

# Employee Voice and Mutual Gains

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## **Abstract**

This paper addresses the question, ‘Do mutual gains to employer and employee result from non-union employees’ exercise of voice?’ Based upon the findings reported herein, the basic answer to this question is “yes.” In particular, about two-thirds of a large sample of U.S.-based nonunion companies that responded to a 2007 survey indicated that they had one or another type of ADR system in place; the annual employee usage—grievance filing—rate under these systems over a five year period was 13.5 percent; top executives in four of these nonunion businesses indicated through intensive interviews that the benefits derived from their respective ADR systems substantially exceeded their associate costs; and a large sample of employees in these same four businesses indicated through survey responses that the benefits derived from their businesses’ respective ADR systems substantially exceeded their costs. Theoretically and methodologically, these findings imply that mutual gains from workplace dispute resolution mechanisms and processes need not rely solely on a collective context (i.e., collective voice exercised by employees in negotiations with management); the individual rather than (or in addition to) the group is a suitable, indeed necessary, unit of analysis in identifying and determining mutual gains resulting from employee exercise of voice; and employee voice may be exercised by management as well as non-management employees, in particular under non-union ADR systems that feature broad employee coverage and usage eligibility.

## **Introduction**

The idea that employee exercise of voice may result in mutual gains to employer and employee is well known; however, this idea has largely been developed and “tested” in unionized employment relationships that feature formal collective bargaining by employer and employee representatives, which leads in most instances to a written agreement (contract). On the one

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hand, this is not surprising because from a theoretical perspective mutual gains-type bargaining has as its antecedents prior concepts of integrative (or cooperative or variable sum or win-win) negotiations, and because from an applied perspective union-management negotiations over a first contract or successor contracts constitute proactive behavior that culminates in the establishment of terms, conditions, and related “rules” of the employment relationship. On the other hand, this is quite surprising in light of the well-documented decline in (private-sector) union membership and collective bargaining, and the equally well-documented growth in non-union enterprises of alternative dispute resolution (ADR) systems and practices that, by definition, are not jointly determined by employer and employees. Hence, this paper focuses on employee voice in non-union enterprises, and the focal question is, “Do mutual gains to employer and employee result from non-union employees’ exercise of voice?”

To address this question, the first section summarizes the evidence, including a new source of evidence, about the incidence of ADR systems and practices in (U.S.-based) non-union enterprises. The next section draws on a sample of such enterprises to estimate the extent to which employees actually exercise voice under these ADR systems and practices. In the third section survey, interview, and archival data drawn from four of these non-union enterprises are analyzed to document and assess the extent to which employee exercise of voice under these enterprises’ ADR systems and practices results in mutual gains to employer and employee. The final section summarizes the main conclusions of this study and derives certain implications for a broadened theoretical perspective on employee voice and mutual gains.

### **Non-union ADR Systems: Incidence and Causality**

Several studies conducted during the last two decades or so have estimated the extent to which ADR systems have been adopted by non-union enterprises.<sup>1</sup> Collectively these estimates range between approximately one-sixth and one-half of non-union enterprises, with the variation in this regard being influenced by level of enterprise (for example, an entire company vs. local establishment/facility), industry coverage, sampling frame, type of respondent, time period, and other factors. In an attempt to obtain a more precise, contemporary estimate of the incidence of ADR systems in non-union enterprises, a new survey was designed and administered in mid-2007 to a sample of 1,150 business units of U.S.-based publicly traded companies. This random sample was drawn from the 2006 COMPUSTAT business unit financial reporting file and represented 20 percent of all business units and 28 percent of all non-union businesses included in that file. In order to maximize the response rate, the survey was administered in several ways, including electronically

(that is, online), by telephone, by mailed hard copy, and in a few instances by direct interview. These multiple methods yielded an overall response rate of 65.8 percent (757/1,150). A summary of the main findings from this survey is presented in Table 1.

As of 2006 some 63 percent of the business units included in this sample had one or another type of ADR system in place. The dominant type of ADR system in these non-union businesses is a multistep appeal/complaint procedure similar in some respects to the grievance procedure that prevails in unionized businesses; 71 percent of the non-union businesses with ADR systems have such a multistep procedure. The most common single ADR practice (or method) in these non-union businesses is arbitration, which is present in almost 80 percent of the non-union businesses that have multistep ADR systems and in almost 70 percent of the non-union businesses that have any type of ADR system. No other single ADR practice is present in a majority of the non-union businesses with ADR systems. Following arbitration, the next most common ADR practices in these businesses are an employee hotline (45 percent), upper

TABLE 1  
ADR System Presence and Type in Non-union Business Units

<i>Response</i>	ADR System Present	
	Frequency	Percent
Yes	478	63.1
No	273	36.1
Don't know	6	0.8
Total	757	100

  

<i>Response</i>	Multistep Procedure	
	Frequency	Percent
Yes	340	71.1
No	137	28.7
Don't know	1	0.2
Total	478	100

  

<i>Category</i>	Specific ADR Practice	
	Frequency	Percent <sup>a</sup>
Arbitration	354	74.1
Mediation	87	18.2
Upper management review	149	31.2
Peer review	104	21.8
Employee hotline	216	45.2

Source: ADR system survey of 1,150 non-union business units, 2007.

<sup>a</sup>Does not total 100 percent due to multiple ADR practices within businesses.

TABLE 2  
Reasons for ADR System Adoption by Non-union Businesses

<i>Category</i>	Reason for Adoption of ADR System	
	Frequency	Percent
Employment litigation avoidance	599	79.1
Unionization avoidance	410	54.2
Identification of workplace issues/problems	168	22.2
Part of high-involvement work system	143	18.9
Competitor has an ADR system	45	5.9
Top management's ethical beliefs	9	1.2
Don't know	17	2.2

  

<i>Category</i>	Reason for Adoption of Arbitration System	
	Frequency	Percent
Employment litigation avoidance	617	81.5
Unionization avoidance	431	56.9
Identification of workplace issues/problems	147	19.4
Part of high-involvement work system	125	16.5
Competitor has an ADR system	56	7.4
Top management's ethical beliefs	12	1.6
Don't know	5	0.7

*Source:* ADR system survey of non-union business units, 2007.

*Note:* Percentages do not total 100 percent due to businesses citing multiple reasons for adopting ADR or arbitrations systems.

management review (31 percent), peer review (22 percent), and mediation (18 percent).

Industrial relations scholars have offered a variety of explanations for the rise and diffusion of ADR systems in non-union businesses, notably, threat explanations on the one hand and strategic HR/IR explanations on the other hand. According to the data presented in Table 2, the primary reason, expressed by 79 percent of the respondents, why the non-union businesses included in this study have adopted ADR systems is to avoid employment litigation (that is, the litigation threat). The secondary reason for such adoption, expressed by 54 percent of the respondents, is to avoid unionization (that is, the unionization threat). By contrast, only 22 percent of the respondents in these non-union businesses indicated that the identification of workplace issues/problems (that is, a strategic rationale) was a reason for their businesses' adoption of an ADR system, and only 19 percent indicated that an ADR system was adopted as a component of a larger high-involvement work system (that is, another strategic rationale). Further, according to the data in Table 2, this pattern of findings is even more pronounced when it comes to non-union businesses' adoption of arbitration as a specific ADR practice.

### Non-union ADR Systems and Employee Exercise of Voice

It is one thing for non-union businesses to have ADR systems in place but quite another thing for employees to use these systems. Hence the question naturally arises, “To what extent do non-union employees use their employers’ ADR systems?” Prior research on this question suggests that annually, on average, about 5 of every 100 non-union employees of businesses with ADR systems actually use these systems, meaning that they file a written complaint or “grievance.” According to the data collected for the present study, however, and as shown in Table 3, the annual complaint/grievance filing rate in this sample of non-union businesses during the five-year period from 2002 to 2006 was 13.5 percent. Not only is this rate considerably higher than has previously been reported, it is also higher than the typical grievance filing rate in unionized businesses. What factors might explain this relatively high complaint/grievance-filing rate among non-union employees?

First, and as suggested by the non-union ADR system incidence data discussed above, it is no longer unusual or novel for a non-union business to have such a system in place; indeed, it is in fact the norm. Analogously, this means that employees of such businesses are not doing something unusual (or highly improbable) if they file complaints/grievances under such systems. Second, non-union employers typically describe in considerable detail their particular ADR systems, communicate these descriptions widely to employees, and often encourage employees to make use of these systems—in other words, exercise voice. Here there may well be an analogy to the speak-up systems that many of these non-union businesses maintain for their customers, whereby such customers are encouraged to bring their concerns about product/service availability,

TABLE 3  
Annual Average ADR System Usage Rates in  
Non-union Business Units, 2002–2006

Year	Filing Rate (%) <sup>a</sup>
2002	12.6
2003	13.3
2004	13.8
2005	14.1
2006	13.7
2002–2006	13.5

*Source:* ADR system survey of non-union business units, 2007.

Note: *N* = 424 out of 757 non-union business units with ADR systems (56 percent).

<sup>a</sup>Filing rate based on number of complaints/grievances filed annually per 100 employees.

quality, price, and repairs to the attention of management—that is, exercise voice. In both instances—ADR systems for employees and speak-up systems for customers—these non-union businesses apparently prefer voice over exit or, in other words, retention over turnover. From this analytical perspective, an ADR system for employees is viewed as a mechanism for retaining and perhaps enhancing a non-union business’s human capital, and a speak-up system for customers is viewed as a mechanism for retaining and thereby increasing the lifetime revenue obtained from customers.

Third, developments in information technology, in particular, the widespread use of personal computers and intranets by non-union businesses, makes it much easier and simpler than previously for employees to file written complaints/grievances and to obtain responses from management to those complaints/grievances. Indeed, this “causal” factor was cited by a substantial majority of the respondents of the non-union businesses that were surveyed for this study, as well as by a substantial majority of the employees of the four non-union businesses that served as the “mutual gains” research sites for this study. Fourth, some ADR system usage in the non-union businesses included in this study consists of complaints/grievances that employees initially pursued through litigation but that were subsequently referred—or moved—by the courts to these ADR systems for resolution. Such action almost always occurred in cases in which non-union employees alleged one or another type of employment discrimination and apparently occurred only in those instances in which the non-union businesses in question had ADR systems featuring arbitration. This is, of course, consistent with and reflective of the “deferral to arbitration” doctrine that the U.S. Supreme Court has articulated during

TABLE 4  
Issues About Which Employees Exercise Voice in Non-union ADR Systems

Issue	Frequency	Percent
Performance appraisal	236	55.6
Denial of promotion	201	47.4
Compensation (e.g., bonus eligibility)	189	44.6
Work location	175	41.3
Work environment (e.g., cleanliness)	164	38.7
Leave time/arrangements (e.g., medical leave)	95	22.4
Job title	79	18.6
Discipline (e.g., termination, suspension)	74	17.5
Employment discrimination	29	6.8

Source: ADR system survey of non-union business units, 2007.

Note:  $N = 424$  out of 757 non-union business units with ADR systems (56 percent).

Percentages do not total 100 percent due to multiple issues about which employees exercise voice.

the last decade or so in employment discrimination cases involving non-union businesses.

Regarding the issues about which employees of non-union businesses exercise voice using ADR systems, those involving performance appraisal, promotion, compensation, work location, and work environment are the most common, as shown in Table 4. Next in terms of the frequency are issues involving leave time and arrangements (such as paid vs. nonpaid leave), job title, and discipline, including termination from employment. Relatively low frequency of ADR system usage apparently occurs with regard to the issue of employment discrimination; however, the complexity attending non-union employees' initial filing of employment discrimination cases with the courts and subsequent referral of such cases by the courts to ADR systems implies that the usage rate for this issue is somewhat higher than the survey-based usage rate shown in Table 4. Nevertheless, on the whole these data suggest a conclusion that is contrary to received wisdom about non-union ADR, namely, that the scope of issues over which non-union employees exercise voice is larger than the scope of issues over which unionized employees exercise voice through collectively bargained grievance procedures.

Under a non-union business's ADR system, all of the employees covered by that system presumably have an equal likelihood of using the system. However, the ADR system usage data presented in Table 5 do not support this presumption. Instead, they indicate that men are more likely than women,

TABLE 5  
Employee Use of Non-union ADR Systems by Demographic Characteristics

Employee Characteristic	Frequency	Percent
Gender		
Male	276	65.1
Female	148	34.9
Age		
Younger (18–34 years of age)	116	27.4
Middle (34–54 years of age)	233	54.9
Older (55 and older)	75	17.7
Location		
Home country (of company)	314	74.1
Outside home country (of company)	110	25.9
Position		
Nonsupervisory, nonmanagerial	346	81.6
Supervisory and managerial	78	18.4

Source: ADR system survey of nonunion business units, 2007.

Note:  $N = 424$  out of 757 non-union business units with ADR systems (56 percent). Frequency is based on forced choice within each employee characteristic category.

middle-aged employees are more likely than younger and older employees, home country-located employees are more likely than other country-located employees, and nonsupervisory and nonmanagerial employees are more likely than supervisors and managers to use their non-union businesses' ADR systems. With regard to gender, age, and position (that is, supervisor/manager vs. employee), these findings comport with those previously reported in studies of non-union ADR.<sup>2</sup> Nevertheless, from a broader perspective non-union businesses' ADR systems cover a much wider range of employees than the grievance systems of unionized businesses. In the latter, only members of a bargaining unit are eligible to use the grievance procedure specified in the collective bargaining agreement, whereas in the former all employees up to and sometimes including middle management are eligible to use the ADR system. Hence, even though supervisors and managers of non-union businesses are significantly less likely than nonsupervisory and nonmanagerial employees to actually use ADR systems, the fact that some supervisors and managers of these non-union businesses do use these systems indicates that "employee" exercise of voice is more pervasive, occupationally or job title-wise, in non-union than in unionized businesses.

### **Non-union ADR Systems, Employee Exercise of Voice, and Mutual Gains**

Having established the widespread existence of ADR systems in non-union enterprises, and having shown that these systems are in fact used by non-union employees more frequently than has previously been thought, attention now turns to the key question posed at the outset of this paper, namely, "Do mutual gains to employer and employee result from non-union employees' exercise of voice?" For this purpose, four of the non-union businesses that responded to the survey and that have ADR systems in place were selected for participation in the second phase of this study. This phase featured (1) archival analysis of company ADR (and related) records over a five-year period; (2) in-depth interviews with executives in each company; and (3) selection of samples of employees in each company and administration of a survey to those employees. Table 6 presents descriptive data for each of the four companies, the interviewees, and the employee samples.

Among these four non-union companies, two have had ADR systems in place for about fifteen years, one for about ten years, and one for about five years. In two of these companies arbitration is the final step of the ADR system; for the third company a senior management committee is the final step of the ADR system, and in the last the CEO is the final step of the ADR system. Two of the four companies' ADR systems include peer review as a formal step and one includes mediation as a formal step. Further, in two of



TABLE 6  
 Characteristics of Four Non-union Business Units and Their ADR Systems

Characteristic	Business Unit			
	A	B	C	D
Industry	Aerospace	Medical supplies	Information technology	Entertainment
Years ADR system in place	15	10	5	10
ADR practices	Arbitration peer review	CEO final step mediation	Peer review	Arbitration
Employee representative	Outside counsel	None	Peer	Outside counsel
ADR system usage rate, 2002–2006	16.2	11.4	9.2	13.8
Average time to settlement of ADR issues	2.6 months	1.8 months	1.4 months	2.3 months

*Source:* Archival analysis and top executive interview data of four non-union businesses under study.

these companies employees who use the ADR system can be represented by outside counsel, in another employees who use the ADR system can be represented by a colleague, and in still another employees who use the ADR system are not permitted to be represented.

Archival analysis of ADR system data and documents in these four companies showed the following. First, during the five-year period from 2002 to 2006, 12 complaints/grievances per 100 employees were filed annually on average, ranging between 9 and 16 on a per company basis and between 10 and 14 on a per year basis. Second, all but two of these complaints/grievances were settled/decided within three months of their filing, another was settled/decide within four months of its filing, and another within six months of its filing. Third, in each company either quarterly or bi-annual meetings of senior executives and line managers were held to discuss ADR system activity, issues, settlements, and follow-up actions. Fourth, each of the four companies amended or revised its ADR system specifications on at least one occasion during the 2002–2006 period. Fifth, in two of these companies lawsuits filed by employees alleging employment discrimination were referred by the courts to the companies for settlement under the ADR system.

In order to identify and analyze the mutual gains resulting from employee exercise of voice in non-union enterprises, an interview protocol was designed and administered to the top five executives in each of the four participating

companies. In particular, this purposive sample included the General Manager (GM), Chief Operating Officer (COO), Chief Human Resources Officer (CHRO), Chief Financial Officer (CFO) and Chief Marketing Officer (CMO) in each company.<sup>3</sup> The specific questions included in the protocol focused on the benefits and costs (that is, gains and losses) that the interviewees perceived to be associated with or result from ADR system usage in their respective companies. All of the executives were interviewed twice, with the interviews averaging about two hours each. The interviews were audio taped, after which the tapes were transcribed; the qualitative responses to interview questions were coded and thereby transformed into data for subsequent analysis.

The second interviews of these executives were conducted approximately four months after the first interviews; they were designed to probe certain aspects of the ADR benefits and costs that emerged from a survey administered to samples of employees in each company that had used—filed one or more complaints/grievances under—the ADR system during the 2002–2006 period. The selection of these employee samples was based on the preceding archival analysis and was then stratified by type of issue over which complaints/grievances were filed, employee job title/occupational category, level of complaint/grievance decision, and decision result. This selection procedure yielded a total sample of 1,245 employees to whom the survey was administered by mailed hard copy, followed by two mailed post card requests and one telephone request for survey completion and return. The overall response rate to this survey was 63.5 percent (790/1,245), with the post card and telephone follow-up requests generating about 13 percent of this total. These employee survey data together with the aforementioned executive interview data permit the analysis of mutual gains under these four non-union ADR systems.

To begin this analysis, consider the views of top executives about the benefits and costs of the ADR systems in their respective companies. As shown in Table 7, these executives perceive the main benefits of their ADR systems to be (in order of importance) (1) providing a source of information about employment relations issues/problems; (2) identifying ineffective supervision/management; (3) clarifying company HR policies/practices; (4) reducing employee dissatisfaction; (5) reducing employment litigation; (6) increasing employee retention; (7) avoiding employee unionization; (8) enabling employees to communicate with top management; (9) serving as a form of employee participation in the organization; and (10) strengthening employee discipline. When asked if their companies would be “better off with or without an ADR system,” nineteen of the twenty interviewed executives responded “better off with an ADR system.”<sup>4</sup>

This ranking of ADR systems benefits varied by the particular positions that these executives hold in their respective organizations. To illustrate,

TABLE 7  
Summary of Top Executive Ratings of ADR System Benefits and Costs

ADR System Benefit	Rank
Provide a source of information about employee relations issues/problems	1
Identify ineffective supervision/management	2
Clarify company HR policies/practices	3
Reduce employee dissatisfaction	4
Reduce employee litigation	5
Increase employee retention	6
Avoid employee unionization	7
Enable employees to communicate with top management	8
Serve as a form of employee participation in the organization	9
Strengthen employee discipline	10
ADR System Cost	Rank
Resources required to maintain/operate ADR system	1
Loss of productive time	2
Reduced supervisor morale	3
Loss of decision-making control	4
Retention of low-performing employees	5

*Note:*  $N = 20$ .

*Source:* Interviews of five top executives in each of four non-union business units with ADR systems.

the GMs and COOs of these companies were significantly more likely than the CHROs and CMOs to rate “providing a source of information about employment relations issues/problems,” “identifying ineffective supervision/management,” and “enabling employees to communicate with top management” as the main benefits of their companies’ ADR systems. CHROs and CMOs were significantly more likely than GMs, COOs, and CFOs to rate “clarifying company HR policies/practices,” “reducing employee dissatisfaction,” and “increasing employee retention” as the main benefits. CFOs were significantly more likely than all other top executives to rate “reducing employment litigation” and “avoiding employee unionization” as the main benefits of their companies’ ADR systems.<sup>5</sup>

Turning to the perceived costs of their respective ADR systems, the executives interviewed for this study identified the following (in order of importance): (1) resources required to maintain/operate an ADR system; (2) loss of “productive” time; (3) reduced supervisor morale; (4) loss of decision-making control; and (5) retention of low-performing employees. The CFOs were significantly more likely than the CHROs and CMOs to rate “resources required to maintain/operate an ADR system” and “loss of productive time”

as the main costs of their companies' ADR systems; COOs were significantly more likely than all other executives to rate "loss of decision-making control" as the main cost; and CHROs and CMOs were significantly more likely than CEOs, COOs, and CFOs to rate "reduced supervisor morale" and "retention of low-performing employees" as the main costs of their companies' ADR systems.

When asked specifically, "Do the benefits of your company's ADR system exceed its costs?" seventeen of the twenty interviewed executives responded "yes," two responded "no," and one responded "they are equal." As a validity check on the responses to this question, a subsequent question was asked: "Do the costs of your company's ADR system exceed its benefits?" Responding to this question, sixteen of the interviewed executives responded "no," two responded "yes," one responded "they are equal," and one responded "I don't know." With only two inconsistent answers to this pair of questions, it appears that the top executives in the four companies that participated in this (phase of the) study clearly judge their companies' ADR systems to be providing net benefits—in fact, substantially so. But does this necessarily mean that these systems and employee exercise of voice through them produces mutual gains?

The data presented in Table 8 are helpful for answering this question. They show that employees in the four participating companies who actually filed complaints/grievances under their companies' ADR systems rate the benefits of these systems as follows (in order of importance): (1) redressing ineffective supervision/management; (2) clarifying company HR policies/practices; (3) improved working conditions; (4) increased training; (5) fairer promotion decisions; (6) communicating with top management; (7) increased employee satisfaction; (8) increased employee retention; (9) improved family-work life balance; and (10) reduced employment discrimination.<sup>6</sup> While some of these benefits of ADR systems differ from those identified by company executives, others are similar or even identical to them, including such top-rated benefits as "redressing ineffective supervision/management" and "clarifying company HR policies/practices" and such mid-rated benefits as "communicating with top management" and "increased employee satisfaction." In light of prior theorizing about non-union enterprises' rationale for adopting ADR systems and the specific benefits of such systems identified by the top executives of these companies during their first interviews, the employees who were surveyed were asked their views about the effects of the ADR system on employee "demand" for unionization and for employment litigation. For this purpose, the relevant survey questions and their associated rating scales were structured such that answers could range from large positive demand, scaled at +3, to large negative demand, scaled at -3, with the choice "no effect on demand" scaled at 0. On the

TABLE 8  
Summary of Non-union Employee Ratings of ADR System Benefits and Costs

ADR System Benefit	Rank
Redress ineffective supervision/management	1
Clarify company HR policies/practices	2
Improve working conditions	3
Increase training	4
Fairer promotion decisions	5
Communication with top management	6
Increased employee satisfaction	7
Increased employee retention	8
Improved family-work life balance	9
Reducing employment discrimination	10
ADR System Cost	Rank
Loss of productive time	1
Time required to reach decisions about complaints/grievances	2
Failure of management to learn from prior complaints/grievances	3
Reduced supervisor morale	4
Retention of low-performing employees	5

*Source:* Survey of employees of non-union business units with ADR systems who used those systems at least once during 2002–2006. Response rate = 63.5 percent (790 responses out of a total 1,245 surveys).

whole, these employees judged such effects to be small to negligible; specifically, their mean rating of the effects of ADR systems on potential employee unionization was  $-0.4$ , and their mean rating of the effects of ADR systems on potential employment litigation was  $+0.6$ . Hence, in these two important respects the employees of the four companies included in this study—employees who have had personal experience with these companies' ADR system—differ from the top executives of these companies. Nevertheless, when it comes to certain other benefits of ADR systems, these same employees share quite similar views with the top executives.

Much the same can be said about employee views of the costs of the ADR systems that prevail in their companies. When asked about such costs, these employees rated the following (in order of importance: (1) loss of productive time; (2) time required to reach decisions about complaints/grievances; (3) failure of management to learn from prior complaints/grievances; (4) reduced supervisor morale; and (5) retention of low-performing employees. Notably, three of these costs are the same as those identified by the top executives, whereas "time required to reach decisions about complaints/grievances" and "failure of management to learn from prior complaints/grievances" are different costs from those identified by top executives. Because prior research has

identified fear of retaliation as having a significant negative effect on non-union (and unionized) employees' filing of complaints/grievances,<sup>7</sup> the employees surveyed for this study were asked to indicate whether and to what extent they considered such fear of retaliation to be a "cost" of their own companies' ADR systems. Surprisingly, perhaps, these employees judged this cost to be small; the mean rating of their responses to a question about their level of fear of retaliation for filing a complaint/grievance under their respective companies' ADR systems was 1.4, on a scale where 1 indicated very small and 7 indicated very large.

As with the top executives of these four companies, the sample of employees who had filed complaints/grievances under their companies' ADR systems were specifically asked, "Do the benefits of your company's ADR system exceed its costs?" Of the 790 employees who answered this question, 84.1 percent (664/790) responded "yes," 8.2 percent (65/790) responded "no," and 7.7 percent (61/790) responded "about equal." Also as with the top executives, a validity check on the responses to this question was conducted by including the subsequent question in the survey: "Do the costs of your company's ADR system exceed its benefits?" In answering this question, 82.1 percent (649/790) of the employees responded "no," 7.5 percent (59/790) responded "yes," and 10.4 percent (82/790) responded "about equal." Given the quite consistent answers to this pair of questions, it appears that employees that participated in this study judge their companies' ADR systems to be providing net benefits—in fact, and as with the dominant view expressed by the top executives of these companies, substantially so. In sum, this combination of interview and survey evidence obtained from top executives and employees, respectively, in the four non-union companies that participated in this study leads to the conclusion that mutual gains result from/can be attributed to the ADR systems in these companies.

Further supporting this conclusion are certain qualitative examples of ADR system benefits that were identified by and elaborated upon by the executives and employees that participated in the study. Four pairs of examples, one offered by an executive and the other by an employee in each of the participating companies, are summarized below.<sup>8</sup>

*Company A, Aerospace; Executive (COO):* Our ADR system has been around since the early 1990s and was adopted because quite a few of our professional employees were telling us that they had no systematic way of bringing work problems to our attention or, when they did, there was little or no subsequent action or feedback. This probably says something about the main type of employee we have in our business, who are engineers and who prefer order, systems, and procedures in all aspects of the business. We did

some benchmarking in this area and decided to go whole hog by adopting a dispute resolution procedure that culminates in third-party arbitration. In my experience—I've been the COO for the last seven years and am an engineer by training—our system has worked pretty well. We don't get a lot of complaints, but when we do we try to act on them quickly by investigating them carefully, reaching decisions, and then providing detailed feedback to the employees [who filed the complaints]. As I see it, this has helped us to clarify our HR policies, improve our supervision, and in some instances retain valuable employees. There are costs to this system, of course, but you can't get value from a system like ours without investing in it.

*Company A, Aerospace; Employee (Mechanical Engineer):* I've been with this company for eighteen years, and I think we've come a long way in the way we handle employee relations. When I started with the company, if you had a complaint you basically could only bring it to your supervisor and hope that some sort of action would be taken. This was a hit and miss process, and you never really knew what decisions management had reached about your complaints. After the company adopted its ADR system, this began to change, and I think that for the last several years everyone pretty much knows how management has handled employee complaints and what actions they've taken to deal with those complaints . . . You asked if I'd ever used our ADR system, and the answer is "yes, twice." Once I used this system to complain about a performance review that I thought was unwarranted because I was rated "poor" in certain areas. My complaint was reviewed pretty quickly, as I recall, and changes were made to that review so that "average" became my lowest rating in any area. My supervisor wasn't too happy about this, but he told me that he'd discussed the matter with upper management and understood why the change was made. The next time I used the ADR system was to complain about a promotion that I thought I'd been denied. That complaint took longer to get an answer to, several weeks I think, and I was told that the promotion wouldn't be granted at that time but might be granted the next year if my performance improved. I guess it did because I was promoted the next year.

*Company B, Medical Supplies; Executive (CMO):* This has always been a strongly customer-oriented company, and we've been doing customer satisfaction surveys for, oh, about fifteen years. We also have a speak-up system for customers in which they can contact us to get specific information about or complain about a product or a service or a salesperson or just about anything else. Those of us in marketing think that these two things have helped us retain our customers, especially the best ones. I think it was about ten years ago that my predecessor [as CMO] together with our CHRO at the time "sold" the rest of senior management on adopting a speak-up type system for our employees,

which is now popularly referred to as an ADR system. His main reasoning seemed to be that our employees are our customers, too—internal customers, I guess you'd say—so we should have some type of system that allows them to get their complaints addressed when they need to. I've been surprised at how well this system has been received, especially by management. Of course this may be because our CEO really believes in this system. As a matter of fact and as you may know, the CEO is the last step in our ADR system, and he usually winds up deciding two or three of the employee complaints yearly. I know of at least three instances in which he's reversed the decisions of lower management, but he's always careful to explain why he's reached these decisions. I think this has helped us spot and correct certain employee relations problems and keep some of these problems out of the court system. It's also helped to retain some key employees.

*Company B, Medical Supplies; Employee (Salesperson):* I've worked for three different companies during the last eleven years and know how salespeople can be treated. In my first company it was simply a matter of how much revenue you could generate for the company. Sales meant a hell of a lot but service didn't. I raised this issue several times with my manager but got nowhere, so after a couple of years I moved to another company. That company was better than the first when it came to serving customers, but as an employee if you had an issue or problem you were expected either to work it out yourself or get your supervisor to deal with it. Well, that might be OK in general but not when your supervisor was the problem! I left that company two years later and have been with my present company for six years and expect that I'll be here quite a while longer. Here we have a [ADR] system for employees that allows you to raise issues and get them addressed; you don't have to be quiet about these problems or just bring them to the attention of your supervisor. Two years ago I felt that I had to spend quite a lot of money to improve the quality of service to the customers in my geography [that is, geographical area] and that was going to cut the margins on sales to those customers. My supervisor disagreed with me and disallowed the cost increase. So, I took this issue through the ADR system and it wound up being decided by the CEO himself. I didn't quite expect that and was nervous when I found out about it, but it turned out that he not only approved the cost increase but changed the company's policy in this area to give more weight to the quality of customer service and somewhat less weight to sales margins.

*Company C, Information Technology; Executive (CHRO):* This is a progressive company that really does believe that employees are a key asset. You probably don't think this is unusual because, after all, these days we sell solutions



as much or more than products to our customers. But having worked for two other competitor companies I can tell you that most of the time when companies say they have progressive HR or employee relations policies they usually emphasize things like teamwork, decentralization, and a strong company culture. We have these things in my company, but we don't pretend that everyone shares the same goals or that we don't have conflicts at work. This is a demanding business and sometimes our employees see these demands as inappropriate or unfair. This is where our ADR system comes into play. We've had this system for about five years—I've been CHRO for three years and was Associate CHRO for three years before that—and it's really helped us to clarify our work practices, reduce employee dissatisfaction, and even make fairer promotion decisions. Our system doesn't involve third parties, such as an arbitrator, but we do have peer review and a top management committee as formal ADR steps. In the last two years, work-family life balance and promotion issues have been the subject of employee complaints, and I think that the way we addressed these complaints using the ADR system has worked to the company's benefit and our employees' benefit. These are "win-wins," though we spend quite a lot of time and money in maintaining and sometimes modifying our ADR system.

*Company C, Information Technology; Employee (Production Specialist):* This is a pretty exciting business and its gotten more exciting as we've shifted from what you might call an almost exclusive emphasis on products to a balance of products and services—business solutions, it's called. I've worked here for seven years and during that time more and more demands have been made on us who actually produce "things." Decisions that used to be made by my supervisor are now made by my team and sometimes by me alone. I'm getting paid more than I used to and the money is pretty good, but sometimes the job demands get out of hand. That's where our ADR system becomes important. I've used that system twice, once when I felt that my team was too small to get the job done and the second time when the company wanted me to relocate. I didn't originally think I'd use the ADR system for either of these issues, but I found that I couldn't get any resolution of them from my supervisor. So, I filed complaints using the ADR system. The first issue got settled pretty quickly at the peer review step, and the result was that our team was increased from four to five members. That was a really good decision, and we were really able to accomplish our work on time and with a higher level of quality. Our supervisor wound up benefiting from this and turned out to be a "happy camper." The second issue took a lot longer to get settled, probably because it went to the top management committee. That committee decided that I didn't have to relocate, but they also wound up allocating more resources

to my department so that jobs in other locations could be filled. In the end, my supervisor was pretty happy with that decision, too.

*Company D, Entertainment; Executive (GM):* This is a fast-paced business with a lot of creative people working here. Of course, that's pretty much true of any business in our industry, but I think our business does better than most in recognizing that conflicts among creative types are very common—normal, you might say—and therefore it pays to have an organized, systematic way of dealing with those conflicts. In a nutshell, this is why we have an ADR system and have had for quite a while. One of the key aspects of this system, in my opinion, is that arbitration is the final step. I think that when employees see that the company is willing to turn over to a neutral third party decision-making responsibility in an issue of, say, suspension or termination, they believe that the company is trying to deal with them fairly. You can't have every employment dispute go to arbitration, of course, and we have only a few cases a year that go that far. Sometimes the decisions reached in the ADR system, including cases decided short of arbitration, wind up overturning the decisions of lower management, but our managers recognize this risk and the truth is that their decisions are much more likely to be supported than overturned. This is one benefit of this system; another is that it clarifies some of our HR practices; another is that it reduces employee dissatisfaction. I even think that this system has helped us to attract and retain some key talent, though others might disagree with that. We also regularly use our ADR system data to identify workplace issues and to improve supervisory training.

*Company D, Entertainment; Employee (Facility Manager):* I've held the position of Facility Manager for three years, and before that I worked directly for the previous Facility Manager. About four years ago I filed a complaint under our ADR system. I was reluctant to do so because my complaint was one of sexual harassment and it involved two of my co-workers. [This employee is a male as were his co-workers at the time.] I discussed this matter on a confidential basis with my boss, the Facility Manager, and she told me that she had had other problems with these same two employees, and that if I was willing to pursue my complaint through the ADR system she would back me to the hilt. While I didn't want to put myself in the middle of a bigger dispute, I felt that my choices were either to file the complaint or to quit. Obviously, I did file the complaint, and what surprised me was that the review of my complaint was speeded up—expedited, I believe they called it—so that it went to arbitration about three weeks after I filed it. About two weeks after that I received notice of the arbitrator's decision and also the company's decision, which was to fire the two co-workers. In fact, the company made a big deal about this

decision and publicized it throughout the company. One year later my boss was promoted to another position and I was promoted to Facility Manager. I was surprised to learn that even though I am now a manager in this company, I am still eligible to use the ADR system. I don't expect that I will do so, but I think this shows that the company is really interested in dealing with work conflicts no matter who they involve.

These four paired examples do not, of course, establish the basis for broad generalizations about employee voice and mutual gains in non-union enterprises. Nevertheless, they can help scholars to think more deeply about the concept of mutual gains, the study of mutual gains in both the unionized and non-union sectors, and the possibility that mutual gains to employers and employees may result from the widespread availability and quite considerable use of non-union ADR systems.<sup>9</sup>

### **Conclusions and Implications for Mutual Gains Theory**

Heretofore, theory and research on mutual gains have focused largely on employee exercise of voice in unionized settings featuring collective bargaining between representatives of management and labor, which typically lead to formal written agreements (that is, contracts) that contain grievance procedures. It is through both bargaining, per se, and grievance procedures that unionized employees exercise voice in the employment relationship, and on occasion these methods lead to mutual gains. By contrast, this paper focused on employee voice in non-union enterprises and addressed the question, "Do mutual gains to employer and employee result from non-union employees' exercise of voice?"

The short answer to this question is "yes" based on the findings from the study reported herein. These main findings are (1) a substantial majority (almost two thirds) of a large sample of U.S.-based non-union businesses that were surveyed in mid-2007 reported having one or another type of ADR system in place; (2) these ADR systems are not only available but are actually used by employees, as indicated by the estimated 13.5 percent annual complaint/grievance-filing rate among the employees of these businesses during 2002–2006; (3) top executives of four non-union businesses with ADR systems that participated in this study indicated through lengthy interviews that they strongly believe that their businesses are "better off" for having these ADR systems and that the benefits derived from these systems substantially exceed their costs; (4) a large sample of employees of these four non-union businesses indicated through survey responses that they believe that the benefits derived from these businesses' ADR systems substantially exceed their costs; and (5) specific examples of the

benefits derived from/attributed to these ADR systems were provided by a top executive-employee pair in each of these four non-union businesses.

What do these findings imply for theorizing about mutual gains or, more pointedly, employee voice and mutual gains? Surely one implication is that such theorizing should not be circumscribed by reliance upon a purely collective context. While the presence of an employee union, the expression of collective voice by union representatives in negotiations with management representatives, the existence of a collective bargaining agreement, and the existence and use of grievance procedures by unionized employees facilitate the analysis of employee voice and mutual gains, *these conditions or attributes also restrict such analysis*. Indeed, these restrictions have grown larger and more untenable as unionism and collective bargaining coverage have declined and as the incidence of non-union ADR systems has substantially increased. Stated differently, employee voice can be—and is—exercised outside of a collective context; therefore, the analysis of mutual gains resulting from employee exercise of voice should also occur outside of (or in addition to) the collective context.

Another implication of the findings from this study is that judgments about mutual gains resulting from employee exercise of voice in non-union settings must rely heavily on the individual rather than the group or organization as the primary unit of analysis. As is evident from the present study, individual executives and employees provided the basic data by which mutual gains associated with employee exercise of voice were assessed. This is admittedly an additive or cumulative type of analysis, meaning that the views expressed by individual executives and individual employees were merged and compared, respectively, in order to draw conclusions about employee voice and mutual gains. Nevertheless, there is a certain “real” quality to this type of analysis, especially when compared to studies of mutual gains that rely on examples of “innovative” provisions of collective bargaining agreements,<sup>10</sup> and this reality should be more fully and explicitly considered in theorizing about employee voice and mutual gains.

Finally, this study’s findings serve as a reminder that “employee voice” may be exercised not only by nonmanagement employees but by management employees as well. In other words, managers (and even executives) are employees, too. This observation is underscored by recognizing that in unionized enterprises only employees who are members of the bargaining unit are eligible to use the grievance procedures contained in collective bargaining agreements, whereas in non-union enterprises most employees, including supervisors and managers (up to the mid-management level), are eligible to use the ADR system. It is easy to overlook this reality when mutual gains theory focuses primarily on employee voice exercised in a collective context.

## Notes

1. See, as examples, Westin and Felieu (1988); McCabe (1988); Delaney, Lewin and Ichniowski (1989); Ichniowski, Delaney, and Lewin (1989); Feuille and Delaney (1992); Feuille and Chachere (1995); Lewin (1997); Colvin (2004); and Lipsky, Seeber, and Fincher (2003).

2. The findings regarding gender and age differences also comport with those previously reported in studies of unionized grievance procedures (see, for example, Lewin 1999; and Lewin and Peterson, 1988). By contrast, the data concerning home country–located versus non-home country–located employee usage of non-union ADR systems appear to be the first reported in the literature on this topic.

3. Because the participating companies are business units of large companies, the title General Manager (GM) is used to denote the top executive in these units. In practice, two of the four business units use the title Chief Executive Officer (CEO) for this position, one uses President, and one uses General Manager.

4. Factor analysis of these data indicated three separate, independent constructs, namely, problem identification, threat avoidance, and policy clarification. Given the emphasis on mutual gains in this paper, however, attention will continue to be paid to the ten ADR system benefits identified by interviewed executives, especially in relation to the ten ADR system benefits identified by employees (see below).

5. For evidence that human resource executives with strictly human resource management backgrounds differ significantly from human resource executives with financial management backgrounds when it comes to assessing the benefits and costs of particular human resource policies/practices, see Briscoe, Maxwell, and Temin (2005).

6. Factor analysis of these data indicated three separate, independent constructs, namely, redressing ineffective supervision/management, working conditions improvement, and fairness of HR policies. The main purpose here, however, is to compare the larger set of ADR system benefits identified by employees with those identified by the top executives in these four companies (see also note 4).

7. See Budd (2005), Lewin and Boroff (1996), and Boroff and Lewin (1997).

8. In order to preserve confidentially assurances provided to the companies that participated in this phase of the study, the specific names (acronyms) of their respective ADR systems are not identified. Instead, each such system is referred to as an “ADR system.” In addition, certain clarifying comments inserted by the author into some of these examples are indicated by brackets.

9. Some industrial relations scholars are not at all shy when it comes to generalizing about the (presumed) lack of employee voice and mutual gains in the non-union sector. See, for example, Freeman and Medoff (1984) and the critiques of their work included in Bennett and Kaufman (2007), especially Lewin (2007).

10. See, for example, Cutcher-Gershenfeld, Sleight, and Pil (2006).

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