

BRIEF

SUBMITTED TO THE MINISTER OF LABOUR

March 19, 2025

Strikes are not an attack on the population's well-being

Bill 89, An Act to give greater consideration to the needs of the population in the event of a strike or a lock-out



Foreword

The Fédération interprofessionnelle de la santé du Québec-FIQ is a labour organization founded in 1987 that is dedicated to representing and defending the rights and interests of over 80,000 nursing and cardio-respiratory healthcare professionals. It represents the vast majority of nurses, licensed practical nurses, respiratory therapists and clinical perfusionists in health and social services institutions throughout Québec.

The FIQ is a feminist organization composed of nearly 90% women who are at once healthcare professionals, public and private network employees, and citizens who use these health services. It actively promotes and defends women's rights while also publicly denouncing iniquity.

A fervent defender of social gains, equality and social justice, the FIQ seeks to improve the working and practice conditions of its members, as well as the quality of care provided to the public. It is also a key pillar in defending and promoting Québec's public health network.

As first-hand witnesses of how the health system works every day, FIQ members have rich, diverse expertise thanks to their wide-ranging experiences with patients in the health and social services network.

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Summary

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Bill 89 is a direct attack on the freedom of association, which includes free collective bargaining and the right to strike. According to experts, the bill disrupts relations between employers and unions, thereby reducing employees' ability to defend their rights, calling into question the historical labour relations compromise in Quebec. By limiting the right to strike, the government is giving the employer party an advantage, which would hinder equitable negotiations of working conditions.

The Minister of Labour justifies this bill by invoking the “population’s well-being,” but it is more of an anti-union political reaction than a measure aimed at addressing a real problem. Labour disputes stem from issues this bill fails to address, even though they deserve focused attention, for example, the many ways the pandemic has affected workplace dynamics.

The bill also introduces the idea of a minimum service requirement, but without a clear definition, which could open the door to abuse and undermine workers' rights. The right to strike does not pose a threat to public well-being, despite the government's claims.

In this respect, the bill fails to address any clearly identified issue or reflect any kind of social consensus and should therefore be withdrawn.

Introduction

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Strike action is a pressure tactic that is already governed by existing laws. A strike is neither a surprise nor a dramatic gesture, but a legitimate form of pressure and expression rooted in the right to associate. Existing frameworks already ensure that strike action respects the public and maintains balanced bargaining power.

In November 2023, the FIQ exercised its right to strike as part of efforts to renew working conditions. For the first time in 24 years, nurses, licensed practical nurses, respiratory therapists and clinical perfusionists, feeling ignored by the government, determined that a strike was the appropriate way to make their demands heard.

In the health and social services sector (RSSS), the right to strike is limited by the requirement to maintain essential services, ensuring that public health and safety are never put at risk. In the RSSS, essential services are organized so that critical care is 100% maintained, with other services delivered based on the required level of care and intensity.

Bill 89, An Act to give greater consideration to the needs of the population in the event of a strike or a lock-out (Bill 89), does not aim to regulate the right to strike or protect the public. Instead, it seeks to dismantle the balance of bargaining power in labour relations.

Although the health and social services sector is not directly targeted by Bill 89, the FIQ believes it is essential to make its voice heard in this debate. Rightfully so, the FIQ is just as concerned and targeted by this bill as other unions, as it constitutes a direct infringement on the right to associate, a constitutional right protected by the Charter of Rights and Freedoms. Furthermore, despite the Coalition Avenir Québec's rhetoric, this bill primarily targets the public sector, especially education, where the government acts as both legislator and employer.

This brief will highlight the importance of maintaining balanced bargaining power, question the government's true motivations behind this bill, and examine the potential abuses that could arise from imposing a minimum service standard at the expense of public well being.

Balanced bargaining power

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Industrial relations, a discipline that examines union-employer dynamics, focuses in part on the elements of the power balance inherent to the collective bargaining process.

According to Jean Boivin, professor and researcher in the Department of Industrial Relations at Université Laval:

“Most analysts of the institution of collective bargaining recognize that it has the following six features or characteristics: a) interdependence between the parties; b) the existence of conflicting interests; c) the presence of organizations that are not monolithic; d) a climate of uncertainty regarding the true positions of the other side; e) internal and external constraints that influence the parties’ positions; f) a power relationship between the parties, i.e., a balance of power.

This last characteristic is undoubtedly the most important. If one party does not have a certain power, it can never have its views triumph, at least in part, with the other...

As such, when we refer to the balance of power, we are referring to the phenomenon whereby the parties seek to impose costs on each other in order to achieve certain objectives. So, real or virtual striking then acts as a driving force behind this cost dynamic.”¹

The right to strike is central to the bargaining process and to maintaining the balance of power that has been established in Quebec’s labour relations system for decades. The right to negotiate is closely tied to the ability of both parties to apply pressure; it is impossible to curtail the right to strike without also undermining the fundamental rights to association and collective bargaining. These rights go hand in hand.

By changing the rules surrounding the right to strike and lockout, Bill 89 dismantles Quebec’s labour relations framework to the benefit of employers. It represents a clear setback for workers’ rights and their ability to negotiate fair working conditions, whether in the private or public sectors targeted by this legislation.

The invisibility of women’s work in collective bargaining, particularly in so-called ‘female’ sectors such as health and education, is a persistent systemic

¹ J. BOIVIN. (1979). Règles du jeu et rapport de force dans les secteurs public et parapublic québécois. *Relations industrielles/Industrial Relations*, 34(1), 3Ü21. [Online] [https://doi.org/10.7202/028934ar], (Viewed on date).

issue. When governments, under the guise of protecting ‘the welfare of the population’, attempt to restrict these rights, they exacerbate this invisibility and perpetuate a status quo in which women remain relegated to a secondary role in the definition of policies that affect them. Bill 89 is therefore part of this trend towards narrowing the scope for negotiation, making it even more difficult for women to demand fair pay, safe working conditions and recognition of their expertise.

More than 90% of collective bargaining ends without resorting to a strike. Under the pretext of wanting to preserve ‘the well-being of the population’, the Minister of Labour is calling into question a system which, although imperfect, would encourage a certain necessary consensus. The enthusiasm of employers’ associations in the days following the tabling of the bill confirms that Bill 89 would give them greater bargaining power. The labour relations system must avoid favouring one party over the other.

Mélanie Laroche, professor in the Department of Industrial Relations at the University of Montreal, shares this same observation in an interview with journalist Isabelle Porter, published in the daily newspaper *Le Devoir* on February 22, 2025. “Unlike what Labour Minister Jean Boulet claims, the bill on strikes does not restore balance between management and unions, according to experts in the field. On the contrary, they say, it creates an imbalance by undermining workers’ bargaining power. “It calls into question the entire history of compromise that was built in labour relations over the years. It will completely change the balance.”²

Between negotiations, employers enjoy a period of industrial peace, the union not having access to its right to strike. “People forget, she says, but the right to strike is already very limited in North America, since it is prohibited to strike here when a collective agreement is in force. “Elsewhere, people have the right to strike any time,” added Mélanie Laroche.³

The period of industrial peace is important because it helps to maintain harmonious relations in the workplace. The balance of bargaining power is part of a long-term relationship between two parties.

² [La réforme Boulet sur les grèves change complètement les règles du jeu, selon des experts | Le Devoir](#), (Viewed on March 11, 2025)

³ Idem.

What actual need does this bill address?

This attack on the delicate balance of bargaining power brings up questions on the objectives of Bill 89. The Labour Minister justifies this legislative change by claiming there is a need to better take into account the population's needs in the event of a strike or lockout. But doesn't the 'well-being of the population' conceal an anti-union political agenda?

In the absence of social dialogue on the subject – no discussions took place to understand the minister's vision before the bill was tabled – several questions remain. What need does this bill actually address?

First, the government claims that there has been an increase in labour disputes in recent years and that this is harming the population. It also claims that its bill would help mitigate risks for the most vulnerable individuals. However, no specific measures are indicated for this purpose, as the bill applies broadly to the entire population.

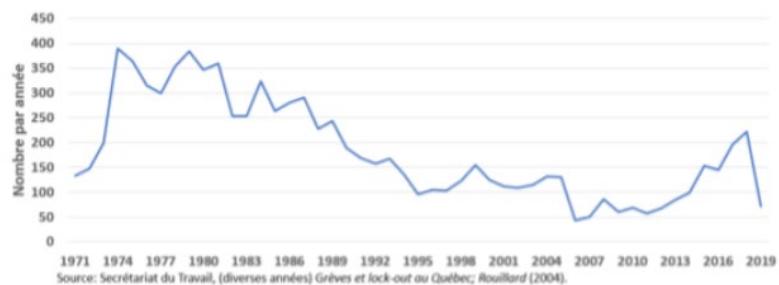
While it is true that there has been an increase in labour disputes, strikes and, above all, lockouts in recent years, the analysis remains incomplete if it does not take into account the underlying reasons for these disputes. The effects of the pandemic on the labour market are an important part of this analysis. According to the data collected by Statistics Canada, there was a record number of work stoppages at the end of 2023 and start of 2024, namely due to the striking of hundreds of thousands of public sector workers. The number of conflicts quickly dropped to previous levels.



Source: Statistics Canada. Table 14-10-0350-01 Work stoppages in Canada, by jurisdiction and industry based on the North American Industry Classification System (NAICS), Employment and Social Development Canada - Labour occasional

Furthermore, an assessment of statistics from the last 50 years reveals a general decline in labour disputes since the mid-1970s.⁴ Why then impose a bill if this increase is circumstantial and the decrease in disputes is already beginning?

Graphique 6 : Arrêts de travail au Québec, 1971-2019



Source : M. Laroche, *Vers un nouveau monde du travail et un modèle de syndicalisme renouvelé ?*
Présentation effectuée à l'Assemblée annuelle des Métallos, Québec, 26 novembre 2021.

While it is true that the latest round of negotiations in the public sector led to more than 650,000 workers going on strike simultaneously, it should be noted that such a strike had not occurred for several decades. The frustration of members of various unions and their exasperation at the government's slowness in restoring public services after the pandemic were expressed through overwhelming votes in favour of strike action. It's easy to understand that fall 2023 was a difficult time for the government. Nonetheless, just two years later, reforming the right to strike seems more like the reaction of a sore loser.

So, if the short-lived increase in labour disputes is not the reason for this bill, are the intentions behind it concealing a political vision? Several times during the last round of negotiations, the government openly expressed its anti-union positions. In addition, it regularly put members in opposition to their union structure. The government is on the wrong track with this approach.

A union's role goes well beyond holding strikes. Women's rights, LGBTQ+ rights, occupational health and safety, labour standards and pay equity are all examples of areas where union activism has sparked public debate with a view to improving the living and working conditions of all Quebecers,

⁴ M. LAROCHE. *Vers un nouveau monde du travail et un modèle de syndicalisme renouvelé ?* Presentation made at the annual meeting of the Métallos, Québec City, November 26, 2021.

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whether they are unionized or not. Unions in Quebec are agents of social change that have enabled Quebec society to set itself apart and foster cultural, social and economic pride. From this perspective, the government's attacks on union rights are counter productive.

In a system where the employer is also the legislator, the latter has already used the option of imposing a special law or any other legislative means to constrain negotiations. Legislation is an important tool that must be used wisely and not to grant oneself more power in negotiations. A 2015 ruling from the Supreme Court of Canada, the highest court in the country, reiterated these principles and outlined the balance required to respect freedom of association.

The Saskatchewan ruling invalidated the law restricting the right to strike and confirmed that striking, bargaining and the freedom of association are all interrelated. "I agree with the trial judge. Along with their right to associate, speak through a bargaining representative of their choice, and bargain collectively with their employer through that representative, the right of employees to strike is vital to protecting the meaningful process of collective bargaining within s. 2(d). As the trial judge observed, without the right to strike, 'a constitutionalized right to bargain collectively is meaningless'."⁵

The government appears to be reacting to this ruling and the latest public sector strike. "According to Professor Thomas Collombat from the Université du Québec en Outaouais, Bill 89 makes it possible to achieve the same result as a special law without the associated negative image of one."⁶ The tabled legislative amendments would allow the government to take a roundabout way to do what the highest court in the country deemed to be in violation of a constitutional right.

The government has not proven that there is a real need for this bill.

⁵ Saskatchewan Federation of Labour c. Saskatchewan, 2015 CSC 4.

⁶ [La réforme Boulet sur les grèves change complètement les règles du jeu, selon des experts | Le Devoir](#), (Viewed on March 11, 2025).

The right to strike is not an attack on the population's well-being.

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The experience of essential services set out in the Labour Code

Strikes are carried out in accordance with essential services requirements, as provided in the Labour Code, in the public and para-public sectors, including health and social services. Essential services include those that, if interrupted, would endanger public health and safety. The FIQ therefore has experience with this strike framework, which is already considered a limitation on the right to strike for thousands of women in public services.

With regard to public services, if the Administrative Labour Tribunal (TAT) "considers that a strike in a company may endanger the health or safety of the population, and that the nature of its operations makes it comparable to a public service, it may order that essential services be maintained. That company is then considered a public service and the rules governing public services apply."⁷ (unofficial translation)

It would be inaccurate to say that strikes are taken lightly, without consideration for how they impact the public. On the contrary, both the definition of a public service and the specific regulations set out in the Labour Code, as well as various court rulings, significantly limit the use of strikes to protect the population.

It must also be noted that strike arrangements are not made solely at the time the right to strike is acquired or when one happens, but rather throughout the whole process. The TAT ensures continuous monitoring to guarantee that the essential service parameters are maintained throughout the strike. The strike held by the FIQ affiliated unions in 2023 gave rise to several incidents that the courts ruled on during and after the strike. Existing essential services systems in the Labour Code allow for strikes and protect the public, even if their application remains limited, complex and dissuasive for the parties involved.

Bill 89 introduces a new notion of essential services and there are numerous risks of misuse with this new approach.

Introduction of the notion of 'minimal service'

The introduction of services minimally required to protect the population's social, economic or environmental security is not defined in the bill, which makes it broadly subject to interpretation. Although the TAT is responsible

⁷⁷[Online] [<https://www.tat.gouv.qc.ca/services-essentiels/services-publics/les-services-essentiels-dans-les-services-publics/les-services-publics-selon-le-code-du-travail>], (Viewed on March 10, 2025).

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for addressing this issue, they are given few guidelines for judging what does or does not harm well-being, to what degree, and what level of services to maintain. What might harm the well-being of one might not harm that of another. There are many inequalities in our society, and the FIQ brings them up regularly. A measure such as the well-being of the population is arbitrary and already unequal. The government, with the help of experts, should at least have undertaken the arduous task of defining what this new concept means, as it currently has no legal basis.

Bill 89 goes far beyond the concept of essential services and has been used until now to limit the right to strike when the health and safety of the population may be compromised.

Restricting the right to strike constitutes a violation of the right to collective bargaining and both are protected by the charters. Introducing a minimum service requirement is a roundabout way of ending a strike, rather than holding a genuine debate on essential services, which could have taken place if a real need had been identified when the relevant articles were updated in 2019.

Both the concept of well-being and minimal service requirement lead to abuses in collective bargaining and the right to strike. The bill is not designed to address real or clearly identified issues.

Conclusion

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The use of the right to strike is intended to exert pressure in the power balance between two parties. Of course, there are consequences. The Labour Code provides protection for health and safety. Members who vote for a strike mandate accept a financial loss and are aware of the repercussions of their work stoppage. The decision to go on strike is never taken lightly or happily.

“By eliminating all irritants related to a dispute, you distort what a strike is,” says Thomas Collombat. “The logic of authorizing workers to go on strike means using the fact that if these people decide to withdraw their workforce, it will be disruptive.”⁸

Striking is a legal pressure tactic, used during negotiations to improve working conditions. It is important to remember that a healthy, safe workplace with good conditions will have a ripple effect, benefiting not just employees but also the company or institution. In this situation, the employers and the government should prioritize negotiated agreements rather than turning to legislation to restrict the right to strike.

Zeroing in on strikes as a problem that needs to be more tightly controlled, to the point of distorting them and rendering them meaningless, should be seen as a partisan effort aimed at upsetting the balance of power and serving an anti-union agenda.

Bill 89 constitutes an unjustified attack on employees’ constitutional right to collective bargaining. This bill seems to address the government-employer’s desire to use recent strikes in public services as a pretext for grabbing more power ahead of the next round of negotiations.

Bill 89 must be withdrawn for all of these reasons.

⁸ [La réforme Boulet sur les grèves change complètement les règles du jeu, selon des experts | Le Devoir](#), (Viewed on March 11, 2025).

Recommendation

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We recommend withdrawing Bill 89, entitled *An Act to give greater consideration to the needs of the population in the event of a strike or a lock-out*, because it is an unjustified attack on the right of employees to collective bargaining and appears to address a partisan need to upset the power balance in future negotiations.