

APPENDIX G

Unions and Employment Equity

Trade unions policies and practices are often identified as major barriers to the implementation of employment equity initiatives in unionized workplaces. This perception persists, despite the fact that most unions are philosophically supportive of the broad objectives of employment equity.

Despite that commitment to employment equity in principle, trade unions are entangled in a classic double bind.

One of the most basic duties of any union is to protect their members' position in the workplace. This protection is based on the principle of seniority – that is, the more years (or units thereof) that an employee has with an employer, the more secure their job should be. That security applies to protection from lay-off (including recall provisions), dismissal and/or changes in job duties or working conditions that are arbitrarily imposed by the employer. In most cases, seniority also protects the “jobs” of the union member and their right to improve their working conditions in accordance with their length of service.

While most seniority arrangements work well to protect the interests of individual union members, they also “entrench” and cause to perpetuate existing workforce demographics at unionized workplaces. If those demographics do not reflect fair representation of employment equity groups, then many union policies and practices will often come in conflict with more aggressive employment equity measures. Accordingly, in order to implement employment equity programs, unions will need to rethink and rearrange one of their most basic touchstones – the role of seniority in protecting union members.

It is apparent from past experiences, that trade unions are usually resistant to any initiative that, in their opinion erodes any aspect of the protections offered by seniority clauses. This approach often puts them in conflict with the implementation of many “preference provisions” of employment equity initiatives. This situation is unlikely to change in the near future.

Despite this general and long-standing opposition to any actions which diminish, or have the potential to diminish, the protections that seniority offers, some unions have agreed to minimal “tinkering” with traditional seniority provisions.

Some of these new practices include measures such as

- designated employment equity provisions;
- modified lay-off and recall procedures for members of equity groups;
- internal training and promotion procedures that give preference to members of employment equity groups; and,
- other special measures that apply to specific programs.

However, most of these special practices and programs are limited in principle and scope and tightly managed to ensure that they remain so in practice.

At the same time that trade unions are protecting seniority, most unions are also promoting the concept and objectives of employment equity. That support in principle is often articulated through:

- policy statements;
- union resolutions;
- inclusion in union constitutions;
- internal union programs;
- external union advertising;
- submissions to governments and other bodies; and,
- contractual clauses that support the principles of employment equity.

It is also important to note that most trade unions themselves are not true reflections of their membership. Like many other organizations, trade unions lack the full participation of members of traditional employment equity groups in their governance and operational activities. For example, one will find that Aboriginal representation is very much lacking in the Manitoba Government Employees Union, the Canadian Union of Public Employees, the Manitoba Nurses Union and the many other unions that represent employees working for the Manitoba government. This lack of true involvement and participation by Aboriginal union members at all levels of these unions can have negative impacts on the implementation of employment equity measures, both within and outside of those unions themselves.

Not surprisingly, Aboriginal workers often perceive unions as major barriers to their own employment aspirations. The seniority protections, which unions so strongly guard, work against those who are trying to find employment or work their way up the career ladders. They look at the union organizations and see the apparent under-representation of Aboriginal leaders and staff. In some cases, the hierarchical structures of unions run contrary to more traditional Aboriginal practices and customs. Many Aboriginal workers have seen themselves and many of their family and friends excluded from work in their own communities and surrounding areas because of union contractors. It is no wonder that many Aboriginal people see trade unions and the policies they represent as unwelcoming at best and hostile at worse.

Given these circumstances, eliminating the barriers to the implementation of effective employment equity measures that arise from trade union policies and practices in unionized workplaces require strategic and multi-faceted responses. The basic elements of those responses include:

- high-priority, consultative, cooperative and collaborative approaches to identifying, agreeing to and eliminating the barriers to employment equity that may be rooted in, or arise out of, contractual agreements and related program and activities between unions and the Manitoba government;

- more fully shared commitment to the practical application of employment equity measures in the workplace by both the employer and involved and/or affected unions;
- a commitment by unions to implement meaningful employment equity measures in their own organizations;
- increased involvement of union leadership and members in the design, development and implementation of specific employment equity policies and programs; and,
- negotiated “enhancements” to seniority measures that have worked against the implementation of employment equity at the workplace level; and,

These measures will require new approaches to labour-management relationships where each party protects their own positions. This environment does not usually encourage the type of change that is required to put successful employment equity measures into place. Instead, unions and management must agree that it is in both their best interests to protect not only their own positions, but also to protect the interests of members of employment equity groups. If that basic premise is accepted, then it will be much easier to design and deliver innovative employment equity measures within a unionized environment.

That new relationship will not simply materialize out of sound logic and good intentions. Like any other relationship, it will need to be painstakingly built over time, through both good and bad experiences. But, as long as good intent and sound logic is supported through positive action, this new relationship can be developed.

That support will need concrete measures to move the process forward. Those measures are required at the inter-organizational, organizational and individual level.

As a first step, Joint Employment Equity Committees, based on Joint Health and Safety Committees, should be implemented throughout the government. These committees would be comprised of equal representation from management and labour (including co-chairs). They would meet on a monthly (or more often as required) basis to consider, review and make recommendations on employment initiative issues, programs and related activities. The committees would be empowered to take specified actions on their own accord, as well as make recommendations to different levels of the government and the union. Committee minutes and other public communication would be posted at the workplace and union.

In order to operate most effectively, these committees should be comprised of members who have a strong interest in, experience with, commitment to and knowledge of employment equity principles and practical implementation. Provisions should be made for two days of annual paid educational leave for all committee members to attend workshops, conferences and training programs related to employment equity issues.

Joint Employment Equity Committees should be designated at both the departmental and central government level. A central Joint Employment Equity Committee based on the

same principles should be implemented at the Cabinet committee level, so that the consideration of employment equity measures are integrated into all government activities.

As well, a Joint Employment Equity Advisory Council should be established with representatives from Cabinet Ministers and the elected leadership of involved unions. These central bodies would address major policy issues, as well as receive and deal with information from departmental committees.

Joint Employment Equity Committees could be mandated in legislation, collective agreements and/or departmental and union policies.

Unions, as well as the government, have a responsibility to encourage and enable their own organizations to more accurately reflect the membership they serve. There is a strong need for employment equity measures within the unions to increase the representation of members of employment equity groups in their governance and day-to-day operations.

Accordingly, unions who have not already done so, should be encouraged to develop their own Employment Equity Committees and practical measures to implement employment equity programs. Government can assist in that process by financially supporting employment equity programs within the unions. This assistance could include funding for joint educational and promotional programs for the union and its membership and financial support for designated employment equity representatives in the larger unions.

Government may also want to negotiate a contractual contribution to employment equity measures, such as has been done by many employers and unions for general educational activities and specific activities. For example, two cents per hour for every employee could be negotiated for a Joint Union-Government Employment Equity Fund. This fund would be administered jointly by the involved unions and the government. Monies could be used for research, education and special employment equity programs.

The government should also negotiate a number of “departmental designated employment equity positions” for entry level, support staff, supervisory and middle level management positions within the government. The Justice Department could be considered as a pilot project for the implementation of this measure.

Designated positions would allow for members of employment equity groups to “bypass” normal seniority and other related contractual provisions in order to allow for a fuller representation of those groups throughout the government. Individuals would be hired or promoted into these positions on the basis of merit and ability to satisfactorily perform (or learn to do so) in their new jobs and positions. In order to protect the interests of the union, the filling of designated positions would be undertaken in full consultation with them.

The government should also strike a task group with the major unions it deals with to review innovative measures to address seniority related and other contractual agreements that may inhibit the implementation of employment equity issues in the workplace. Ultimately, any changes to collective agreements would need to be resolved at the negotiating table, but this task group could lay the groundwork for those changes in a much less “threatening environment”. One possible option for the task group would be to work through and report to the Joint Employment Equity Advisory Council. Another option would be for it to operate as a stand-alone entity that reports directly to the government and member unions.

The government should also negotiate an as strong as possible commitment to the principles of employment equity in the Master Agreement and all other relevant contractual agreements that it has entered into with any union. This overall statement of principle and commitment to general measures would clearly indicate the highest level of support for employment equity measures throughout both the unions and government.

The government has a responsibility to encourage private sector, cooperatives, crown corporations and non-governmental organizations with whom it does business to fulfill generally accepted employment equity objectives and measures. The Manitoba government may want to consider requiring those with whom it does business to have employment equity measures in place. If that is the case, there will be a need to work with unions representing workers in those businesses and organization to identify and address barriers to employment equity objectives and activities at that level.

These, and other measures, should be implemented in full consultation and collaboration with other involved unions and their membership. As that process evolves and unfolds, it is likely that other possible initiatives will be brought forward by all the parties involved in the process.

Over the years, unions have won major protections for their members. That protection for the membership as a whole, sometimes conflicts with measures that are designed to promote and protect the interests of specific groups and individuals representative of these groups. By and large, union leadership has indicated a philosophical inclination to review ways to accommodate the needs of these groups, but it has been hesitant to agree to any measures that could be seen to threaten the integrity of the protections they have negotiated for the whole membership.

The key to the practical application of those agreed upon philosophical principles and general policies is a step-by-step process of education and negotiation.