RESTRUCTURING IN INDUSTRIAL RELATIONS AND THE ROLE FOR PUBLIC POLICY

Anil VERMA*[1] and Joseph M. WEILER[2]**

[1] Faculty of Management and Centre for Industrial Relations, University of Toronto.

[2] Faculty of Law and Nemetz Centre for Dispute Resolution, University of British Columbia and Associate Counsel, Heenan Blaikie, Vancouver, British Columbia.

The economic environment for industrial relations in Canada has changed dramatically since the 1980s. The increase in international trade and deregulation suggests that pressures on the Canadian economy to restructure will intensify in the 1990s. There are correspondent pressures on the system of industrial relations to change as well. Successful adaptation to the new economic environment in the Canadian concept of pluralism and democratic values requires that the interests of all parties to the system be adequately addressed. In other words, a competitive strategy that pursues the goals of productivity and quality to the exclusion of those that enhance equity and job security is not likely to be very successful in the long-run. A successful strategy must combine the ideals of productivity and quality with those of fairness, equity and security for workers. The evolving order, therefore, must be a negotiated one among all the parties. It can not be a directed order achieved through the dominance of one party over the others. Thus, successful adaptation to increased competition depends largely on the policy choices that the parties make in response to these challenges. In this sense, there is nothing inevitable about the success or possible decline of the Canadian economy under conditions of freer trade and increased competition. The ideas in this paper are developed on the premise that industrial relations and human resource management (IR/HRM) policies will have to play a key role in any successful competitive strategy aimed at increasing productivity and prosperity in Canada.

I. THE CONTEXT FOR INDUSTRIAL RELATIONS POLICY

As competition increases due to freer trade and deregulation, there is a great deal of uncertainty about the future. Will unemployment continue to rise? What jobs would be lost or created by restructuring? Will wages keep up with the cost of living? Will the displaced workers be able to find new employment? And, of course, will the Canadian economy maintain or enhance its competitive strength? While it is difficult to predict the future accurately, it is possible to define a set of criteria for guiding policy formulation.

We begin by stating several assumptions about the context in which the Canadian economy will be operating in the 1990s. First, as described above, we posit that the marketplace will be characterized by increasing competition due to freer trade and deregulation. There will be increasing demands on firms to produce innovative new products at lower costs and higher quality. Second, national governments will be less able than in the past to shelter inefficient industries from international competition. Third, capital will be increasingly more mobile across national boundaries seeking productive economies. National governments would have very little direct control over these capital flows. Fourth, the main areas for public policy intervention would lie in providing a strong infrastructure for business and in orchestrating mutual accommodation between various stakeholders.

II. TRENDS IN TRADE AND DEREGULATION

As a small and open economy, Canada depends largely upon international trade for its economic prosperity. In 1987, exports and imports taken together comprised a much larger proportion of the gross domestic product (GDP) in Canada (43.9%) than in either the United States (15.3%) or Japan (16.0%). It is likely that the importance of trade to the Canadian economy will increase further in the 1990s. Canada has moved in recent years to lower trade barriers with the U.S. under the Free Trade Agreement (FTA) and with other countries by subscribing to the General Agreement on Tariffs and Trade (GATT). The adoption of these policies recognizes that access to foreign markets for our products is often contingent upon opening our own markets to foreign producers. In this sense, the trend towards freer trade is inevitable and irreversible in the foreseeable future.

There are several aspects of international trade today that must be assessed for their impact on firms' IR/HRM systems. First, there is the growth in trade in manufactured goods from the newly industrializing countries. A number of Asian countries as well as others like Brazil have emerged as exporters of goods that were traditionally traded exclusively by the industrialized

countries. According to the International Monetary Fund, the Asian New Industrialized Countries along with Brazil increased their share of world exports from about 3% in 1965 to roughly 9% by the late 1980s (Farrow, 1988). Their share is expected to continue to grow at a rapid rate in the 1990s and beyond. Since labour costs are much lower in these countries (compared to those in the industrialized countries), low labour costs form a substantial part of their competitive strength.

A second development is the growing trade in technology and technology-based goods. These goods are distinguished from other goods by the fact that the cost of production is a very small fraction of their selling price. Most of their revenue goes to paying for the cost of developing the technology. Computer software is a good example of such a product. The seller must recover the investment quickly before the next generation of technology makes the product obsolete. These markets are driven by new innovations and unless a firm can bring new technologies to the market quickly, it is likely to be preempted by others.

A third development is the demand for quality in international markets. For example, in the 1950s and 1960s, most automobiles produced in North America, Europe or Japan were consumed in domestic markets. While consumers have always been conscious of quality, they did not have the option in the past to effectively compare autos made elsewhere. In more recent years, the consumer has been exposed to a wide range of choices which in turn has brought unprecedented pressure on automakers to meet exacting quality standards.

Lastly, faced with lower cost competition from the NICs, many firms in the industrialized world have chosen to compete by adopting the differentiation strategy (Porter, 1980, 1989). A firm unable to lower costs to levels obtainable in other less developed countries, competes by differentiating its products from others. Successful differentiation, however, requires that the firm employ technological and organizational innovation to develop new products quickly. Thus, a trained and adaptable workforce is indispensable to a company pursuing the differentiation route.

The preceding discussion provides three important considerations for IR/HRM policy. First, given these developments in international trade and deregulation, firms are faced with a growing demand for high quality at moderate cost. Second, technological innovation is increasingly the cornerstone for competing successfully. Third, the dynamic nature of global competition requires that firms be adaptive and flexible in their response to a changing marketplace. Firms must be able to respond quickly in areas such as production scheduling, product line and design changes.

III. COMPETITIVE STRATEGIES FOR CANADIAN BUSINESS

Faced with increased competition from abroad and deregulation at home, Canadian firms have two options in coping with the new challenges. The first option is to lower wages to levels prevailing in the competitor economies. Theory of comparative advantage suggests that unless firms lower wages, they would simply lose market share to producers with lower labour costs. For a variety of reasons, this option is not a feasible one for most Canadian firms. Even if Canadian wages were to be cut by 10, 20 or even 30 percent, they would still remain well above wages in several countries. In 1989, wages in Mexico were only 12.5% of Canadian wages, in South Korea 16.2% and in Taiwan 20%. Further, making deep cuts in wages is a difficult objective given the pluralist and democratic nature of Canadian society. Sometimes when deep wage cuts can be achieved it is only at a substantial social cost such as work stoppages, violence and suspension (even if temporary) of democratic rights of workers. Lastly, a low wage strategy will eventually result in a lowering of living standards for everyone, a prospect which is unlikely to be popular with any segment of society.

An alternative strategy would be to maintain higher wages but seek a comparative advantage through product innovation, quality, service and specialization. Porter (1980, 1989) calls this a differentiation strategy by which firms seek to differentiate their products from the low cost producers. Successful differentiation requires that the firm employ technological and

organizational innovation to develop new products quickly. These products must be of a high quality and come with reliable service so that they can fetch a premium price needed to support high wages. As suggested earlier, the success of this strategy depends on mobilizing a highly skilled, trained, flexible and motivated workforce.

IV. THE CANADIAN SYSTEM OF EMPLOYMENT RELATIONS AND PRESSURES FOR CHANGE

Although the pressures for change in the 1900s are *external* in nature, the system of employment relations in Canada evolved in response to *domestic* not *international* competition. In the aftermath of the Depression of the 1930s, the *Wagner Act* was adopted in the U.S. in 1935 as part of the "new deal" reforms introduced by President Franklin D. Roosevelt. Canada followed suit by modelling its labour legislation after the *Wagner Act.* The system of collective bargaining supported by this legislation and nurtured by growing markets gradually became the dominant system of employment relations in Canada by the 1970s. Under this system, the focus was on collective bargaining because strategy survival of the firm and the industry was quite often not in question. Markets were largely stable and domestic (free of foreign competition) in the U.S. and continental for Canada. Unions "take wages out of competition" by organizing most firms within a given industry. Bargaining outcomes focus on annual improvements in wages. Employment security was not a major concern as layoffs are assumed to be cyclical. Work rules tended to be numerous and relatively rigid, restricting management prerogatives whenever possible to protect workers from arbitrary treatment and undue hardship at the hands of managers. Union policies in these circumstances have been described as `job control' unionism.[1] Labour-management relations are characterized by `arms-length' transactions in which neither side trusts the other enough to enter into joint alliances of any significance. The principal mode of interaction is through bargaining and dispute resolution mechanisms.

A principal feature of the traditional system is that there is a strict separation of managerial and worker roles. Quality and productivity are managerial concerns and workers are not involved

with them. Unions bargain for wages and benefits and ensure fair treatment on the job, but making jobs more interesting has rarely been the focus of their policies. This separation of roles is best captured by the saying, "managers manage and workers grieve". The changing conditions in the market are now challenging this separation. The demand for high quality, innovation and flexibility cannot be met, the argument goes, without a higher degree of involvement of the worker in the production process. Largely in response to these pressures, a number of innovations in human resource management practices have been adopted by a variety of firms over the last ten years. In Canada, workplace innovations diffused further in the 1980s but at a slow rate. An Economic Council of Canada survey found semi-autonomous work groups in 11% of the establishments surveyed and quality circles in 14% of the establishments.[2] In 1991, 13.4% of the collective agreements contained a provision for a joint Quality-of-Work Life (QWL) initiative.[3] Labour management committees were found in 46% of the agreements while joint committees on technological change were provided for in 185 and on health and safety with certain powers in 25.65 of the agreements. In 44.25 of the agreements, some joint role in job evaluation, either through a joint committee or in some other form, was provided. Although the private sector tended to have more joint committees on safety and health with powers than the public sector (33.4% v. 18.9%), the overall incidence of joint committees in the public sector (60.3%) was much higher than in the private sector (33%).

In most organizations, innovations such as employee involvement diffused very slowly and tentatively in the 1980s with the parties taking a much more cautious approach. In companies like McDonnell Douglas, Inglis, MacMillan Bloeder, B.C. Hydro and General Motors of Canada among others, there were tentative steps taken by one or both sides. Management was often not sure of how quickly to proceed given the ambivalence or possible opposition of their unions.[4] Unions were, similarly, unsure of how this may impact their political standing vis-a-vis their constituents or how it might affect collective bargaining. In a growing number of organizations, some innovations were considered and abandoned so completely that their revival on the bargaining agenda appeared unlikely in the near future. Among others, innovations involving

worker involvement have been tried and abandoned in the Atomic Energy Corporation, Rockwell and Colgate-Palmolive.

Although industry-level joint committees have a much longer tradition, they received increased attention in the 1980s as a way of focusing on the mutual interests of labour and management. The theoretical assumption behind these initiatives, even if not fully stated, is that if the parties can share a common view of the problems facing the industry, they will be able to proceed with needed reforms at the workplace. The Canadian Textile Labour Management Committee was formed in 1967 and has been active in the area of trade policies affecting the industry.[5] Similarly, the Canadian Steel Trade and Employment Congress (CSTEC) was established in 1985 as a joint initiative of the United Steelworkers (USWA) and the major steel companies. Since 1987, it has also received funding from Employment and Immigration Canada's Industrial Adjustment Service (IAS) to operate adjustment programs for laid-off workers in the steel industry.[6]

In the same spirit, the IAS has also signed agreements with the Canadian Automotive Repair and Service Council and the Joint Human Resources Committee of the Canadian Electrical/Electronics Manufacturing industry (CEEMI), both formed in 1988. Both of these committees are primarily concerned with developing and implementing a strategy to improve the skills available to the industry (CEEMI, 1989). While a full assessment of these initiatives is somewhat premature, some observers have already noted that sectoral level cooperation has not necessarily spurred the consideration and adoption of innovations at the firm or plant level.[7] It is possible that the newer initiatives of the 1980s need more time to percolate down to the firm level. On the other hand, it is also likely that sectoral initiatives facilitate innovations only in a very indirect way.

Recent research suggests that change in the Canadian industrial relations system, though underway in the 1980s, was not substantial.[8] The traditional system remains largely entrenched because the parties continue to adhere to their traditional roles in industrial relations. The vision

and political will that is needed to develop new solutions to the economic and social challenges has been evident only in isolated cases. It may be inferred, at the risk of errors that come with such generalizations, that most responses in the 1980s were reactive in nature. This may explain why the parties in many industries have failed to explore more innovative approaches despite sharp increases in competitive pressures.

One possible explanation is that given historical developments, bilateral relations are too fragile to experiment with new arrangements. The delicate power balance that existed between labour and management *circa* 1980 was developed, after all, over fifty years of gradual accretion under the *Wagner Act* model. Now, neither party wants to be the first to move in a new direction lest they lose ground to the other. Canada has also had a long and continuing tradition of government intervention in industrial relations. It is possible that labour and management may be more amenable to considering new arrangements if government would provide some assurance that public policy would continue to strive to maintain the power balance that has served Canada well in the past. Government, in its leadership role, can use influence and moral suasion to orchestrate new arrangements between the parties. The Quebec government has been trying to catalyze a joint restructuring process with labour and management in a few cases such as the Altas Stainless Steel company.[9] While it is too soon to say whether the Quebec approach will be successful, there is a strong argument for a new role for public policy in industrial relations for the 1990s when demands for restructuring will likely be even more intense. Of course, government initiatives in the 1990s will have to be more creative and ingenuous than in the past. The large budget deficits accumulated over the last twenty years mean that public policy proposals that involve large budgetary outlays are unlikely to be greeted with enthusiasm.

V. RESTRUCTURING AND A NEW ROLE FOR PUBLIC POLICY

In order to create a work place characterized by high quality, innovation and flexibility, there is a need for increasing involvement of workers in the decision-making process in what traditionally has been considered the preserve of management. As we noted earlier, this goal has

proved to be somewhat elusive in the large unionized sector in Canada. The adversarial model of industrial relations in Canada that developed over the last 50 years has resisted further evolution to a more cooperative, joint-management model of workplace governance.

What is distinctive about the Canadian system of industrial relations (as compared, for example, to the American or Japanese system) is the high degree of government intervention in labour disputes. The extent of government involvement in the labour relations field is consistent with the relatively prominent role of government in the Canadian economic system generally, through Crown corporations, crown ownership of resources services, equalization payments between regions, and so forth - all of which characterize our economy as a "modified" or "mixed" capitalistic enterprise system.

The Wagner Act model was emulated in Canada to provide a legal framework for bargaining and unfair labour practice protection for union organization. In addition, the Canadian system attempted to achieve industrial peace by adding a complex set of prohibitions against the untimely use of economic weapons, and the substitution of dispute resolution services such as government-sponsored mediation and arbitration as to the preferred method of resolving disputes. This model was developed at the federal level during the Second World War. By the early 1950's the provinces had emulated this system in the exercise of their constitutional jurisdiction over labour relations.

The important feature of the Canadian labour relations system for our discussion today is that this relatively easy availability of legislative action at the provincial level has provided the opportunity for regular tinkering with this model of collective bargaining law. Often these statutory amendments were in reaction to a work stoppage that inconvenienced the public, which in turn, demanded a "legal fix" to prevent further damage, but the system has remained largely intact since the War. However, the economic milieu has changed, and as noted above, now requires a different mindset and a renewed system of workplace governance in order for Canada to remain competitive.

The lessons of history suggest that we in Canada have a penchant to look for leadership by government in the labour relations field. We believe that unions and employers must now work with government to improve our labour management relations, not by turning back the clock, altering bargaining rights or freedoms or in work stoppage tilting the balance in favour of one side or the other. Rather, we need mechanisms that will promote cooperation and compromise, and devices that will bring about a sense of community in the workplace.

This quest for consensus will require the mutual recognition that workers and managers are partners in an enterprise, and that their shared interests are more important than their conflicting interests. The law, on its own cannot create this mindset. However, government can play a useful rule in creating appropriate institutional framework that will provide an environment in which labour and management can work together to create and share economic wealth generated in our country.

If the goal of public policy is to facilitate the creation of a more participatory, flexible and motivated workplace, then the various mechanisms of government intervention should reflect the same consensus-based approach. Achieving this consensus about the management of our labour market may be no small task in view of the growing concerns about Canada's declining competitiveness, shaky job security, falling standard of living, and the wisdom of macro-economic policy choices of the 1980's that favoured liberalized trade and deregulation. Workers are scared, unions are on the defensive, capital is scarce, and communities affected by plant closings feel alienated and disenfranchised. In an era of escalating government deficits, the "blank cheque" approach of appeasing interest groups or buying support as was done in the last two decades, is no longer the flavour of the day.

At one time, decisions by politicians and civil servants would receive the *prima facie* support of and voluntary compliance by its citizens because of the traditions of Parliamentary Sovereignty and the confidence in the community that government policy had been carefully scrutinized and considered before key decisions to implement had been made. BHowever, the

rocky ride given to governments in Canada after the failure of the Meech Lake Accord, the early net job losses attributed to the Canada U.S. Free Trade Agreement, and the failure of government and corporations to maintain the confidence of the community on environmental issues, shows which government now must earn the support of its constituents, rather than take it for granted. The recipe for good government, then, is to create the mechanisms, institutions and hopefully the track record of achieving consensus in key areas of public policy.

The management of the labour market is a good place to start to rebuild the sense of community in Canada. Why? As we pointed out earlier, there is a longstanding tradition in Canada of looking to government to pass laws to solve labour relations trouble. There is a wealth of recent experience in Canadian labour law that suggests that where these government initiatives have been successful, they have reflected a participating strategy of both the process of law reform as well as institutional design of the mechanisms to administer and apply labour law. We submit that the same strategy must again be utilized to create the mechanism to facilitate change in the workplace. To this end, we offer some practical suggestions about steps and strategies that governments might take in the labour relations field as part of their task of securing the Canadian mosaic.

A. The Process of Labour Law Reform

The lessons of labour history in Canada suggests that in order to obtain voluntary acceptance of law by the powerful organized bodies on each side of the collective bargaining table, the process of labour law reform must not be perceived as being one-sided or unfair. Labour laws are not self-enforcing. Voluntary compliance with labour law should not be assumed as a given, it must be earned through a process of law reform that is consistent with the notion that our system of setting terms and conditions of employment is largely a process of self-government by the parties. Accordingly, good law-making requires consideration of when and how the law should be developed, quite apart from the relative merits of the substance of the law.

If a government introduces labour law into the legislature without any warning or real communication with both the management and trade union communities, it is not likely to receive the support of those it is supposed to regulate. The labour history books are replete with examples of how **not** to reform labour law.[10]

Collective bargaining law attempts to establish standards and institutions that will minimize the harmful impact of conflict between labour and management and will promote creative and cooperative problem-solving. If either side feels it has been excluded from active participation in the development of these standards, then it will not likely conduct itself as a responsible partner when the going gets tough. Each legislative initiative then, should be designed to respond to the interests of both sides in a balanced package of measures, in order to create the sense that the reforms are directed at solving objectively verifiable industrial relations problems, rather than paying off political debts or settling old scores. In particular, when the law attempts to limit collective bargaining rights previously enjoyed, both management and labour should participate in the planning and design of the new legal regime.

B. A New Role for Labour Relations Neutrals

Recent efforts to change the nature of the mechanisms for dispute resolution in our industrial relations system have drawn their inspiration from the notion that perhaps the greatest virtue of this system is the extent to which the parties have the freedom, authority and responsibility of setting the terms and conditions of employment, rather than such terms being dictated through government regulation.[11] This shift from courts to labour boards to administer labour law and the introduction of grievance mediation and investigation to supplement grievance arbitration, both reflect the notion that instruments of dispute resolution should concentrate more on seeking voluntary settlements rather than recognizing winners or losers at binding adjudication. Why? Because voluntary settlement is more likely to enhance the ongoing relationship of the

parties - a result that is preferable given the responsibility of the parties to self-govern the law of the workplace.

Grievance mediation is disposing with grievances that otherwise would choke the conventional arbitration process. Its success is based on the recognition that a harmonious continuing relationship is more important than winning a particular skirmish and that the parties' common interests are more important than their individual interests. Government intervention in the process, by providing mediation services and/or monetary subsidies for the cost of operating these schemes has been a much more successful legal strategy than a policy that relies solely on erecting prohibitions against mid-contract work-stoppages enforced by court injunctions. The strategy of relying on the majesty of statutory labour law to influence behaviour in the workplace has given way to the recognition that the parties need the more subtle help of being provided with access to dispute resolution processes that grapple with the root problems that generated the dispute rather than with the symptoms of the problem that surface as the legal issue to be adjudicated.

A serious problem with our current system of industrial self-government is that over the last 30 years the parties have been prolific at generating collective agreements that may run into several hundred pages of rights and prohibitions. These measures reflect a reliance on **contractualism** to describe the relationship between workers and management. As we noted earlier, if the Canadian workplace is to become more responsive to competitive pressures, we need to be more nimble in our deployment of human services and provide more incentives for individuals and collective pursuits by workers of the goals of the enterprise. Elaborate seniority clauses and the job security measures must be re-tooled to accommodate the new need for flexibility in the allocation of resources within the firm. At the same time, workers' need for job security and the enjoyment of an equitable share of the fruits of their labour must be provided.

This sounds like a 'tall order' for changing a system of hierarchical workplace governance and a set of fairly rigid employment conditions that have resisted change for decades. However,

as the need for more productive workplace arrangements becomes more acute with the breakdown of trade barriers or monopolistic regulatory systems, the parties will no doubt become convinced that they must change their ways to survive. But, in our view, it is unlikely that they will be able to change without the assistance of public institutional support, including the provision of facilitation services by labour relations neutrals.

A new role for labour mediators and arbitrators could prove to be the "Khyber Pass" to the New Industrial Relations we seek in our workplace. Our current model of industrial relations utilizes the services of neutrals to mediate bargaining disputes while the clock ticks towards a strike or lockout deadline. We have developed an elaborate system of grievance arbitrating that relies on professional arbitrators, most of whom are legally trained, to interpret and apply the complex web of contractual rights and regulatory provisions that describe the employment relationship. In both cases, the mediator and/or arbitrator has a narrow mandate and little opportunity to learn about the bargaining relationship, the individual disputants, or the industry in which the dispute is taking place. There is little chance to monitor the impact of the neutral's intervention. The involvement of this professional is usually *ad hoc* and crisis oriented. At the same time, these services do not come cheap, and in the case of arbitration the parties often resent the fact that the process seems to be run by lawyers for lawyers.

We suggest that government should investigate a program that would experiment with a new use of labour relations neutrals whose function it would be to facilitate the change process at the enterprise level outside of the context of a bargaining round or a rights adjudication. In order for the parties to achieve real change in workplace governance compensation systems and development of human resources, they need to have adequate time and resources to map out their new relationship. This new regime would constitute a significant departure from the system they have been living under. Consequently, they will need the assistance of neutrals who are skilled at consensus building and also have a profound knowledge of comparative industrial relations and human resource management.

Legal training and adjudication skills are a bonus rather than a prerequisite to the job of facilitator in the change process within a firm. These professionals would not be engaged for the prime purpose of deciding rights issues based on existing collective agreement language and arbitral precedent. By definition, the latter role is retrospective in nature, reflecting on what the parties agreed to in the past and how this can be applied in the instant case. In contrast, the role of the facilitator would be prospective in nature. Their job would be to work with the parties on an ongoing basis, to ease the transition from one type of collective bargaining relationship (described above as **contratualist**), to another that is more accurately characterized a **coalition** between management, workers and shareholders. The latter kind of relationship would require regular communication about matters that would range from shop floor quality of working life, workplace design, and short-term scheduling, to broader longer-term issues such as marketing, product design and implementation, recruitment of workers, health and safety, skills training of existing workers, sexual harassment policies and so forth.

In many firms, the kind of issues referred to above have been the exclusive prerogative of management, unless specifically addressed in a collective agreement. In the workplace of the future, these matters would increasingly become the focus of joint consultation committees of management and union representatives that, initially at least, would be neutrals.

The substantive areas to be discussed at these joint consultation sessions would typically be subjects that are outside the purview of the typical collective agreement. Moreover, they would be subjects about which there is not the same conflicting or adversarial interests of both parties. Both sides want a safe workplace with skilled workers who are knowledgeable about where the enterprise is going, and who wish to work in an atmosphere that is not tarnished by sexual intimidation. Accordingly, the parties have lots of opportunity at these joint sessions to bring the resources and creativity of their respective organizations to help to co-design the workplace of the future.

Experience has shown that once this type of joint consultation takes hold, and there are real achievements reached in this communication forum, the parties have expanded the range of these discussions to include more traditional collective bargaining areas such as job security and compensation that now may need to be rethought in the era of intense competition in which we now find ourselves.

In British Columbia under s. 112 of the *Industrial Relations Act*,[12] the government has paid for one third of the cost of grievance mediation. The strategy that supports this program is that the parties will be encouraged to send minor contractual interpretation issues down the s. 112 track and get an answer in five days. This allows the parties to preserve the conventional grievance arbitration process for major issues that require the full scale adjudicative process. As a result, minor grievances are handled expeditiously and do not clog the system, nor fester into major irritants.

A similar justification can be advanced for government support of the joint adjunct consultation process. Parties who are interested in altering the nature of their relationship or who want to move away from the purely adversarial contractualist model, could apply for government assistance to experiment with this facilitation service to be provided by a qualified neutral in the context of a joint consultation system.

Governments are used to funding industrial inquiry commissions, royal commissions or interest arbitrators appointed under back-to-work legislation. All these government interventions are usually appointed after a bargaining impasse, a work stoppage or other such crisis. Surely a complimentary strategy for government assistance should be attempted that is designed to promote an ongoing process of joint consultation that would likely avoid the bargaining strikes which damage the relationship, yet rarely accomplish any significant alteration in contractual terms. In our submission, labour relations neutrals are better utilized to help the parties finesse a work stoppage rather than be parachuted into a bargaining crisis at the 11th hour or to try to pick up the pieces once the bargaining war has ended.

We submit that the joint consultation process outside the context of collective bargaining negotiations is the best available means of bringing resources, ideas and goodwill to the table in order to help the parties to solve the problem that will help expand the pie. Collective bargaining is designed to help the parties determine the appropriate share of the pie for each. Different jobs require different consensus building mechanisms and strategies.

C. Institutional Support For Labour Market Adjustment

The third role of government in facilitating the change process in the labour market is to assist the parties in their discussions that occur at either level. The Canadian Labour Market and Productivity Centre (CLMPC) was established in 1984 to perform this role at the national level. However, under our form of federalism, labour relations is a provincial jurisdiction for 90% of Canadian workers. Labour law and trade union and employer organizations usually operate within a provincial sphere. Accordingly, an entity designed and operated along the model of CLMPC, and perhaps affiliated with CLMPC, should be established at the provincial level to assist the parties in rethinking their employment practices in the context of liberalized trade and deregulation.

Law reform in the areas of collective bargaining, employment standards, health and safety, and human rights could be a major focus of such an organization. In addition, issues such as human resource management, job training, structural unemployment, plant closing and other labour market adjustment matters could be tackled by such an entity.

The virtue of the CLMPC model is that while funded by government, it is operated by labour and management. Presumably, as such an entity matures, and its accomplishments become evident, it could rely on increased support from the parties to supplement government funding contributions. In addition, it would be able to rely on existing research and educational facilities within the province to feed into its work and display its output.

The leitmotif of these constitutional arrangements is consistent - government leadership serving as a catalyst to prompt the parties into taking the appropriate steps **together** to bring about change in the labour market. In our market economy, real change can only be achieved by the parties. However, in order for this to be accomplished we need to provide public resources to supplement private initiative.

Trade unions and management need to have access to the best minds available to identify and analyze the problems they face, seek solutions based on real experience here and abroad, and tailor these lessons to their immediate situation. Through an entity such as CLMPC, the data and analysis brought to the table through the joint investigation of the parties will be much more likely to be accepted as objectively valid, than if it were brought to the table by either party to the dispute or was provided by the government on its own initiative. Where the parties can **buy into** the data that they jointly produce, they have access to a joint consultation structure at the firm and/or industry sector level, to that we can expect a much smoother transition from the old to the new industrial relations. This kind of joint effort will likely bring better results.

CONCLUSION

In summary, we suggest that the Canadian model of industrial relations requires a much greater integration of resources and a complimentary strategy of planning and implementation then we currently enjoy. We are not organized to take advantage of new opportunities brought about by liberalized trade or deregulation. As a result, we are suffering the predictable ill effects of these developments without the concomitant benefits that should accrue to our economy.

The lessons of the past two decades indicate that complementary strategy of participatory law reform dispute resolution design and institutional support would be of great help to ease the transition of our labour market into the Brave New World of global competition.

FOOTNOTES

1. See T.A. Kochan, H.C. Katz and R.B. McKersie, *The transformation of American Industrial Relations* (New York: Basic Books, 1986) at 28.

2. See G. Betcherman and K. McMullen, *Working with Technology: a Survey of Automation in Canada*, (Ottawa: Economic Council of Canada, 1986).

3. Labour Canada 1990.

4. See Verma 1991.

5. A. Michel, C. Leclerc & J. Sexton, *Introduction de nouvelles technologies et effets sur l'emploi: un inventaire de stratégie nationales* (Montréal: Institut national de productivité, 1983.

6. Worklife Report 1990.

7. Warrian 1990; G. Docquier, *Vicitmizing the Unemployed: How U.I. Cuts will Promote Poeverty In Canada* (Ottawa: Canadian Centre for Policy Alternative, 1989).

8. R.P. Chaykowski & A. Verma, *Industrial Relations in Canadian Industry* (Toronto: Dryden Canada, 1992.)

9. Verma & Warrian, 1992.

10. *An Act Respecting Collective Bargaining and Mediation,* S.B.C. 1968, c. 26; *Anti-Inflation Measures At,* S.B.C. 1976, c. 1; *Industrial Relations Reform Act,* S.B.C (1987), c.24; as well as how to successfully introduce legislative change (*Labour Code of British Columbia* S.B.C. 1973, c. 122; *An Act to Amend the Canada Labour (Standards) Code,* R.S.C. 1972, c. 50; *Ontario Labour Relations Act,* R.S.O. 197C, c. 232.

11. This explains why the *Anti-Inflation Act* and the Compensation Stabilization Programs at the provincial levels were opposed so vehemently, because they consisted of a frontal attack on the model of free collective bargaining about compensation.

12. *Industrial Relations Act, supra* note 10.