to industry association lobbyists in the first case. They report neither meeting to discuss strategy nor actively mobilizing membership. The employer representatives were, however, more diligent in reporting
significant issues to their supervisors. Even without conscious intention, employer representatives naturally drew toward a strategy of utilizing their sizeable technical knowledge to bolster their bargaining position.

Process

RWG minutes reveal the group quickly narrowed the range of its discussion by accepting the American Conference of Industrial Hygienists (ACGIH) Threshold Limit Values (TLVs) for the bulk of substances\(^1\). This was an early defeat for the labour representatives, who were looking for a more radical approach. The bulk of the Group’s work involved examining 46 substances identified by participants as potential exceptions or otherwise worthy of further discussion, and it included all of labour’s priorities. The Group also established criteria for deviation from the TLVs (AHRE 2006b) including measurability, evidence of enhanced worker safety, and technical ability to comply.

A review of the RWG minutes and reports from participants reveal the following patterns in the process: government played an active role in debate, weighing in frequently to raise questions of enforcement or measurability; burden of evidence was placed on those wishing to deviate from the TLVs; peer-reviewed and industry-sponsored research was given greater credibility than worker-based evidence; union representatives regularly argued to set limits below the TLV; employer representatives frequently cited practicability as a reason to reject a lower limit or adopt a higher limit.

Compromise was both easier and more difficult to attain, participants noted. In areas of clear scientific agreement, the group settled in on an appropriate OEL quite quickly. When

\(^1\) There are thousands of chemicals listed in the OHS Code. The TLVs are scientifically-based limits for chemical hazards recommended by the ACGIH, and are often used as a basis for setting legislative limits. Some argue the TLV’s are biased toward a more conservative interpretation of the evidence (see Proctor, 1995).
science was unclear, contradictory or controversial, debates went for long stretches of time. Labour participants suggest that the nature of the topic – hard measurements of chemical exposure – did not lend itself to the same kind of “trade-off” bargaining found in other areas. They also report moderating their own positions before the debate began. Their focus was on finding a compromise that might achieve a small gain, rather than risking failure by taking a strong position. Second, they indicate the non-consensus provisions worked more in the interest of the employer groups. The government had made it explicit that non-consensus items would be decided unilaterally. Union representatives interpreted this to mean that prevailing political considerations would be applied. In an Alberta context, this would mean either status quo or a position favouring employers.

The flip side for labour was that the process did provide an avenue to move employer representatives. If labour could provide sufficient evidence, the employer representatives tended to be persuaded and alter their position.

Results

For the 46 substances discussed, the RWG came to consensus on 40. Among the consensus items, the new OEL compared to the TLV in this manner: equal for 35 substances; higher for two; lower for one, and two for which there was no TLV. All consensus decisions were fully implemented in legislative changes approved in March 2009. For the six non-consensus items, the government retained the existing OELs, which are in all cases higher than the TLV (AHRE, 2009).

Examined from a narrow public policy perspective, the process successfully mediated employer and worker viewpoints on hundreds of chemicals to find mutually acceptable
compromises, with only 6 remaining contentious. However we need to look more broadly. The decision to adopt the TLV as the point of reference narrowed discussion and had a moderating influence on the outcomes. The ACGIH TLVs are considered to be scientifically sound, but somewhat conservative in their recommendations (Proctor, 1995). This key failure by labour to persuade the committee to adopt a more precautionary standard suggests the power imbalances between the partners played a significant role in the outcome.

Assessing the results for labour, the RWG likely forestalled certain significant setbacks in worker protection. For example, minutes note a particularly strong effort by the mining sector to raise the coal dust OEL, which was forcefully beaten back by the labour representatives. However, the vast majority of OELs amended (including those never discussed) conformed to the moderate and widely-accepted TLVs – suggesting the overall impact of the RWG on Alberta’s chemical hazard standards may be minimal.

Labour representatives indicate a mixed reaction to the final outcome. They are able to point to tangible examples of improving worker protection, they acknowledge it amounts to a handful of chemicals in the vast sea of exposures. One specific comment was that while labour attained its goal the problem was the goal was set too low. The compromise, in this case, came before the working group met.

Discussion and Conclusion

The case studies contribute to the study of SD processes in three ways. First, they confirm that Alberta lacks many of the key qualities required to achieve successful SD. In the PSWG, the working group representatives lacked the ability to influence their own memberships, nor the government, to implement the decisions. The government paid no political price for its
failure to abide by the consensus, nor did it feel a particularly strong need to coerce employers. Unions could not turn to a strong opposition party, or to the prospect of electoral change to foster greater government willingness to act.

Sharpe and Haddow argue a clear political commitment, strongly correlated to partisanship (in the form of an NDP government) is needed for SD to succeed. The explicit personal political commitment of the Minister in this case did not sufficiently act as a replacement for broader party support. Even the best intentions of one politician were inadequate to overcome the institutional shortcomings of the Alberta political system. This is shown in the speed in which his initiative was disbanded following his move to another portfolio.

The second contribution is that the case studies point to the accuracy of Korpi’s power resources thesis. The Alberta labour movement lacks sufficient strength to shift the power imbalances in Alberta policy-making. Labour-side representatives acted with the conscious realization that they possessed little capacity to alter the political dynamic – they could neither mobilize sizeable numbers of workers to wage political protest, nor could they muster sufficient ballot box or economic leverage. This is significant for understanding the potential of Canadian unions to create political change. SD processes are not a route in themselves toward greater policy influence – this is no surprise. Instead unions need to find a way to develop the power resources necessary to make SD more useful. The building of power resources must come first.

But we cannot close the discussion quite yet, for the case studies, as mentioned earlier, do highlight the usefulness of SD in achieving some limited gains for labour. This is where the conclusion becomes more gradated, and where the third contribution of the case studies enters the picture. Haddow and Klassen postulated that a more modest SD aiming at narrower issues
could succeed in a Canadian context. So, we must ask, were the processes “successful”, from a labour standpoint?

The answer is complex. The policy results demonstrate limited gains can be found through SD-style processes in Alberta. We also find that the labour representatives went into the process with limited expectations of gains. The process mitigated against significant gains on important labour issues, limiting progress to smaller, more technical matters. However, the process was useful in also limiting employer opportunities to weaken worker protections, certainly more than was the case under the previous unilateral model. Plus, labour was able to put its agenda on the table, with minor accomplishments. Consequently, the conclusion is more nuanced than one would first expect. For unions, engaging SD processes may offer something of a prophylactic against employer agendas.

The OHS agenda in Alberta was dominated by employer interests during the 1990s, and unions were marginalized. The new process renewed labour’s influence in the safety field. The processes found consensus for a significant number of issues – many of which provided modest advances for worker safety. And they did so in a fashion that created a reasonably high degree of employer acceptance. It is reasonable to conclude that the nature of the process (consensus, tripartite representation, partial state commitment to implement) was central to this result. In a standard consultation labour input would be parallel to employer input, and thus more easily ignored, and the government could thus determine its own course. The SD-style process required that the input receive an approval stamp from both parties, thus both depoliticizing and legitimizing the content in part.

A key to the partial success, likely, is that the content was narrow, specific and technical. Very few issues were grand enough for one party or the other to feel sufficiently threatened to
sabotage the process. Instead more threatening issues were quickly cast aside. The more modest nature of the topic allowed for a greater degree of commitment from the parties to stick with the process, rather than abandon it. It is also the kind of issue where neither side would be able to fully mobilize its resources, as no one issue will affect a large enough swath of interests. As usual, employers proved themselves to be more adept at this component, but they, too, restricted their voice in large part to the process itself.

Where does this leave us? It may be possible for modest SD-style policy-making to succeed in a Canadian context. However, the degree of modesty may be so great that it renders itself useless to the broader aims of the labour movement, or as a tool for furthering labour’s agenda in politics. The outcomes did not provide an opportunity to build either labour’s electoral or mobilization strength. The crux of that failing lays in the relative weakness of the Canadian labour movement. It simply lacks the power resources required to shift the power imbalance enough to permit a more effective SD outcome. This is something unlikely to change in the near future.

If we stopped here, unions might want to seriously consider involvement in future SD-style processes, as they do offer an avenue of some minor influence. However, the question remains unanswered as to whether involvement in SD actually harms unions’ ability to mobilize. These case studies are somewhat instructive. The labour representatives, all experienced OHS activists, acknowledged that during the processes their energies were spent finding ways to reach a compromise with the employer representatives rather than working with other union activists to build mobilization for the union position on an issue. Due to the nature of limited resources, mobilization took a back seat to finding an agreement with employers. These examples raise concerns that prolonged participation in SD-style processes may lead to a “culture of
compromise” among unionists, as suggested by Wahl and Panitch. If labour’s power rests in its capacity to mobilize members to political action, this could be profoundly detrimental to Canadian labour. Indeed, this exact debate continues to rage in Europe, suggesting no quick resolution in Canada. Further investigation is required.

Was the Alberta labour movement wise to participate in these processes? Should unions in other jurisdictions be attempting to replicate them? The answer is not easy. Ultimately it rests on the relative significance of short-term versus long-term goals. SD-style processes could inch labour’s agenda forward and aide in blocking parts of the employer’s interests. But they are no path to overcoming the historic and institutional weaknesses of the Canadian labour movement – and may even harm them in the long term.

What is clear is that whether it embraces SD or not, the Canadian labour movement needs to draw its attention to the broader power imbalances in Canada’s political and industrial relations systems. SD is not a quick-fix for Canadian labour. There is some reason to believe an active acceptance of SD might further weaken the power base of unions in Canadian politics. And even if it does not, labour’s weakness in Canada does not provide it a strong negotiating position in an SD process.
References


Alberta Human Resources and Employment (AHRE) 2006b. “Notes From Occupational Exposure Limit Review Working Group Meeting #1, March 16, 2006”.


