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The Decline of Organized Labour and How its Current Trajectory Can Be Reversed

Sid Shniad

THERE IS AN APOCRYPHAL STORY that Mahatma Gandhi was once asked what he thought about Western Civilization. He is said to have responded that it would be a good idea. That is pretty much my view of the labour movement today: despite decades of being on the receiving end of ferocious attacks from corporations and governments, organized labour is not functioning like a movement at all. The experience of unions in the communications sector provides a startling illustration of the prevailing situation, showing that even though unions have faced staggering challenges over the last 25 years, they have not made a serious effort to come to grips with the destructive, anti-social forces that are arrayed against them. Instead of responding as a movement, they have chosen to function as individual, isolated organizations and have been picked off one by one as a result.

Due to the particular conditions that prevailed in the telecommunications sector for much of the post-war era, workers who laboured there enjoyed a relatively privileged existence. Employed by highly regulated private and public monopolies, they earned wages that were superior to those of other organized workers and their job security allowed them to retire with decent pensions after a lifetime on the job. But this comfortable relationship began to unravel with the 1984 break-up of the AT&T company in the US, an event that proved to be the opening salvo in a series of massive changes that have rocked the sector ever since. In a forerunner of the wider process that has since come to be known as globalization, the corporate sector forced governments to abandon social oversight of the telecommunications industry and to allow competition in the highly profitable long distance part of the business so that companies could reduce their communications costs and the industry could be reshaped to address their organizational needs.

The cost to American telephone workers has been enormous. In the past thirty years, hundreds of thousands of union jobs have been lost from phone company bargaining units. In the same period, telecom corporations have established and purchased major non-union subsidiaries. This upheaval has been reinforced by the advent of unprecedented technological change, including the digitalization of the telephone network, the advent of e-mail and the internet, and the birth of the cell phone, which has accelerated the transformation of the industry away from the wireline services that dominated the traditional industry. To make matters worse for unions in the sector, communications companies have gone all-out to prevent cellular service, the fastest growing and most profitable part of the communications industry, from being unionized.

All of these factors have combined to vastly increase the power of telecom companies relative to that of their unionized employees. These companies have used their increased power to take back many of the gains that unionized telephone workers won earlier in the post-war era.

Although differing in particular details, the experience of Canada's communications unions bears a remarkable similarity to that of their confreres south of the border. For example, Enda Brophy's analysis provides details of what happened to the members of the Communications, Energy and Paperworkers union (CEP) in their confrontation with the Aliant Company in the Canadian Maritimes in the early years of this decade. The details of this dispute bore an uncanny resemblance to what transpired a year later in the conflict between the TWU and the Telus Corporation. Brophy explained that the 2004 confrontation between the CEP and the Aliant company occurred against the background of unprecedented change in the industry reshaped by the advent of privatization, major technological changes, gigantic corporate mergers, and the restructuring of work, describing the environment at Aliant as akin to a laboratory where controlled experiments were carried out in the adoption of new technologies, closures of facilities, layoffs, and the electronic transfer of work.¹

Aliant's goal was to gain the same kind of control over its workforce that is enjoyed by management in the non-union call centre industry. To that end, Aliant aimed to cripple the union and destroy its ability to defend its members. The company's effort was facilitated by the effects of years of neo-liberal deregulation, which hit Canadian telecommunications starting in the late 1980s, when the Canadian Radio-television and Telecommunications Commission (CRTC), the federal regulatory body responsible for overseeing the country's telecommunications industry, followed in the footsteps of its American counterparts and allowed competition in the long distance end of the Canadian business to be introduced. That decision was followed by others

1. Enda Brophy, "Resisting Call Centre Work: The Aliant Strike and Convergent Unionism in Canada," *Work Organization, Labour and Globalization*, 3, 1 (2009), 80-99.

which cumulatively deregulated the Canadian telecommunications industry. In the process, the Commission has done away with the service requirements that were once imposed on Canada's socially-regulated telephone monopolies. Corporate strategists have used these changes, which they had promoted, to gut their workforces and decimate the unions that represent workers in the sector.

But the communications corporations' assault did not end with the deregulation of the industry. Still to come was their attempt to regain complete control in the workplace. Achievement of this goal would require showdowns with the incumbent unions.

As a consequence of these radically changed corporate priorities, relations between management and labour had been deteriorating for years across the country. The issues in contention in New Brunswick, Ontario and Quebec and in BC and Alberta were remarkably similar because the various companies shared a common focus on slashing costs, reducing the size of the workforce, rolling back benefits, eliminating restrictive contract language and rendering unions incapable of defending their members' interests. In other words, it was no coincidence that 7,500 members of the CEP in Ontario and Quebec involved in contract talks with Bell Canada were facing threats to their job security, pensions and living standards, while on the west coast and in Alberta the TWU and Telus were in the midst of a four-year dispute over the same issues.

By the time the Aliant dispute broke out in 2004, unions and companies across the country knew what was at stake. At the TWU, all eyes were riveted on what was happening in Atlantic Canada; the union anticipated that developments in eastern Canada would be a harbinger of what was to come elsewhere when push came to shove with Telus.

When the dispute did break out at Aliant, the CEP worked to slow down maintenance, repair, and support functions. The idea was to jeopardize the company's ability to attract new customers and divert them to Aliant's competitors. (A similar approach was employed a year later by the TWU against Telus.) For its part, Aliant used its managerial workforce to do the work of its unionized employees, while large numbers of private security guards monitored and intimidated the striking workers – a tactic that would also feature prominently in the confrontation between Telus and the TWU.

When the Aliant dispute was over and union members in New Brunswick looked over the prospective settlement, they were angered to learn that it could take some of them up to 30 months to reach wage parity with Aliant employees doing the same work in other provinces. To make matters worse, although the contract stipulated that no union jobs could be contracted out, it allowed the company to contract out work as long as no employee was laid off. One member commented that "The contracting-out language that we enjoyed for years in Newfoundland has been completely left out of the collective agreement and all we have now is basically a no-layoff clause that says as long as

there's no one on layoff, the company can contract out any amount of work that they feel like."

While unionized workers at Aliant are protected against layoffs, or "workforce reductions" in the language of the new collective agreement, management can still shift them around between jobs as long as these are unionized. Once unionized workers leave or retire, however, management is not required to fill their positions with other unionized workers. Clearly Aliant had achieved its goals.

The four-month confrontation between Telus and the TWU which broke out a year later was the culmination of a five-year struggle to determine which party would dominate the relationship. In earlier decades, TWU had struggled successfully to gain unparalleled input into and control over job content, job descriptions, the jurisdiction of its bargaining unit, and the company's administration of technological change. Taken together, all of this gave the union the unique ability to play a pro-active role with respect to the management of the British Columbia Telephone Company and control over its members' working lives.

When BC TEL merged with the provincial phone company in Alberta in 1999, the TWU was determined to ensure that these historical gains would be maintained in any new collective agreement it signed with Telus, as the newly-merged company was called. So TWU insisted that bargaining be based on modifications to the existing TWU-BC TEL contract. But Darren Entwistle, the new CEO hired by the Telus Board of Directors to tame the TWU, was equally adamant in insisting upon a total re-write of the collective agreement, one that contained none of the language restricting management's rights that existed in the old TWU-BC TEL contract. It was a case of an irresistible force meeting an immovable object. In the context of the changes that have rocked the industry, described above, Telus proved to be the more powerful of the two parties.

For nearly five years, little or nothing was achieved at the bargaining table, with most of the interaction between the union and the company taking place in a series of court interventions and labour board proceedings, where the TWU concentrated on fending off Telus attacks. Telus did not confine its efforts to the legal arena, however, choosing in addition to pursue a parallel strategy of aggressive, unilateral actions in the workplace that were designed to impose its version of management's rights unilaterally. This behaviour generated tension, anger and frustration in the ranks of union members. Even though TWU was able to win a series of labour board rulings against the company for engaging in unfair labour practices and interfering in the administration of the union, the board refused to invoke the kind of punitive sanctions against the company that would have been necessary to put an end to Telus's unilateral behaviour. At the same time, because the TWU was keenly aware of unions' disastrous experience in confrontations like that of the CEP at Aliant, where telecom companies proved capable of maintaining their operations through

the combined use of scabs, automation and the electronic transfer of work, the union strove to keep its members on the job in the face of these provocations.

The decision to keep members on the job at all costs would not have been objectionable in itself if the union had spent time, effort and resources putting together tactics and strategies of its own that pushed back at the company. Unfortunately, little or nothing was done along those lines. Meanwhile, with the labour board refusing to sanction the company for its violations and TWU acting in a purely defensive manner and focusing solely on avoiding an all-out confrontation, Telus was left free to escalate its aggression.

For a brief moment, this state of affairs appeared to change. In an exceptional ruling brought down in early 2004, the labour board ruled that Telus had engaged in a series of outrageous violations of the labour code and ordered the company to offer TWU binding arbitration so that the bitter and protracted conflict could be brought to an end. Initially both parties accepted the idea of binding arbitration. TWU believed that the end was in sight in its protracted struggle. Within a month, however, Telus reversed its position and appealed the board's decision. In a subsequent ruling, which took more than a year to bring down, an appeal panel of the board overturned the earlier ruling that had mandated binding arbitration. For the ensuing 18 months, the union engaged in a futile effort to lobby members of the Liberal government in Ottawa, hoping against hope that the Minister of Labour would intervene and reinstate the binding arbitration that the board had originally imposed on Telus.

While the appeal process was going on and TWU spun its wheels in its futile lobbying, Telus escalated the confrontation. The company mounted what it termed a "soft lockout," suspending the remission of union dues, ignoring the grievance and arbitration process, and initiating a series of petty harassments in the workplace. The union responded by banning overtime, mounting a Super Service work-to-rule campaign, and ending the dispatch of installation and repair workers from their homes which had saved the company the expense of maintaining parking compounds as well as an enormous amount of paid travel time. Finally, the union initiated a series of study sessions and mini-occupations of company facilities. Mounted on a largely ad hoc basis, these actions had little impact on the running of the company.

When Telus announced that it intended to unilaterally impose its contract on the union, the TWU jumped the gun, pulling its members off the job to prevent the company from being able to argue before the labour board that the union had acquiesced to the imposition. The all-out conflict that TWU had tried to avoid for years was on.

The mood of TWU members was initially euphoric. It was as if they had been liberated from prison. Picketing enabled them to strike back at the management that had been putting them through years of hell. Members from other unions participated in rallies supporting the TWU across Alberta and BC. Unions in both provinces, the rest of Canada and abroad offered financial help and use of their resources. The provincial federations of labour in BC and

Alberta provided financial support. TWU's issues were communicated to other unions' members, and they provided strong moral support on the picket line. Unfortunately, in the absence of a coherent counter-strategy, designed to roll back Telus's aggressive attack, this support proved largely symbolic.

Because the union had focused its efforts overwhelmingly in the legal arena, spending a tremendous amount of time, effort and resources battling Telus in the courts and at the Canada Labour Relations Board, TWU had neglected to create a serious plan of action in the event that matters came to a head. When the all-out confrontation with Telus finally broke out, therefore, the TWU was totally unprepared.

Having spent little time anticipating how it would react in an all-out confrontation, TWU was forced to ad lib. In stark contrast Telus – which, like its counterparts in the rest of Canada and south of the border, had done its homework – rolled out an unprecedented array of union-busting tools. The company imported thousands of scabs from central and eastern Canada and the US, using them together with a huge number of managers to do TWU members' work. In addition, Telus hired "security" companies specializing in picket line harassment and intimidation to make picketers' lives miserable. As the dispute continued, the company used a powerful combination of bribes and threats to induce union members in Alberta to cross picket lines. Ultimately, more than half the unionized workforce there crossed the picket line, allowing Telus to resume normal operations.

In earlier disputes between the TWU and BC TEL, the union's flying picket squads were notoriously successful in shutting down the operations of both the phone company and its corporate allies. Compounding the union's problems in the dispute with Telus, however, was the fact that the courts in BC put unprecedented restrictions on its picketing. Instead of trying to resist these restrictions, however, the union expended a tremendous amount of energy administering the draconian terms of the court's injunctions. As a result, TWU members' picketing, which in earlier disputes had severely disrupted the company's operations, became a strictly symbolic act. Meanwhile, the courts allowed Telus's security guards to engage in aggressive, intimidating, in-your-face behaviour against picketers, their families and their communities.

In the course of the dispute, Telus acknowledged what the union had maintained all along — that the company was shipping TWU work to overseas call centres in the Philippines and India. In effect, Telus was successfully phasing out a significant number of jobs and moving them to the Far East. The region's premier telephone company had, as part of its relentless assault on the union, shifted a number of jobs in the telecommunications sector out of Canada to low-wage economies in distant lands.

Not surprisingly, the constrained efforts of the TWU and those of the wider labour movement did little to slow the Telus juggernaut. The company's elaborate, well-funded corporate strategy ended up overwhelming the union's ad hoc resistance. Two months into the dispute, Telus operations were largely

back to normal and its third-quarter 2005 financial results were the best of any phone company in the country. In the end, the union was forced to scramble back to the bargaining table, where it capitulated to forestall its very destruction. Holding all the cards, Telus succeeded in stripping the TWU contract of protections that had taken decades of struggle to achieve.

Taken by surprise by the fact that TWU had returned to the bargaining table so precipitously, its acquiescence to the imposition of the Telus contract, and the fact that the tentative deal failed to preserve the union's historic gains, 50.3 per cent of the TWU membership voted to reject the tentative agreement. This forced the union leadership to return to the table, where it was able to make a few marginal changes to the initial deal. When this revised version was put to the members for a second vote, 67.3 per cent voted yes.

The defeat generated understandable anger and frustration among TWU members. A realistic assessment of the forces arrayed against the union makes it obvious that under the circumstances a more positive outcome was highly unlikely without a significant change in the union's tactics and strategy. Unfortunately, the tendency in such circumstances is often to engage in personal recriminations and to lay blame for a bitterly disappointing outcome rather than to carry out a serious analysis of what happened and how a similar outcome might be avoided in future confrontations.

The fact is that the TWU and the other unions in the sector failed to engage in the kind of serious strategic preparation that would be necessary to win in a confrontation with a well-financed employer holding an array of powerful cards. If things are to be different in the future, unions must do more than merge the survivors of such debacles into conglomerate unions. These new, larger, merged organizations which increasingly dominate the labour scene today are not qualitatively different from the organizations that join them. Unfortunately, they appear to be characterized by substantially the same structure and lack of strategic capacity as the unions that merged into them.

The first task on the road to recovery of a vibrant labour movement must be to overcome the sense of fatalism that prevails in the ranks of organized labour today. This fatalism impels labour organizations to focus on mergers and other, irrelevant organizational responses to the problems besetting them, as a substitute for mounting a serious response to globalization and everything it implies for workers and their organizations. If further negative outcomes are to be avoided in future confrontations, serious time, energy and resources must be dedicated to figuring out:

- What actions should be taken in the regulatory arena and elsewhere to re-establish social oversight and control over the industry.
- The steps that must be taken to begin the process of organizing the wireless sector.

- Where today's communications companies are financially and operationally vulnerable and how these vulnerabilities can be exploited.
- What can be done to reduce the effectiveness of corporations' anti-union strategies, including how the electronic transfer of work can be impeded and how companies' ability to move work away from their unionized employees can be reduced.
- How concrete solidarity beyond the offer of financial aid can be extended to unions that are under the gun to strengthen them in their confrontations with aggressive corporate employers.

If organized labour wants to generate a different outcome in future confrontations with corporate capital, it must get serious about fighting back by addressing these and other, related questions.

This is not as unreasonable as it might appear in an era characterized by an unending string of labour defeats. In fact, the TWU's own history provides us with an example of the kind of approach that can succeed where playing by the stacked rules of the game cannot – a success based on militancy and old fashioned solidarity.

In 1981, when the employer locked the union out, TWU – fully backed by the rest of British Columbia's labour movement – responded by occupying phone exchanges across the province. When the courts ordered the union to evacuate the employer's premises, the British Columbia Federation of Labour stepped in to organize a series of regional general strikes in solidarity with the TWU. The combination of the resulting pressure from the ranks of the province's Employers' Council and the fact that the union enjoyed tremendous public support forced BC TEL to back away from its union-busting strategy. By stark contrast, in 2005 neither the TWU nor the wider labour movement did anything to generate a plan of action capable of defeating Telus's plans.

It goes without saying that the approach TWU used in 1981 can't simply be replicated. But we can draw inspiration from the spirit of resistance that motivated the union and the wider labour movement under those perilous circumstances. If we are to escape the clutches of neoliberal globalization, organized labour must renounce the fatalism and passivity that has plagued it for the past 30 years and undertake a collective, solidaristic effort to reinvent itself.