

CAPE

Bargaining / Mobilization



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WHY ARE WE MOBILIZING?

As most CAPE members know, CAPE has new leadership and with it, a new direction and focus of energy on mobilization, education, and communication. To that end we have been taking action to connect the bargaining process underway with these activities.

WHY FOCUS ON MOBILIZATION?

1. Mobilization shows people they are not alone in opposing or supporting specific goals

Too often in the public service, and in society more broadly, we have concerns about a particular policy or government action, but we keep our concerns to ourselves. Maybe we think nothing we do can help, or maybe we just have other pressures — family responsibilities and work. The result is a feeling of isolation that can become overwhelming and is itself a vicious circle — the more isolated we are the less we believe we can do anything to improve a situation.

Mobilization pulls people together to give a collective expression to those concerns. Those who participate in the activity see that, rather than having to suffer in isolation, they are part of something bigger than themselves. They are part of a movement.

2. Mobilization promotes critical thinking and encourages others to join in

When even modest numbers of people act collectively, those on the sidelines can see how easy it is to take such action and why it is important to do so. It encourages them to consider why those taking action — marching, rallying, taking a coffee break together — might feel good about doing so. It promotes the notion of having something in common — and it often leads to larger numbers the next time around.

Mobilization also attracts media attention, which has the twofold effect of both reaching out beyond the immediate workplace or locale, and shifting public opinion on the issue at hand.

3. Mobilization is, in the end, a strategy for winning

Throughout history we've seen that mobilization and the resulting shift in public opinion can and do have an impact on public policy. Mobilization kept Canada from officially supporting the first war in Iraq; it has stopped harmful pipeline projects in Quebec; it has stopped tuition fee hikes; it led to maternity leave; and it has won everything from public health care to the weekend.



CAPE members during the march on Promenade du Portage in Gatineau on March 19.

**WITHOUT MOBILIZATION,
WE WOULD NOT HAVE PAY EQUITY.**

**WITHOUT MOBILIZATION,
WE WOULD NOT HAVE A MINIMUM WAGE.**

**WITHOUT MOBILIZATION,
WE WOULD NOT HAVE UNIONS.**

MOBILIZATION BUILDS SOLIDARITY

Mobilization is a priority for CAPE because we need to build solidarity in our communities in order to rely on solidarity *from* our communities when we need it. Making connections within our communities also demonstrates that our concerns and issues are shared and are part of the same struggles, for example, cuts to public services.

We also need to get used to taking collective action in order to be ready to do, if necessary, as part of the collective bargaining process. The government has left us no choice if we want to defend what has been won over the years and improve our working conditions.

Survey of CAPE members

"I can't afford to strike"

By Richard Ballance*

Here we are, in the midst of negotiations with an employer that is hell-bent on saving money on the backs of workers. The talks are moving slowly — and many members are curious about possible job action. We've all heard it: members who declare, "I can't afford to go on strike."

Currently, we're a long way from strike action. Negotiations continue, albeit slowly. All parties are at the table. Before we are in a position to strike, there are several things that have to happen.

First of all, a legal strike cannot take place without an essential services agreement, which outlines all positions that are designated essential. Bill C-4 gives the government control over essential services (although this is likely unconstitutional) and Bill C-31 has revoked all existing essential service agreements. The government must revisit and identify amendments to essential service agreements before we will be anywhere near a strike position.

Second, a legal strike can only take place once members of the bargaining unit have voted to initiate strike action. A strike vote can only happen if the PSAC national president authorizes the vote. Based on the results of the vote, the PSAC national president then has the authority to call for strike action. Members only walk the picket line if they have democratically voted to go on strike, and the PSAC national president calls for a walk-out.

We're far from that point for the time being. There won't be a vote held unless negotiations reach an impasse.

Is it true that our members cannot afford to strike? During job action, our members will not be paid by the employer. We all have obligations such as mortgages, car payments, tuition fees for our children's education, monthly bills (and more

bills... heat, hydro, internet, telephone, etc.). Many members will struggle with keeping up with payments if they lose a week or two of pay. Any longer, and most members will have challenges.

I'd suggest that, in fact, with the current negotiations, we can't afford to not strike. We stand to lose a whole lot more than a couple of weeks of pay.

One of the "features" of the "short-term disability" (STD) plan that our employer wants to impose on public servants is a seven-day unpaid waiting period before anyone qualifies for benefits. Think about it... If you are ill and you have used up your six days of sick leave, any further period of illness is unpaid for up to five working days, before you qualify for "STD".

And often the devil is in the details. What if you fall ill again at a later date? Will you automatically qualify for "STD" or will you have another waiting period? Having had some experience with the insurance industry, I suspect the latter.

Just when you need a paycheque, you may not get one. To make matters worse, you'll have to deal with a for-profit organization like Sun Life trying to pay you the least benefit possible.

Can I afford to strike? Not really. However, given what our employer is offering, we stand to lose even more over time. We can't afford not to strike.

No one wants to get stuck with an STD, especially from this employer.

**Richard Ballance is a member of the national executive of the Union of National Employees — a union within the Public Service Alliance of Canada. You can read Richard's article on the [UNE website](#).*

Survey of CAPE members

"We will not be able to force the government to back down"

Many respondents to the survey on possible strike action indicated that they did not want to engage in strike measures because they felt that nothing could make the government back down.

There is no doubt that the employer, because it is the government of Canada, is in a position to pass legislation to prevent strike action or to declare initially legal strike measures illegal. In recent labour disputes at Canada Post, Air Canada and Canadian National, in fact, the government used the state of the Canadian economy as a pretext to interfere with the collective bargaining process.

Fortunately, the Supreme Court of Canada subsequently made it quite clear, in a decision involving the government of Saskatchewan, that "the right to strike is not merely derivative of collective bargaining, it is an indispensable component of that right." A number of experts believe that the impact of this Supreme Court ruling will be felt in the current round of collective bargaining with Treasury Board and that the federal government will thus be prevented from unduly depriving you of your constitutional rights. Having amended the Public Service Labour Relations Act (PSLRA) to impose conciliation/strike as the sole dispute resolution mechanism in the current round of collective bargaining, the government could not readily claim the need to prevent strike action once it has made it the only recourse available to the vast majority of federal public servants. In fact, the Supreme Court decision points out that, since the Saskatchewan government had taken away the right to arbitration — just as the federal government has done — it could not also limit the right to strike.

The Conservative government's reaction to a public service strike cannot be predicted, of course, but it is clear that this Supreme Court ruling has limited its options.

Survey of CAPE members

"I don't know enough about how a strike would work"

Many of you who responded to the survey would be reluctant to vote in favour of a strike at this point because you not know enough about how a strike would work. To be honest, nor do we. We are still at the bargaining table but it is becoming abundantly clear to all unions that all signs are pointing towards an impasse. Once this point has been reached, and if this happens before an election – which would suspend Treasury Board's mandate - the only dispute resolution mechanism available to resolve an impasse is conciliation with the possibility of a strike. Therefore we need to envisage this possibility and prepare for it. It would be irresponsible not to.

Let's be clear, a strike is the last resort in the conciliation process which includes the following steps:

- Once the talks break down at the table, either party can request conciliation. The employer can also force a vote on its last offer.
- Once the Chairperson of the Public Service Relations and Employment Board receives the request for conciliation, he or she evaluates whether a public interest commission (PIC) might assist the parties in reaching an agreement and that the parties are unlikely to reach agreement otherwise.
- As soon as possible after being established, the PIC must endeavor to assist the parties to the dispute and both parties are given a full opportunity to present evidence and make representations.
- The PIC issues a report with non-binding recommendations which are intended to encourage further dialogue and to assist the parties to the negotiations to reach a tentative agreement.
- Mediation is always available to the parties throughout the process. A mediator will be made available and will endeavor to assist them in settling the dispute.

- If the parties still cannot come to an agreement, a bargaining agent has the right to hold a strike vote among all of the employees in the bargaining unit. The vote must be conducted in a manner that ensures that employees are given a reasonable opportunity to participate in the vote and be informed of the results.
- The vote must have received the approval of a majority of the employees who voted.
- The bargaining agent may authorize or declare a strike only within the period of 60 days following the vote, provided that it has received the majority support of voters.

So a lot of water has to run under the bridge before a union can be in a legal strike position. Assuming there is a positive strike vote, there is plenty of time for CAPE to consult you on and inform you of what a strike would entail. A strike where employees walk off the job without pay is one of many options available. Strike actions could include any stoppage of work, refusal to work or to continue to work, a slow-down of work or any other concerted activity designed to restrict or limit output. Work-to-rule, demonstrations during breaks or lunch hour or a partial withdrawal of services will always be considered first before there is any escalation leading to a withdrawal of services, whether for a day or for a longer period. And rest assured, CAPE is not alone in this fight. All unions in the federal public service are in this together. The key issue in this round of bargaining is protecting current sick-leave benefits and the right to sick leave is so fundamental, all unions have signed an unprecedented solidarity pact to stand together to fight to protect this right.

Mobilize with us every 19th

Thursday March 19 was an important day for federal public service workers and their unions as they mobilized in the National Capital Region and across the country, showing the same degree of energy and determination as they had one month earlier. Participants also turned out in greater numbers.

Union activists distributed leaflets and set up information tables in a number of workplaces. Working side by side, activists representing CAPE, PSAC, PIPSC and several other unions provided workers with information about collective bargaining and raised public awareness of the importance of having a healthy workplace. They also addressed issues such as mental health, sick leave and the potential impact of the upcoming federal election.

CAPE, PSAC and PIPSC teamed up to explain their collective bargaining demands and the impact that the employer's proposals would have on their members. They also took the time to explain how the legislative changes imposed on the public service and its workers by the Conservative government will affect their terms and conditions of employment as well as the quality of their work and of the services they provide to Canadians. Further mobilization activities will be held on the 19th of each month until the federal election is held on that date in October. We are counting on you to turn out in larger numbers and become more mobilized every month. To find out about the mobilization activities in your workplace, visit the CAPE website at www.acep-cape.ca or follow the conversations on Twitter (use the hashtag #Every19th).

The Supreme Court rules that the right to strike is an essential part of the right to free collective bargaining

The Supreme Court of Canada has ruled that the right to strike is an essential part of a meaningful collective bargaining process and this right is now protected under the Canadian Charter of Rights and Freedoms. The case before the Supreme Court concerned Saskatchewan's Public Service Essential Services Act (PSESA), a statute adopted in 2008 that effectively limited the ability of provincial public sector employees to strike. Saskatchewan had refused to include in its legislation a provision allowing access to arbitration for workers affected by the statutory limitation of their right to strike. The Supreme Court ruled that "because Saskatchewan's legislation abrogates the right to strike for a number of employees and provides no such alternative mechanism, it is unconstitutional."

In the words of Justice Rosalie Abella, who wrote the majority decision, "the right to strike is not merely derivative of collective bargaining, it is an indispensable component of that right. It seems to me to be the time to give this conclusion constitutional benediction."

CAPE President Emmanuelle Tremblay believes "it is clear that there are many similarities between the Saskatchewan legislation just declared unconstitutional by the Supreme Court and the changes to the Public

Service Labour Relations Act (PSLRA) brought about by the Second act to implement certain provisions of the budget of 2013." "In both cases," she added, "there is a statutory limitation placed on the right to strike." The amended PSLRA stipulates that the federal government "has the exclusive right to determine whether any service, facility or activity of the Government of Canada is essential because it is or will be necessary for the safety or security of the public or a segment of the public." Ms. Tremblay pointed out that, in CAPE's estimation, "this provision has been invalidated by the Supreme Court ruling because it infringes on the right to strike."

To avoid a lengthy judicial battle, Treasury Board should review the provisions of the Second act to implement certain provisions of the budget of 2013 and make the necessary changes to restore the integrity of the bargaining process in light of this Supreme Court judgement. The Public Service Alliance of Canada and the Professional Institute of the Public Service of Canada have both already filed constitutional challenges of this law, arguing that it violated employees' right to freedom of association. CAPE is now considering joining the two other unions as an intervener.

Ottawa could save \$20 billion per year in wages!

The Canadian Federation of Independent Business (CFIB) recently revisited its old demons and produced a "study" – full of calculation errors and approximations – claiming that public sector wages are too high compared to wages in the private sector.

The Canadian Union of Public Employees and the Broadbent Institute were quick to point out that the CFIB, hampered by its own ideological blindness, was using pretzel logic to reach conclusions that are not borne out by facts.

While it is true that full-time wages in the public sector are 2.3% higher than in the private sector for occupations that exist in both sectors, this is largely because women, visible minorities and Aboriginal people are less likely to experience wage discrimination based on their status in the public sector than in the private sector. In other words, Aboriginal people, visible minorities and women workers are not as well paid by the majority of the businesses which the CFIB claims to represent as they are in the public sector.

Hence, for every dollar earned by a university-educated male worker, a university-educated female worker earns 82 cents in the public sector and only 73 cents in the private sector. The gap is even worse for Aboriginal workers: for every dollar earned by a university-educated non-Aboriginal worker, a university-educated Aboriginal worker earns 86 cents in the public sector, but only 56 cents in the private sector.

As far as the CFIB is concerned, Ottawa can logically save taxpayers \$20 billion annually by:

- eliminating wage parity for women in the federal public service (after all, 55% of jobs in the federal public sector are held by women);
- privatizing all public sector jobs held by Aboriginal workers; and
- firing all of the federal public service's visible minority employees.

These measures would really do the trick. Thank you CFIB!