



Labour

Collective bargaining and the business cycle

Introduction

A recession is typically characterized by falling average income, falling consumption and investment, and elevated levels of unemployment and government borrowing, among other macroeconomic indicators. During a recession and the years immediately following it, many employers are faced with added pressure to reduce costs which translate into various restraint measures that directly impact employees' job status, wage, as well as non-wage benefits, and this can often result in contentious negotiations between employers and unions. Empirical literature suggests that during the period following the 'great recession' in 2008, employers were more aggressive in the negotiation tables and unions were expected to make concessions with little or no promises of anything in return (Stranger et al 2013). Furthermore, faced with budget deficits and changes in labour relations, governments were forced to adjust compensation practices in many instances (Perlman 2011). This lends support to the fact that the business cycle influences collective bargaining. However, the extent of recessionary impact on bargaining activities depends on policies and measures put in place by the governments in responding to difficult economic conditions (Ibsen et al 2011).

To contribute to the ongoing academic discussion, this analysis presents some stylized facts in relation to recessions and settlement patterns in Canada. Analyzing the stages¹ the negotiations went through before reaching an agreement is an alternative way to understand the bargaining climate, rather than looking at the number and duration of work stoppages as a summary indicator. Using data collected by the Workplace Information and Research Division of the Labour Program, this study analyzes the stages of all major collective bargaining negotiations that took place in the periods before, during, and after the recessions experienced by Canada over the last three decades, with a particular focus on the last stage of negotiations.^{2, 3}

¹ Appendix A provides a description of the various bargaining stages.

² Major settlements are defined as those agreements covering 500 or more employees

³ Throughout this analysis, the 'last stage' refers to the stage at which the negotiation was settled.

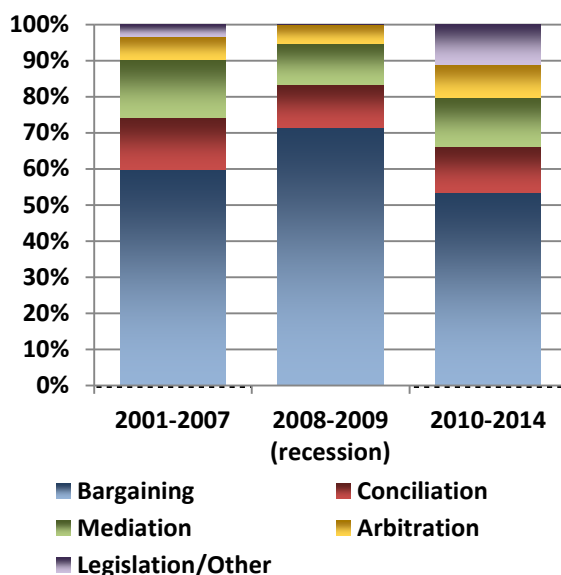
1. Settlements by last stage of negotiation

Business Cycle of 2001-2014

It has been more than five years since the last recession (2008-09) occurred, and the economy is still experiencing some of its lasting effects. Employers are still looking for ways to cut operational costs while employees are demanding job security and increased compensation. This has led to intense negotiations between the parties and a greater reliance

on third-party involvement in bargaining. Compared to the recessionary period, a smaller proportion of negotiations were settled through direct bargaining during the period after the recession (Figure 1). Furthermore, the proportion of negotiations that required arbitration or legislative interventions was considerably higher before (9.7%) and after (20.2%) the recession, than during the recession itself (5.2%). This may indicate that the severity of the recession was recognized by both employers and unions, and as such, negotiations were not overly contentious during the recessionary period.

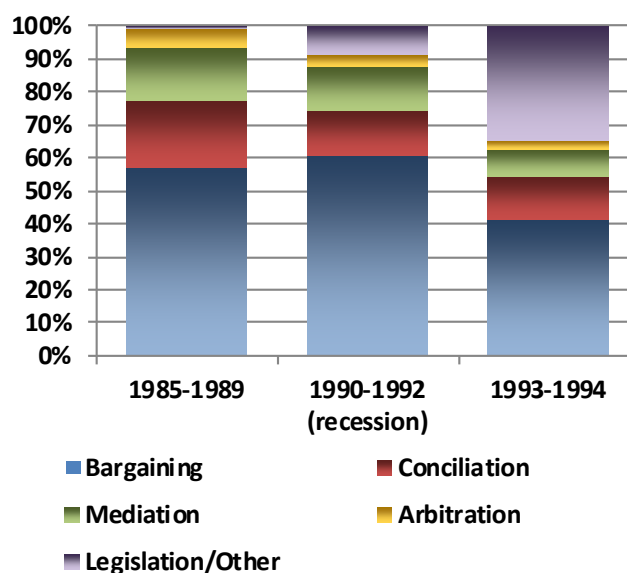
Figure 1: Settlements by last stage of negotiation, 2001-2014



Business Cycle of 1985-1994

Negotiations became increasingly contentious throughout the recession of the early 1990s and in the years immediately following it (Figure 2). The proportion of settlements through arbitration or legislative interventions grew from 6.6% in the pre-recession period to 12.3% during the recession and to a substantial 37.3% in 1993-1994. Negotiations settled through direct bargaining, conciliation, and mediation declined from 87.7% during the recession to 62.6% in the post-recession period.

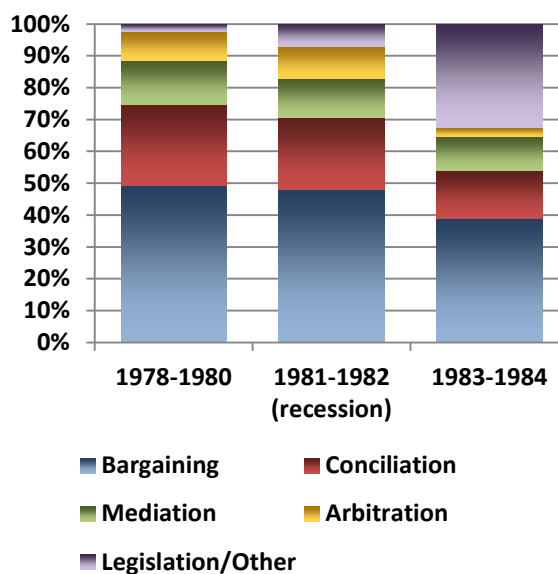
Figure 2: Settlements by last stage of negotiation, 1985-1994



Business Cycle of 1978-1984⁴

The proportion of negotiations settled through direct bargaining tended to gradually decline between 1978 and 1984 (Figure 3). As well, during the post-recessionary period, there was a sharp increase in the share of negotiations that required legislative intervention, compared to the periods during the recession and before.

Figure 3: Settlements by last stage of negotiation, 1978-1984

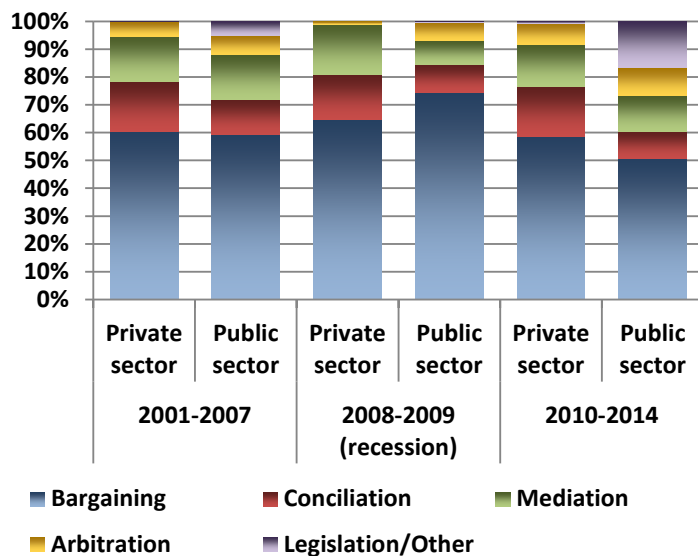


2. Last stage of negotiations by sector

Business Cycle of 2001-2014

Both public and private sectors had elevated levels of negotiations settled through direct bargaining during the recession, when compared with the periods immediately before and after (Figure 4). In the public sector, the proportion of negotiations that required either arbitration or legislative interventions increased significantly from a low of 7.0% during the recession to a high of 26.7% during the years after the recession. Such drastic shifts in the settlement patterns were not seen in the private sector.

Figure 4: Last stage of negotiations by sector, 2001-2014

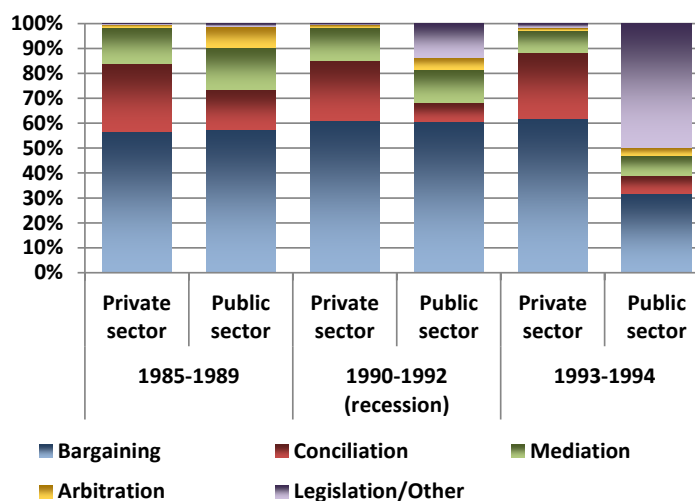


⁴ The Workplace Information and Research Division data goes back only to 1978.

Business Cycle of 1985-1994

In both sectors, the share of negotiations settled through direct bargaining was only slightly higher during the recession than in the years preceding it (Figure 5). In the private sector, the proportion of negotiations settled through direct bargaining remained relatively stable over the business cycle. However, the proportion of public-sector negotiations settled through arbitration and legislation was 9.7% during the pre-recession period, but went up to 18.4% during the recession, and a considerable 53.1% in the years immediately following the recession.

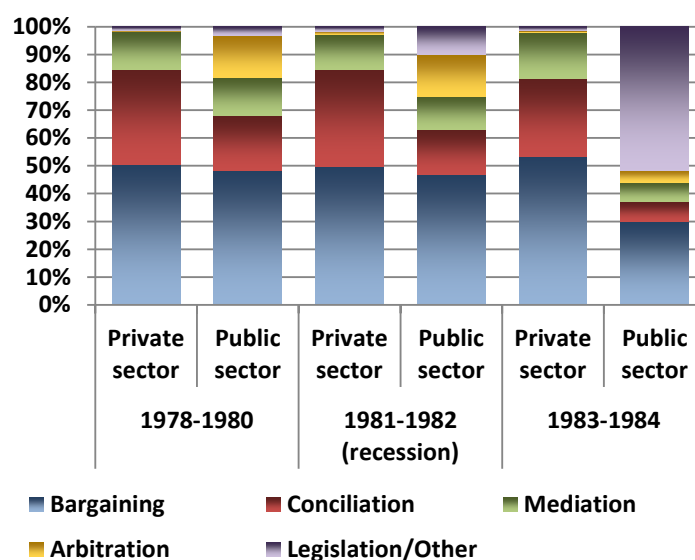
Figure 5: Last stage of negotiations by sector, 1985-1994



Business Cycle of 1978-1984

The negotiation patterns in the public and private sectors were divergent. While the private-sector negotiation settlements remained relatively unchanged throughout the entirety of this business cycle, public-sector negotiations were increasingly reliant on arbitration and other legislative intervention for settlement (Figure 6). In the public sector, the share of negotiations settled through direct bargaining, conciliation, and mediation fell consistently from 81.9% in the pre-recession period, to a mere 44.2% in the post-recession period.

Figure 6: Last stage of negotiations by sector, 1978-1984

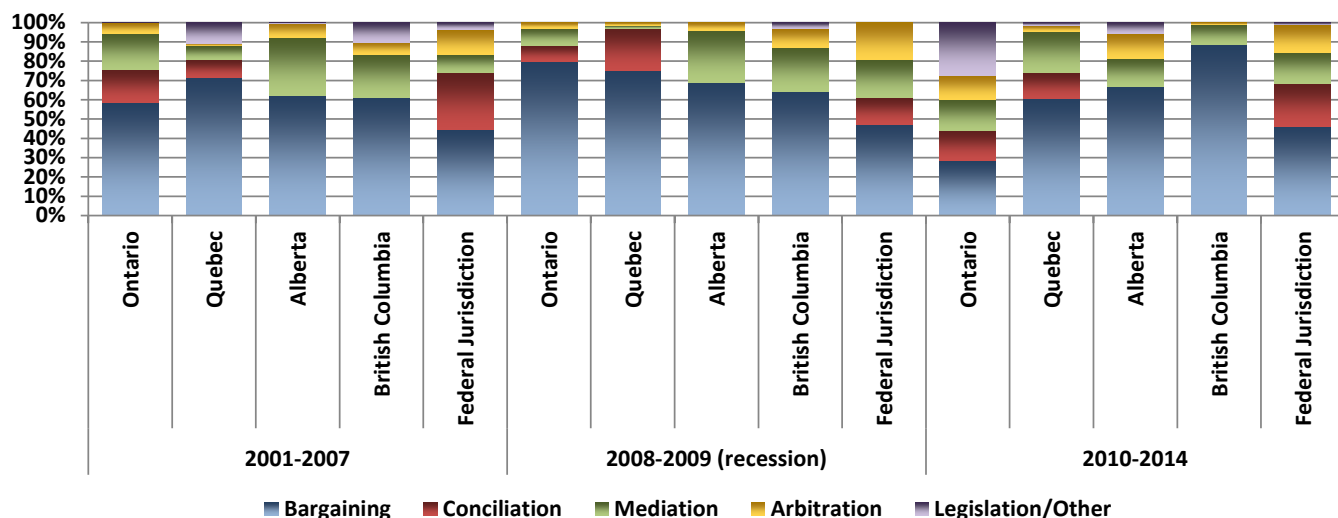


3. Last Stage of negotiations by jurisdiction

Business Cycle of 2001-2014

Settlement patterns varied across the major jurisdictions (Figure 7). Ontario saw a notable decline in settlements reached through direct bargaining, conciliation, and mediation in the years following the recession (60.0%), when compared to the periods during the recession itself (97.0%). The settlement pattern in the federal jurisdiction remained relatively stable throughout all three phases of this business cycle.

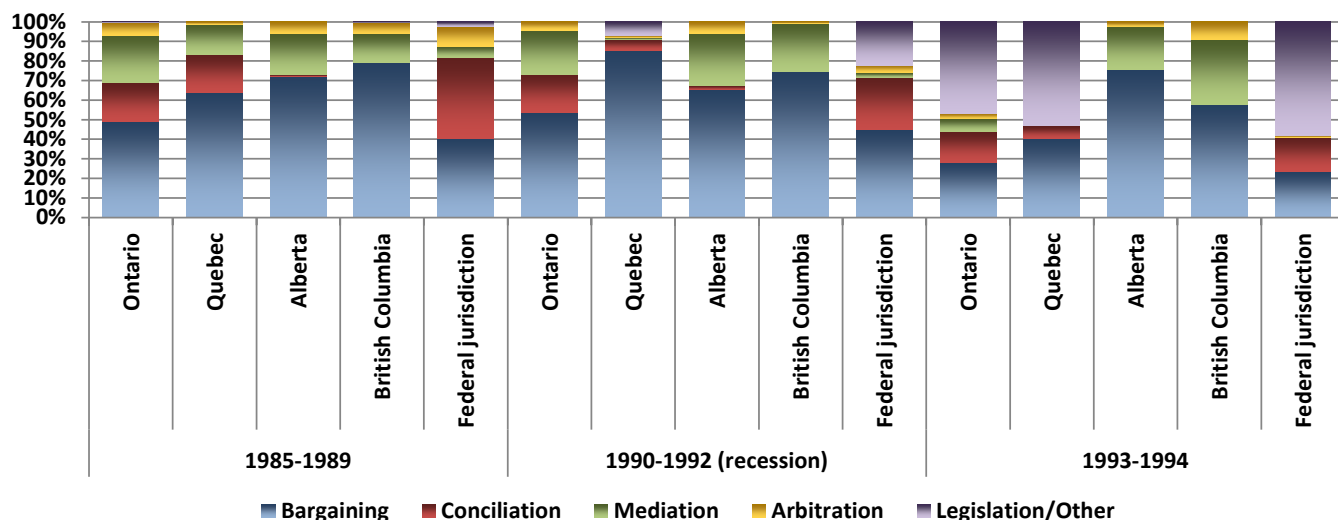
Figure 7: Last stage of negotiations by major jurisdiction, 2001-2014⁵



Business Cycle of 1985-1994

Similar to the business cycle discussed above, no stable pattern emerged across the jurisdictions over the course of the business cycle of 1984-1994 (Figure 8). During the post-recessionary period, a substantially higher proportion of negotiations were settled through legislative interventions in Ontario, Quebec, and the federal jurisdiction, compared to the recessionary period. The vast majority of these agreements were in the public sector. On the other hand, all private-sector settlements in Alberta and British Columbia in the post-recession period were settled either through direct bargaining, conciliation, or mediation.

Figure 8: Last stage of negotiations by major jurisdiction, 1985-1994⁶



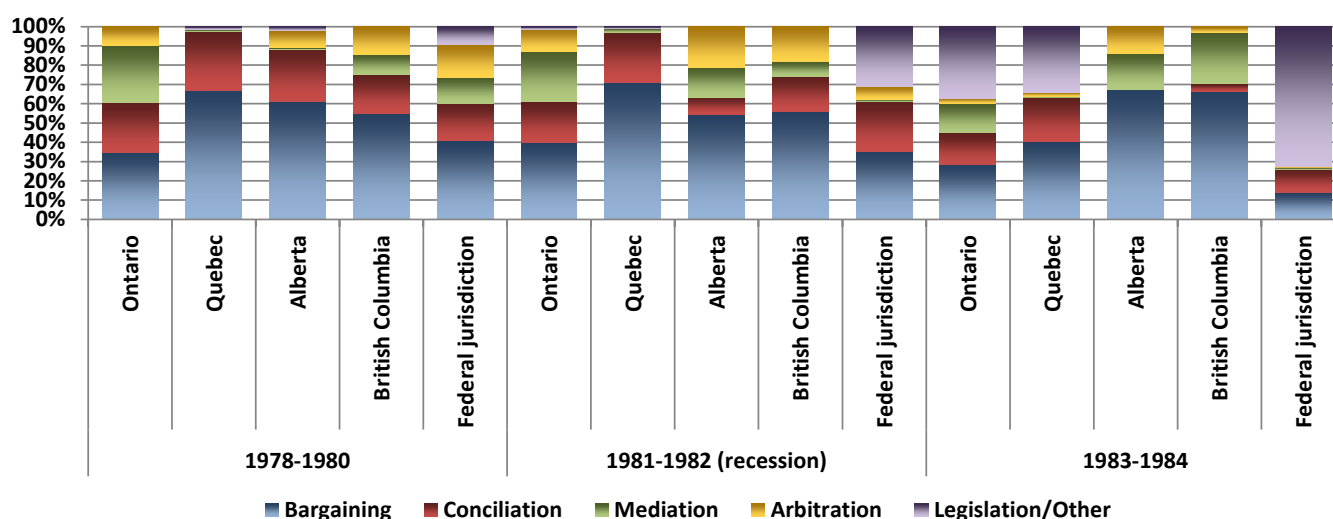
⁵ Settlements in these five jurisdictions represent 84.2% of the total sample over this business cycle.

⁶ Settlements in these five jurisdictions represent 85.7% of the total sample over this business cycle.

Business Cycle of 1978-1984

Negotiations in some jurisdictions were far more contentious than in others (Figure 9). In the federal jurisdiction, the proportion of negotiations settled through arbitration or legislation was 26.5% from 1978-1980, but grew to 37.7% during the recession, and to 73.0% over 1983-1984. Clearly, this recession impacted the bargaining climate in the federal jurisdiction to a greater extent than in other jurisdictions. Settlements through arbitration or legislation also increased in Ontario and Quebec as well. In the post-recession years, 39.8% of Ontario settlements and 37.7% of Quebec settlements were through arbitration or legislation. Almost all of the imposed settlements in these two jurisdictions were in the public sector, which indicates that these years can be characterized by a volatile bargaining climate between governments and public-sector unions.

Figure 9: Last stage of negotiations by major jurisdiction, 1978-1984⁷



4. Last stage of negotiations by industry

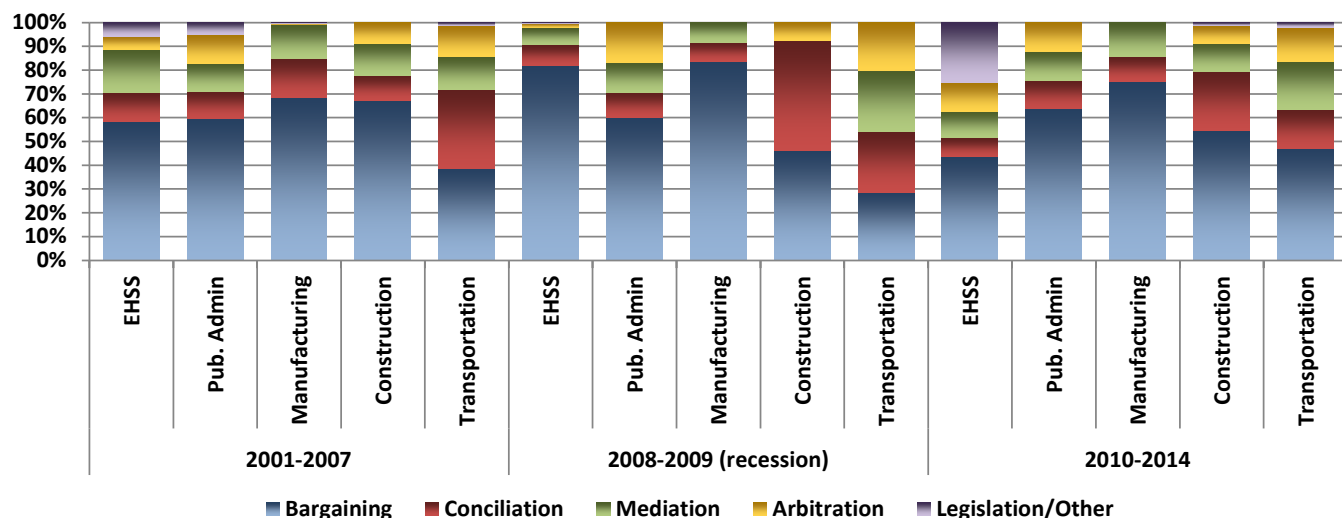
Business Cycle of 2001-2014

Settlement patterns varied across major industries (Figure 10).⁸ Notably, 88.6% of negotiations were settled in education, health and social services (EHSS) through direct bargaining, conciliation, or mediation in the pre-recession period, but this figure declined to 62.6% in the years immediately following the recession. In the other four major industries, the proportion of agreements settled through arbitration or legislation remained relatively stable over each of the three phases of the business cycle. In manufacturing, negotiations through arbitration or legislation represented no more than 1.0% of settlements in the years before, during, or after the recession, making it the least contentious major industry over this business cycle. All negotiations in construction were in the private-sector and had a stable proportion of arbitration settlements over all three periods.

⁷ Settlements in these five jurisdictions represent 85.6% of the total sample over this business cycle.

⁸ For the purposes of this analysis, the five industries that represent the largest share of agreements were considered major. These include education, health and social services (EHSS), public administration, manufacturing, construction, and transportation.

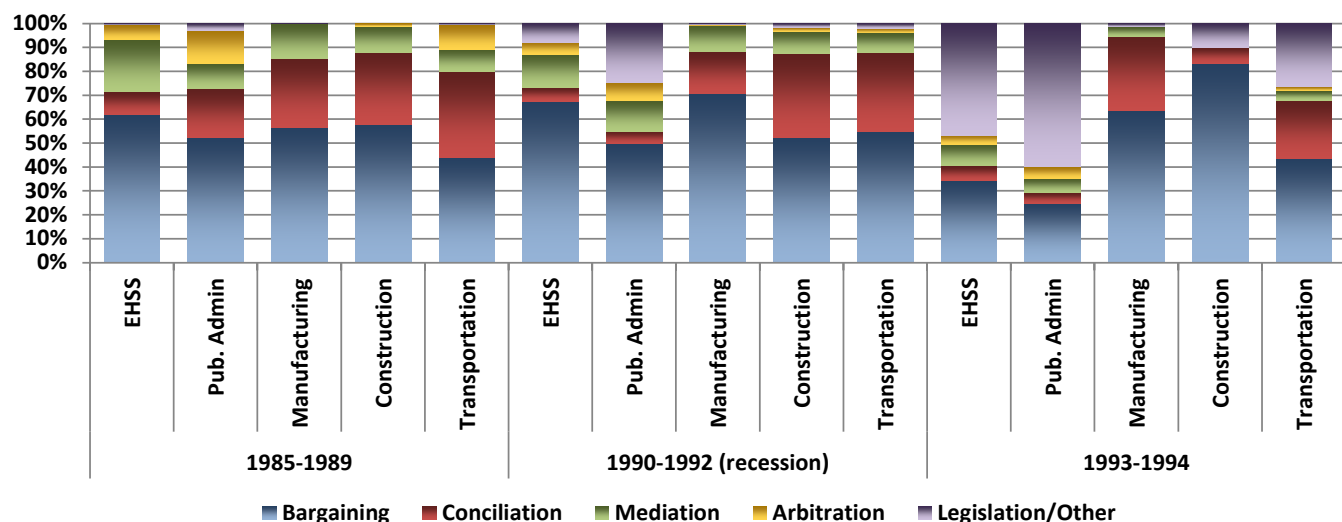
Figure 10: Last stage of negotiations by major industry⁹



Business Cycle of 1985-1994

In the years immediately following the recession of 1990-1992, a majority of negotiations in EHSS (50.5%) and in public administration (64.9%) had to be settled through arbitration or legislation (Figure 11). In the post-recession period, there was an uptick in negotiations settled through legislation in both transportation and construction. However, the settlement pattern in manufacturing remained relatively unchanged. EHSS and public administration, which operate predominantly in the public sector, had far more negotiations settled through arbitration and legislation during and after the recession than the other major industries.

Figure 11: Last stage of negotiations by major industry, 1985-1994¹⁰



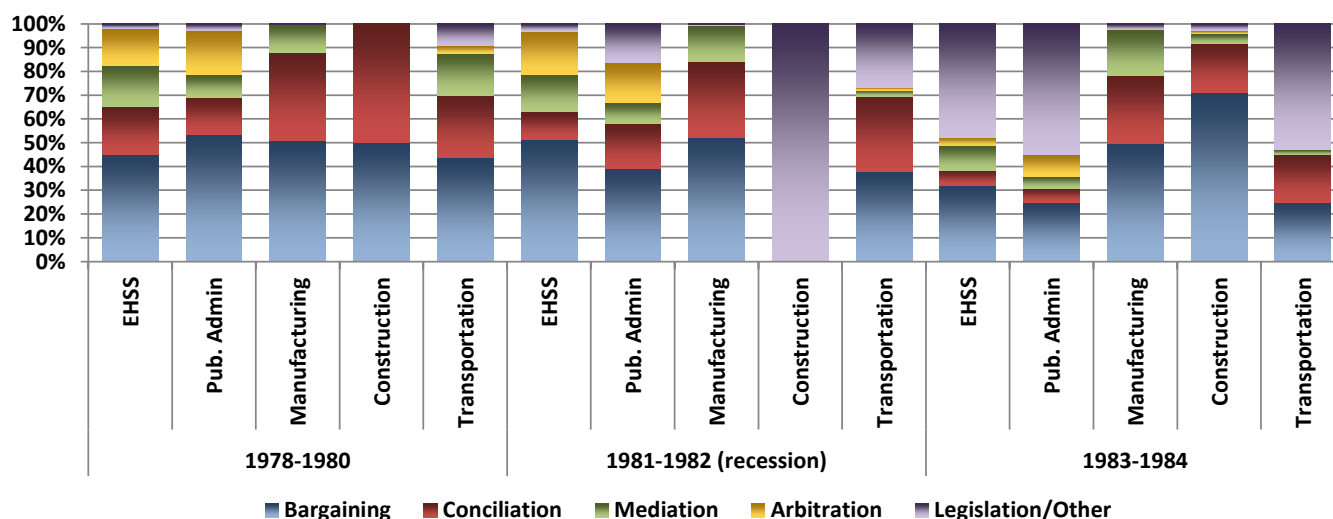
⁹ Settlements in these five industries represent 83.6% of the total sample over this business cycle.

¹⁰ Settlements in these five industries represent 85.5% of the total sample over this business cycle

Business Cycle of 1978-1984

In the years immediately after the recession, a significant proportion of negotiations were settled through arbitration or legislation in EHSS (51.1%), public administration (64.2%) and transportation (52.8%). The proportion of manufacturing negotiations settled through direct bargaining, conciliation, and mediation remained relatively stable before, during, and after the recession

Figure 12: Last stage of negotiations by major industry, 1978-1984¹¹



In most of these three business cycles there was a notable uptick in arbitration and legislation settlements after the recession in the predominately public sector industries: EHSS, public administration, and transportation. This could be linked to industrial relation characteristics of the public sector, which needs to be explored more. Studying public-sector unions is still receiving less attention than the private sector (Riccucci 2011). Public-sector labour's bargaining power is a function of different set of pressures: public attitudes, government revenues, and public-policy discourse (Katz, 2013: 1043-1044). The behaviour and strategy of public-sector bargaining units can certainly buffer against these pressures and the fluctuations of the business cycle (Devinatz, 2012; Roles et al. 2012). However, as the baby-boomer generation prepares for retirement, government revenues, pension liabilities, and program expenses will bring public-sector labour's bargaining power more acutely into focus.

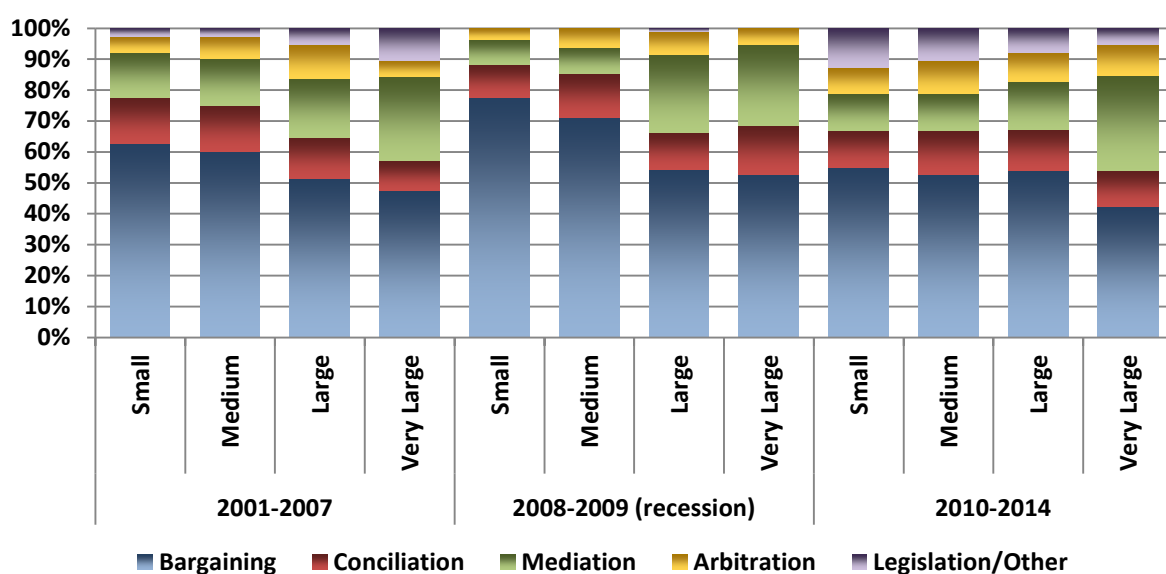
¹¹ Settlements in these five industries represent 83.0% of the total sample over this business cycle. Only three settlements were recorded in the construction industry from 1978-1982.

5. Last stage of negotiations by bargaining unit size

Business Cycle of 2001-2014

The size of the bargaining unit is a key factor in this analysis since it often influences the bargaining power of the parties (Figure 13). Settlements through direct bargaining were more prevalent amongst smaller bargaining units across all phases of this business cycle and in both public and private sectors relative to larger ones. During 2010-2014, negotiations involving smaller units were more frequently settled through arbitration and legislative interventions relative to larger ones. This pattern was stronger amongst public-sector settlements

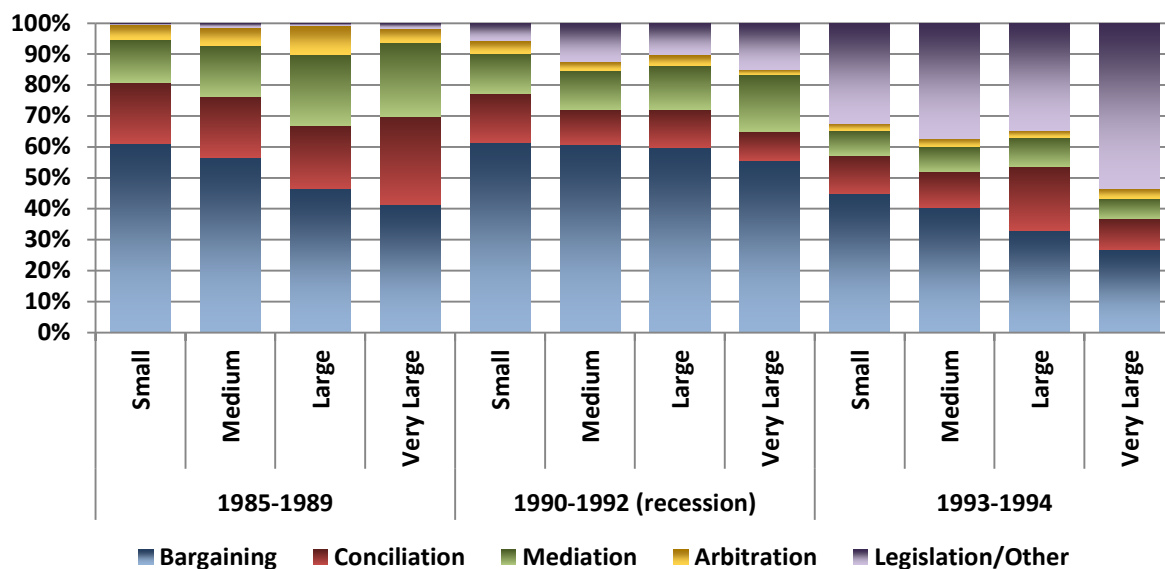
Figure 13: Last stage of negotiations by bargaining unit size, 2001-2014



Business Cycle of 1985-1994

During 1993-1994, negotiations concluded with 'imposed' settlements through arbitration or legislation increased significantly, regardless of the size of the bargaining unit. However, over these years the larger bargaining units resorted more frequently to imposed settlements than the smaller ones (Figure 14). Larger bargaining units in the public sector tended to settle through arbitration or legislation more frequently during the period after the recession.

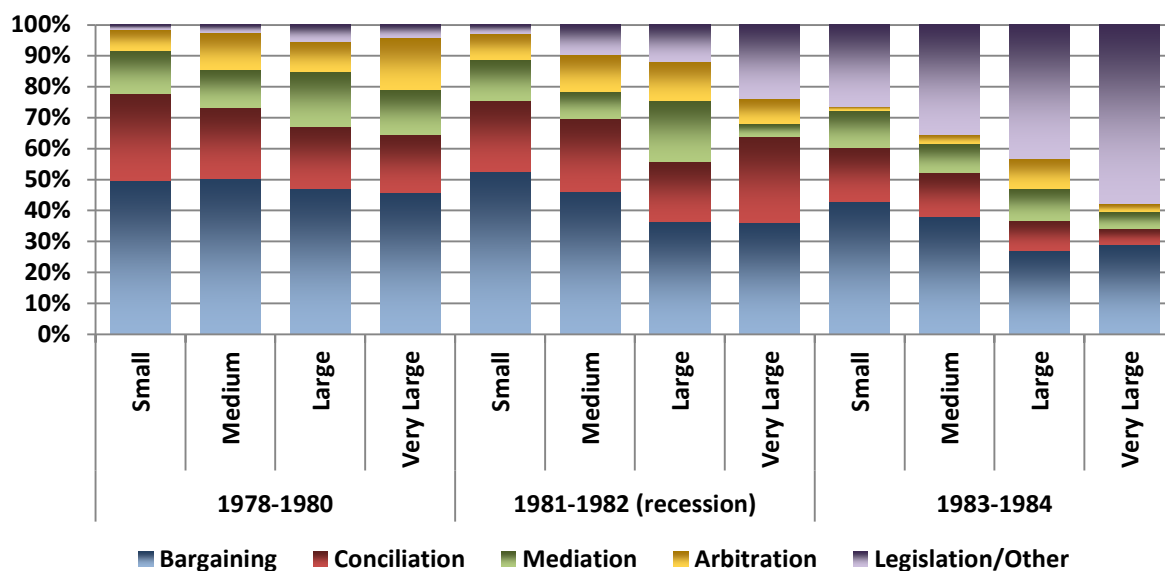
Figure 14: Last stage of negotiations by bargaining unit size, 1985-1994



Business Cycle of 1978-1984

Across all bargaining unit sizes, the proportion of negotiations settled through direct bargaining was unambiguously lower in the years following the recession than during the recession itself (Figure 15). In the post-recession period, larger bargaining units more frequently resorted to settlements through legislative interventions than the smaller ones. However, this pattern was only pronounced in public-sector settlements and no consistent trends emerged by bargaining unit size amongst private-sector negotiations over this business cycle.

Figure 15: Last stage of negotiations by bargaining unit size, 1978-1984



Key Findings

- For all three recessions studied in this analysis, the share of negotiations settled through direct bargaining was lower and the share through arbitration or legislation was higher during the post-recessionary periods than during each respective recession itself.
- Public-sector negotiations were settled more frequently through arbitration and legislative interventions during the post-recessionary phase than during the recession. The same cannot be said about the private-sector ones.
- Larger bargaining units had consistently recorded a lower proportion of negotiations settled through direct bargaining. In the post-recessionary period of the 1981-1982 and 1990-1992 recessions, larger bargaining units settled their collective bargaining disputes more frequently through arbitration or other legislative interventions than smaller ones. However, the opposite was true during the years immediately following the 2008-2009 recession, as smaller bargaining units settled their negotiations more frequently through arbitration and legislation than larger ones.
- Amongst the major industries, manufacturing was the one where settlement pattern was least affected by the business cycle fluctuations.

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APPENDIX A

Direct Bargaining

During this stage, negotiations occur directly between the parties: the employer and the bargaining unit. Reaching an agreement at this stage is seen as healthy labour relations and it establishes stronger rapport between the bargaining parties.

Conciliation

When the parties cannot reach an agreement by themselves through direct bargaining, a government-appointed third party attempts to bring together the parties to reconcile their differences. The conciliator is appointed at the request of either one or both parties or at the discretion of the Minister of Labour (federal or provincial). The conciliator, who is usually a government employee, does not participate in bargaining but attempts to capture the parties' 'real' issues. Conciliation is most often seen as the necessary first step before more interventions are made to resolve the issues.

Mediation

Mediation is a more intensive form of third-party intervention than conciliation. It is a process whereby disputing parties choose voluntarily to reconcile their differences through a third party. The mediator usually proactively participates in the actual bargaining process, meeting jointly and separately with the parties during bargaining sessions. A mediator is appointed at the request of one or both parties, or at the initiative of the Minister of Labour.

Arbitration

Arbitration can be requested by either or both parties when bargaining reaches an impasse, or it can be imposed if the government considers the continuation of a work stoppage intolerable and temporarily suspends the right to strike and lockout. The Minister of Labour appoints an individual or a three-member panel as arbitrator and a formal hearing is held. The arbitrator sets some or all of the terms and conditions of the collective agreement, and the arbitrator's decision is binding.

Back to work legislation

Governments can use 'back to work legislation' or access the courts to end disputes. Most jurisdictions have legislation that restricts or forbids workers in essential services from striking. A service is considered 'essential' when its withdrawal would cause a threat to public safety or health e.g. police officers.

Collective Bargaining & Business Cycle Report

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