Contradictions in Public Sector Unionism

Some experts have suggested that it has been more difficult to organize employees in the private sector than those within the public sector. There is a contrary view that 'in government employment, white-collar workers are more likely to join or form unions than their private sector counterparts (Sturmthal, 1967: 378).

The support for this contention is cited in the Canadian experience, where the claim is made that most public employees are organized in some form of association or union, reaching an overall completeness level of 90 percent (Levine, 1977:; 117). The claim has been made that unionization of the public employee in Canada has proceeded at a more rapid rate than the growth of government employment. (The Contradictions of Public Employee Unionism: Anthony Thomson 1983) The picture which seems to be painted, tends to suggest that in Canada, there is a level playing field when it comes to the exercising of the constitutional right to join a trade union and to engage in collective bargaining.

There is every reason to believe that this equality of treatment does not fairly applies to all category of public sector workers in various parts of the world. Government employees are grouped in various categories that includes employees in public administrators, healthcare, essential services, education, law enforcement, social services, domestic services, artisans and other low skilled and low level employees.

Is it fair that public sector workers as government employees, should be subject to special sanctions and repressive laws? Is it a case where one set of laws are applicable to sections of public sector workers? Does the law provides accommodation to private sector employees, and in so doing offers special treatment to private sector workers over public sector employees?

Would the application of labour laws which contain provisions which restrict the right to freedom of association and the right to collective bargaining not be in breach of the constitution in which these rights and privileges are enshrined? It can be logically argued that there are grounds for a claim of discrimination to be made, if the individual rights as set out under the national constitution are to be denied.

Under the constitution, citizens of the legal age, which would include public or private sector employees, have the right to vote. With the constitution recognizing the right to representation and to collective bargaining, it stands to reason that all workers are so entitled, and should therefore view any act to prevent them from accessing such, to be discriminatory and a denial of a fundamental worker right and human right. The world has long accepted the International Labour Conventions which promote workers' rights, such as freedom of association and the right to collective bargaining, freedom from forced labour, child labour and non-discrimination. These are regarded as basic human rights and the rights of working people that should emerged from championing of social justice, which takes on board what is considered to be right, good and just.

The promotion of new unionism would want to remove any restrictions which seen part and parcel of the colonial mentality, that was founded on control. In an age where much emphasis is being placed on the freedom of the individual, democracy, equality of treatment, equity, security, discrimination, injustices,

human rights, workers' rights and human dignity, it becomes questionable why there should be any attempt to restrict workers from being unionized and to express solidarity.

It is common knowledge that standards related to the ILO Declaration of Fundamental Principles and Rights at Work, (Conventions and Standards) which identify with rights and a set of core principles, that include freedom of association, must be applied all member states, even if the Convention itself has not been ratified.

Where there is a variation in the action or practice, this would seem to be a contradiction in every sense of the word, as the practice would have failed in aligning itself with progressive thinking. In an age characterized by constitutional reform, there can be no valid argument for the retention of the status quo, where any category of group of workers should be denied their fundamental right of freedom to associate and bargain collectively.

As it relates to trade union membership and employment rights, there ought to be clear understanding and acceptance that the individual workers has the right to choose to join or not join a trade union, and to be a member of one or more trade unions. Equally, the individual has the right to leave or remain as a member. It is to be reinforced that public sector employees who are denied membership of a trade union or staff association, can claim that Government as the model employer, is committing an act of discrimination. The actions of Government can be called into questioned as unfavourable treatment, when it attempts to punish an employee for exercising their right under the law of the land.

The Freedom of Association International Labour Office, Geneva Compilation of decisions of the Committee on Freedom of Association, Sixth edition (2018) reminds of the following:

Local public service employees 353. Local public service employees should be able effectively to establish organizations of their own choosing, and these organizations should enjoy the full right to further and defend the interests of the workers whom they represent.

339. The denial of the right of workers in the public sector to set up trade unions, where this right is enjoyed by workers in the private sector, with the result that their "associations" do not enjoy the same advantages and privileges as "trade unions", involves discrimination as regards government-employed workers and their organizations as compared with private sector workers and their organizations. Such a situation gives rise to the question of compatibility of these distinctions with Article 2 of Convention No. 87, according to which workers "without distinction whatsoever" shall have the right to establish and join organizations of their own choosing without previous authorization, as well as with Articles 3 and 8, paragraph 2, of the Convention.

Firefighters 354. The functions exercised by firefighters do not justify their exclusion from the right to organize. They should therefore enjoy the right to organize.

Article 2 of Convention No. 87 provides that workers and employers, without distinction whatsoever, shall have the right to establish and to join organizations of their own choosing. While Article 9 of the Convention does authorize exceptions to the scope of its provisions for the police and the armed forces, the Committee would recall that the members of the armed forces who can be excluded should be defined

in a restrictive manner. Furthermore, the Committee of Experts on the Application of Conventions and Recommendations has observed that, since this Article of the Convention provides only for exceptions to the general principle, workers should be considered as civilians in case of doubt.

In the case of the Police, Fire and Prison Officers, there has been a long established and accepted principle, that they do not enjoy the right to strike.