

Performance Measurement in Alberta's Labour Programming

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Abstract

This study examined the validity of performance indicators used to monitor labour relations programming in the Canadian province of Alberta. Specifically, the study examined whether the indicators were meaningfully related to the government's overarching goal of "fair, safe and healthy workplaces" and whether the assumptions embedded in each measure were true. Overall, the indicators were found to have definitional and causal defects. These defects suggested the indicators are not meaningfully related to the government's overarching goal. Further analysis of the indicators suggested that, in some cases, they create perverse incentives for field staff and obscure important outcomes that bear upon government goals.

Introduction

The Canadian province of Alberta uses performance indicators (PIs) as measures of how well the civil service meets the goals set for it by government. For example, one of Alberta's goals is to ensure that workplaces are fair, safe and healthy (Government of Alberta, 2007a). Achievement of the "fair, safe and healthy" goal is measured by examining three main indicators: the level of lost-time claims made to the workers' compensation board, the collective bargaining agreement settlement rate, and the employment standards complaint rate.

There has been little analysis of the validity of these PIs. That is to say, no one has asked if the PIs are meaningfully related to the fair, safe and healthy goal. There has also been no analysis of whether the assumptions embedded in each measure are accurate. This absence of critical review is fairly typical of the literature on performance indicators. For example, a review of research on PIs in higher education (Barnetson, 1999) found most peer-reviewed articles were descriptive (i.e., this is what we've done) or prescriptive (i.e., this is what you ought to do), rather than critical.

This study addresses this gap by examining the validity of the PIs used in Alberta's labour relations programming. Of particular interest was whether the measures were meaningfully related to the government's goal of ensuring "fair, safe and healthy workplaces" and whether

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the assumptions underlying each PI were accurate. At the same time, instances where PIs created perverse incentives or obscured important outcomes were documented.

Performance Measurement in the Public Sector

Governments use quantitative measures to report, assess and contextualize the performance of individuals, programs, departments and legislation. These measures may be simple, general or performance indicators:

Simple indicators provide neutral description, such as the number of individuals accessing a program.

General indicators include an evaluation that is unrelated to any particular goal. For example, clients' perception of the degree of community a program generates would be a general indicator in the absence of a related goal.

Performance indicators contain a point of reference to which an organization's performance is compared. For example, if an organization is mandated to increase participant numbers by $\geq 4\%$ each year, the percentage change in enrollment would be a performance indicator (Cave et al., 1997).

By operationalizing concepts quantitatively, knowledge is made independent of its creators and users because it is less dependent than narrative-derived knowledge upon context for interpretation. Quantified knowledge is more easily transported across time and distance with minimal loss of content (Porter, 1995). This facilitates comparison between or generalizations about organizations or systems by suppressing contextual factors that can complicate comparison and generalization (Power, 1994). Quantification also constrains the ability of others to exercise judgment when they use the information, thereby subordinating personal bias to public standards (Porter, 1995).

There are five organizational elements that indicators can be applied to:

Inputs are raw materials (e.g., resources, policies, communal characteristics).

Processes are how inputs become products, outputs and outcomes (e.g., enforcement).

Products are results that are fed back into the system to become outputs and outcomes (e.g., information collected that eventually leads to an output such as a Ministerial Order).

Outputs are aggregate products of a system (e.g., applications processed, grants distributed).

Outcomes are the effects of outputs in society (e.g., compliance with legislation). Outcomes can be short- and long-term, but the relationship between output and outcome becomes more tenuous over time (Kaufman, 1988).

Measurement makes visible some aspect of performance to facilitate:

Planning: Data on previous performance can inform planning efforts and contribute to higher quality decision-making (AHRE, 2005a). For example, it can highlight trends and this information can be used inform resource allocation or program redesign.

Improvement: By making visible performance, it is possible to compare and/or fine-tune initiatives, programs and policies.

Accountability: By measuring performance, government can demonstrate that it has achieved the objectives for which public funds were expended (Wagner, 1989, Ewell, 1994). Where goals are not achieved, governments can outline remedial action or explain the reasons for the failure. Further, making performance visible creates pressure on individual public servants to accomplish the objectives assigned to them (Kells, 1992).

Funding: Measuring performance allows funding allocation on the basis of performance rather than in anticipation of it. This approach is more common in managing agency relations than in core government departments, although individual public servants may have a portion of their income linked to departmental performance (Layzell and Caruthers, 1995).

In this way, PIs can act as policy instruments—tools that propel organizations and/or individuals to act when otherwise they could not or would not. Policy instruments can be divided into four categories:

Authority-based instruments grant permission, prohibit or require actions and may include changing the distribution of authority and power in the system.

Incentive-based instruments use inducements, sanctions, charges or force to encourage actions.

Capacity-building instruments invest in intellectual, material or human resources to enable activity.

Hortatory instruments signal priorities and propel actions by appealing to values via symbols (McDonnell, 1994; Pal, 1992; Schneider and Ingram, 1990; McDonnell and Elmore, 1987).

Performance indicators tend to be hortatory instruments. To the degree they are explicitly or implicitly linked to funding or salary, they may also be incentive-based instruments.

Evaluating Performance Measures

Performance indicators have been widely adopted in the public sector. This reflects an increasing political interest in accountability. But there has been little attention on the degree to which PIs are meaningful measures of outcomes or behaviors. Rather, evaluation tends to be more technical—focused on data reliability and comparability over time. For example, a typical approach within government to evaluating individual measures entails asking whether a measure is:

Understandable: Performance measures should be clearly worded and easily understood.

Relevant: Performance measures should accurately represent what is being measured. The information should be directly related to the subject matter.

Comparable: Results should be comparable to those previously reported. In order to ensure data are comparable, the methodology used to gather information should remain consistent from one reporting period to another.

Reliable: Performance information must be reliable. Results are considered to be reliable if they can be duplicated by others using the same information and methodology.

Affordable: The cost associated with collecting performance information should be reasonable and affordable by the Department (AHRE, 2005a).

Additional considerations might include an emphasis on outcomes-based measures, the achievability of the measure, and the how politically comfortable senior bureaucrats and politicians are with the measure. This ignores the issue of whether the performance measures are relevant or sufficient to assess the performance of the organization under scrutiny, an issue noted by Alberta's Auditor General in his review of annual reports (AHRE, 2006a)

A different, more critical, approach to evaluating PIs begins by thinking of PIs as conceptual technologies that shape what issues we think about and how we think about those issues by embedding normative assumptions in the selection and structuring of the PIs (Barnetson and Cutright, 2000). By making explicit these assumptions, researchers are better able to comment on the validity of the PI(s). Five types of assumptions can be embedded in a performance indicator, as summarized in Table 1.

Table 1. **Assumptions Underlying Individual PIs.**

Assumption	Explanation
Value	The act of measurement delineates what activity or outcome is valued. That is, the inclusion or exclusion of PIs determines what is considered important or unimportant.
Definition	Performance indicators (re)define concepts by operationalizing them in measurable terms. The act of definition thus excludes other, rival definitions.
Goal	Performance indicators differ from simple indicators because they include a point of reference by which performance is judged. Performance indicators assign goals through both the value embedded in an indicator and the point of reference used in the indicator.
Causality	Performance indicators assign responsibility for an activity or outcome by embedding an assumption of causality. This may confuse causality (i.e., one variable causing a second) with association (i.e., where two variables move together as a result of a third variable) as the PI asserts that organizational activities play a determinant role in generating the performance assessed.
Comparability	The use of common PIs assumes performance is comparable over time. The latter may exclude consideration of significant environmental details affecting performance.

Source: Adapted from Barnetson and Cutright, 2000

By making explicit the underlying assumptions operating within the PI, researchers can assess the degree to which those assumptions are true. This allows for a more comprehensive evaluation of PIs, including whether the PI actually measures what it purports to and how meaningful the measure is. This approach has been used to evaluate the use of PIs and performance-based funding in higher education (Barnetson and Cutright, 2000), where government evaluates the performance of quasi-independent agencies, but not to the

evaluation of line government departments, such as welfare or the regulation of employment relationships.

Alberta's Labour Programming

In the Canadian province of Alberta, the majority of programming affecting the regulation of employment relationships is situated in the Department of Employment and Immigration (AEI). Previously, this department was named Employment, Immigration and Industry (AEII) and, before that, Alberta Human Resources and Employment (AHRE). Within AEI, labour programming is housed in the Labour Standards and Workplace Safety Division (LSWS), previously called Workplace Investments (WI). In LSWS, civil servants provide programs and services that include:

Employment Standards: Enforcing legislation setting out minimum standards of employment.

Workplace Health and Safety: Enforcing legislation addressing occupational health and safety.

Labour Relations: Providing policy advice and dispute resolution services regarding Alberta's unionized workplaces.

Partnerships: Providing educational opportunities and developing partnerships to advance government objectives regarding health and safety, labour relations, and employment standards in the workplace.

Professions and Occupations: Developing and implementing standards to regulate non-health, non-teaching, and non-legal professions (AHRE, 2006a).

Alberta's Workers' Compensation Board and Labour Relations Board also report independently to the Minister of AEI.

The goal of AEI (and the Government of Alberta) regarding labour is "Alberta has a fair, safe and healthy work environment" (AHRE, 2006, p. 29). This is accomplished by helping

... organizations develop positive labour-management relationships through better communication, problem solving and co-operation. The Department also promoted, regulated and provided information on workplace health and safety and fair employment standards and practices (AHRE, 2006, p. 29).

The province spent approximately \$27 million in pursuit of this goal in 2005/06.

Alberta's Performance Measures

While Alberta's goal for its labour programs (fair, safety and healthy work environment) has remained stable over the four years under study, the PIs used to assess the contribution of government programming in Annual Reports have changed. Between 2003/04 and 2006/07, the government used eight different PIs (AHRE 2004, 2005c, 2006a), including the number of lost-time claims per 100 person-years worked, the percentage of collective bargaining agreements settled without a work stoppage (strike or lockout), percentage of employers whose employment practices resulted in no complaints being registered with Employment Standards, number of employment standards complaints registered for investigation as a

percentage of Alberta's eligible workers, annual change in number of Lost-Time Claims (adjusted for change in size of workforce), and various "customer satisfaction" measures. There have also been supplemental indicators too numerous to list used over the years.

Method

This naturalistic case study sought to determine whether the performance measures used to evaluate labour relations programming in the Canadian province of Alberta are valid. There were two main questions asked about each PI:

Is the PI meaningfully related to the government's goal of fair, safe and healthy workplaces?

Are the assumptions underlying the PI true?

Additionally, this study examined each of the PIs to determine if they obscured important outcomes affecting the government's overall goal of "fair, safety and healthy" workplaces, if the PI held the potential for gaming, and if the PI created perverse incentives that could affect programming decisions.

To narrow the number of PIs under review, three selection criteria were developed:

Frequency of use: PIs used in multiple years were selected over PIs only used once.

Currency of use: PIs currently in use were selected over PIs not in use. For program areas where no current PIs were available, the most recently used PI was selected.

Coverage of mandate: One PI for each of employment standards, occupational health and safety and labour relations was desired.

Using these criteria, three of the eight PIs used by the Labour Standards and Workplace Safety Division of AEI between 2003/04 and 2006/07 were selected for analysis:

Number of lost time claims per 100 person-years worked.

Percentage of collective bargaining agreements settled without a work stoppage (strike or lockout).

Percentage of employers whose employment practices resulted in no complaints being registered with Employment Standards.

Analysis centered on applying the tool developed by Barnetson and Cutright (2000) to the selected PIs and thereby making explicit the assumptions embedded in each PI. These assumptions were then tested against available data and research to determine their validity. The PI was also examined to determine the degree to which it was related to the government's goal of fair, safe and healthy workplaces. Finally, the data generated was examined to determine whether it contained any perverse incentives or the potential for gaming.

Results: Lost-Time Claim Indicator

The first indicator selected for analysis was number of lost-time claims per 100 person-years worked.

This indicator measures the number of times (per 100 person-years worked) that a worker sustained a compensable, work-related injury that made the worker unable to work beyond the date of injury as reported to the Alberta Workers' Compensation Board (WCB). The results of this indicator are normally expressed as a number of claims (e.g., 2.9 claims per 100 person-years worked) and are listed in Table 2 (AHRE 2004, 2005c, 2006a; AEII, 2007b; AE, 2008).

Table 2. Lost-time claims per 100 person-years worked

Year	Target	Result
2003/04	2.5	2.9 (restated to 2.8 in 2006 and 2.78 in 2007)
2004/05	2.0	2.6 (restated to 2.5 in 2006 and 2.54 in 2007)
2005/06	2.0	2.4 (restated as 2.41 in 2007)
2006/07	2.0	2.35
2007/08	2.0	2.12

On its face, this measure signals injury reduction is important. In this way, the PI appears consistent with the overall goal of having safe and healthy workplaces. By evaluating the civil service based on the lost-time claim rate, this PI appears to make government responsible for ensuring that lost-time injuries occur at a rate of no greater than 2.0 such injuries per 100 person-years worked. Presumably, the 2.0 lost-time injuries per 100 person-years worked are either the result of factors outside of the control of government or an acceptable level of workplace injury.

Analysis of this PI yields several findings of note. First, this PI operationalizes workplace "injury" as the rate at which workers within the ambit of the workers' compensation system are unable to work due to a compensable injury beyond the date the injury occurred. Workers (and their injuries) outside of the workers' compensation system are not included in this measure. In 2007, this included 17% of the workforce (approximately 325,000 workers) including most agricultural workers, an occupation that has one of the highest injury rates (AEII, 2007c). Also, workers injured but not requiring time off from work beyond the date of injury are not counted. Neither are workers who are injured enough to be unable to do their job, but to whom their employer provides modified duties and thereby prevents a lost-time claim. Overall, the definition in this indicator under-represents the actual level of workplace injury to the casual observer.

Secondly, the reduction in the lost-time claim rate does not mean that the number of work-related injuries resulting in lost-time claims is decreasing. The number of lost-time claims actually increased between 2003 (37,500 injuries) and 2007 (38,500 injuries). If you go back to 2002, lost-time claims are holding steady over time, with a minor dip between the two dates (WCB, 2008). Alberta's growing pool of workers masks this information because the lost-time claim rate (percentage of workers who experience lost-time claim injuries) is reported as a ratio.

A third set of issues swirls around causality and comparability. When we measure the performance of an organization (e.g., the Labour Standards and Workplace Safety Division), we are typically asserting a causal relationship between the behavior of that organization and the measured outcome. It is unclear whether the reduction in the lost-time claim rate is the result of the work of the LSWS Division and, indeed, if it is a positive change at all. Among the tools bureaucrats can use to reduce time-loss injuries are:

increasing enforcement of statutory safety requirements (including random inspections and the levying of penalties),

suggesting changes to such requirements to legislators (or their designates),

educating employers and/or employees about safe working practices, and

developing partnerships with employers, employees, unions and other government agencies (such as the Alberta WCB).

In addition to health and safety inspections and prosecutions, LSD has also developed the Work Safe Alberta program. This joint industry and government initiative seeks improved workplace health and safety compliance through new incentives and enforcement initiatives (AEII, 2007a). Among the programs offered is the Partners in Injury Reduction (PIR) program. The PIR program allows employers to reduce their WCB premiums through completion of a Certificate of Recognition (i.e., developing an approved health and safety management system) and, subsequently, based upon their claims cost record. Employers can achieve up to a 20% reduction on their WCB industry rate in this manner on top of other WCB experience-rating rebates (WCB 2007).

The underlying logic of this incentive program appears to be that employers will take steps to reduce lost-time claims if the corporate benefits associated with reducing lost-time claims (e.g., financial, public relations, psychological) outweigh the cost for doing so (e.g., redesigning work processes, developing a health and safety system). The question unanswered by the lost-time claim PI is how employers will reduce lost-time claims. The government's goals (fair, safe and healthy) suggest that a reduction in actual injuries is the desired method of reducing lost-time claims, although government pronouncements are more coy, noting the indicator demonstrates the ongoing efforts of the Ministry to increase the awareness of workplace health and safety issues among employers and workers and to *reduce the probability of workplace injury* and disease through the Work Safe Alberta initiative. (AEII, 2007d, p. 89, emphasis added).

This wording carefully sides-steps promising an actual reduction in injuries and, instead, focuses on the rate at which workers are injured. So what is happening to the probability of injury over time? Recent data on Alberta's overall disabling injury rate is instructive. A disabling injury "is a work-related injury serious enough to result in time lost from work beyond the day of injury, a modification of work duties, medical treatment beyond first aid, or an occupational disease" (AEII, 2007b, p. 2). In effect, this measure includes both lost-time injuries and instances where the employer provided modified work (and thereby avoided a lost-time claim). This measure does a better job of representing the actual rate of workplace injury, although it still excludes injuries that do not require time off beyond the first day or modified work and injuries to workers outside the ambit of the workers' compensation system.

The disabling injury rate is contrasted with the lost-time claim rate in Table 3. This table shows is that, while the rate of lost-time claims has gone down over time, the overall rate of workplace injury (the disabling injury rate) has remained relatively stable.

Table 3. **Disabling injury rate and lost-time claim**

Year	Lost-time claims	Disabling injury rate
1998	3.26	unavailable
1999	3.21	unavailable
2000	3.43	unavailable
2001	3.13	unavailable
2002	2.93	3.8
2003	2.78	3.7
2004	2.54	3.9
2005	2.41	4.02
2006	2.35	4.14
2007	2.12	3.88

Source: AEII 2007c, AE, 2008, WCB, 2008

Note: Rounding differences in data drawn from different publicly available sources results slight discrepancies in 2002-2004 disabling injury rates.

It appears that there has been some sort of substitution effect, with instances of injuries requiring modified work, medical assistance beyond first aid, and occupational diseases (i.e., disabling injuries) staying relatively stable as lost-time claims decline. The exact reason for this is unknown. It may be that the seriousness of acute injuries has been reduced (thus fewer injuries require time off). There is some support for this notion in WCB statistics about declining duration of average lost-time claims, from 50.9 days in 2003 to 33.4 days in 2007 (WCB, 2008). But it may also be that employers are simply gaming their lost-time claims (i.e., offering employees modified work in lieu of time off) rather than actually reducing the incidence of serious injuries. The duration measure would also be affected by such gaming thus does not, in itself, allow us to determine whether the seriousness of injuries has declined. Only a study of the seriousness of individual WCB claims would do so. The rate of fatalities (the most serious kind of injury) have remained stable over time (although there has been a slight shift in the proportion being the result of occupational disease), suggesting that very serious injuries are not declining.

This analysis suggests that relying on the lost-time claim rate PI masks the actual rate of workplace injury. The opportunity and incentive for employers to game the measure (by substituting modified work for lost-time claims) also suggests lost-time claim rate is not a robust enough measure upon which to assess whether workplaces are safe and healthy. Further, the experience of more than 300,000 workers (many in high risk agricultural jobs) is excluded from the measure. Finally, the causality is murky: it is difficult to determine what, if any, effect the actions of government are having on overall injury levels.

The government will begin using the disabling injury rate measure to supplement the lost-time claim rate PI in 2008. Another supplemental indicator examines lost-time claim rates for Certificate of Recognition (COR) holders (part of the Partners in Injury Reduction program) and non-COR holders in selected industries. The resulting data is inconclusive: COR holders in some industries have higher lost-time claim rates than non-COR holders and, in others, lower (AHRE, 2006a).

Results: Collective Bargaining Settlement Rate

The second PI selected for analysis was percentage of collective bargaining agreements settled without a work stoppage (strike or lockout).

This indicator measures the percentage of collective agreements concluded under the *Labour Relations Code* and *Police Officers Collective Bargaining Act* without a legal work stoppage (i.e., a strike and/or lockout) occurring. Illegal strikes and lockouts are excluded as are collective agreements concluded under other legislation. The results of this indicator are listed in Table 4 (AHRE 2004, 2005c, 2006a, Government of Alberta, 2007a).

Table 4. **Percentage of collective agreements settled without work stoppage**

Year	Target	Result
2003/04	98%	99.3%
2004/05	98%	99.4%
2005/06	98%	98%
2006/07	98%	99%

On the face of it, this PI suggests that the government values the settlement of collective agreements by negotiation, rather than as the result of a strike or lockout. It is difficult to see the link between this PI and the government's "fair, safe and healthy" goals. Perhaps the link swirls around notions of "fair": the government may be asserting that, if the workplace or, perhaps, the bargaining process is fair, collective bargaining will normally result in negotiated settlements without industrial action.

It is not clear if this assumption is correct. It is generally recognized that the threat of industrial action is an important factor in resolving bargaining impasse (Godard, 2005). Specifically, the costs for each side associated with a strike or lockout make the parties more likely to negotiate than they otherwise might and the resulting agreement is more likely to be economically efficient (reflecting the bargaining power of each side) than one imposed by arbitration. So a fair bargaining process (where both sides can apply economic pressure in pursuit of bargaining objectives) might well result in a low level of legal work stoppages. But so too might a bargaining process characterized by an asymmetry in power. In these cases, participants might be forced to accept the terms of the more powerful party or choose other routes to apply pressure, such as illegal work stoppages or slowdowns.

It is also difficult to see the relationship between the activities of the civil service and settlement rates. The government recently stated:

Alberta's vibrant economy added many challenges in the effective resolution of labour relation issues. Contributory factors included a shortage of skilled workers, a decrease in unemployment rates, an increase in inflation rates, and an increase in the level of business competition. These factors could have resulted in increased conflict in union-management relationships and likelihood of work stoppages. The current result of 99% was considered a major achievement given these added challenges. (AEII, 2007d, p. 90).

But an achievement by whom? Government affects the resolution of collective bargaining in two main ways:

It legislates the rules surrounding collective bargaining, including access to strike and lockout.

As part of these rules, the government appoints a mediator to each dispute prior to a strike vote or lockout poll being conducted.

The legislative rules about work stoppages (including back-to-work legislation and the use of legislative provisions to delay strike/lockout) are political decisions generally beyond the control of civil servants (although senior bureaucrats may influence Ministerial decision making). While a government-appointed mediator can play an important role in resolving a dispute, mediators in Alberta are normally private individuals (not government employees) contracted for specific disputes.

Finally, industrial action is ultimately the decision of private actors who may choose to cause a work stoppage for reasons partly or entirely unrelated to their specific collective bargaining relationship. For example, overall dissatisfaction with labour laws or a political agenda may spark a strike by labour. Taken as a whole, this analysis suggests the relationship between the behaviour of the civil service and the collective bargaining settlement rate is, at best, subject to significant and perhaps determinative mediating factors.

Two final comments on this PI are required. First, collective agreements negotiated under legislation prohibiting strike/lockout (e.g., government workers, post-secondary instructors) are excluded from the PIs calculation (AHRE, 2006a). Yet collective agreements negotiated under the *Police Officers Collective Bargaining Act* are specifically included. Section 3 of this Act prohibits strikes and lockouts and section 9 substitutes interest arbitration in place of strike/lockout. While there are relatively few collective agreements concluded under this Act compared the number negotiated under the *Labour Relations Code*, it seems odd to include any of these agreements in the PI since no legal work stoppage is possible. Their inclusion can, if only marginally, skew the percentage of negotiations settled without work stoppage upwards.

Second, the indicator makes no allowance for the size or duration of the strike or lockout being recorded. Typically, industrial disputes are monitored in terms of person days lost to capture these dimensions of the work stoppage. Alberta's indicator does not differentiate one-minute lockouts affecting three workers and week-long strikes affecting the entire construction industry or school system. And it entirely ignores illegal strikes in health care affecting the entire province. Obviously this suggests the indicator is not particularly sensitive. This may be intentional: as an indicator, person-days lost is subject to significant variability.

Results: Employment Standards Complaint Levels

The third PI selected for analysis was percentage of employers whose employment practices resulted in no complaints being registered with Employment Standards.

This indicator measures the percentage of all employers under provincial jurisdiction that do not have complaints registered against them with Employment Standards staff. The results of this indicator are listed in Table 5 (AHRE 2004, 2005c, 2006a; AEII, 2007d).

Table 5. Employers with no complaints

Year	Target	Result
2003/04	97%	97.3%
2004/05	97%	97.6%
2006/07	97%	98.0%

Note: No data was available for 2005/06.

The basic value underlying this indicator appears to be that employers should comply with their obligations under employment standards legislation. This is consistent with the “fair” aspect of the government’s fair, safety and healthy workplaces. It also appears to recognize that some degree of non-compliance will occur.

Upon closer examination, the Labour Standards and Workplace Safety Division is made responsible for ensuring the percentage of employers not complained about remains at or above 97%. This attribution of responsibility may not be accurate. Civil servants have four options when attempting to influence the compliance rates of employers:

educate employers,
educate employees,
randomly audit business, and
respond to complaints.

Whether employers choose to heed the advice of government or whether employers decide non-compliance (with its risks) is financially more attractive than compliance is (in the short-term) largely outside of the hands of civil servants. To the degree that additional compliance activity is politically palatable and funded, civil servants can influence this decision in the long-term to some (unknown) degree. This suggests that the assumed causality (i.e., government action determinatively affects compliance) is incorrect.

This attribution may also be unwise. Success on this indicator makes a significant contribution to the bonuses awarded to managers in the Employment Standards program (and elsewhere in AEI). Consequently, if Employment Standards staff are too successful in generating complaints (through education or random audits), they may be undercutting their bosses’ bonuses. This appears to run contrary to the basic goal of ensuring employer compliance with minimum standards.

This indicator has significant definitional problems. The government recently stated: “this measure examines the effectiveness of the Ministry’s efforts and is an indicator of the level of compliance by employers”. (AEII, 2007d, p. 90),

This is incorrect. The indicator measures total complaints (valid and invalid), rather than the level of complaints found to be valid by Employment Standards Officers. In this way, it does not indicate compliance, but complaint activity. Further, compliance is defined as the absence of complaints. Or, put another way, if no one complains, the PI assumes that employers must be complying. This definition ignores that there are many factors that can inhibit employees from filing complaints, such as ignorance of the law, fear of reprisal, and bureaucratic barriers. The way in which this indicator is operationalized shifts the focus of government from employers’ behavior (violating Employment Standards) to employees’ behavior (filing complaints).

Setting aside the issue of whether the PI is meaningfully related to the behavior of bureaucrats, the PI is also subject to gaming. Unlike the lost-time claim PI (where employers can reduce their WCB payments by altering how they handle work-related injuries), this PI is vulnerable to gaming by government employees during its construction. Specifically, the measure has been constructed in a way that makes the results extremely stable, and thus not a useful indicator of government performance.

The reason for this is that the PI measures the number of distinct employers who have complaints filed against them, not overall complaint levels. So, if a single employer was to violate the vacation pay provisions of the *Employment Standards Code* 100 times in a year and every violation generated a complaint, the PI would only record this as one employer

that had a complaint filed against it. This is exacerbated by the huge size difference between the numerator and denominator in this PI.

For example, in 2004/05, there were 4640 Employment Standards complaints, affecting approximately 3437 unique employers. That year there were approximately 143,207 employers subject to the *Employment Standards Code*. To get the PI to change by +/-1% (and thus create the potential for failure) requires another 1432 complaints (+31%) about unique employers. Assuming the ratio of complaints to unique employer (because some employers generate multiple complaints) holds steady, another 1933 complaints (+42%) are required. It is highly unlikely that this number of additional complaints about unique employers will occur (or that the Employment Standards program could cope with such an increased volume of complaints), thus the construction of the measure essentially guarantees success.

While this PI is the most clearly related to the government's goal of fair workplaces, it has many problems. It is overly stable, it measures complaint levels (rather than compliance—which is the behavior of interest), and there is a legitimate question as to whether the results are related to the behavior of bureaucrats. To the degree that bureaucrats may modify their behavior in response to it, it creates a financial incentive for managers to limit complaints. All of these issues indicate this PI is of questionable validity.

Political Constraints on Improving Performance Measures

Having detailed the shortcomings of the PIs used in Alberta's labour programs, one reviewer suggested that some discussion of how indicators could be improved would be useful. Typical prescriptions for better performance indicators generally start with developing a logic model that outlines the relationships between program elements, goals and the external environment. Developing such a model often raises difficult (and perhaps unsolvable) questions that highlight differences in operational, statutory and political goals.

For example, consider Alberta's labour relations system (i.e., the laws and bureaucracy regulating unionization and collective bargaining). Like most Canadian labour statutes, Alberta's *Labour Relations Code* typically seeks to maintain economic and social stability (i.e., the capital accumulation process) by containing conflict between employers and employees. Four common policy objectives can be discerned by examining Canadian labour statutes and these comprise the organizing logic of Canadian of labour relations:

Employees can choose to be represented by a union free from undue influence.

Unions can engage employers in meaningful collective bargaining.

Employers and unions can apply meaningful sanctions in pursuit of bargaining objectives.

Stakeholders participate in the system rather than act outside of it.

The assumptions underlying these objectives and their rationale are explained in Table 6.

Table 6. Policy Objectives, Assumptions and Rationale.

Objective	Assumptions	Rationale
Employees can choose to be represented by a union free from undue influence.	There is employer-employee conflict over the wage-effort bargain. Employers normally have more power than employees in the employment relationship. The economic and social outcomes of this imbalance are often undesirable. Collective bargaining by employees can (to some degree) mitigate this imbalance. Employers are likely to resist unionization.	Allowing employees to select a union maintains economic and social stability in two ways. It channels employee dissatisfaction into a manageable process. ¹ Unionization normally causes the union to act as an agent of industrial peace. These outcomes are maximized when employees choose representation free from undue influence.
Unions can engage employers in meaningful collective bargaining.	Collective bargaining requires each side to compromise. Compromise is motivated by the threat or use of economic sanctions (strike/lockout). Strike/lockout clarifies the true bottom line and results in economically efficient contracts.	Allowing unions to engage employers in meaningful collective bargaining maintains economic and social stability in two ways. It reduces one source of conflict by resulting in more balanced terms and conditions of employment from the perspective of an employee. It channels conflict into manageable dispute-resolution processes.
Employers and unions can apply meaningful sanctions in pursuit of bargaining objectives.		Allowing employers and unions to apply meaningful economic sanctions in pursuit of their bargaining objectives maintains economic and social stability in several ways: it compels compromise, ² it regulates conflict, it releases frustration, and it results in economically efficient contracts.
Stakeholders participate in the system.	Rights only exist to the degree that there are effective remedies. Employers, unions and employees work within the system if they believe it is fairer to them than any alternative. Government regulates behaviour and adjusts the system to ensure enough fairness that all stakeholders work within the system.	Participation prevents direct action that destabilizes individual employment relationships and governments. Participation reflects a comparison by employers, union and employees of the degree to which the structure and application of the system accommodates their interests and those of their rivals.

It is quite possible to develop performance measures that provide useful data about the operation of this system. For example, if employees ought to be able to choose (or reject) unionization free from undue influence, then determining the percentage of certification application where no relevant unfair labour practices occur ought to give some indication of the degree to which the existing legislative and administrative structure achieves this goal. This might be part of our assessment of how “fair” the system is, although we would also need to be cognizant of instances where interference thwarted an organizing campaign prior to filing a certification application.

Yet this sort of measure may be politically problematic. For example, Alberta is typically characterized as having a conservative political culture, with government negatively disposed towards unions (Finkel, 2006; Fuller and Hughes Fuller, 2005; Finkel, 1998; Taylor, 1995). A PI that might very well suggest Alberta’s labour laws provide weak deterrents for employers seeking to prevent workers from unionizing could entail significant political consequences, both for the government and the bureaucrats who collected and published the information.

This may provide some indication of why the PIs currently used in Alberta are retained despite demonstrable shortcomings. By shaping what issues are thought about and how they are thought about, the PIs are used to provide “good news” stories for the government (under the guise of accountability) and crowd out evidence of bad news. This, in turn, may create practical constraints on the degree of accuracy one can expect from PIs in government. That does not negate the shortcomings documented above, but may explain them as, in part, a rational response by bureaucrats to difficult circumstances.

Conclusions

The three indicators evaluated in this study are all significantly problematic:

Lost-time claims: This PI narrowly defines workplace safety and has allowed employers to game both the measure and the associated WCB discount scheme without significantly reducing the overall rate of injury or number of injuries in the workplace. Conceptualized so narrowly, it is highly questionable whether this PI supports the government's goal of "fair, safe and healthy" workplaces.

Settlement rate: This PI is unrelated to the government's overall goal of "fair, safe and healthy" workplaces. It is also unclear how the government is responsible for the rate at which collective agreements are settled short of a strike/lockout or whether a high rate of such settlements is a good thing.

Employment Standards complaints: This PI is definitionally deficient, equating the absence of complaints with compliance. Further, it pressures government to limit the number of complaints received. Finally, the PI is overly stable and thus does not provide a meaningful measure of performance.

This study suggests that the PIs currently used to monitor the government's labour programs are not meaningfully related to the government's goal of fair, safe and healthy workplaces. The data they provide is highly problematic and this should raise significant questions about the impression being conveyed (i.e., all is well). This suggests that the purpose of the PIs (to monitor the achievement of goals contributing to fair, safe and healthy workplaces) is not being achieved.

That said, there is no evidence that suggests the government (or civil servants) are not pursuing the government's goal of a fair, safe and healthy workplace. Clearly, significant resources are devoted to compliance activities. Further, despite concerns about the validity of the PIs used to evaluate the degree to which labour programs met government goals, this study did not examine (and makes no conclusions about) the effectiveness of those programs. That is to say, the researcher has no idea if the programs are effective or not. And, based on the data provided by these PIs, neither does the public nor the government.

Endnotes

¹ The unionization process directs employee energy into seeking representation rather direct action in pursuit of their interests. Where employee cannot get majority support for certification, their frustration is directed at other employees, rather than the employer or the system.

² Parties move from their initial bargaining positions in response to the threat or use of economic sanctions such as a strike or lockout. Without such sanctions, there is no reason for either side to alter their position.

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