INDUSTRIAL RELATIONS

RESEARCH ASSOCIATION SERIES

Proceedings of the

54th Annual Meeting

January 4–6, 2002
Atlanta

Paula B. Voos, Editor

PROCEEDINGS OF THE 54th ANNUAL MEETING

First Edition
ISBN 0-913447-83-8
ISSN 0277-7347
Price: $29.95

INDUSTRIAL RELATIONS RESEARCH ASSOCIATION SERIES

Proceedings of the Annual Meeting
Annual Research Volume
Membership Directory
IRRA Newsletter (published quarterly)
Perspectives on Work (published biannually)

Inquiries and other communications regarding membership, meetings, publications, and general affairs of the Association, as well as notice of address changes, should be addressed to the IRRA national office.

INDUSTRIAL RELATIONS RESEARCH ASSOCIATION
University of Illinois at Urbana-Champaign
121 Labor & Industrial Relations Bldg.
504 East Armory Ave.
Champaign, IL 61820
Telephone: 217/333-0072 Fax: 217/265-5130
Website: *www.irra.uiuc.edu* E-mail: *irra@uiuc.edu*

PREFACE

The 54th annual meeting of the Industrial Relations Research Association was held in Atlanta on January 3–6, 2002. Still in a state of shock over the events of September 11, 2001, more than 500 members braved a rare Atlanta snowstorm and a closed airport to meet and discuss new research and ideas on where the industry and the world were headed. The meeting centered around a theme established in late 2000, "A Roadmap for IR in the New Century." But members also met between sessions, over meals, and in the hallways discussing the effect of September 11 on workers and the changing world of work. These dialogues, while not captured in this volume, shaped a new set of questions to the research and ideas presented in Atlanta and have been expanded in other IRRA publications, like the June 2002 issue of *Perspectives on Work,* and in sessions at future meetings.

This winter conference featured sessions on a variety of important topics such as, how collective bargaining can deal with industry flux; union and management cooperation and approaches to multi-employer plans; a cross-national analysis of affirmative action and employment equity laws; incentives in public and nonprofit sectors; and the changing nature of professional work.

President Magdalena Jacobsen's luncheon address, " IRRA—On-Line and On-Message" was an appropriate prelude to the first-ever online format of the IRRA Proceedings. After 53 years of publication, this volume will be published for members online in 2003. Only libraries, contributing authors, and those wishing to purchase complete printed collections (for a nominal fee) are being sent the printed version. The new online proceedings will provide both members and visitors the opportunity to perform keyword searches. By tying into major web search engines, it is hoped this new access will cast a wide net to those looking for information in our field who may not already be familiar with the association. Also, publishing online will offer important cost savings to the organization in future years.

Our new strategic alliance with the University of Illinois Press has helped to open a number of doors to electronic publishing. I wish to thank Ann Lowry, Clydette Wantland, and Paul Arroyo at the Press, for their help envisioning and creating both the printed and electronic versions of this volume. I also want to acknowledge Paula Hamman at the IRRA office for her fine work coordinating the proceedings submissions with the authors.

The 55th Annual meeting is scheduled for Washington, D.C. on January 2–5, 2003 and will focus on "New Policies and Approaches in Employer

Relations." President John F. Burton, Jr. and the IRRA Program Committee encourage you to mark your calendar and plan to attend. We hope to see you there.

Paula D. Wells
IRRA Executive Director

CONTENTS

IV.

JOB SEARCH IN THE NEW ECONOMY: WHAT ARE WORKERS DOING AND WHO IS HELPING THEM?

Eileen Appelbaum, Presiding

V.

BARGAINING IN FLUX: LABOR AND MANAGEMENT RESPONDS TO A PERIOD OF UNCERTAINTY

Michael Belzer, Presiding

VI.

UNION AND MANAGEMENT COOPERATION AND APPROACHES TO MULTI-EMPLOYER PLANS

Wei Sun, Presiding

VII.

AFFIRMATIVE ACTION (AA)/ EMPLOYMENT EQUITY (EE) POLICIES AND PROGRAMS IN THE UNITED STATES, CANADA, SOUTH AFRICA, THE EUROPEAN UNION COUNTRIES AND NETHERLANDS

John Lawler, Presiding

VIII.

ASSOCIATIONS, UNIONS, AND THE CHANGING NATURE OF PROFESSIONAL WORK

Gregory Woodhead, Presiding

IX.

INCENTIVES IN THE PUBLIC AND NONPROFIT SECTORS: DO HIGH-PERFORMANCE WORKPLACE PRACTICES WORK?

Kathryn Shaw, Presiding

X.

LABOR STUDIES/LABOR UNIONS, COLLECTIVE BARGAINING, DISPUTE RESOLUTION AND LABOR AND EMPLOYMENT LAW REFEREED PAPERS

Eileen Hoffman, Presiding

XI.

UNION EXCLUSION IN THE UNITED STATES, UNITED KINGDOM, AND WESTERN EUROPE

Sanford Jacoby, Presiding

XII.

INDUSTRIAL RELATIONS IMPLICATIONS FOR THE PRIVATIZATION OF STATUTORY DISPUTE RESOLUTION

Arnold Zack, Presiding

XIII.

INVITED INTERNATIONAL

XIV. POSTER SESSION I

Stephen Havlovic, Presiding

XV. POSTER SESSION II

Stephen Havlovic, Presiding

XVI.

IRRA ANNUAL REPORTS

I. PRESIDENTIAL ADDRESS

IRRA: Online and On-Message

Magdalena Jacobsen
National Mediation Board

Welcome to the annual meeting of the IRRA. The title of my talk today is: "IRRA, Online and On-Message." By *online,* I am referring to our recent efforts to use the Internet to allow our broad membership to participate retroactively in our June policy conference. By *on-message,* I am referring to our interests in expanding the dialogue for shaping labor and employment policy to all of our membership and others interested in our venue.

I would like to make a proposition to all of you today and that is that we, the IRRA, actively and collectively, become an influence in the development of labor and employment policy. IRRA has a long history of providing analysis, research and opinions about the American workplace and labor economics. I believe that the diversity of interests and perspectives represented among our membership in universities, companies and labor organizations, among mediators, arbitrators and government representatives involved in the industrial and employment relations venue across our nation offer a comprehensive and rich source of experience, knowledge, information and ideas.

We offer a perspective from the cities and towns across the vast breadth of our nation that reflects the depth of experience that comes from two centuries of unparalleled growth and expansion of industry in a melting pot of people from around the globe. Immigrants who brought their energies, skills, beliefs, prejudices, fears and zeal to succeed in this great land of opportunity defined our own unique industrial relations patchwork of systems through their struggles and successes. Why not capture that collective experience and wisdom and use it to advocate changes that make sense in this democracy?

The scope of change that the global economy is driving necessitates a hard look, and reflective and creative solutions to the problems and obstacles that change is generating for American workers and industries. The IRRA is the

Author's Address: National Mediation Board, 1301 K Street, N.W., Washington, DC 20572.

preeminent organization that understands and is actively engaged in assessing and discussing our venue; who better than this organization to help in designing the fabric of changing labor–management relations systems?

We have taken a first step in engaging the policy makers through the National Policy Conference in Washington, D.C. last June. Our Conference subject matter was "Shaping the Dialogue in Labor and Employment Policy." Our format was one that provided each conferee the opportunity to engage in a dialogue during facilitated round table discussions following our keynote address by Michael Maccoby and panelist presentations by representatives of labor, management, government and academia. Both the formal presentations and facilitated round table discussions were captured on videotape and, with the help of Mary LaCine of FMCS and the technology that the agency has developed called TAGS, we were able to make the Conference accessible on our IRRA website and thereby available to anyone who logged on. My hope was that conferees, members who were unable to attend and others interested in our venue would join in the dialogue, as not only could one read what was said but one could respond, ask questions and propound one's own theories on the subject matter. Furthermore, an expert and distinguished panel, including John Dunlop, Gladys Gershenfeld, Mac Lovell and Ray Marshall, was given the assignment of commenting on the ongoing dialogue. That commentary will happen later this afternoon at the Distinguished Panel session.

The National Policy Forum has evolved from regional meetings which for many years were considered a midyear, practitioner-oriented meeting. This focus is slightly different from our annual meetings which traditionally had a more scholarly and research agenda. Participants at regional meetings usually grappled with contemporary conflicts and issues in the workplace and shared their approaches and solutions to challenges in their workplaces.

The shift to an aspiring meeting in Washington, D.C. was intended to continue this kind of practitioner forum for discussion of workplace problems with the added value of gaining access to the policy makers and/or their staffs from relevant Congressional committees. The hope is that these policy makers would engage in the discussions with our frontline managers and labor leaders who are daily trying to mesh the needs of their constituents and industries with changes in economic, global competitive factors, societal changers, technological innovation, national security, generational issues, among many others. The policy makers would gain a greater appreciation and comprehension of the obstacles that companies and unions are facing and that understanding might translate into improved policy.

My observations of how the process of labor and employment policy evolves today is that it emerges from a frenetic and conflicting flurry of information and demands, often responding to a specific event. Solutions develop

with more of a short-term fix approach than a reflective and long-term approach to real problem-solving. Proposals for the fix filter through the halls of government, often over the desks of bright and well-meaning individuals, who nonetheless lack any comprehensive knowledge or understanding of the context of the subject matter. A lack of time or real broad and objective research, the presence of political agendas, the intensity of conflicting interest group pressures all contribute to marginalize sound labor and employment policy and legislation.

The outcome of such a process is that such policies/legislation end up in the litigation swamp and the problem intended to be solved expands exponentially. Imposition of the ersatz policy on the workplace simply creates new challenges, increases costs to companies and unions, and undermines what should be a basic tenet of our industrial relations system, which is to find accommodations based upon mutuality of interests . . . so that we may have an engaged and productive workforce and keep the plant and the trains running on time.

I am an evangelist for changing the food chain of policy from seed to fruition. If we do not, we will suffer in the race for global influence and participation. We cannot serve the incredible variety of circumstances, needs and aspirations of the American people or the demands in the American workplace unless we have as a priority policies that serve labor peace. Political winds of change that shift priorities and power, and alter perceptions of the legitimacy of hard won rights, generate a loss of respect for established institutions and practices.

My experiences in the labor relations venue for over 35 years have exposed me to the entire spectrum of industries and labor organizations. In the past 8 years, as a presidential appointee in Washington, D.C., serving in an agency responsible for the administration of most facets of the labor–management relationship in airline and rail industries, I have substantially added to my understanding of the delicacy of the fabric of labor–management relationships. These industries are highly sensitive to economic fluctuations and public confidence, and employees in these industries, who number over 900,000, are highly sensitive to those same influences. The majority of employees are represented by labor organizations under a law that is unique for its creation.

The Railway Labor Act (RLA) was written by a joint labor–management committee that was given the mandate to develop a statute under which both could live. At a time when government and industry were building the intricate and nationwide rail transportation system to meet a growing nation, an economy was also being developed under circumstances where a vast labor market of new immigrants were seeking work and security in a tumultuous land and myriad labor organizations were struggling to find a consensus though conflicts were abundant. After bloody strikes that left rail systems and labor–

management relationships in a shambles, both parties agreed to find consensus. When their joint effort was adopted it was stated that the parties did not want government to do their jobs, just to add assistance if they required it.

The RLA has served the nation well and has been able to accommodate dramatic changes in the economy, society and technology. It has done so because of the commitment of labor and management in handling their differences over time. And, it has done well because of the efforts of the government agency that administers the law. Stresses now are challenging this law and generating a call to change it. Changes would dramatically alter the sense of the statute because they would eliminate the consensual nature of its character. It is both because of politics and the significance of air transportation to the economy that there are calls to amend the RLA.

The call for amending the law comes in the aftermath of a difficult year in the airline industry. All major air carriers were in the final stages of the bargaining process with a number of labor organizations. The law provides that agreements do not expire; rather, they become amendable, and there are extensive steps that must be exhausted before the parties reach the point where self-help can engender economic pressures. The framers intended the law to maximize the time, levels of pressure and influence available to each side in the bargaining process so that an agreement could be cobbled together consensually.

The RLA steps include direct bargaining and mediation—which is a mandatory process, with the NMB entrusted with the authority to ultimately determine when the mediatory process has been exhausted. That decision, when made, often comes after years in direct talks and mediation. The Board proffers arbitration, which the parties may accept, giving a third party the authority to make final decisions on the settlement, or reject and proceed into a cooling-off period. Another authority vested in the NMB is the determination of whether a work stoppage can be of such magnitude as to substantially affect the economy in a section of the country. Should that determination be made, the Board recommends to the President that a group of arbitrators be impaneled to conduct hearings and make nonbinding recommendations for a settlement. Should the recommendations fail to bring about a settlement, the parties have a right to self-help after another 30–day period. Only Congress may intervene to stop a strike.

Tensions between the politics of high-profile disputes, labor law and labor relations were played out in the media last year, with public pronouncements that there would be no strikes in the airline industry and that PEBs would be appointed. Anger, resentment and confusion about authority and whether the rules of the game were changing midstream distracted the par-

ties, cost time and money, and almost derailed mediation efforts. The pronouncements were perceived as skewing the leverage at the table and made it difficult to engender a sense of equality and empowerment, which is essential if people are going to have the courage and sense of confidence to make the compromises that bargaining requires. Although a good rationale for such interference can be found in the potential risks to an airline of even the threat of a strike (a large percentage of travelers will cancel reservations and book away at the hint of a labor dispute, causing revenue losses), the potential for disturbing the dynamics of bargaining, exacerbating the conflicts that drive confrontation (strikes), and undermining the morale of the employees about whom the entire process is invoked, in my view, far exceeds the downsides of risks. In addition to table dynamics, the mere fact that the rules of the game appeared to be changing during play were destabilizing to all of the stakeholders under our law, airline and railroad, carrier and union.

In the end, agreements were reached without strikes and the law worked as the labor and management negotiators intended. The employees felt confident about the value of the agreements, and the carriers earned the respect of their employees as represented by the high turnout and approval ratings in the ratification process. The public learned that the process works.

I relate these experiences to you to provide an example of the importance of the need to create laws and policies that encourage respect and support by the public, the parties and the politics of power. We need to maximize the opportunity for labor and management to find mutually acceptable solutions to the many challenges they face, without the imposition of edicts that limit control and the exercise of the responsibility of those directly involved in the labor–management relationship. In our workplaces it is best to allow those who live in the house to be responsible for each building block.

I call upon all of us in this august organization to bring our talents, knowledge, energies, perspectives and will to leading our nation in designing labor and employment policy and legislation that will serve our democracy the best—that is, in a way in which we do not create a web of rules that encourage litigation, or expend human and economic resources, in futile power and political struggles. Daily in the American workplace employees and managers are finding solutions to problems, in spite of the growing body of laws and precedents that often stifle creative and consensual problem-solving. Let us be part of a force to bring the knowledge and information gathered over the last half century into the mix for our policy makers. The IRRA, the preeminent organization in the industrial relations venue, is in a position to add great value to the discourse and decisions affecting labor–management relations. Let us do so by continuing the dialogue online and on-message.

II. THE CONSTRUCTION INDUSTRY IN THE NEW MILLENNIUM

Rebuilding Market Share: Strategic Dilemmas and Institutional Realities in Market Recovery Efforts

David Weil
Boston University

Abstract

Market recovery efforts in the construction industry focus too narrowly on a limited number of strategies and, as a result, yield limited results. In part, these deficiencies can be traced to the complexity of construction markets and the differing dynamics in bidding that make the notion of a single-market recovery strategy nonsensical. Rather, market recovery efforts must be tailored to the specific nature of product market dynamics. Market recovery programs must also be composed of a set of complementary policies by unions and employers that link traditional tools of market recovery to organizing and apprenticeship activities. The interrelated nature of market recovery efforts makes them difficult to put in place politically and institutionally, which helps explain why construction unions and their employer counterparts continue to adopt less effectual, single-pronged efforts.

For many years, building trades unions have adopted policies that seek to expand market share as a means of preserving their strategic leverage in local construction markets. In response to falling levels of union penetration in many construction markets beginning in the late 1970s (Allen 1988), market recov-

Author's Address: School of Management Finance/Economics, Boston University, 595 Commonwealth Avenue, Boston, MA 02215.

ery efforts primarily involved modifications to collective bargaining agreements between the building trades and employer associations in a local market. This included wage and benefit reductions (or targeted reductions for certain types of work), changes in journeymen/apprentice ratios, and other measures to reduce union/nonunion cost differentials (Mills 1980). More recently, market recovery efforts have focused on marketing activities to promote the union sector to end users and the public and using multi-employer labor–management funds to win specific projects by subsidizing bids by union contractors (Grabelsky and Erlich 1999; Northrup 1991).

This paper argues that these versions of market recovery are overly restrictive and inherently yield limited results. This is because of the complexity of the construction market itself, and the differing dynamics in bidding that make the notion of a single-market recovery strategy nonsensical. Rather, market recovery efforts must be tailored to the specific nature of product market dynamics. Even more, to result in sustainable shifts in market share, they must be composed of a set of complementary policies by unions and employers that link traditional tools of market recovery to organizing and apprenticeship activities. The interrelated nature of market recovery efforts makes them difficult to put in place politically and institutionally, which helps explain why construction unions and their employer counterparts continue to adopt less effectual, single-pronged efforts.

Market Recovery Efforts and the Structure of Public and Private Bidding

There are essentially four alternatives for expanding the unionized share of local construction markets:

1. Increase the share of existing union contractors;
2. Create new union contractors;
3. Convert nonunion contractors into union contractors;
4. Decrease the share of nonunion contractors.

Market share recovery efforts will only be successful if they result in one or more of these four outcomes. Note that policies that are often put in the foreground of union activity in construction—organizing, apprenticeship, and promotional efforts—do not in themselves confer expansion in share. Instead, they are activities that may ultimately lead to one of the four market outcomes. For example, “bottom up” organizing of workers only confers additional market share when those workers are hired by union contractors. Enhancement in apprenticeship or journeymen training only results in shifts in market share when it improves the relative competitiveness of union contractors in bidding

for private or public work. The underlying competitive dynamics of the construction market affect each of the four alternatives for increasing union market share. An analysis of market recovery, then, must begin by understanding the organization of construction markets. A critical distinction for market recovery efforts concerns the operation of public versus private construction.

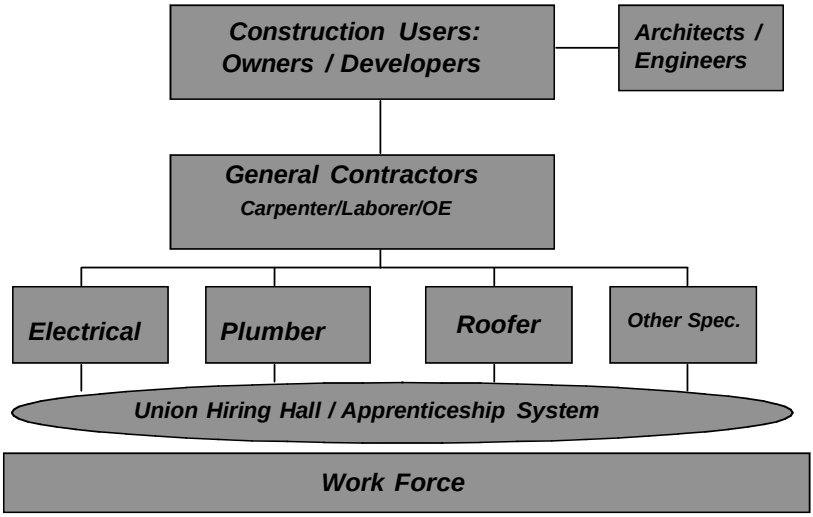
Figure 1 presents a schematic of traditional and more recent organization of the sector. At the "top" of the construction project are owners who are the end users of construction projects, who may be public or private players. The owners' interest might be extremely short term—as in the case of developers seeking to build and then lease or sell the building—or longer term—in the case of private companies building for their own use or government organizations providing some type of public good (e.g., a school, power facility, government office building).

The owner, in turn, typically hires a firm to oversee construction. Historically, this role was filled by a general contractor (GC) who served two functions: managing the construction project and being the direct employer of "basic trades"—that is, the trades undertaking construction work that occurs throughout the duration of the project (e.g., carpenters and laborers). The GC would also be responsible for coordinating the work of subcontractors associated with skilled and semiskilled specialty trades such as electrical, plumbing, sheet metal, roofing, and others. The larger and/or more complex the project, the more subcontractors would typically be on a job. This relationship is depicted in the upper panel of Figure 1.

Today, GCs have been replaced in many instances by construction managers (CMs). A construction manager works for the owner/developer, and coordinates with architects and engineers. Unlike the GC, a CM does not directly employ any workers on the site. Instead, the CM contracts with basic trades much in the same way as specialty trades. This removes the manager from many of the responsibilities of employing and directly managing the basic trades. In addition, collective bargaining agreements between basic trades and unionized GCs usually stipulated that all subcontractors on a project would be selected from unionized firms. Because the CM does not directly employ any construction workers, these provisions no longer apply, and projects are more likely to have a mix of union and nonunion trades present. These new relations are shown in the lower panel of Figure 1.

The structure of bidding for work differs between private and public sectors (that is, whether the end users of a building or project are private or public concerns). Bidding for private projects can be done on the basis of processes between different construction managers or general contractors (who bid for an entire project, based on their own team of subcontractors). Alternatively, bidding can be done more informally, with a project manager going directly

1a: Traditional organization



1b: Current organization

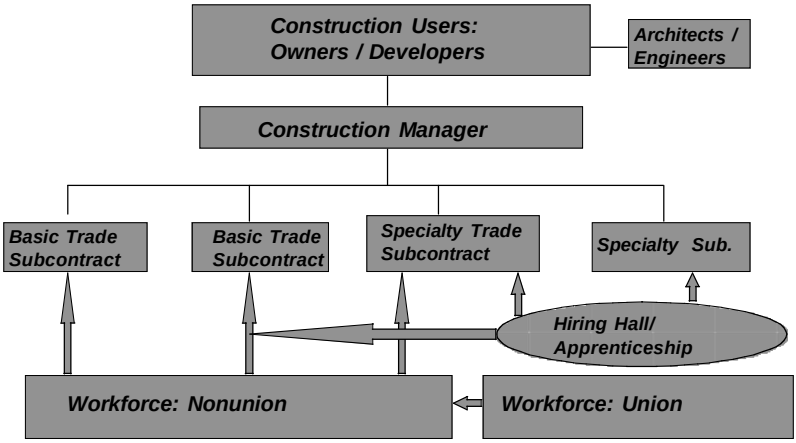


Figure 1. Organization of the Construction Industry.

to a preferred subset or even single GC/CM for bidding and negotiation of a project price. The GC or CM with the project, in turn, may elect to undertake a formal or informal bidding process for the subcontracted work. Once again, the methods of such bidding are primarily in the hands of the private parties involved.

Although by no means uniform, public-sector end users are driven by a narrower range of objectives around the final application of the project. As a result, the public character of construction reduces (although in no way eliminates) pricing pressure relative to private construction. Because funds for building at the federal, state, or local level ultimately come from taxpayers, bidding processes are more closely regulated. Public work is also covered by federal statutes regarding wages and working conditions ("prevailing wage" laws), discrimination, small business set-asides, and other regulations that address access to the bidding for work. In addition, states may also regulate the bidding process to insure against favoritism and patronage, an ongoing (or perceived) problem in regard to the letting of public construction projects.

Recapturing market share in the private market is a function of the ability to influence formal and informal bidding processes. This is often difficult because of the differences across private construction sectors and in the scale of projects. For example, the key decision makers on a project (owners, architects, or construction managers) vary by sector as do the factors that drive project profitability for the end users. These project aspects, in turn, affect the incentives in the selection and role of the project team and the nature of project management. In major metropolitan markets, as projects become larger and more specialized, the possibility of tensions between unionized contractors who may be competing against one another increases, further raising the complexity of market recovery aimed at private construction markets.

Regaining the market share through influencing public rather than private bidding processes is often more attractive. This is in part because of the more transparent and rule-driven nature of public bidding and because the decision for letting work itself may be influenced by political processes where unions have influence. More importantly, to the extent that prevailing wage laws are enforced, wages and benefit policies have been taken out of competition on public work, and the competition for projects can take place on the basis of comparative productivity and other factors.[1]

Comprehensive Market Recovery Strategy

Market recovery efforts are often cast as involving a single policy (e.g., market promotion). Yet each of the four alternatives for increasing market share require adoption of a set of *interrelated* policies to be effective. The individual components of each of the four market recovery alternatives do not

provide their full benefits unless they are simultaneously adopted with a set of other, related policies.[2] The components of market recovery must therefore be adopted together rather than individually (or even sequentially) in order to achieve optimal results. The perceived benefits may not outweigh the costs of market recovery activities if considered individually, because the separable benefits may not justify the costs, absent capturing the *collective* benefits of adopting the practices together (Weil 2000).

To illustrate this point, consider several core policies required to effectively convert nonunion into union contractors:

1. Identify key nonunion contractors that may become viable members of the union sector;
2. Focus "bottom up" organizing activities on the key workers of targeted contractors to induce them to join the union. The focus of organizing is to "strip" these workers from the targeted contractor and bring them into the union;
3. Focus "top down" organizing efforts at the same targeted contractors in order to convince them of how they can compete and succeed as unionized contractors. This might include helping them to win work in areas that they might previously have had trouble undertaking (public work) or providing them with a higher-skilled workforce (via new apprentices or journeymen training);
4. Prepare to have work for those construction workers who have been brought into the local at the same time as supplying work to the contractor after becoming signatory to the agreement.

Failure to implement any one of these policies will undermine the ability to achieve the overall objective of expanding market share. For example, a strategy of just "stripping" the workers of a key contractor is risky if those workers cannot be assured steady employment once in the union (particularly if this effort occurs during a downturn). If the union does not bring in the contractor that formerly employed these key workers, it risks losing them (and the resources put into organizing them). On the other hand, if the union successfully convinces the contractor to sign, but is unable to help provide the company with steady work as a signatory to the union agreement, it will risk losing the contractor and its workforce over time. By instituting the policies together, the union can reduce some of the political problems that may arise within the hiring hall because the new workers are active, new contractors are bidding work, and presumably the share of the market now controlled by signatories has increased.

Recasting market recovery efforts in light of their complementary nature

also sheds light on recurring labor–management tensions in areas like apprenticeship or organizing. Unionized contractors often press to expand apprentice programs during times of economic expansion. Unions are often reluctant to do so because of the risk it creates in terms of having additional workers "on the bench" and the consequent need to ensure employment for a larger number of workers (particularly problematic in the event of an economic downturn). The tension arises because expansion of apprenticeship programs optimally must be paired with efforts to increase the opportunities for those apprentices to find productive and continuous work in the longer run. This requires securing *sustainable* work opportunities (that is, expanding market share, beyond the additional jobs arising from the booming economy). At the same time, convincing nonunion contractors to become union signatories, or convincing existing contractors to expand their operations, requires assurances that unionized contractors will be able to find a productive and stable workforce (and therefore a healthy apprentice program).[3]

Institutional and Political Implications

For union leaders, the complexities of market recovery efforts raise some familiar, but difficult, internal issues. Imagine a union leader choosing to pursue a market recovery effort aimed at the public side of local construction markets. Institutionally, the leader must be able to mount a two-pronged strategy: organizing members at the same time as working with nonunion contractors to bring them into the fold. The union leadership must also be willing to support new contractors via market recovery funds at the same time as trying not to alienate existing contractors who may be less interested in public work.

The key political sensitivity for union leadership arises from the tension between existing members and recently organized workers. This tension is well-established territory for building trades. The COMET program, originated by the IBEW in the 1980s, was created to address precisely this problem (Grabelsky and Erlich 1999; Lewis and Mirand 1998). But the COMET program is sequential, with its core policies introduced over time by design (e.g., build support among existing membership, put pressure on leadership to accept the goal of organizing, and then initiate organizing activity). In contrast, comprehensive market recovery of the type described here requires moving ahead with organizing at the same time as moving ahead on other fronts (e.g., signing up new contractors and helping them win work).

The political tension facing union leadership becomes most pronounced in slowing economies, where competition between members on the bench is most intense. Although COMET has long been the approach to educate union members of the need to organize and overcome short-term focus on the new member as a threat, the number of new members entering during an expan-

sion phase remains problematic. This is made even more intense if newer workers can receive more stable employment because of their preexisting relationships with former nonunion contractors.

The institutional complexities are equally daunting (although quite different) for contractors. Comprehensive market recovery requires accepting short-term losses that may arise from introducing new unionized competitors in order to achieve the longer-term gain of taking wages out of competition. This may be politically more difficult water to navigate for management than for the union. For individual members of the contractor associations, the individual incentives to not participate may be greater than collective incentives to expand share. This is why "promotion" campaigns are usually the most commonly adopted method of market recovery because they are inherently nondivisive (i.e., they involve promoting expansion of the existing group of unionized contractors). But as I have argued above, such single-pronged strategies do not respond to the underlying market recovery problem.

Some of the institutional problems on the employer side reflect longstanding tensions in multi-employer forms of bargaining (Dunlop 1961; Mills 1980; Ulman 1966). These tensions are acute in the case of market recovery because the policies cut to the core of company competitive strategy, in a deeper way than differences in association members' ability to afford changes in wage, benefit, or manning policies. For example, targeted market recovery money for new entrants into the industry, and assistance in winning work, may create (or be perceived to create) direct competitors for existing contractors in established businesses.

The nature of tensions among employers may also shift during the course of the business cycle. In periods of economic growth and tight labor markets, funneling higher-quality workers to newly organized contractors may have significant effects on improving their competitive position relative to established contractors in the face of labor shortages. In contrast, in a cooling economy, requests to use market recovery money as a means of weathering bad times may be the source of conflict between established contractors who may expect to be at the front of the line for such funds (based on past practice) versus newly organized contractors who were drawn into the sector in part through the use of those money and may threaten to shift back to the nonunion sector if it dries up.

Conclusions

Market recovery efforts require a labor–management group to pay close attention to the fundamental differences of the construction sector in terms of private versus public activity as well as within each sector. Setting recovery policies even within a sector is made more complex by the complementary

nature of strategic choice in this area. Finally, institutional and political realities create unique problems for both unions and employers seeking to implement policies. Sustaining efforts over time is particularly difficult due to the inevitable ups and downs in construction occasioned by the business cycle.[4]

In the past, unions and labor–management efforts have dealt with these inherent complexities by focusing on "least common denominator" approaches, such as promotion strategies (in periods of economic recovery) or concessions (during recessions). These policies have had limited effectiveness, as evidenced by long-term declines in unionization rates in construction. In order to address the more fundamental changes that have occurred in construction product and labor markets, labor and management face a daunting task and have a limited number of examples to emulate.

Acknowledgments

I am grateful to Rich Gambino, Michael Monahan, and John Dumas of IBEW Local 103 and Paul McConnell, Paul Guarracino, and John Penney of Boston NECA for conversations regarding issues discussed in this paper, and to John T. Dunlop and Bob Gasperow for helpful comments on this manuscript.

Endnotes

1. One of the earliest efforts at coordinated market recovery was undertaken in the 1960s by the Operating Engineers, Carpenters, Laborers, and Teamsters, with public construction of highways as its focus. The effort targeted highway construction in states with low union density and assisted specific union contractors' bids for highway jobs by allowing the contractors and unions to work out wage, benefit, and work condition terms for the project *after* it had been secured. These efforts proved a highly successful means to use the burgeoning interstate highway construction market and public bidding laws to win work and market share.

2. In this sense, market recovery is a form of "production complementarity" (Milgrom and Roberts 1990). Production complementarity describes a case in which a set of practices that can be adopted (pricing, quality control, production and manufacturing strategies) have reinforcing properties such that the adoption of one practice enhances a firm's profitability both directly and *indirectly* by increasing the returns of other practices.

3. The complementary nature of market recovery policies also helps explain why the COMET approach may be insufficient by itself as a means of expanding market share. Although COMET arose from a recognition of the need to convince union membership of the need to bring in nonunion workers as a means of protecting their own wages and working conditions, it does not set out a clear path for pursuing contractors: either convincing existing union contractors to expand their market or bringing in nonunion contractors as signatories.

4. It is often the case that unions overestimate their strength during recoveries because a large number of workers are "off the bench" and working. This may mask the fact that the growth of the market as a whole outpaces growth in the union sector, leading to erosion in market share.

References

Allen, Steven. 1988. "Declining Unionization in Construction: The Facts and the Reasons." *Industrial and Labor Relations Review,* Vol. 41, no. 3 (April), pp. 343–59.

Dunlop, John T. 1961. "The Industrial Relations System in Construction." In Arnold Weber, ed., *The Structure of Collective Bargaining.* Chicago, IL: University of Chicago Press.

Grabelsky, Jeff, and Mark Erlich. 1999. "Recent Innovations in the Building Trades." In Bruce Nissen, ed., *Which Direction for Organized Labor?* Detroit, MI: Wayne State University Press, pp. 167–89.

Lewis, Jane, and Bill Mirand. 1998. "Creating an Organizing Culture in Today's Building and Construction Trades: A Case Study of IBEW Local 46." In Kate Bronfenbrenner et al., eds., *Organizing to Win: New Research on Union Strategies.* Ithaca, NY: Cornell University Press, pp. 297–308.

Milgrom, Paul, and John Roberts. 1990. "The Economics of Modern Manufacturing: Technology, Strategy, and Organization." *American Economic Review,* Vol. 80, no. 3 (June), pp. 511–28.

Mills, D. Quinn. 1980. "Construction." In Gerald Sommers, ed., *Collective Bargaining: Contemporary American Experience.* Madison, WI: Industrial Relations Research Association, pp. 49–97.

Northrup, Herbert. 1991. "'New' Union Approaches to Membership Decline: Reviving the Policies of the 1920s?" *Journal of Labor Research,* Vol. 12, no. 4 (Fall), pp. 333–47.

Ulman, Lloyd. 1966. *The Rise of the National Trade Union,* 2nd ed. Cambridge, MA: Harvard University Press.

Weil, David. 2000. "A Strategic Choice Framework for Labor Union Decision-Making." Unpublished paper, Boston University.

III. HUMAN RESOURCES AND INTERNATIONAL SECTIONS REFEREED PAPERS

The Effect of Employee Suggestions and Union Support on Plant Performance Under Gainsharing

Jeffrey B. Arthur
Virginia Polytechnic Institute and State University

Dong-One Kim
Korea University

Abstract

We use longitudinal data from two unionized manufacturing plants with different levels of union support for gainsharing programs to test hypotheses concerning the effect of employee suggestions on plant performance. In addition, we use an organizational learning perspective to test whether the pattern and content of suggestions over time differed in the two plants. Results from ARIMA time-series regression analysis provide support for the hypothesis that the increases in the level of implemented suggestions are significantly related to lower unit labor costs in both of the plants. Contrary to expectations, 2nd-order learning suggestions were associated with improved performance only in the case of the plant with relatively high union support for gainsharing. In addition, the predicted decline in the relative number of 1st-order learning suggestions over time was found to exist only in the plant with relatively high union support and involvement in the gainsharing program.

Author's Address: R.B. Pamplin College of Business, 2007 Pamplin Hall (0233), Virginia Polytechnic Institute and State University, Blacksburg, VA 24061.

Despite the long history of gainsharing, our understanding of how the introduction of gainsharing plans lead to performance outcomes in firms remains weak. Early research on the Scanlon gainsharing plan emphasized the importance of employee and union involvement in driving the success of the plan by transforming labor–management relations from a traditional adversarial relationship to a more cooperative one by developing a system of employee involvement through suggestion making and joint labor–management committees, and promising to share any savings from performance improvement equally between employees and management (Frost, Wakely, and Ruh 1974).

Although employee suggestions and the quality of labor–management relations are predicted to play a critical role in understanding how gainsharing works, these topics have not been evaluated systematically in the literature. In particular, we know very little about how and under what conditions these factors are likely to affect organizational performance.

In this study, we adopt an organizational learning perspective to further our understanding of the process issues involved in gainsharing. Organizational learning is a fundamental concept in organizational theory that has experienced a resurgence of interest by researchers and practitioners in recent years (Garwin 1993). Although not utilized in the industrial relations literature, this perspective is useful in that it provides us with a framework for understanding how employee participation through suggestion making affects the dynamics of gainsharing performance over time.

The data for this study come from two manufacturing organizations. In one plant, the union was actively involved in the introduction and design of the gainsharing program and fully participated in and supported its implementation. The second plant installed a virtually identical Scanlon-type gainsharing plan, but did so without the full support and participation of the employees and the union. We use over 4 years of monthly data on plant performance and employee suggestions in one plant and 7 years in the other to test three hypotheses concerning the impact of employee involvement and union support on plant performance under gainsharing.

Hypotheses

Employee suggestions are perhaps the most basic form of employee participation, with a history of over 100 years in the United States. It has been argued that employee suggestions influence organizational performance by enhancing the flow and use of important work-related information (e.g., Locke and Schweiger 1980; Miller and Monge 1986). Under a Scanlon-type gainsharing plan, suggestion making is formalized with the use of joint employee–management review committees and reinforced by the use of group–based monetary rewards (Gomez-Mejia, Welbourne, and Wiseman 2001; Kim 2000).

Proponents of gainsharing argue that employee suggestions enable more upward communication, facilitate better utilization of information based upon better understanding of job and tasks, and generate more creative and innovative ideas which, in turn, improve plant performance (e.g., Frost, Wakely, and Ruh 1974). It follows that, all else equal, more implemented employee suggestions should be associated with better performance.

Hypothesis 1: Higher volume of employee suggestions under gainsharing is associated with improved plant performance.

In addition to examining the overall impact of suggestions on performance over time, the organizational learning perspective provides a framework for disaggregating suggestions into two distinct types. *First-order learning* suggestions are those that seek to improve performance by saving costs and improving the efficiency of existing operations and procedures. Although important, this type of learning does not challenge the existing procedures, norms, or values (Argyris and Schon 1996). In contrast, *second-order learning* "is characterized by the search for and exploration of alternative rules, technologies, goals, and purposes" (Lant and Mezias 1993). Suggestions of this type include changes that would challenge existing routines, norms, and values in the organization by altering existing procedures or products. The organizational learning framework, then, leads us to predict that these different types of suggestions will have different types of impact on organizational performance. Whereas first-order type learning suggestions are expected to result in incremental short-term improvements in cost savings and efficiency, the impact of second-order type suggestions is expected to be more profound and longer term.

Hypothesis 2: Second-order learning suggestions have a larger, longer-term impact on plant performance than first-order suggestions.

In addition to providing a conceptual framework for disaggregating employee suggestions, the organizational learning perspective implies that the content of employee suggestions will change over time. According to this perspective, learning results from a search process that is motivated by a gap between what exists and what is expected (or aspired to). This perspective leads us to predict that in the period immediately following the introduction of gainsharing, employee search processes will likely result in first-order learning suggestions. This is because employees will seek familiar solutions to problems and improve the "easy" things first by improving on existing conditions.

There is, however, a finite amount of cost savings that can be gained from improvements in an existing operation or system. As the potential for cost savings declines, we expect employees to begin to focus relatively more attention toward searching for ways in which the current operations can be transformed or altered. Based on the organizational learning framework, we predict a decline in the relative proportion of first-order suggestions (and a

corresponding rise in second-order suggestions) over time (e.g., Arthur and Aiman-Smith 2000).

In this study, we add to the existing literature by testing the hypothesis that this organizational learning dynamic is contingent on the nature of the labor–management relations in the plant. Drawing on the IR literature, we note that employee suggestion making is rarely politically neutral. By their very nature, second-order learning suggestions change the implicit wage–effort bargain that exists in every employment relationship and is institutionalized in unionized settings through the collective bargaining process. Because employee suggestion making exists outside of the formal controls established in collective bargaining, we posit that employees' willingness to shift toward relatively more second-order learning suggestions will be contingent on the degree to which they believe that management is acting in their best interests. In other words, they require some assurance that management will not take advantage of employee suggestions to make unilateral changes in their favor in the wage–effort bargain. In a unionized setting, we hypothesized that the union's direct involvement and support for the gainsharing plan provides the basis for that assurance.

Hypothesis 3: Union involvement and support for gainsharing will affect the type of suggestions submitted over time. Specifically, a decreasing proportion of first-order suggestions will be found only in the context of labor–management cooperation and union support for gainsharing.

Methods

The data for this study come from two manufacturing organizations. The two plants are similar in many ways. Both are located in the Midwest. Employees in both plants are represented by a labor union. Both plants decided in the mid- to late 1980s to implement a Scanlon-type gainsharing program in order to improve performance. Consistent with the modified Scanlon plan format, both plants instituted an employee suggestion system and a bonus formula based on reductions in the amount of labor and other production costs compared to historical averages. In one plant (labeled "Plant A"), the union was actively involved in the introduction and design of the gainsharing program and fully participated in and supported its implementation. The second plant (labeled "Plant B") installed a virtually identical Scanlon-type gainsharing plan, but did so without the full support and participation of the employees and the union. Monthly data on employee suggestion and plant performance were obtained from both plants. By comparing the results from both plants, we are able to test the hypotheses described previously concerning the impact of suggestions on performance as well as the importance of labor–management relations in understanding how gainsharing works.

Measures

Employee Suggestions

Data on the number of employee suggestions submitted each month were obtained from plant records. In both plants, we were able to obtain the total number of suggestions that were implemented in the plant each month (Plant A) or each 4-week period (Plant B) to create the variable *Total Implemented Suggestions.* For Plant A, data were obtained from January 1989 through December 1992 (48 months). For Plant B, we use the 89-month period from July 1985 through May 1992.

The variables *First-Order Suggestions* and *Second-Order Suggestions* were created by content analyzing each suggestion based on distinctions found in the organizational learning literature. We used multiple raters and tested to insure that our categorizations were psychometrically reliable (i.e., had a statistically significant coefficient Kappa; see Arthur and Aiman-Smith 2001).

Plant Performance

We used monthly data on *unit labor costs* (including direct and indirect labor costs) as the measure of plant performance. Labor costs represent a significant portion of total costs in both plants. The *unit labor costs* were calculated by dividing labor costs by the value of production. The focus on labor costs and productivity is consistent with previous studies on the impact of employee participation on performance (Locke and Schweiger 1979). Labor costs are also an appropriate measure of plant performance because they are an element of operating performance that employees are most likely to be able to influence directly through their efforts and ideas.

Controls

We used the number of *employee grievances* and the *production volume* each month as controls in the regression analyses because of the potential confounding effects of these variables on performance outcomes. The number of grievances filed each month were obtained from plant records. In Plant A production volume was measured as the number of units produced that month. In Plant B monthly production volume was measured as the sales value of production for the 4-week period.

Multiple regression analysis is used to test the various hypotheses. Because these are time series data, we used an ARIMA procedure to model the error term and provide the appropriate corrections for nonstationarity, autocorrelations, seasonality, and moving average processes (Ostrom 1980; SAS Institute 1993).

Results

Results of the ARIMA multiple regression analysis are presented in Tables 1 and 2. To test for the possibility of delayed effects of suggestions on performance, in Table 2 we lagged the variable measuring accepted and implemented suggestions by 1 to 6 months and performed separate regression analyses for each of these lagged periods on performance. This allows us to measure effect of the number of implemented suggestions in each of the previous 6 months on plant performance.

For both plants the negative relationships between the number of suggestions and performance at Lag 0 support the prediction in hypothesis 1 that employee suggestions are associated with improved performance (reduced labor costs).

The ARIMA regression analysis in Table 2 tests whether second-order suggestions have a larger, long-term implant performance than first-order learning suggestions (hypothesis 2). The results provide some support for the hypothesis for Plant A but not for Plant B. In Plant A, second-order suggestions have a negative relationship with unit labor costs in all models except Lag 2 (statistically significant in the Lag 4 model). In contrast, all seven lag mod-

TABLE 1

Effect of Number of Total Implemented Suggestions on *Unit Labor Costs* Over Time[a]

Plant A: [ARIMA 1,0,0] n = 48 months		
Variable	Est.	*SE*
Constant	.207***	.067
AR(1)	–.229*	.155
Total implemented suggestions[b]	–.825***	.365
Volume[b]	–.006**	.004
Grievances[b]	–.140	.213
Plant B: [ARIMA 1,0,0] n = 89 months		
Variable	Est.	*SE*
Constant	.366***	.021
AR(1)	.392***	.101
Total Implemented Suggestions	–.001**	.001
Volume[c]	–.080***	.010
Grievances	.0004	.002

[a] ARIMA regression with maximum likelihood estimates and standard error. *p < .10; **p < .05; ***p < .01 (one-tailed tests).
[b] Estimate and standard error multiplied by 100.
[c] Estimate and standard error multiplied by 1,000,000.

TABLE 2

Effect of Implemented First-Order and Second-Order Learning Suggestions on *Unit Labor Costs* Over Time[a]

1. Plant A: [ARIMA (4,0,0)] n = 48 months

			Lag1		Lag2		Lag3		Lag4		Lag5		Lag6	
Variable	Est.	*SE*	Est.	*SE*	Est.	*SE*	Est.	*SE*	Est.	*SE*	Est.	*SE*	Est.	*SE*
Constant	.166***	.065	.136**	.076	.096	.082	.113	.080	.097	.079	.156**	.084	.254***	.092
AR(4)	–.159	.169	–.242*	.164	–.252*	.161	.302**	.162	–.194	.180	–.214	.172	–.307**	.168
1st-order suggestions[b]	–1.10*	.767	–.871	.788	–.159	.817	1.06*	.791	1.89**	.814	.709	.860	–.429	.842
2nd-order suggestions[b]	–.644	.870	.139	.926	.287	.936	–.820	.944	–1.64**	.862	–.788	.902	–1.00	.870
Volume[b]	–.004	.003	–.004	.004	–.002	.004	–.004	.004	–.002	.004	–.005	.005	–.007*	.005
Grievances[b]	–.002	.002	–.260	.209	–.264	.220	–.292*	.210	–.357*	.215	–.422**	.252	–.472**	.240

2. PLANT B: [ARIMA (1,0,0)] n = 89 months

			Lag1		Lag2		Lag3		Lag4		Lag5		Lag6	
Variable	Est.	*SE*	Est.	*SE*	Est.	*SE*	Est.	*SE*	Est.	*SE*	Est.	*SE*	Est.	*SE*
Constant	.364***	.020	.309***	.019	.335***	.020	.349***	.020	.363***	.020	.355***	.020	.328***	.020
AR(1)	.288***	.101	.315***	.114	.197**	.117	.231**	.114	.235**	.115	.262**	.115	.326***	.112
1st-order suggestions	–.002***	.0006	–.0001	.001	–.0007	.0006	–.0007	.0006	–.001*	.001	–.001	.001	–.00003	.0006
2nd-order suggestions	.0004	.0009	.003**	.001	.002**	.0009	.001	.001	.0002	.001	.001	.001	.002**	.001
Volume[c]	–.080***	.010	–.060***	.010	–.070***	.010	–.070***	.010	–.080***	.010	–.080***	.010	–.060***	.010
Grievances	.00008	.002	.001	.002	.0001	.002	–.0003	.002	–.001	.002	–.001	.002	.0004	.002

[a] ARIMA regression with maximum likelihood estimates and standard error.
[b] Estimate and standard error multiplied by 100.
[c] Estimate and standard error multiplied by 1,000,000.
*p < .10; **p < .05; *** p < .01 (one-tailed tests).

els for Plant B show a positive relationship between second-order suggestions and unit labor costs (statistically significant positive relationships in the Lag 1, 2, and 6 models).

Finally, the analysis in Table 3 tests the hypothesis that differences in labor–management relations between Plants A and B will result in a different pattern of suggestion making in the two plants. This hypothesis is supported by the results of the regression analysis in Table 3 in which the trend variable *Time* is negatively related to the number of first-order suggestions submitted each month in the Plant A case, but not in the Plant B case.

TABLE 3

Trend of the First-Order Learning Suggestions Over Time[a]

1. Plant A: First-Order Learning Suggestions
[ARIMA $(1,0,0)_2$ $(1,0,0)_9$] n = 48 months[b]

Variable	Est.	*SE*
Constant	.320	.512
AR (2)	–.286**	.151
AR (9)	–.292**	.155
Time	–.027**	.013
Total submitted suggestions	.527***	.035

2. Plant B: First-Order Learning Suggestions
[ARIMA (2,1,1)] n = 89 months[a]

Variable	Est.	*SE*
Constant	1.23	1.09
AR(1)	–.58***	.13
AR(2)	.29***	.12
MA(1)	–.99***	.26
Time	–.005	.016
Total submitted suggestions	.51***	.04

[a] ARIMA regression with maximum likelihood estimates and standard error

[b] Results adapted from Arthur and Aiman-Smith (2001:748).

*p < .10; **p < .05; ***p < .01 (one-tailed tests).

Discussion

The analyses presented in this paper provide some preliminary support for the hypothesis that employee suggestions are associated with improved performance. We found significant negative relationships between suggestions and unit labor costs in both plants. We also found mixed support for the hypothesis that different types of learning suggestions have a different impact on per-

formance. Specifically, the results for Plant A indicated that second-order learning suggestions appear to have a stronger delayed effect on performance than first-order learning suggestions. The results for Plant B, however, did not follow this hypothesized pattern.

Finally, we found strong support for the hypothesis that the pattern of first- and second-order learning suggestions is different in the two plants. Although there was a significant decline in the number of first-order learning suggestions over time for Plant A, no such significant decline was found in Plant B. These results appear to support the observation that labor–management relations play an important role in understanding how employee participation in gainsharing works. In particular, the willingness of employees to submit second-order learning suggestions, which could alter the wage-effort bargain, is associated with a higher level of union support and involvement in the design and implementation of the gainsharing plan.

References

Argyis, C., and D.A. Schön. 1996. *Organizational Learning II: Theory Method and Practice*. Reading, MA: Addison-Wesley.

Arthur, J.B., and Aiman-Smith, L. 2001. "Gainsharing and Organizational Learning: An Analysis of Employee Suggestions over Time." *Academy of Management Journal.* Forthcoming.

Frost, C.F., J.H. Wakeley, and R.H. Ruh. 1974. *The Scanlon Plan for Organization Development: Identity, Participation, and Equity.* East Lansing: Michigan State University Press.

Garwin, D.A. 1993. "Building a Learning Organization." *Harvard Business Review,* July-August, 73–91.

Kim, Dong-One. 2000. "The Impact of Employee Suggestions on Organizational Performance: A Longitudinal Study." Paper presented in the 52nd Industrial Relations Research Association Meetings, Boston, January 7–9.

Miller, K.I., and P.R. Monge. 1986. "Participation, Satisfaction, and Productivity: A Meta-analytic Review." *Academy of Management Journal,* Vol. 29, no. 4, pp. 727–53.

Lant, T.K., and S.J. Mezias. 1993. "Organizational Learning Model of Convergence." *Organizational Science,* Vol. 3, pp. 47–71.

Locke, E.A., and D.M. Schweiger. 1979. "Participation in Decision-Making: One More Look." In M. Staw, eds., *Research in Organizational Behavior,* Vol. 1. Greenwich, CT: JAI Press, pp. 265–339.

Ostrom, C.W. 1980. *Time Series Analysis: Regression Techniques.* Newbury Park, CA: Sage.

SAS Institute, Inc. 1993. *SAS/ETS User's Guide,* 2 vol., 2nd ed. Cary, NC: SAS Institute, Inc.

Gomez-Mejia, L.R., T.M. Welbourne, and R.M. Wiseman. 2000. "The Role of Risk Sharing and Risk Taking Under Gainsharing." *Academy of Management Review,* Vol. 25, pp. 492–507.

Estimating Returns to Managers From Employee Unionization

Todd Fister
University of Illinois at Urbana-Champaign

Abstract

This paper finds that unionization appears to reduce manager pay, but seems to have no effect on manager employment. The paper relies on fixed-effects and instrumental variable techniques, the latter using company age as an instrument for unionization. The results show that OLS regressions may be biased by unions self-selecting into firms with few managers and high manager pay. Likewise, the fixed effects technique suggests that managers in unionized establishments earn less relative to the frontline employees, although this result appears to be biased by unions selecting into firms that pay managers more relative to the other employees.

This paper analyzes how unionization affects manager-level pay and employment, using a fixed effects and instrumental variable research design. There is a large literature on unionization and covered worker wages (for recent examples, see Batt 2001; Budd and Na 2000; and Hirsch and Schumacher 2001.), firm investments (Bronas and Deere 1993, 1994; Cavanaugh 1998; Connolly et al. 1986; Hirsch 1991, 1992), and financial performance (Abowd 1989; Becker 1995; Becker and Olson 1992; Ruback and Zimmerman 1984). Little work has examined how unionization influences manager-level outcomes. If unionization reduces manager pay, then managers will try to prevent union representation and may use company resources to protect their current pay levels. In one of the few papers on the subject, the authors find that unionization at the industry level is associated with fewer managers and lower manager wages, leading to the conclusion that unionization reduces the need for manager monitoring and that unions shift firm rents from managers to workers (DiNardo, Hallock, and Pischke 2000).

The empirical difficulty in determining returns from unionization is that unobserved variables, especially worker ability and firm rents, are likely cor-

Author's Address: 205 Labor and Industrial Relations Building, University of Illinois at Urbana-Champaign, M/C 504, 504 East Armory, Champaign, IL 61820.

related with both union coverage and wages. To control for unobserved heterogeneity specific to the firm, this study first uses a fixed-effects model to identify the manager pay premium within the firm. The second analysis relies on an instrumental variable (IV) method to identify the relationships between unionization and manager pay and employment. The IV method uses firm age as an instrument.

Specification

Manager pay is assumed to vary with unionization (U_i) and a set of control variables (X_i):

$$(1) \quad Y_{Mi} = \beta_1 U_i + \beta_2 X_i + \varepsilon_{Mi}.$$

For ordinary least squares to estimate an unbiased coefficient on unionization (β_1), the error term ε_{Mi} must be independent of unionization. Theoretically, we would expect unions to organize in firms that pay high production–worker wages and employ high-ability production workers. To the extent manager pay and manager ability are correlated with the same for production workers, unionization will be correlated with the manager–pay error term, and this correlation biases the β_1 coefficient. The error term likely contains both establishment-specific components (geographical location, firm rents) and manager–establishment components (unobserved manager human capital, the managerial labor market), so the error term in equation 1 can be decomposed into an establishment-specific error term (γ_i) and a manager-establishment error term (υ_{Mi}):

$$(2) \quad Y_{Mi} = \beta_1 U_i + \beta_2 X_i + \gamma_i + \upsilon_{Mi}.$$

The establishment-specific error term can be eliminated by comparing manager wages to the wages of other employees in the firm, such as production workers. By definition, managers and production workers in the same firm have identical establishment-specific error terms. This is a type of fixed effects model that relies on multiple pay levels per firm instead of the more typical use of multiple time periods per firm. To eliminate the establishment-specific error term, I first need to specify a pay equation for another level of employee, such as production workers:

$$(3) \quad Y_{Pi} = \alpha_1 U_i + \alpha_2 X_i + \gamma_i + \upsilon_{Pi}.$$

Taking the difference of equations 2 and 3 leads to the following equation,

$$(4) \quad (Y_{Mi} - Y_{Pi}) = (\beta_1 - \alpha_1) U_i + (\beta_2 - \alpha_2) X_i + \gamma_i - \gamma_i + \upsilon_{Mi} - \upsilon_{Pi,} \text{ or}$$

$$(5) \quad \Delta Y = \delta_1 U_i + \delta_2 X_i + (\upsilon_{Mi} - \upsilon_{Pi}).$$

The establishment-specific error terms cancel out, so the remaining variables estimate how unionization and other firm characteristics affect managers and production workers differently, plus the random errors. It is possible to estimate equation 4 and obtain unbiased results if the error terms are not correlated with unionization. Again, that assumption is too restrictive. For example, firms that pay managers significantly more than production workers may cause workers to perceive compensation inequities and, therefore, organize a union.

An instrument variable approach first estimates predicted unionization and then uses predicted unionization to identify δ_1 from equation 5. The variables in the first stage include all the covariates from the base specification plus the instrumental variables, Z_{1i}:

$$(6) \quad U_i = \eta_1 Z_{1i} + \eta_2 X_i + \zeta_i.$$

By assumption, the instrumental variables Z_i is independent from the error term in the manager pay equation, $\text{cov}(Z_{1i}, \upsilon_{Mi} - \upsilon_{Pi}) = 0$. Using predicted unionization in the second stage results in a union variable that is independent of the error term, so its expected value is now the expected value of the true relationship.

I propose using capital equipment age as an instrument for unionization. An effective instrument is correlated with unionization but uncorrelated with the manager pay premium over production workers within the same firm. Capital equipment age is a straightforward instrument. Assume that a certain percentage of firms are unionized each year (with probability *p*) and that unions tend to persist once organized. The decision for workers to unionize will not be perfectly independent for firms (each year, every firm faces unionization with probability *p*), nor will it be perfectly dependent (a single firm faces its own probability p_f each year). Older firms, then, are more likely to have been unionized in past periods, and that unionization has likely persisted to the present period. However, firm age has no impact on manager pay, because compensation will be determined by broader labor market forces and individual human capital.

Data

In 1996, the Center for Educational Effectiveness at the University of Pennsylvania and the U.S. Census Bureau conducted a representative survey of American establishments. These data were intended to improve knowledge about training and education within firms but also contained responses about establishment and worker characteristics. An establishment is any nonheadquarters business in a single location. For example, establishments include doctors' offices, law firms, single-employee service firms, restaurants, retail stores, ware-

houses, factories, and transportation companies. Establishments exclude corporate headquarters, nonprofit operations, and government and military offices. A chain of five separate restaurants would count as five establishments, although they might have a common legal owner and shared management.

The Census Bureau surveyors used established contacts to gather information through a series of questions in a telephone interview. The response rate was 77 percent for a total sample size of 3,081 establishments. Respondents could chose not to answer certain questions, so casewise deletion for missing data reduces the sample size to 1,361 establishments. There are no major differences in variable means between the total and reduced samples.

The variables for this analysis are log manager pay, log production worker pay, unionization, log book value of capital, industry, multiestablishment status, and capital age. The key dependent variable is the difference between log annual manager pay and log annual production worker pay. I converted the pay measures into natural logs to fit the convention of the compensation literature and to reduce skewness in the data. The key independent variable is unionization, measured as the percentage of nonmanagement and nonsupervisory employees covered by a union contract. Industry is measured as a dummy variable for 20 broad industry categories (such as "health services" and "food/tobacco"), and multiestablishment status is a dummy variable for whether the establishment is part of a multiestablishment company. Capital age is measured as the percentage of fixed capital purchased 10 or more years ago.

Analysis and Discussion

The fixed effects regression, shown on the 1st column on Table 1, estimates that a 100 percentage point increase in unionization leads to a 11 percent lower manager-pay premium over production workers, controlling for capital, industry, and multiestablishment status. This analysis does not control for the nonrandom distribution of unions into firms. To eliminate biases from unobserved heterogeneity, the instrumental variable regression uses variation in unionization caused by variation in firm age to identify the causal effect of unionization on manager pay. This regression, shown in the 2nd column of Table 1, estimates than a 100 percentage point increase in unionization leads to a 92 percent lower manager-pay premium, more than eight times as large as the OLS coefficient. I performed a Hausman test to determine if the differences in coefficients are statistically significant. The null hypothesis that the coefficients are not different can be rejected at a .001 significance level.

The second set of analyses examines whether unionization reduces the portion of employees who are managers using an OLS and IV analysis. Shown in the 3rd column of Table 1, the OLS analysis finds that there are fewer managers in unionized firms, which is consistent with prior industry-level

TABLE 1

Regression Results for Manager Pay and Employment

DV	Manager/ Production Worker Wage Premium		Manager/ Production Worker Wage Premium		Percent of Workers who are Managers		Percent of Workers who are Managers	
Technique	FE		IV/FE		OLS		IV	
	Coef.	P > t	Coef.	P > t	Coef.	P > t	Coef.	P > t
% of Workers Unionized	–0.0011	0.06	–0.0092	0.01	–0.0265	0.16		
100% Unionization =	–11.0%		–92.0%					
Log Book Value Capital	0.155	0.19	0.0217	0.10	–0.0583	0.73	–0.1680	0.36
Multiestablishment (1 = yes)	0.0143	0.76	0.0979	0.12	0.2971	0.66	–0.9580	0.33
Mean Weekly Work Hours	0.0609	0.00	0.0632	0.00				
Mean Years of Education								
Industry Controls	20		20		20		20	
Size Controls	4		4		4		4	
n	1261		1261		1927		1927	
R-squared	7.9%		6.5%		11.8%		11.1%	
Adj. R-squared	5.7%		4.7%		10.6%		9.8%	

empirical analyses. Using firm age as an instrumental variable for unionization, I find that there are more managers in unionized firms, but this is not significant at conventional levels. There is no evidence that unionized firms employ fewer managers.

These results suggest that unions select into firms that pay managers more relative to production workers and that unionization itself has an effect on relative managerial outcomes. The first result is not surprising. If workers join unions because of distributive equity concerns (such as "unfair" compensation across levels), then unions will be more likely in firms with high manager pay relative to production worker pay. Likewise, managers in high-manager-pay firms may have been appropriating rents from firm owners, and unions would recognize that they could negotiate those rents to workers. The second result is consistent with two models: input substitution and agency theory. If unions increase worker wages to higher-than-market levels, then efficiency wage theory predicts that workers will shirk less. This shirking effect means that the firm requires less manager monitoring and, therefore, can hire lower-ability managers for less pay. A second possibility is that managers appropriate rents from owners before unionization but must share those rents with employees after unionization. A third possibility is that managers appropriate rents from prior investments but that owners invest less after unionization occurs. Manager pay would fall because the total firm rents fall.

One criticism is that this negative pay effect is driven by unionization increasing production worker pay while manager pay remains flat. If this interpretation is correct, then it has its own interesting implications. The first is that pay for any single level within a firm does not depend on pay at other levels. Managers do not receive a pay raise simply because employees lower in the organization receive a pay raise. This seems counter to social-psychological concepts like status, fairness, and equity, and economics concepts like internal labor markets. The second is that manager quality does not seem to rise with production worker quality. If wages for workers rise significantly, workers will queue up to receive above-market union wages, and the firm will select the most able employees. This will result in higher worker quality. If manager quality and worker quality are complementary inputs to the production process, then manager quality should increase with worker quality, and manager pay should rise. These empirical results suggest that manager pay, in fact, does not rise with unionization.

If unionization does cause lower manager pay due to substitution or agency controls, then there is an incentive for managers to prevent unionization, even if unionization does not affect company profitability. This could help explain the consistent negative reaction that managers have towards employee unionization. Alternatively, the second interpretation—that managers do not benefit,

while workers benefit greatly—could cause status, fairness, and equity problems within the firm, leading to managers who seek to prevent unionization for nonfinancial reasons.

References

Abowd, John M. 1989. "The Effect of Wage Bargains on the Stock Market Value of the Firm." *American Economic Review,* Vol. 79 (September), pp. 774–800.

Baldwin, Corliss Y. 1983. "Productivity and Labor Unions: An Application of the Theory of Self-Enforcing Contracts." *Journal of Business,* Vol. 56 (April), pp. 155–85.

Batt, Rosemary. 2001. "Explaining Wage Inequality in Telecommunications Services: Customer Segmentation, Human Resource Practices, and Union Decline." *Industrial & Labor Relations Review,* Vol. 54, no. 2 (March), pp. 425–49.

Becker, Brian E. 1995. "Union Rents As a Source of Takeover Gains Among Target Shareholders." *Industrial & Labor Relations Review,* Vol. 49, no. 1 (October), pp. 3–19.

Becker, Brian E., and Craig Olson. 1992. "Unions and Firm Profits." *Industrial Relations,* Vol. 31, no. 3, pp. 395–415.

Bronas, Stephen G., and Donald R. Deere. 1991. "The Threat of Unionization, the Use of Debt, and the Preservation of Shareholder Wealth." *Quarterly Journal of Economics,* Vol. 106 (February), pp. 231–53.

Bronas, Stephen G., and Donald R. Deere. 1993. "Unionization, Incomplete Contracting, and Capital Investment." *Journal of Business,* Vol. 66 (January), pp. 117–32.

Bronas, Stephen G., and Donald R. Deere. 1994. "The Effects of Unions on Firm Behavior." *Industrial Relations,* Vol. 33 (October), pp. 426–51.

Budd, John W., and In-Gang Na. 2000. "The Union Membership Wage Premium for Employees Covered by Collective Bargaining Agreements." *Journal of Labor Economics,* Vol. 18, no. 4 (October), pp. 783–807.

Cavanaugh, Joseph K. 1998. "Asset-Specific Investment and Unionized Labor." *Industrial Relations,* Vol. 37, no.1, pp. 35–50.

Clark, Kim. 1984. "Unionization and Firm Performance: The Impact on Profits, Growth, and Productivity." *American Economic Review,* Vol. 74 (December), pp. 893–919.

Conolly, Robert A., Barry T. Hirsch, and Mark Hirschey. 1986. "Union Rent Seeking, Intangible Capital, and the Market Value of the Firm." *Review of Economics and Statistics,* Vol. 68 (November), pp. 567–77.

DiNardo, John, Kevin F. Hallock, and Jorn-Steffen Pischke. 2000. "Unions and the Labor Market for Managers." Unpublished working paper, February.

Hirsch, Barry T. 1991. *Labor Unions and the Economic Performance of Firms.* Kalamazoo, MI: W.E. Upjohn Institute for Employment Research.

Hirsch, Barry T., and Edward J. Schumacher. 2001. "Private Sector Union Density and the Wage Premium: Past, Present and Future." *Journal of Labor Research,* Vol. 22, no. 3 (Summer), pp. 487–518.

Ruback, Richard S., and Martin B. Zimmerman. 1984. "Unionization and Profitability: Evidence from the Capital Markets." *Journal of Political Economy,* Vol. 92 (December), pp. 1134–57.

Injured Workers and Lost Time: Do High-Performance Workplace Practices Make a Difference?

Karen S. Markel
Oakland University

Karen Roberts
Michigan State University

Abstract

This paper examines the effect of high-performance workplace practices on the likelihood to lose time from work or file a lost time workers compensation claim due to a workplace injury. Data have been collected from both a random sample of injured workers (over two time periods) and their employers. Sample size is approximately 1,058 workers. High-performance workplace practices include the presence of workplace committees, recruitment practices, employee control over their work, the presence of teams and several types of incentive pay systems. Results reveal that several high-performance workplace practices do predict the likelihood that injured workers will lose time from work.

Innovative work practices are receiving a great deal of attention both in the workplace and by researchers. These workplace practices, often referred to as high-performance or high-involvement, are characterized to both encourage worker participation in the organization as well as increase their autonomy over their own work and productivity. Often these practices include the design of work into a team-based organization or one with various committees, increased training, and/or recruiting a workforce open to new ideas and interested in taking responsibility for their own and/or their team's work.

New types of incentive pay systems are also on the increase in these types of organizations. For example, as more and more work activities are carried out in teams, it becomes harder to monitor the effort of individual workers. By making the compensation system contingent on the contributions or ef-

Authors' Address: School of Business Administration, Oakland University, Rochester, MI 48309.

fectiveness of individual workers or work teams, employees will be more likely to engage in improving the work system and overall firm productivity (Pil and MacDuffie 1996). These pay systems are often characterized by their ability to reward workers both for their own or their team's contribution to productivity. These systems seek to reward employees in relation to overall firm productivity in order to increase employee involvement and commitment to the organization. Examples of these types of incentive programs include team-based, knowledge-based or merit-based pay that typically allocate a percentage of the pay in relation to a measure of team productivity, knowledge of the job, or effort, respectively.

These new workplace practices are designed to elicit the discretionary effort often untapped in traditional organizations (Appelbaum, Bailey, Berg, and Kalleberg 2000). Many studies have shown that high-performance workplaces are performing at greater capacity than traditional organizations (e.g., Appelbaum et al. 2000; Ichniowski, Shaw, and Prennushi 1997). One plausible outcome of the typically increased work pace and production "uptime" associated with high-performance work practices is higher injury rates. There has been some evidence that these high-involvement workplace practices and incentive systems are associated with higher rates of cumulative trauma disorders (CTDs) in manufacturing organizations (e.g., Adler, Goldoftas, and Levine 1997; Brenner, Fairris, and Ruser 2000; Fairris and Brenner 2001). Cumulative trauma disorders are conditions such as carpal tunnel syndrome, which originate in repeated pressures, vibration, or motion. The case study research in this area, most often conducted at automobile manufacturing plants, has established a link between increased rates of CTDs at high-performance workplaces, most often attributed to the increased work pace at these organizations (e.g., Adler et al. 1997). As Rinehart (1999) surmises, these high involvement workplace practices are implemented at the discretionary cost to the worker: "The true buffers in this system are workers." To date, the research on the relationship between high-involvement workplace practices and worker injury has concentrated on injury rates. The research reported here examines the relation between high-involvement workplace practices and the likelihood that a worker loses work time due to his or her workplace injury.

The expectation is that the likelihood of increased work time is greater in high-performance workplaces. The high-involvement work organization is designed to create a cooperative work environment with strong employee commitment to both their peers and the organization. Once an injured worker cannot be fully productive, absenteeism is more likely because the worker cannot unleash the discretionary extra effort expected under a high-performance work regime. Further, if the production process is team-based, other team members are likely to discourage the return of a less than fully produc-

tive team member. The following hypothesis will test this relationship: High-performance work practices will be positively related to the likelihood of losing time from work.

Incentive pay systems may have the opposite relation to the likelihood to lose time from the workplace due to relation to overall compensation. These rewards may create competitiveness among employees (Randall 1999), and injured employees may be more likely to remain at work in order to reap these monetary rewards. The following hypothesis will test this relationship: incentive pay systems will be negatively related to the likelihood of losing time.

Data and Methods

The data used in this paper is from a study of work-related illness and injury in the state of Michigan. The purpose of the study was to investigate the determinants of the decision to file a workers' compensation claim and the social, economic, and work-related consequences of filing. The data were collected from individuals with work-related injuries or illnesses and their employers. Michigan statute requires health care providers to report work-related injuries or illnesses to the state Department of Consumer and Industry Services.

Two waves of data were collected from individuals in a telephone survey. The first wave of data collected for individuals resulted in 1,599 respondents (response rate of 70.4 percent). The second data collection occurred 1 year after wave one. The response rate for wave two was 69.9 percent so that the total sample size with two waves of data was 1,118. An employer survey was distributed to organizations that employed an injured worker from wave 1 of our study. Fifty employers responded (response rate of 87 percent). The survey included questions on the organization of work, human resource management practices, disability management practices, and basic workplace characteristics. Each individual respondent was matched with the respective employer characteristics for this research. Sixty observations were removed for individuals who reported working for a different employer at each wave, resulting in a total sample of 1,058 individuals.

Sample descriptives and measures included in this study are detailed in Table 1. We controlled for the following individual characteristics: sex, age, race, education, and level of injury impairment. Organizational high-performance work practices included: the presence of workplace committees, recruitment practices, worker control over their work, and the presence of teams. Incentive pay systems included: knowledge-based pay, merit-based pay, team-based pay, and stock-based pay. These variables were regressed on two measures of lost time: absence from work and filing a lost time workers' compensation claim. Logistic regression was used to examine the hypothesized

TABLE 1

Variable Descriptions and Summary Statistics

Variable	Description	Mean	*SD*
Sex	1 = male, 0 = female	.594	.491
Age	In years	40.66	9.84
Race	1 = white, 0 = nonwhite	.675	.469
Education	1 = less than high school, 2 = some high school, 3 = high school completed, 4 = beyond high school	2.858	1.11
Severity	General injury impairment	3.208	2.187
Training	Composite of 4 items indicating the frequency and type of training programs employees experience (α = .675).	3.708	.875
Committee	Composite of 2 items indicating the presence of diverse committees to deal with safety and other issues.	1.068	.248
Recruit	Composite of 3 items indicating the importance of previous experience, openness to learning and interpersonal skills in recruiting new employees (α = .969)	4.016	2.085
Control over work	Composite of 2 items indicating the frequency whereby employees supervise their own work and have control over how their work is performed.	2.524	.850
Teams	Percent of workers in work teams: 0 = none, 1 = almost none (1–20%), 2 = some (21–40%), 3 = about half (41–60%), 4 = most (61–80%), 5 = all (100%).	3.299	1.698
Knowledge-based pay	Percent of workers covered or eligible for knowledge/skill based pay: 0 = none, 1 = almost none (1–20%), 2 = some (21–40%), 3 = about half (41–60%), 4 = most (61–80%), 5 = all (100%).	2.561	1.842
Merit-based pay	Percent of workers covered or eligible for merit pay based on individual performance: 0 = none, 1 = almost none (1–20%), 2 = some (21–40%), 3 = about half (41–60%), 4 = most (61–80%), 5 = all (100%).	1.302	.929
Team-based pay	Percent of workers covered or eligible for work group or team incentives: 0 = none, 1 = almost none (1–20%), 2 = some (21–40%), 3 = about half (41–60%), 4 = most (61–80%), 5 = all (100%).	1.715	.800
Stock-based pay	Percent of workers covered or eligible for employee stock ownership plans: 0 = none, 1 = almost none (1–20%), 2 = some (21–40%), 3 = about half (41–60%), 4 = most (61–80%), 5 = all. (100%)	4.872	2.070
Lost time	1 = lost time, 0 = no lost time.	.600	.490
Lost-time Claim	1 = filed a lost time claim, 0 = didn't file a lost time claim.	.310	.463

N = 1,058

relations. For all analyses, the standard errors for each equation were adjusted for clustering on company ID. The standard errors accounted for the shared variance among workers within the same company.

Results and Discussion

Several models were estimated to test the hypotheses both for experiencing lost-time or filing a lost-time claim. (See Tables 2 and 3, respectively.) The most important covariate included in estimating these models was injury severity, which retained a highly significant and positive relationship to both the likelihood of losing time and filing a lost-time claim.

Table 2 presents the results for the relations of these workplace practices on the likelihood of losing time. As hypothesized, several of the high-performance workplace practices are significantly and positively related to the likelihood of lost time. The presence of committees, teams and specific knowledge skills and abilities in recruiting were all associated with increased likelihood to lose time.

Because incentive pay systems are less likely to be implemented together, separate models were estimated to test these relations while controlling for both the covariates and high-performance work practices. Only merit-based pay was significantly related to the likelihood to lose time. Workers in organizations with merit-based pay are less likely to lose time from work due to their injury. However, it is interesting to note that after including measures of incentive pay systems in these models, the presence of committees and, in two cases, recruitment, remained significant.

Table 3 presents the results for the relations of these workplace practices on the likelihood to file a lost-time workers' compensation claim. Although the results for the high-performance workplace practices are similar to those for the likelihood to lost time, none of the incentive pay systems are significantly related to filing a lost-time workers' compensation claim.

This research is the first study to examine the relation between high-performance work practices, incentive pay systems and lost time among injured workers. While both previous research and organizations have espoused the productivity gains of these practices, the costs in terms of increased injury or losses due to injury are just beginning to be examined. This research found that organizations with high-performance work practices such as teams, committees and recruiting for specific knowledge, skills and abilities are related to the likelihood of both lost time from the injury as well as the filing of a lost-time workers' compensation claim. This lost time is costly to the organization and its overall productivity, and the experiences of injured workers should be considered in light of any efficiency gains.

The lack of findings between the presence of incentive pay systems and

TABLE 2

Logit Model Analysis of the Log Odds of Having Lost Time—Clustered on Company (Robust Standard Errors in Parentheses)

Variable	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6
Intercept	.121	–1.361	–1.737*	–1.326	–1.658	–1.67
	(.329)	(.899)	(.839)	(.900)	(.922)	(.922)
Sex	.033	.159	.165	.115	.191	.185
	(.173)	(.158)	(.138)	(.138)	(.153)	(.157)
Age	–.010	–.009	–.005	–.005	–.005	–.005
	(.008)	(.009)	(.009)	(.009)	(.009)	(.009)
White	–.331	–.355	–.361*	–.339	–.399*	–.390*
	(.201)	(.172)	(.178)	(.185)	(.182)	(.189)
Education	–.118**	–.129	–.097	–.092	–.103*	–.101
	(.046)	(.053)	(.051)	(.053)	(.052)	(.053)
Severity	.291***	.299***	.283***	.285***	.288***	.287***
	(.035)	(.039)	(.039)	(.040)	(.040)	(.040)
Training		–.059	–.008	–.070	.001	.005
		(.094)	(.092)	(.096)	(.100)	(.096)
Committee		.767***	.756***	.879***	.743**	.726**
		(.187)	(.189)	(.198)	(.241)	(.271)
Recruit		.144***	.151***	.122**	.117	.112
		(.038)	(.043)	(.047)	(.060)	(.065)
Control over work		–.120	–.099	–.041	–.083	–.102
		(.123)	(.118)	(.112)	(.140)	(.131)
Teams		.164**	.062	.132	.127	.135
		(.063)	(.093)	(.070)	(.150)	(.075)
Knowledge-based pay			.102			
			(.081)			
Merit-based pay				–.216**		
				(.075)		
Team-based pay					.029	
					(.150)	
Stock-based pay						.018
						(.067)
Model log likelihood	–605.615	–542.179	–500.305	–498.907	–501.447	–501.431

N = 1058. *p < .05; **p < .01; ***p < .001.

TABLE 3

Logit Model Analysis of the Log Odds of Filing a Lost-Time Workers' Compensation Claim—Clustered on Company (Robust Standard Errors in Parentheses)

Variable	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6
Intercept	–1.688**	–2.805**	–3.248**	–2.973*	–2.933*	–3.14**
	(.668)	(1.145)	(1.132)	(1.261)	(1.230)	(1.20)
Sex	–.276*	–.248	–.269*	–.275*	–.207	–.235
	(.111)	(.135)	(.130)	(.135)	(.147)	(.135)
Age	.005	.003	.006	.006	.008	.005
	(.009)	(.009)	(.009)	(.009)	(.009)	(.009)
White	–.135	–.186	–.125	–.126	–.200	–.190
	(.205)	(.144)	(.151)	(.153)	(.148)	(.150)
Education	–.062	–.077	–.051	–.053	–.054	–.058
	(.069)	(.081)	(.084)	(.085)	(.085)	(.083)
Severity	.264***	.276***	.255***	.255***	.262***	.259***
	(.033)	(.031)	(.029)	(.029)	(.029)	(.029)
Training		–.063	–.043	–.070	–.058	–.054
		(.150)	(.143)	(.160)	(.160)	(.155)
Committee		.709**	.748**	.819**	.519	.917**
		(.229)	(.249)	(.260)	(.298)	(.324)
Recruit		.137**	.172**	.143**	.071	.199*
		(.051)	(.060)	(.060)	(.073)	(.083)
Control over work		–.164	–.184	–.150	–.147	–.104
		(.102)	(.111)	(.110)	(.142)	(.141)
Teams		.168*	.110	.179*	.135	.155
		(.070)	(.108)	(.091)	(.086)	(.084)
Knowledge-based pay			.102			
			(.084)			
Merit-based pay				–.120		
				(.121)		
Team-based pay					.250	
					(.164)	
Stock-based pay						–.081
						(.076)
Model log likelihood	–506.946	–453.841	–425.006	–425.805	–423.845	–425.228

N = 1,058. *p < .05; **p < .01; ***p < .001.

both types of lost time should be tested in future research. Injured workers or those losing time from a workplace injury may alter their eligibility to receive these types of incentive pay, and studies which capture that information may provide insight into why these practices might not be related to the likelihood of losing time, especially after accounting for the presence of high-involvement work practices.

Acknowledgments

This work was supported by the National Institute for Occupational Safety and Health. The authors would like to thank the other researchers funded by this grant as well as participants at the Workers' Compensation Research Group meeting, where a previous draft of this paper was presented.

References

Appelbaum, Eileen, Peter Berg, Thomas Bailey, and Arne L. Kalleberg. 2000. *Manufacturing Advantage: Why High-Performance Work Systems Pay Off.* Ithaca, NY: Cornell University.

Adler, Paul S., Barbara Goldoftas, and David L. Levine. 1997. "Ergonomics, Employee Involvement, and the Toyota Production System: A Case Study of Nummi's 1993 Model Introduction." *Industrial and Labor Relations Review,* Vol. 50, no. 3, pp. 416–37.

Brenner, Mark D., David Fairris, and John Ruser. 2000. "'Flexible' Work Practices and Occupational Safety and Health: Exploring the Relationship between Cumulative Trauma Disorders and Workplace Transformation." Unpublished paper.

Fairris, David, and Mark Brenner. 2001. "Workplace Transformation and the Rise of Cumulative Trauma Disorders: Is There a Connection?" *Journal of Labor Research,* Vol. 22, no. 2, pp. 15–28.

Ichniowski, Casey, Kathryn Shaw, and Giovanna Prennushi. 1997. "The Effects of Human Resource Management Practices on Productivity: A Study of Steel Finishing Lines." *American Economic Review,* Vol. 87, no. 3, pp. 291–313.

Pil, Frits K., and John Paul MacDuffie. 1996. "The Adoption of High-Involvement Work Practices." *Industrial Relations,* Vol. 35, no. 3, pp. 423–55.

Rinehart, James. 1999. "The International Motor Vehicle Program's Lean Production Benchmark: A Critique." *Monthly Review* (January), pp. 19–27.

Discrimination in the Workplace: Perceptions and Responses of People With Disabilities

Lisa Schur
Rutgers University

Abstract

To what extent do people with disabilities perceive employment discrimination, and how do they respond to discriminatory treatment? Results from a nationally representative survey show that about one tenth of people with disabilities report encountering some type of employment discrimination over the 1995–2000 period, most commonly from losing or being denied a job. Union members, the self-employed, and those who meet regularly with groups are the most likely to report discrimination. Over one third of respondents reporting discrimination say they took some action in response, most commonly in the form of verbal complaints or working with a lawyer. A majority said their experience made them more likely to take action against discrimination in the future. An estimated 2.2 million people with disabilities perceived employment discrimination during this period, indicating a continuing need for policies to ensure equal treatment in the workplace.

Over the past 15 years there has been a great deal of attention paid to increasing the employment of people with disabilities, epitomized by the passage of the Americans with Disabilities Act (ADA) in 1990. Title I of the Act prohibits employment discrimination and requires reasonable accommodations for qualified employees and job applicants with disabilities. The continuing low employment rates of people with disabilities since the passage of the ADA raise the prospect that discrimination continues to restrict the job opportunities of many people with disabilities.

To what extent do people with disabilities perceive employment discrimination, and how do they respond to discriminatory treatment? This paper uses data from a new nationally representative survey to examine reports of disability discrimination over the 1995–2000 period. While analyses of pay gaps

Author's Address: Department of Labor Studies and Employment Relations, Rutgers University, 50 Labor Center Way, New Brunswick, NJ 08903.

can shed important light on the possibility of discriminatory treatment, surveys can capture experiences that do not show up in standard measures (such as lack of access to jobs among those who remain nonemployed). This paper also provides new data on who takes action against perceived discrimination, what kind of action they take, and how satisfied they are with their efforts. The result is a unique picture of perceptions and responses to employment discrimination among people with disabilities.

Literature Review

Disability has been consistently linked to labor market difficulties in many studies. About 8 percent of working-age Americans report a "work disability" (having a health condition that limits the kind or amount of work they can do), of whom only one third are employed in the course of a year (Burkhauser et al. 2001). Using a broader definition based on activity limitations and functional impairments (more closely reflecting the ADA's definition), 17 percent of working-age people have a disability, of whom about half (49 percent) are employed in a given month compared to over four fifths (84 percent) of working-age people without disabilities (McNeil 2000). The figure is much lower among those with severe disabilities, of whom only one fourth (24 percent) are employed in a given month. Among those who are employed, a variety of studies have estimated that people with disabilities earn 10–25 percent less on average than otherwise comparable people without disabilities (summarized in Baldwin 1997:43). Negative effects of disability on employment and earnings have been found in both cross-sectional and longitudinal comparisons before and after disability onset (Burkhauser and Daly 1996).

While a portion of the employment and earnings gaps is probably due to lower productivity associated with many disabilities, prejudice and discrimination may also play a role, as suggested by the finding that wage gaps are higher for people who have disabilities that elicit the most negative social attitudes (Baldwin 1997). In addition, the work disincentives provided by government disability income programs also appear to contribute to the low employment rates of people with disabilities (Bound and Waidmann 2000).

Low employment and earnings levels of people with disabilities have been a major impetus for antidiscrimination legislation. Employment discrimination against people with disabilities is prohibited by the Rehabilitation Act for organizations receiving federal funds, and prohibited by Title I of the ADA for private employers with more than 15 employees. In the first 7 years after the ADA became effective, 125,946 ADA charges were filed with the Equal Employment Opportunity Commission <http://www.eeoc.gov/stats/adacharges.html>. Analyzing ADA appellate court rulings, Lee (2001) and Colker (1999) found that plaintiffs lose in the large majority of ADA cases. The low

success rate for plaintiffs partly reflects legal barriers facing workers who file disability claims, as noted by many scholars (Colker 1999; Lee 2001).

There has been very little research on perceptions of disability discrimination among people with disabilities. Hallock et al. (1998) found that 53 percent of people with disabilities in a 1993 survey reported having experienced job discrimination based on disability at some point in their lives. These authors found that the self-reports of past disability discrimination were not strongly linked to current economic measures of wage discrimination. They noted, however, that many who perceive discrimination felt that it occurs in areas other than pay. (In fact, reports of discrimination in promotions were over four times higher, and reports of discrimination in getting a job were seven times higher, than reports of pay discrimination; Hallock et al. 1998: 261.) They also found that measures of wage discrimination were strongly linked to perceptions of income inadequacy.

Data Source

The dataset for this study comes from a nationally representative random-household telephone survey of people with and without disabilities, conducted by the Rutgers Center for Public Interest Polling in November and December of 2000. The final sample includes 1002 U.S. citizens of voting age, of whom 500 had responded to a similar survey in November and December 1998, while 502 were drawn from a new cross-section of households. To ensure a sufficient sample for analysis of disability issues, the sample was stratified to oversample people with disabilities, resulting in a final sample of 570 adult citizens without disabilities and 432 adult citizens with disabilities.

The disability screening questions were based on the six disability questions used in the 2000 Census. If the initial household respondent answered *no* to each of the Census questions, indicating that no one in the household had any of these impairments or activity limitations, she or he was asked two questions from the Harris disability survey regarding whether anyone considers herself or himself—or is considered by others—to have a disability. For purposes of this study, a *yes* response to any of these questions identified a person as having a disability. The interviewer then asked to speak to the person with a disability, and if more than one person was identified, the interviewer asked to speak to the person with the most recent birthday. Based on the screening process, about 12.5 percent of the adult population, or 24 million people, meet this study's definition of disability.

Respondents were asked standard questions on employment status and demographic characteristics drawn from the Current Population Survey. To measure perceived disability discrimination, respondents were asked,

> There is much talk these days about discrimination on the basis of health problems or disabilities with regard to jobs, or school admissions, or housing, or other important things. In the last five years, have you yourself been discriminated against on the basis of a health problem or disability?

Those who responded "yes" were asked,

"What kind of discrimination did you experience?"

"Did you take any action in response to this?"

"What kind of action did you take?"

"What was the result of your efforts?"

"How satisfied were you with your efforts, on a scale from 1 to 10 where 1 is not at all satisfied and 10 is totally satisfied?"

"Based on your experience, are you more, less, or just as likely as before to take some action if you encounter treatment like this in the future?"

To gain the richest information, the answers to the first four of these additional questions were coded verbatim.

Results

Nearly one fifth, or 18.1 percent, of people with disabilities said that they had experienced some kind of disability discrimination in the past 5 years, as shown in Table 1. Half of these respondents (9.3 percent of the overall sample) reported some type of employment discrimination. While the overall reports of discrimination were similar between the currently employed and nonemployed, those who are employed were significantly more likely to report employment discrimination. Among people without current disabilities, only 1.8 percent reported experiencing disability discrimination within the past 5 years.

The most common type of reported employment discrimination was being denied a job. While one might expect the nonemployed to be more likely to report this, those who are currently employed were more likely to report being denied a job. The currently nonemployed were most likely to report having lost a job due to disability discrimination.

Slightly over one third (37.2 percent) of people with disabilities reporting employment discrimination said that they took some action in response. As shown in Table 1, the most common responses involved verbal complaints to supervisors or managers, working with lawyers, and speaking with lawyers but not pursuing the issue. Most of those who took some action did not appear to be very satisfied with the results: The average satisfaction rating on a 1–10 scale was 3.8, and only 29 percent of the people indicated a great deal of satisfac-

TABLE 1

Perceptions of and Responses to Disability Discrimination

	People with current disabilities			People without current disability
	All (1)	Employed (2)	Nonemployed (3)	(4)
Perceived disability discrimination in past 5 years	18.1%	19.5%	17.5%	1.8%
Employment discrimination	9.3%	14.8%***	6.9%	0.7%
Other types of discrimination	8.8%	4.7%**	10.6%	1.1%
If perceived job discrimination, type perceived				
Denied job	47.5%	63.2%*	33.3%	0.0%
Lost job	32.5%	21.1%	42.9%	75.0%
Co-worker attitudes	5.0%	5.3%	4.8%	25.0%
Other and unspecified	15.0%	10.5%	19.0%	0.0%
If perceived job discrimination, took some action	37.2%	26.3%	42.9%	100.0%
If took action against job discrimination^				
Type of action taken:				
Lawsuit	7.7%	25.0%	0.0%	33.3%
Worked or working with lawyer	23.1%	25.0%	22.2%	0.0%
Spoke to lawyer, but did not pursue case	23.1%	0.0%	33.3%	33.3%
Filed written complaint or wrote letter	15.4%	0.0%	22.2%	0.0%
Verbal complaint	23.1%	25.0%	22.2%	33.3%
Contacted politicians	7.7%	25.0%	0.0%	0.0%
Satisfaction with efforts: mean of 1–10 scale	3.8	3.6	3.9	5.0
Score of 7 or above	28.6%	20.0%	33.3%	25.0%
Likelihood of future action:				
More likely	56.5%	75.0%	52.6%	25.0%
Just as likely	30.4%	25.0%	31.6%	75.0%
Less likely	4.3%	0.0%	5.3%	0.0%
Sample size	431	128	303	570

*Significant difference at $p < .10$; **$p < .05$; ***$p < .01$.

See text for question wordings.

^Note that the sample size of those who perceived job discrimination is less than 10 in column 4, and the sample sizes of those who took action against discrimination is less than 10 in columns 2–4. These percentage figures must therefore be treated with caution.

tion with a response of 7 or higher. Nevertheless, when asked whether their experience made them more or less likely to take action if they were to experience similar treatment in the future, a majority (56.5 percent) responded that they were more likely, and almost one third (30.4 percent) said that they were just as likely as before to take action.

Who is most likely to report employment discrimination? Table 2 presents probits for the disability sample assessing the influence of demographic, disability, and employment characteristics on perceptions of discrimination. Women and older respondents were less likely to report experiencing employment discrimination, reflecting in part their lower labor force participation. While some authors have suggested that those with more stigmatized disabilities, such as mental impairments, are more likely to experience discrimination, these results show that those with mobility impairments were the most likely to report discrimination. One might also expect that people with more severe disabilities would face greater stigma and discrimination, but respondents who need help with daily activities were not significantly more likely to report discrimination (possibly reflecting greater isolation and a lower likelihood of searching for employment).

Reports of employment discrimination were more likely among those who meet regularly with groups and those who consider themselves to have a disability. The former result probably reflects greater integration into mainstream society and greater exposure to information about discrimination. The latter result may indicate an unwillingness to acknowledge disability discrimination among those who have impairments that they do not view as disabling.

Education might be expected to have both positive and negative effects on the likelihood of reporting discrimination. Employers might be more likely to discriminate against less-educated people, since they would be less likely to have sufficient knowledge to detect discrimination (Barbezat and Hughes 1990). While well-educated people might be less subject to discrimination, they may be more likely to recognize and report it (Kuhn 1987). These results show that education was a positive but nonsignificant predictor of perceived discrimination.

In contrast to the simple difference in Table 1, current employment is not a significant predictor of perceived employment discrimination in the first probit in Table 2. However, when several employment characteristics are broken out in probit 2, union members and the self-employed were significantly more likely to report experiencing employment discrimination. Being a union member exposes people to information and support networks that might encourage the reporting of discriminatory treatment. In addition, “just cause” provisions in most union contracts may encourage people to recognize and respond to discrimination. The higher reports of employment discrimination

TABLE 2

Predicting Reported Employment Discrimination Based on Disability

	Probit 1			Probit 2				
	B	dF/dX	(Z)	B	dF/dX	(Z)	Mean	(*SD*)
Demographics								
Female	–0.412	–0.040	(1.92)*	–0.431	–0.037	(1.88)*	0.550	(0.50)
Age	–0.029	–0.003	(3.78)***	–0.034	–0.003	(4.13)***	58.538	(17.32)
Married	0.347	0.032	(1.48)	0.359	0.029	(1.47)	0.524	(0.50)
Nonwhite	0.114	0.011	(0.43)	–0.041	–0.003	(0.14)	0.153	(0.36)
Years of education	0.026	0.002	(0.59)	–0.005	0.000	(0.10)	12.747	(2.69)
Ln(household income)	0.011	0.001	(0.08)	0.030	0.002	(0.23)	10.096	(0.91)
Disability characteristics								
Sensory impairment	0.001	0.000	(0.00)	–0.010	–0.001	(0.04)	0.255	(0.44)
Mental impairment	0.136	0.013	(0.65)	0.235	0.020	(1.06)	0.360	(0.48)
Mobility impairment	0.416	0.034	(1.66)*	0.305	0.022	(1.17)	0.689	(0.46)
Other type of disability (excl.)								
Need help with daily activities	0.176	0.018	(0.77)	0.126	0.011	(0.52)	0.295	(0.46)
Consider self to have disability	0.532	0.044	(2.06)**	0.596	0.043	(2.15)**	0.642	(0.48)
Regularly meet with any groups	0.525	0.057	(2.58)***	0.617	0.060	(2.83)***	0.353	(0.48)
Employment characteristics								
Currently employed	0.270	0.028	(1.13)					
Employed part-time				–0.161	–0.012	(0.36)	0.081	(0.27)
Employed full-time				–0.495	–0.032	(1.14)	0.209	(0.41)
Self-employed				1.031	0.177	(2.51)**	0.053	(0.23)
Gov't employee				0.524	0.065	(1.11)	0.044	(0.21)
Union member				0.940	0.153	(2.30)**	0.053	(0.23)
Mgt./prof. occupation				0.339	0.035	(0.74)	0.086	(0.28)
Other white collar occupation				0.091	0.008	(0.20)	0.100	(0.30)
Service occupation				–0.029	–0.002	(0.04)	0.037	(0.19)
Blue collar occupation (excl.)								
Constant	–1.401		(1.04)	–0.955		(0.67)		
Dep. var.							0.093	(0.29)
Log-likelihood	–103.34			–96.53				
n	421			421				

*Significant difference at $p < .10$; **$p < .05$; ***$p < .01$.

Sample includes all those with current disability.

among the self-employed probably reflect a resort to self-employment among those who lost or were denied jobs as employees.

Conclusion

About one fifth of people with disabilities report having experienced some form of disability discrimination between 5 and 10 years after the passage of the ADA, and about one tenth say they have experienced employment discrimination during this period. While it is encouraging that a majority of people with disabilities do not report disability discrimination, the results of this survey can be extrapolated to estimate that about 2.2 million people with disabilities perceived employment discrimination during this period. Over one third of those who perceived discrimination took some form of action against it, but most were not very satisfied with the results of their efforts. While some survey respondents may falsely attribute losing or failing to get a job to discrimination, leading to an overestimate of disability discrimination, it is also likely that some respondents are not aware of discriminatory treatment against them. The large number of reports of discrimination, combined with the continuing low employment rates of people with disabilities and the difficulties plaintiffs face in disability discrimination lawsuits, indicate that many people with disabilities continue to face substantial employment barriers. Public policies must continue to focus on enhancing employment opportunities for people with disabilities and ensuring that they receive equal treatment in the workplace.

Acknowledgments

The survey upon which this paper is based was designed in collaboration with Kay Schriner, Todd Shields, and Doug Kruse, and was funded by the National Institute of Disability and Rehabilitation Research and the Presidential Task Force on Employment of Adults with Disabilities. The author bears responsibility for all analysis and conclusions.

References

Baldwin, Marjorie L. 1997. "Can the ADA Achieve Its Employment Goals?" *Annals of the American Academy of Political and Social Science*, Vol. 549 (January), pp. 37–52.

Barbezat, Debra A., and James W. Hughes. 1990. "Sex Discrimination in Labor Markets: The Role of Statistical Evidence: Comment." *American Economic Review*, Vol. 80, 278–86.

Bound, John, and Timothy Waidmann. 2000. "Accounting for Recent Declines in Employment Rates among the Working-age Disabled." Research Report 00–460, Population Studies Center, Institute for Social Research, University of Michigan, October.

Burkhauser, Richard V., and Mary C. Daly. 1996. "Employment and Economic Well-Being Following the Onset of a Disability." In Mashaw et al., eds., *Disability, Work, and Cash Benefits*. Kalamazoo, MI: W.E. Upjohn Institute for Employment Research, pp. 59–101.

Burkhauser, Richard V., Andrew J. Houtenville, and Nigar Nargis. 2001. "Economic Outcomes of Working-Age People over the Business Cycle: An Examination of the 1980s and 1990s." Federal Reserve Bank of San Francisco, March.

Colker, Ruth. 1999. "The Americans With Disabilities Act: A Windfall for Defendants." *Harvard Civil Rights—Civil Liberties Law Review,* Vol. 34.

Hallock, Kevin F., Wallace Hendricks, and Emer Broadbent. 1998. "Discrimination by Gender and Disability Status: Do Worker Perceptions Match Statistical Measures?" *Southern Economic Journal,* Vol. 65, no. 2, pp. 245–63.

Kuhn, Peter. 1987. "Sex Discrimination in Labor Markets: The Role of Statistical Evidence," *American Economic Review,* Vol. 77, pp. 567–83.

Lee, Barbara. 2001. "The Implications of ADA Litigation for Employers: A Review of Federal Appellate Court Decisions." *Human Resource Management,* Vol. 40, no. 1 (Spring), pp. 35–50.

McNeil, John. 2000. "Employment, Earnings, and Disability." U.S. Bureau of the Census, Washington, DC.

IV. JOB SEARCH IN THE NEW ECONOMY: WHAT ARE WORKERS DOING AND WHO IS HELPING THEM?

Tracking Internal Labor Market Shifts in Four Industries

Philip Moss
Harold Salzman
Chris Tilly
University of Massachusetts–Lowell

Abstract

It is widely claimed that core firms in the United States have sharply reduced their reliance on internal labor markets. We undertake case studies of internal labor market evolution in low-skill jobs as firms engage in outsourcing and the creation of remote sites, such as call centers. We examine four industries: electronics manufacturing, food preparation, financial services, and retail trade. We find both that successive iterations of restructuring may have diametrically opposed implications for internal labor markets and that these implications differ radically across industries. Recent restructuring in these industries involves strengthening and rebuilding job ladders as well as dismantling them.

Introduction

It is widely claimed that core firms in the United States have sharply reduced their reliance on internal labor markets, which traditionally provided long-term employment and opportunities for skill development and advancement. For instance, in a comprehensive analysis of corporate restructuring, Cappelli et al. (1997:4) report that with the breakdown of "traditional meth-

Authors' Address: Center for Industrial Competitiveness, University of Massachusetts–Lowell, 600 Suffolk Street (Wannalancit), 5th floor, Lowell, MA 01854.

ods of managing employees and developing skilled workers inside companies . . . pressures from product and labor markets are brought inside the organization . . . [establishing] market-mediated employment relationships."

In earlier work, we questioned this depiction of dramatic change (Moss, Salzman, and Tilly 2000). We conducted case studies that followed corporate restructuring over time, assessing the impacts on low- and moderately skilled jobs at four electronics manufacturers and four insurance companies. We discovered that businesses did indeed replace long-standing internal labor markets with more market-mediated relationships, including outsourcing, temporary employment, and the creation of new greenfield facilities cut off from job ladders—a process of deintegration of activities and/or segments of their workforces. But, while addressing some goals (reducing costs, refocusing the firm), deintegration created other problems with workforce commitment, skills, organizational learning, and coordination of objectives between firms. These problems are ones that internal labor markets mitigate and, thus, in every case, they subsequently *rebuilt* internal labor markets in a variety of ways. This ranged from switching to larger suppliers that themselves had internal labor markets, to partially incorporating temporary workers into internal labor markets, to establishing job ladders at greenfield sites where none had existed.

This paper reports on new research, still in process, that aims to replicate, broaden, focus, and deepen our earlier study. It replicates the earlier work by looking at new companies, again tracing the trajectory of restructuring over time. It broadens it by adding two new industries, retail sales and food service. It focuses by zeroing in on two particular restructuring processes: outsourcing and what we call "geographic deintegration," the creation of remote, functionally homogeneous establishments such as call centers or back office facilities.

As in our earlier study, we find that corporate restructuring is highly iterative, consisting of a long series of large reorganizations and small adjustments rather than a small number of decisive changes. Indeed, successive iterations may have diametrically opposed implications for internal labor markets.

Data and Methods

The larger project of which this is a part couples qualitative company case studies with quantitative analysis of publicly compiled large microdata sets. Preliminary quantitative findings are discussed in Lane and Luque (1999). This paper is limited to discussion of preliminary *qualitative* findings from the case studies.

We examine restructuring in four industries: electronics manufacturing, financial services, retail sales, and food preparation, focusing on jobs that require no more than a 2–year college degree. In each industry, we conduct case

studies of a small number of companies. In electronics manufacturing and food preparation, in which outsourcing is a central issue, we look at organizational clusters consisting of final producers along with their suppliers. The cluster is defined as an electronics OEM plus a number of its suppliers in electronics; in food, we define it as a food distributor plus a number of suppliers (food manufacturers) and customers (restaurants, cafeterias, food service contractors), since the distributors are the central actors in this sector. In financial services and retail sales, in which geographic deintegration is common, we look at headquarters along with their associated remote sites. We have gained varying degrees of access to companies, but our goal—in most cases successfully realized—is to speak to top managers, human resource officials, and frontline managers at each site we visit. We learn about the trajectory of change in internal labor markets primarily by asking retrospective questions. In addition, the unintended benefit of the long time it takes to complete the cases (often due to the logistics) is that we are able to observe the changes in real time.

Our sample currently includes eleven businesses:

- In electronics, our cases are a large company we call Blitz Electronics and the middle-sized Jupiter Systems, both of which manufacture high-technology electronic components. Jupiter was acquired shortly after we began studying it, delaying completion of the case study.
- Our financial services sample includes Bedrock Financial, a large company that primarily provides wholesale banking services, and Insurall, a diversified insurance company. We published initial results on Insurall in earlier work (Moss, Salzman, and Tilly 2000), and have continued to follow the case as it evolves.
- We are examining two retailers, Clarendon's and Marketplace Stores. Both are large mid-market department store chains that have substantial call center operations and a strong Internet presence.
- Our food service sample includes firms at several points along the "food chain." Final food servers include Masterfood, a national institutional food service company, and the Ourtown School System. At the food distribution level, we are studying Food King, a national distributor, and Joe's Produce, a regional one specialized in fruits and vegetables. Finally, our study includes one food producer, Maritime Seafood.

Findings

As corporations restructure, they make several kinds of decisions with momentous implications for internal labor markets. In this paper, we focus on two. First, firms decide which activities to keep within their organizational

boundaries and which to shift outside, either through outsourcing or through using external workforces such as temporary employees. Second, for those activities retained within the firm, businesses develop mobility patterns and skill levels for the relevant set of jobs.

What Activities to Keep

In various ways, the firms we studied are continuously evaluating what the "firm" should be, what it should do, as well as what should be inside and outside of the organizational boundary. To the extent that these businesses articulate principles of what should be retained within the firm, they come up with something like the following list of activities to keep inside the firm:

1. High value-added, higher-skill activities.
2. "Core," or strategic, activities that provide it with a competitive advantage and/or a unique product, service, or capability.
3. "Necessary evil"—those that cannot be done effectively outside the firm or outsourced.
4. Activities that make use of the firm's capital for high return on investment that may have been outside the original production of the firm's goods or services.

What is interesting is that although the companies under study would agree on the importance of keeping high value-added activities and core competencies while discarding others, the implications of these principles have played out quite differently in different settings.

In the electronics industry, OEM companies following the logic described above initially restructured by outsourcing lower value-added activities, vertically deintegrating to the point of becoming primarily systems integration and marketing businesses. In food preparation, food service businesses such as restaurants and cafeterias have likewise outsourced, but the process has been driven by large food distributors that, in some cases, have vertically *integrated* by adding what for them are high value-added activities of food preparation and, in other cases, have shifted these activities farther up the supply chain.

In earlier work, we documented the outsourcing strategies of several large electronics firms (Moss, Salzman, and Tilly 2000). The new case of Blitz Electronics confirms the general trends toward outsourcing. Nearly all of Blitz's manufacturing is outsourced and/or conducted offshore. We have not seen evidence of rebuilding of internal labor markets by Blitz, though the case is still in process. Jupiter Systems' acquisition has delayed us from comparing that company's sourcing activities.

In electronics, outsourcing has moved basic production and commodity production out of the firms producing and selling the final products. Jobs at the firms to which the activities have been outsourced typically pay lower wages, are less likely to be unionized, and are separated from the formerly integrated activities that might have provided enhanced upward mobility. Increasingly the supplier firms are very large, sometimes larger than their customers, but operating on low margin, they tend to hire low-skill and low-wage workers. The manufacturing processes that are retained in the firm are final-stage assembly/test, specialty component production, and early-stage production. The redistribution of labor, in these cases, is toward retaining only high-skill or high value-added labor in first tier firms, whereas previously these firms had a more heterogeneous workforce, all of whom were paid well relative to workers in peripheral firms.

In food service, our research design includes the three major segments involved in food preparation: food service, food suppliers/distributors, and food manufacturers.[1] Consolidation in each of the food preparation segments has increased in recent years, increasing the amount of work done in, and control by, very large firms and spurring the geographic redistribution of food preparation work. Consolidation is occurring throughout the industry, among food distributors, food manufacturers, and food service companies such as restaurant chains and institutional food services.

Large distributors such as Food King have a significant role in shaping food preparation. Major changes in location and, consequently, quality of food preparation jobs were *supply driven* by distributors rather than demand driven by food service firms. For example, Food King found that purchase of salad preparations lowered transportation costs over shipping component ingredients separately. Prepared food has less weight and bulk because the waste is removed, and prepared food is better preserved, reducing spoilage and easing shipping constraints by allowing greater latitude in delivery and logistical tolerances. Interestingly, restaurants report that the most significant cost savings of prepared food is in lower workers' compensation costs due to less use of dangerous tools such as knives.

Joe's Produce actually moved into the food preparation business to increase their sales. Some foods that were difficult to prepare, such as cauliflower, or were labor intensive, such as fruit salad, would be purchased in greater quantities if the restaurant or food service provider did not have to do the preparation. Like Food King, this distributor found that preparing some foods close to the growers reduced transportation weight 40 percent. By shifting to higher value-added activity with higher profit margins, firms such as Joe's Produce and the food manufacturers are able to increase profits.

The shift in food preparation work may decrease entry-level opportuni-

ties in restaurants and cafeterias, particularly opportunities for non–English speakers, since it reduces the number of jobs that do not require high levels of communication with either customers or co-workers (with notable exceptions depending on the location of the restaurant, of course). However, the shift in jobs from small food service settings to larger food manufacturing establishments, while making these jobs less geographically disperse, should improve their quality. Wages and skills tend to be higher in food manufacturing, and job ladders are more likely simply due to the size of the establishments.

The pay level in food manufacturing tends to reflect that of the manufacturing sector, with median wages of $11.80 an hour (SIC 20) compared to $6.70 an hour in the food service sector (SIC 580; U.S. Bureau of Labor Statistics 1998). Looking at pay levels of occupations affected by the food preparation shift, food preparation workers in restaurants average $6.10 an hour as compared to machine tenders and operators in the food manufacturing industry, who receive $10.50 an hour. Even the same occupation wage differentials between industries are striking: bakers in restaurants have median wage of $7.60 an hour as compared to $10.20 in the food manufacturing industry.

In electronics manufacturing, then, the decision on what activities to keep has led in general to a shedding of activities by formerly vertically integrated firms to smaller firms. Due to consolidation among food distributors, manufacturers, and food service firms, higher value-added activities are shifting *from* smaller, lower wage settings to larger firms that now have taken on more activities.

Evolving Mobility Patterns and Skill Levels

We examine businesses' skill and mobility policies as they undertake geographic de-integration—creating remote facilities such as call centers or back offices. Breaking up activities geographically in this way self-evidently creates significant barriers to job mobility within the firm. Therefore, the creation of remote facilities offers a useful context in which to observe a firms' decision making about mobility and about the closely related issues of skill acquisition and retention.

The retail and finance companies we studied all created remote sites. They did so primarily to tap new workforces and, to a lesser extent, to gain the advantages of locating in multiple time zones and climate zones (the last to reduce vulnerability to localized weather emergencies). How does one accommodate workers' desires for upward mobility opportunities in this sort of dispersed geographic configuration? The businesses in our sample adopted three strategies.

A first strategy is to be the dominant employer in an area—the largest and/or highest-paying employer of workers in the relevant skill range—so that lack

of mobility is offset by compensation or simply by a lack of other options. The problem with this strategy is that, typically, it does not last. Once one company discovers a capable and willing workforce available at wages lower than elsewhere, other companies typically follow suit.

A second strategy is particularly common: structure remote sites to permit mobility within them. Firms can do this both by concentrating (creating a few large sites rather than many small ones) and by creating job layers within a site. Managers at Bedrock Financial are wrestling with a number of decisions about geographic concentration. Bedrock operates nationwide, and regions have a great deal of autonomy in deciding the degree to which operations are concentrated in a regional headquarters or dispersed among branches. Some regions have chosen high levels of concentration; others have chosen dispersion. We visited the regional headquarters in a region that has opted for concentration. Managers described a decision about whether to locate a newly created department in the headquarters or in a branch. Staff at this department are in frequent contact with customers (in this case, other financial institutions) to exchange information, but the contact is almost exclusively by phone, fax, and letter, so the activities themselves do not dictate location. But the department manager told us, "We decided that because of the importance of the data, we had to keep it close [to other headquarters activities]." This keeps lateral and upward mobility channels open for the department's employees.

The other step companies have taken to facilitate mobility is to create multiple job levels. In earlier work (Moss, Salzman, and Tilly 2000), we described the case of Steadfast Insurance, which sited a new customer service call center in a remote location, with the initial intention of creating a very flat organization with few opportunities for promotion. Somewhat reluctantly—since they were moving away from the corporate-mandated flat job structure—they eventually instituted a new job hierarchy as a means of retention.

Remarkably, every business in our sample that has made major investments in call centers ended up reinventing the same wheel as Steadfast. This includes InsurAll, as well as the two retailers, Marketplace and Clarendon's. The Clarendon case is sufficiently striking that it seems worth recounting in some detail. Clarendon stores had seven levels of jobs in the sales organization (recently reduced to six). In contrast, the first call center, opened in the early 1980s, used only three levels (facility manager, shift managers, and customer service representatives). By 1990, the call centers had added three more workforce levels for a total of six, citing in part the need "to create career growth opportunity". Around this time, Clarendon's executives called for reducing management head count in the centers; interestingly the centers did this by decreasing the number of managers, but increasing the number of (sub-managerial) supervisors so as to maintain a 60:1 ratio of workers to managers and supervisors.

While it is certainly noteworthy that so many finance and retail companies appear to have independently gone through the learning process, adding layers to an initially flat internal labor market structure, it would be a mistake to assume that the results are uniform. When the call centers are viewed primarily as cost centers, managers emphasize productivity and cost savings, leading to use of part-time workers, heavy reliance on time-per-call metrics, and other practices that degrade job quality. When they are viewed as opportunities for adding value, managers lean toward high-performance practices that enhance jobs.

A final strategy for handling mobility in geographically dispersed companies is the simplest one: let workers fend for themselves in the external labor market. Although the widespread image of call centers as "electronic sweatshops" might suggest that this strategy is the most common, we did not find it so. Indeed, companies that ran high-turnover call centers did so reluctantly.

Conclusions

Our evidence, both from our earlier study and from our current case studies, strongly suggests that organizational restructuring is an iterative process rather than a linear movement towards an end state consistent with the requirements of a "new economy." Businesses still find it necessary to integrate substantial portions of their workforce into the firm via established internal labor markets and that much movement in the last several years has been toward reintegration. Firms in retail and finance that geographically relocated customer service call centers away from corporate centers, again for cost reasons, have also bumped against a constraint on recruiting and retaining the skill they seek because isolated operations have such limited upward mobility. Whereas outsourcing in electronics typically involves creating lower-quality jobs within smaller organizations, outsourcing in food service usually shifts work from small restaurants and cafeterias to large distributors and manufacturers, often improving job quality in the process.

The recent movement back toward stronger internal labor markets responds in part to the tighter external labor markets generated by a strong economic expansion. But in our cases, we also saw deintegration during the tight labor markets of the late 1980s (e.g., outsourcing by Blitz and Jupiter, creation of remote call centers by Clarendon's) and reintegration during the recession of the early 1990s (e.g., Clarendon's adding managerial layers to its call centers). So, while tight labor markets may reinforce certain types of restructuring, they do not dictate the path of restructuring.

We anticipate that with our longitudinal research design, we will likely uncover further iteration in organizational form and job structure. The external environment continues to encourage firms to pursue cost reduction

through restructuring, so we forecast a continuing interplay of efforts to reduce costs, and efforts to recruit, retain, and develop skilled workers.

Acknowledgments

We wish to acknowledge Radha Biswas's participation and invaluable research assistance throughout this project. We also thank the Russell Sage and Rockefeller Foundations for financial support.

Endnotes

1. This section on the food industry draws extensively on the work of Radha Biswas, research assistant on this project.

References

Cappelli, Peter, Laurie Bassi, Harry Katz, David Knoke, Paul Osterman, and Michael Useem. 1997. *Change at Work.* New York: Oxford University Press.

Lane, Julia, and Adela Luque. 1999. "Low Wage Workers and the Future of Work: Firm Personnel Policies and Job Outcomes." Unpublished paper, Urban Institute, Washington, DC.

Moss, Philip, Hal Salzman, and Chris Tilly. 2000. "Limits to Market-Mediated Employment: From Deconstruction to Reconstruction of Internal Labor Markets." In Francoise Carré, Marianne Ferber, Lonnie Golden, and Steve Herzenberg, eds., *Nonstandard Work: The Nature and Challenges of Changing Employment Arrangements.* IRRA Research Volume. Madison, WI: Industrial Relations Research Association.

U. S. Bureau of Labor Statistics. 1998. Statistics from Industry-Occupation Employment Matrix for 1983–1995. Unpublished Data Provided by BLS staff.

V. BARGAINING IN FLUX: LABOR AND MANAGEMENT RESPONDS TO A PERIOD OF UNCERTAINTY

Post-Strike Effects of Labor Conflict on Retail Consumers: Preliminary Evidence from the 1998 Northwest Airlines and General Motors Strikes

Richard N. Block and Brian D. Silver
Michigan State University

Abstract

This paper, reporting results from survey questions on the effect of the 1998 GM and Northwest strikes on potential retail customers in Michigan, suggests that a strike generates negative attitudes on the part of consumers toward purchasing the struck product/service, that consumers act accordingly, and that a product that is undifferentiated from its competitors' products will suffer more than a differentiated product. The results also suggest the existence of an "anger effect" toward high–market share Northwest shortly after the strike from those who were dependent on Northwest. This "anger effect" may have started to dissipate 9–10 months after the strike.

Introduction

Industries in flux often experience employee dissatisfaction and uncertainty. When employees in a changing industry are represented by a union, this

Author's Address: School of Labor and Industrial Relations, Michigan State University, East Lansing, Michigan 48824.

dissatisfaction and uncertainty can take the form of labor conflict such as strikes. With production or service curtailed during a strike, customers whose demand for a product or service cannot be deferred must shift their demand to competitors. Strike effects on consumers, therefore, are likely to be predictable.

Much less certain, however, are the post-strike effects on consumers. Does the disruption in production or the provision of the service caused by the strike have a negative reputation effect such that there is a possibility of a long-term or permanent loss of the firm's customer base with a possible reduction in post-strike employment opportunities for the employees represented by the union? If so, then labor conflict associated with industry flux or change has the potential to increase rather than decrease uncertainty.

The summer of 1998 saw two strikes associated with industry flux, both of which affected the state of Michigan. The auto industry is subject to continual pressure from foreign competitors, causing, among other things, an ongoing reallocation of work among facilities as the companies continue to attempt to reduce production costs. Strikes against General Motors by two UAW locals in Flint, Michigan, that started on June 5 and June 11 essentially halted all production at GM by mid-June. The strikes ended on July 29 (Christian 1998; "UAW Announces" 1998; "UAW Strikes"1998).

Airlines continue to experience labor conflict associated with flux and change as the industry restructures and unions attempt to address concessions from the late 1980s and early 1990s. A strike against Northwest Airlines by the Airline Pilots Association, an attempt to recoup old concessions, affected Michigan because Detroit is a Northwest hub and Northwest controlled approximately 76 percent of the market at the Detroit Metropolitan Airport.[1] The strike began on August 28, 1998, and ended on September 13, 1998 (Zuckerman 1998a, 1998b). Northwest was flying a full schedule by September 21, 1998 (Kennedy 1998).

How did these strikes affect potential customers of General Motors and Northwest? In this paper, we exploit the occurrence of these two large strikes that were well-publicized in Michigan and report the results from experimental survey questions on the effect of these strikes on the likelihood that potential retail customers of GM and Northwest in Michigan would purchase a GM vehicle or fly Northwest. Whether a strike exacerbates or ameliorates long-run changes due to potential shifts in consumer demand away from the struck product is a question that has never been addressed. It is hoped that the results reported here will begin to fill that gap by providing preliminary empirical evidence regarding whether there may be a post-strike shift in consumer demand away from the struck firm.

Literature Review

Previous work on the post-strike effect of strikes has focused on firms and industries as the unit of analysis. In an event study of airline strikes during the period 1963–1986, DeFusco and Fuess (1991) found evidence consistent with post-strike effects. For intervals that included the 30-day period after the strike settlement, nonstruck carriers had positive abnormal returns. By contrast, struck carriers experienced negative abnormal returns for the mutual aid pact period (1963–1978) but not for the nonpact deregulated period (1978–1986).

Other studies that have examined the post-strike impact of strikes generally, rather than solely in the airline industry, have found evidence consistent with post-strike effects. Neumann (1980) found that firms (shareholders) incur costs during and after a strike, and that a firm valued at $500 million dollars on the day of the settlement would see its value reduced by $750,000 less 14 days after the strike. Using an event study methodology, taking the event as the period from 30 days before the strike to 30 days after the strike, Becker and Olson (1986) found that the cumulative average return to struck firms (for strikes involving 1,000 workers or more) was approximately 4 percent less than the cumulative average return for nonstruck firms, estimating the average strike cost shareholders to be between $72 million and $87 million (in 1980 dollars). On the other hand, Kramer and Vasconcellos (1996) found that the cumulative average return for 21 struck firms between January 1982 and July 1990 increased approximately 1.8 percent in the 30-day post-strike period relative to the pre-strike period, suggesting that any losses of market share or customers were either fully recouped or minimal or that the strike resulted in cost reductions that more than offset any revenue reductions associated with consumer diversion to competitors.

Although not directly examining the post-strike period, Neumann and Reder (1984) studied the strike-associated changes in annual industry-level output of 63 industries between 1958 and 1978. They found that reductions in annual industry output were small, less than 0.65 percent in all industries except ordinance and accessories, suggesting that, along with inventory drawdowns, output increases in nonstruck firms (competitors) were compensating for output losses in the struck firms. Such output increases in nonstruck firms would be consistent with post-strike gains for nonstruck firms and post-strike losses for struck firms.

Theoretical Considerations

Two questions may be asked: (1) Is there post-strike customer diversion from struck firms?; and, if so, (2) are there differences in the level of diversion based on substitution possibilities? If the products of nonstruck compet-

itors are perfect substitutes for the struck good, and if purchase of the goods cannot be deferred, then, in principle, 100 percent of the demand of the struck good or service could be diverted to nonstruck competitors. Diversion, both during the strike and post-strike, will be less than otherwise if the competitors' goods are not perfect substitutes, if the transaction costs of switching are nonzero, and if there is an absence of substitutes available for the struck product or service.

Assuming that the nominal price for comparable goods/services is market determined, imperfection in substitution may result from differences in specific attributes of the product or service, such as styling with respect to autos, quality, implicit price[2] and, in the case of airlines, scheduling. Transaction costs would include such costs as investment in time to learn about the attributes of substitutes. Availability of substitutes, at least in the short-run, would depend on the extent to which the struck firm dominates the market.

Based on the foregoing, we hypothesize that post-strike diversion of demand from Northwest and GM would be nonzero, as there are substitutes for the products of both firms. Based on product differentiation, we hypothesize that post-strike diversion from Northwest would be greater than from GM. Other airlines provide flights that are highly substitutable, if not perfectly substitutable, for Northwest flights, and other modes of transportation would be available, at least for relatively short trips. On the other hand, while the products of other auto companies may be viewed as substitutes for GM products, there are sufficient differences in styling and reputation among the products of different automobile companies to create some product differentiation.

The potential post-strike diversion from Northwest would be lower, however, the lower the availability of substitutes, e.g., non-Northwest flights. Thus, regarding the second question, we would hypothesize that the greater the market share held by Northwest at the airport that serves the residence of a customer, the lower the potential diversion.

Data and Method

The basic source of data for this study is the State of the State Survey (SOSS) conducted by the Institute of Public Policy and Social Research at Michigan State University. This survey is administered four times per year to a stratified random sample of approximately 960 respondents in Michigan for the purpose of monitoring the views of citizens on public issues in Michigan.[3]

We collected data on the perception of SOSS respondents (consumers) to these two strikes, asking respondents if the strike made it more or less likely that they would buy a car from GM or travel on Northwest, or had no effect on the likelihood. To determine the longevity of any post-strike effects, data were collected in two waves; in the fall of 1998, two and one-half months af-

ter the GM strike and about a month after the Northwest strike, and then in the summer of 1999, 1 year after the end of the GM strike and approximately 10 months after the end of the Northwest strike. While limiting the sample to Michigan respondents may make the sample less representative of all consumers than a national sample, all respondents were likely to be familiar with the strikes, as these strikes were prominent Michigan news stories between June and September 1998.

The SOSS also contained data on the county of residence of each respondent. By combining the SOSS county data with data on the noncharter commercial flight market share of Northwest at each airport in Michigan, we were able to estimate the availability of Northwest substitutes for any respondent. It would be expected that the greater the market share of Northwest in the airport most proximate to that county, the lower the availability of substitutes for Northwest, and the smaller the percentage of respondents who should state that they are "less likely" to fly Northwest due to the strike.

Results

Table 1 presents the means for variables GMLESS and NWLESS, the percentage of respondents who stated they were "somewhat less likely" or "less likely" to purchase/lease a GM product or fly Northwest, respectively, as a result of the strike. As can be seen, in the fall 1998 administration, 26 percent of the respondents said they were less likely to purchase a GM product as a result of the strike, while 41 percent of the respondents stated they were less likely to fly Northwest as a result of the strike. Both percentages are significantly different from zero at $p \leq .01$ ($t = 25.22$ for NWLESS; $t = 17.6$ for GMLESS), suggesting that these results did not occur by chance. These results are consistent with the existence of short-run negative reputation effects. These two percentages are also significantly different from each other at $p \leq .01$ ($t = 7.55$), suggesting that any negative reputation effects were greater for Northwest than for General Motors. This result is consistent with what would be expected based on substitution principles as Northwest produces a service that is less differentiated from the product of its competitors than is the GM product.[4]

Table 1 also presents the comparable percentages for the summer 1999 SOSS administration, about 10 to 12 months after the strikes for all respondents. With a different set of respondents, negative reputation effects persist. Both percentages are significantly different from zero at $p \leq .01$ ($t = 24.98$ for NWLESS; $t = 17.2$ for GMLESS), and the percentages are different from each other at the $p \leq .01$ level ($t = 8.22$).

Further insights can be obtained by examining responses regarding vehicle purchase or lease intention. Respondents in the fall 1998 survey were asked

TABLE 1

Post-Strike Results, Percentage of Respondents Less Likely to Buy Due to Strike, All Respondents, Fall 1998 and Summer 1999

	Percentage, Fall 1998	*N*	Percentage, Summer 1999	*N*
GMLESS	26%	861	25%	909
NWLESS	41%	861	41%	904

whether they were leaning toward or intended to purchase a GM vehicle when the strike began; 78 responded *yes.* Of these, 33.7 percent responded that they were less likely to purchase/lease a GM vehicle as a result of the strike. Of those 78 respondents, 54 actually purchased or leased a vehicle during or after the strike. Of those 54 who actually purchased or leased a vehicle, 12 (22.2 percent) purchased/leased from another manufacturer. This is close to the 25 percent of all fall 1998 respondents who stated they were less likely to purchase a GM vehicle. A majority of car purchasing "GM Leaners/Intenders" who stated they were less likely to purchase/lease a GM vehicle appear to have acted in accordance with their stated preference, which suggests the validity of the attitudinal questions.

An additional perspective on post-strike consumer effects can be obtained by attempting to measure consumer substitution options. As the Northwest market share was approximately 76 percent at the Detroit airport, but only about 47 percent in Michigan outside of Detroit during 1998 and 1999,[5] it was hypothesized that negative post-strike consumer effects on Northwest would be greater outside the Detroit metropolitan area than within the Detroit metropolitan area. This was because the smaller market share of Northwest outside of Detroit would mean that consumers outside of the Detroit metropolitan would have more Northwest substitutes available than consumers in the Detroit metropolitan area. Therefore, we analyzed the differences in responses toward Northwest by whether the respondent's county of residence was within, or outside, the metropolitan Detroit area.

Because these results could be affected by the definition of *metro Detroit*, we defined *metro Detroit* in two ways. Definition 1 considered *metro Detroit* as consisting of Lenawee, Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw, and Wayne Counties.[6] Definition 2 removed St. Clair and Livingston Counties from *metro Detroit* and placed them in the "outstate" category, as portions of both of these counties are close enough to the airport in Flint that it might be rational for some portion of the population of these counties to use the Flint airport.[7]

The results, presented in the 2nd and 3rd columns of Table 2, are precise-

ly opposite of those that would be predicted based on elasticities of substitution. Despite less choice of air carriers, respondents in metropolitan Detroit were significantly *more* likely than those from outstate to respond that they were less likely to fly Northwest. This suggests that, at least shortly after the strike, when the strike was still likely fresh in the minds of respondents, the existence of an "anger effect" toward Northwest outweighed economic rationality for this population with a low elasticity of substitution away from Northwest.

These results from the summer of 1999 are presented in the 4th and 5th columns of Table 2. They demonstrate that the gap between "outstate" respondents and the metropolitan Detroit respondents closed. Using Definition 1, the percentage of metropolitan Detroit respondents who stated they were "less likely" to fly Northwest declined by 5 percentage points (10.4 percent), while the percentage of outstate residents who stated they were "less likely" to fly Northwest increased by 4 percentage points (12.7 percent). The difference between the two groups, which was significant in the fall of 1998, was no longer significant in the summer of 1999. The results under Definition 2 displayed even stronger convergence, with the percentage of metro Detroit respondents who stated they were "less likely" to fly Northwest declining by 8.4 percentage points (17.3 percent), while the percentage of outstate residents who stated they were "less likely to fly Northwest" increased by 5.5 percentage points (15.9 percent).

TABLE 2

Post-Strike Results for Likelihood of Responding "Less Likely to Fly Northwest As a Result of the Strike," By Area of Residence, Fall 1998 and Summer 1999

	Percentage, Def. 1, Fall 1998	Percentage, Def. 2, Fall 1998	Percentage, Def. 1, Summer 1999	Percentage, Def. 2, Summer 1999
Outside Detroit metro area	33.9% (n = 457)	34.6% (n = 489)	38.2% (n = 448)	40.1% (n = 500)
Detroit metro area	48.2% (n = 457)	48.5% (n = 425)	43.2% (n = 461)	40.1% (n = 409)
F (sig.)	19.72 (.00)	18.58 (.00)	2.41 (insig.)	1.76 (insig.)

Taken together, these results suggest that over time, economic rationality may have replaced anger. Residents in metropolitan Detroit display an increased willingness to fly Northwest, despite the strike, perhaps reflecting their lack of choices; and outstate residents appear to display a decreased willing-

ness to fly Northwest, perhaps reflecting their greater choices. This difference is most pronounced for Definition 2, which limits the respondents in "metro Detroit" to those closest to the Detroit airport.[8]

Conclusions

The results of this study should be considered very preliminary and experimental, as we are unaware of any other attempt to survey potential retail consumers regarding the effects of labor conflict on their views toward purchasing struck goods or services. The confluence of these two strikes in Michigan along with the quarterly administration of SOSS, however, provided an opportunity to determine if sensible results could be obtained on this question.

We believe the results are interesting. They suggest that companies and unions should consider the consequences of labor conflict for consumer behavior before embarking on that path. The results suggest that a strike generates negative attitudes on the part of consumers toward purchasing the struck product or service, that consumers act on these negative attitudes, at least in the short run, and that these negative attitudes may persist for a substantial period of time after the strike ends. The results also suggest that a product that is essentially undifferentiated from the product of its competitors, with a high elasticity of substitution, such as air travel, will suffer more than a product that may be seen as differentiated, with a relatively low elasticity of substitution, such as automobiles.

The results using region as a measure of differences in consumer substitution possibilities for the same service, air travel, generated results that were surprising but explainable. We hypothesized that there was an "anger effect" toward Northwest shortly after the strike from those who are dependent on Northwest, which may be associated both with short-term frustration about the strike and long-term frustration associated with an absence of choice in air travel. This "anger effect," however, may have started to dissipate 9–10 months after the strike, with consumer responses perhaps tending to be based more on economic rationality and elasticities of substitution than on anger toward Northwest.

We have not developed a full model of post-strike consumer response to labor conflict. Moreover, there may be bias due to the nature of the question. Reminding respondents about a strike months after the strike may have encouraged respondents to express a negative attitude toward the companies, even if the negative view had dissipated. Despite these caveats, we believe this paper provides a useful first look at the post-strike response of retail consumers to labor conflict and suggests that future research in this area could be fruitful.[9]

Acknowledgments

This research was supported by the Institute for Public Policy and Social Research, Michigan State University. The survey data on which this paper was based are available at <www.ippsr.msu.edu/soss>.

Endnotes

1. This statement is based on data provided by Detroit Metropolitan Wayne County airport via fax dated November 27, 2001. A copy of the fax is available upon request.

2. Product differentiation for Northwest (and other airlines) is likely to be largely based on implicit price reductions through the awarding of frequent flier miles. Other things equal, the implicit price of a ticket with an identical nominal price on another airline would be higher than on Northwest for a high-demand Northwest customer (who was not high-demand on the other airline) because of the value of the additional Northwest frequent flier miles to the high-demand Northwest customer. We did not obtain data on the accumulation of Northwest frequent flyer miles of each respondent.

3. Documentation of SOSS is available at <http://www.ippsr.msu.edu/SOSS/SOSS.HTM>.

4. The fall 1998 SOSS contained a question about whether the respondent was an employee of GM. As GM employees are always likely to purchase GM products because of price incentives, we computed the percentages excluding the 22 GM employees in the sample. The percentages of non–GM employee respondents who stated they were less likely to purchase a GM product as a result of the strike was 25.7 percent, almost identical to the 26 percent from the all respondents.

5. These data, obtained from all 17 Michigan airports with commercial air service in 1998 and 1999 and from the Michigan Department of Transportation, are available on request.

6. For a county map of Michigan, go to <http://midata.msu.edu/index01.html>.

7. Respondents in Genesee and Lapeer counties were considered to live outside the Detroit metropolitan area ("outstate") for the purposes of this paper because of their proximity to the airport in Flint (Genesee County).

8. These results did not change when logistic regressions were run, including variables for union membership and income as controls. The regression results are available on request.

9. Also contrary to the inference of negative post-strike consumer effects is the evidence that the market share of Northwest did not decline from 1998 to 1999, staying at about 47 percent outstate and 76 percent in Detroit. (See endnote 6 for information on data.) But, this says nothing about what would have happened to market share had there been no strike.

References

Becker, Brian E., and Craig A. Olson. 1986. "The Impact of Strikes on Shareholder Equity." *Industrial and Labor Relations Review,* Vol. 39, no. 3 (April), pp. 425–38.

Christian, Nichole M. 1998. "3,400 Strike G.M. Plant; Assembly Put at Risk." *The New York Times*, June 6, p. 7.A.

DeFusco, Richard A., and Scott M. Fuess, Jr. 1991. "The Effect of Airline Strikes on the Struck and Nonstruck Carriers," *Industrial and Labor Relations Review,* Vol. 44, no. 2 (January), pp. 324–33.

Kramer, Jonathan K., and Geraldo M. Vasconsellos. 1996. "The Economic Effects of Strikes on Shareholders of Nonstruck Competitors." *Industrial and Labor Relations Review,* Vol. 49, no. 2 (January), pp. 213–22.

Neumann, George R. 1980. "The Predictability of Strikes: Evidence from the Stock Market." *Industrial and Labor Relations Review,* Vol. 33, no. 4 (July), pp. 525–35.

Neumann, George R., and Melvin Reder. 1984. "Output and Strike Activity in U.S. Manufacturing: How Large Are the Losses?" *Industrial and Labor Relations Review,* Vol. 37, no. 2 (January), pp. 197–211.

"UAW Announces Outcome of Flint Ratification Vote." 1998. *PR Newswire,* July 29.

"UAW Strikes at Delphi East in Flint, Michigan." 1998. *PR Newswire,* June 11.

Zuckerman, Laurence. 1998a. "Northwest Pilots Strike as Talks Fail on Contract." *The New York Times,* August 29, p. 1.A.

Zuckerman, Laurence. 1998b. "Northwest Workers Returning to Work." *The New York Times,* September 14, p. 12.A.

Workers of the World Wide Web Unite!: The Newspaper Guild and Online Newspaper Ventures

Howard R. Stanger
Canisius College

Abstract

Over the last 25 years, newspaper unions have been weakened by new technologies, the consolidation of the industry, the rise of the public newspaper corporation and its insatiable quest for higher profits, public policies, and the failure of unions to merge and consolidate their resources.

This paper explores the possibility—limited at present—of union rebirth led by the Newspaper Guild, assuming the prominence of the digital newspaper. Specifically, it focuses on the Guild's various strategies for organizing online newspaper workers. Contractual language includes: strong jurisdiction clauses, recognition clauses, modified jurisdiction clauses, supplemental language, experimental and temporary language.

The paper also examines some important cases involving the NLRB and the courts, and concludes by speculating about the future of newspaper unionism.

Since the 1970s, newspaper unions have been weakened by a combination of forces—computerization, the rise to prominence of publicly traded newspaper companies and their insatiable thirst for higher profit margins, and public policies that have facilitated the consolidation of the industry. These forces have altered the balance of power from the unions to the publishers. This can be seen from a number of labor relations outcomes, such as lower union density rates, declining real wages, limited success in representation elections, changes in work rules, union mergers, and the scarcity of strikes. (See Stanger 2002, for an overview of newspaper labor relations since 1975.)

Publishers have regained control over the production and, to a great extent, the distribution of newspapers. With few exceptions, their dominance is near

Author's Address: Department of Management & Marketing, Canisius College, 2001 Main Street, Buffalo, NY 14208.

complete, as strikes have been unable to halt production and distribution of newspapers in most instances. In short, the once powerful craft and drivers' unions have been tamed. Historically, journalists have been ambivalent about unionism and allying with blue collar unions at the same newspaper. Although the Newspaper Guild represents workers at about 90 newspapers in the United States, publishers have capitalized on the newsroom's traditional lack of militancy to weaken solidarity during strikes and exact concessions.

While the newsroom has never been the locus of union power in the newspaper industry, changing technology in the form of the online or digital newspaper opens up the possibility of union rebirth led by the Newspaper Guild.

This paper discusses the rise of the digital newspaper and the Guild's strategies for organizing online journalists, and speculates about the future of newspaper unions. While prognostication is always a risky proposition, it is even more so in an industry that employs the latest technologies.

The Rise and Extent of Online Newspapers

Online newspapers owe their heritage to about 20 years of industry experimentation with electronic delivery, including the failed videotext and the rise of the Internet. It is estimated that in the year 2000, over 67 million households will have had Internet access. In addition, the Pew Research Center found that the percentage of Americans getting news online at least once a week tripled from 1996 to 1998, to over 36 million and growing. An industry report by the investment bank Credit Suisse First Boston shows that news and information websites had over 56 million unique visitors in October 2001. It also reports 100 million unique visitors for all World Wide Web sites for the same period. The Internet's popularity gives online newspapers a good chance to succeed (Chyi and Sylvie 1998:1; CSFB 2001:25).

Newspaper companies have increased their online offerings to meet the new demand. In 1994 there were 20 online editions; in 1997, there were 1,500 worldwide. By mid-2001, more than 1,300 North American dailies had an online presence. The largest individual newspaper Web sites are *nytimes.com* (8.28 million unique visitors in October 2001), *usatoday.com* (5.65 m), *washingtonpost.com* (4.91 m), *LATimes.com* (2.77 m), and *The Boston Globe's boston.com* (1.87 m). The top consolidated newspaper sites are Gannett's sites, New York Times Digital, Tribune Interactive, E.W. Scripps, Knight Ridder's Real Cities, Knight Ridder, and Gannett's *USA Today* (CSFB 2001:26, 28).

Gannett has 95 domestic Web sites, while Knight Ridder has 45 websites. Its operation, Knight Ridder Digital, joins Belo Online Inc., Times Co. Digital, and Tribune Interactive, as divisions separate from newspaper operations. Other companies have closer connections to the printed property (NAA Facts 2001:22; Sullivan 11/13/99:52; Veronis Suhler 2001:257).

One industry analyst noted, "The U.S. Internet daily newspaper market has grown rapidly from a scant $21 million in 1996 to $207 million by the end of 1998" (Brown 1999:54). With many different types of media concerns establishing classified Web sites, and with low barriers to enter, newspaper companies' ventures into this business are part defensive and part evolutionary. Many digital newspapers have been losing money, but companies are willing to take losses to preserve their classified ad base, a $15–18 billion a year business making up 25–50 percent of total revenue. Over the last few years, newspaper companies have launched Internet-based publications and/or portals, or job search sites with employment advertising, either as extensions of their print-based newspapers or as stand-alone entities. Other sources of online revenues come from retail advertising, sponsorships, and listing fees. Given the fallout of strictly Internet concerns after April 2000, and careful investment strategies by newspaper companies, experts predict increasing profitability for online newspapers over the next few years. Overall, the Internet provides a major opportunity for newspaper publishers to use their information-gathering operations to create viable Internet companies in the future (Brown 1999:54; Chyi and Sylvie 1998; Lallande 5/01:8–9; Moses 1/15/01; Veronis Suhler 2001:259; Zollman 1999:7).

The Newspaper Guild's Response to Online Newspapers

The advent of the digital newspaper has created a host of new labor relations issues, including union recognition and jurisdiction, employee status, and ownership and compensation for reuse of work. This paper focuses on union recognition and jurisdiction.

By focusing on how the product (information) is produced, not delivered, the 32,000–member Newspaper Guild has developed a number of strategies to bring online newspaper workers into the union fold. Preliminary evidence shows they are making some headway, but significant obstacles remain. The digital newspaper will also impact nonjournalist Guild members, including advertising workers concerned with commissions, combination (Internet and print) sales, or additional duties for classified workers (Needham 1998).

In 1999 the Guild had approximately 20 agreements covering online workers, all where the Guild had prior representation rights (Rudder 1999:61). The union has employed a number of tactics to achieve representation rights for online workers. These include extending the existing jurisdiction clause, negotiating new provisions, labor board proceedings, and litigating (Fitzgerald 9/12/98; Needham 1998). Below are examples of these strategies.

Guild Strategies for Claiming Jurisdiction

Some locals have written *strong jurisdiction clauses* that make it easy for them to argue that the development of editorial copy and advertising for electronic publications is similar to the unit's traditional work, and that jurisdiction should be extended to the new products. Examples include contracts at the *Toledo Blade,* the *Chicago Sun-Times, The Denver Post,* and *The Rocky Mountain News.* In these cases, the number of online employees is small, and employers did not resist. At *The Register-Guard* (Eugene, OR) and *The Knoxville News-Sentinel,* the Guild has used *recognition clauses* that identify only job classifications and departments covered by an agreement to cover workers doing online work.

Guild units also have negotiated *modified jurisdiction language* to incorporate work related to technological advances, including online publications. Some were the result of negotiations for a successor agreement; some resulted from grievance and arbitration settlements. Examples of jurisdictional clauses modified to incorporate technological advances include the (Minneapolis) *Star Tribune,* the *Montreal Gazette,* and the *San Francisco Chronicle* (Needham 1998). Recently, on February 16, 2001, after a dispute that lasted several years, the Northern California Media Workers Guild and *SF Gate,* a website operated as a separate enterprise from the *San Francisco Chronicle,* signed a 4-year memorandum that accretes nearly three dozen editorial and advertising employees to the existing bargaining unit at the *Chronicle.*

The agreement extends much of the main contract to these employees but amends some sections to give management flexibility. For example, jurisdiction over work performed for the *Gate* is not exclusive and may be performed by Guild-represented employees or by persons employed by the *Gate* (*Labor & Employment Law Letter* September/October 2001:100).

A number of locals have drafted *supplemental language* to enable its members to perform online work that is similar to the work performed by the existing unit. Examples include the *Milwaukee Journal Sentinel,* the *Pittsburgh Post-Gazette,* and the (Akron) *Beacon Journal,* which includes not just newsroom employees but also the maintenance department (Needham 1998). In September 2000, the Guild unit at the *Beacon Journal* ratified a new 3-year deal that maintains the unit's jurisdiction over online work in the wake of a corporate realignment that spun off *Ohio.com* from the *Beacon Journal.* The contract bars publication in the print newspaper of editorial content produced for online ventures by non-*Beacon Journal* employees. It also creates a new job classification of e-journalist, whose duties include reporting, writing, and copyediting (*The Guild Reporter* 9/15/00:5).

Given the uncertainties and risks related to online publishing, some publishers have taken both cautious and hostile approaches to union jurisdiction. In some cases, as at the *Portland Press Herald* (Maine) and the *San Jose Mercury News*, publishers have agreed to *experimental* and *temporary* clauses that extend jurisdiction to the Guild for a fixed period of time (Needham 1998). At *The Pueblo Chieftain*, a dispute arose in 1996 following the company's creation of the *Pueblo Chieftain Online*. The workers in question were HTML coders who, the company argued, were part of a separate venture and not part of the bargaining unit. An arbitrator ruled in August 1998 that these workers did "soft coding,"[1] work similar to the tasks they performed as paginators who code text when laying out newspaper pages. As such, the arbitrator directed the company to include online workers in the extant Guild unit (*The Guild Reporter* 8/21/98:8). At *The Providence Journal* and *The* (Baltimore) *Sun*, where negotiations and grievance and arbitration hearings have failed to produce settlements, the parties have used the NLRB and the courts to resolve jurisdictional disputes.

The dispute at *The Providence Journal* began in the summer of 1994, after the company established a dial-in online service initially called *Rhode Island Horizons*. Soon after the company moved the operations to the World Wide Web and changed the name to *projo.com*. The union claimed representation rights, but the company argued that the online jobs were different from those of the print version and, thus, fell outside of the union's control. In response to failed negotiations, the union filed a grievance in May 1995, eventually taking the case to the full NLRB in Washington.

In a case watched closely by the union and newspaper companies, the Providence newspaper reversed course and settled with the union short of a Board ruling, allowing seven editorial and two advertising workers to fall under the Guild's contract. The company attributed its reversal to the rapid growth of the Internet and the need to have both papers and employees housed in the same building to maximize efficiencies in news and advertising (Noack 8/8/98:9).[2]

One of the most contentious cases to date arose in the summer of 1996 at *The* (Baltimore) *Sun* following the conclusion of a contract with the Washington–Baltimore Guild. The agreement failed to include language dealing with online and events promotion employees at the *SunSpot*, an online venture that had not yet been launched. The union filed a unit clarification petition in August and, after the *SunSpot* commenced operations in September, a separate one seeking jurisdiction over the Ad/Marketing Department in October. At the end of 1996 the NLRB's Regional Director consolidated both cases. The Guild argued that the work performed by online workers was similar to that done at the *Sun*, while the company argued that the union failed to file the petition in a timely manner.

In December 1997, almost 1 year after the union's petition, the Regional Director ruled for the union, arguing that both sets of workers shared a "community of interest" strong enough to accrete *SunSpot* employees to the larger unit. The Guild also won the right to represent workers in the Promotions and Events Department. At the time, the union represented reporters, advertising staff, and maintenance workers at the *Sun.* The Times-Mirror Company, then owner of the properties, filed an appeal to the full Board on January 15, 1998 (Noack 2/3/98).

On April 7, 2000, a three-member panel of the Board ruled that *The Sun* violated the Act by refusing to bargain with the Washington–Baltimore Newspaper Guild for employees working at *SunSpot* following their accretion to the unit in the 1997 unit clarification decision (*L&ELL* 6/2000:102). But, in July 2001, the U.S. Court of Appeals for the Fourth Circuit ruled that the Board erred in ordering the company to add employees in its Web Site Department to an established bargaining unit. The lead judge called an order of accretion "an order of last resort, a drastic remedy of exceptional cases." To determine whether the Web workers should be accreted to the larger unit, the justices applied the two-prong test set out in *Safeway Stores* [256 NLRB 918, 107 LRRM 1338 (1981)]. Under *Safeway,* the Board may issue an order to accrete employees into an existing bargaining unit when the employees have "little or no separate identity and thus cannot be considered to be a separate appropriate unit," and the community of interest between the employees and the existing unit is "overwhelming." In this case, the court contended that the Web employees were different from newsroom employees because they did not work on preparing the newspaper, they were paid differently from other employees, and they needed a set of skills and expertise different from traditional newspaper workers. Moreover, the justices found that the web-based workers shared little community of interest with *Sun* employees (BNA 7/20/01:A-12).

One outstanding case that may determine labor relations and union strategies for Web work involves Knight Ridder. The Guild has filed four separate unfair labor practice charges against Knight Ridder.com after Knight Ridder moved its papers' Web operations to a separate corporate subsidiary in San Jose, the parent organization's new home. Unionized Web workers at four newspapers were transferred to the new subsidiary. Knight Ridder argues that those employees no longer work for the papers in Philadelphia, San Jose, Duluth, and St. Paul. It also contends that the work performed by Knight Ridder.com is substantially different from the work performed by employees at the individual newspapers when they were involved in Internet operations. The Guild argues that the company does not have the right to remove these workers from their respective bargaining units without negotiating with the union (Moses 12/11/00; Wenner 2001).

Organizing Web workers in the wake of the 2001 *SunSpot* ruling and when companies make strategic decisions to create separate subsidiaries apart from the print newspaper will be very challenging for the Guild. Other organizing obstacles include the dynamism of the industry and the Web itself, employer resistance, layoffs, and the limited numbers of employees hired to produce online newspapers. These could make the cost-benefit calculations unfavorable for the Guild. However, the legal landscape is still in flux, giving hope to the unions that intend to unite web-based employees with their print version colleagues. Moreover, since newsprint accounts for 15–25 percent (at higher circulation papers) of total operating costs, and much of the cost of running circulation departments (roughly 10–20 percent of operating expenses) is tied up in the distribution network, publishers may devote more resources to the electronic delivery of news (Morton 2001:68). If they do, the Guild must have a significant presence at both print and web-based properties or they and the other newspaper unions will become anachronistic.

The Future of Newspaper Unionism

The main factors that have contributed to union weakness since the mid-1970s—rapidly advancing technology, industry consolidation and concentration and the prominence and power of publicly traded media companies, and certain public policies—are not expected to be reversed anytime soon. For unions to regain power in this tough environment, they must embark on large-scale organizing drives, merge related international unions, consolidate and centralize bargaining units, and work to reverse adverse public policies. These are all extremely challenging tasks for unions to achieve at present (see Stanger 2002, for more details).

Above all, it is the future of the newspaper itself that could determine the fate of newspaper unions. Since the 1970s, newspaper companies have gained control of the labor process by implementing new production technologies, then by rationalizing the distribution process, hurting newspaper unions in the process. Until the digital supplants the print version, the power base of the newspaper unions will lie with the drivers, since they have the best chance of preventing the distribution of newspapers during strikes. Should the digital newspaper predominate, the production of the newspaper once again will become contested terrain for workplace control. While this may be years away, the Guild's ability to organize online (and print) workers is essential to union survival in the industry.

Endnotes

1. Soft coders use a computer program to convert stored data, including text and graphics, into HTML code. Hard coders write HTML code directly from a keyboard into a computer.

2. An emerging trend in Internet operations is for companies to consolidate their operations across the country into a single operation that may eventually be spun off into a separate public company. Some newspapers are partnering with others in close geographic proximity to share a Web site and also are entering joint ventures with traditional Internet concerns (Morton 10/99:100).

References

Brown, Chip. 1999. "Fear.Com." *American Journalism Review* (June), pp. 50–63.

Bureau of National Affairs (BNA). 2001. "NLRB Erred in Accreting Web Site Workers into Newspapers Bargaining Unit, Court Says." *Daily Labor Report,* DLR No. 139 (July 20), p. A-12.

Chyi, Hsiang Iris, and George Sylvie. 1998. "Competing with Whom? Where? And How? A Structural Analysis of the Electronic Newspaper Market." *The Journal of Media Economics,* Vol. 11, no. 2, pp. 1–18.

Credit Suisse First Boston (CSFB). 2001. "Newspaper Stock Source: Analysis of Newspaper Business Trends" (December).

Fitzgerald, Mark. 1998. "Unions Gain Ground at Paper Web Sites." *Editor & Publisher* (September 12), p. 46.

Fitzgerald, Mark. 2000. "Sleight of Hand." *Editor & Publisher* (June), pp. 20–26.

Labor & Employment Law Letter. 1999. "Second Circuit Upholds Copyright Claims of Freelancers in Electronic Publishing Dispute" (November), pp. 203–4.

Labor & Employment Law Letter. 2000. "Board Holds Company's Refusal to Bargain for Accreted Web Site Employees Violated Act" (April), pp. 102–3.

Labor & Employment Law Letter. 2001. "Hearst and Newspaper Guild Agree to Include Online Workers in Chronicle's Editorial and Advertising Unit" (September/October), p. 100.

Lallander, Ann. 2001. "Web Moves Wow Wall Street." *Presstime* (May), pp. 8–9.

Morton, John. 1999. "Web Spawns Talk, But Newsprint Turns Profit." *American Journalism Review* (October), p. 100.

Morton, John. 2001. "Zapped, Not Thrown." *American Journalism Review* (December), p. 68.

Moses, Lucia. 2001. "Finis for Fun and Games as Online Layoffs Mount." *Editor & Publisher* (January), pp. 5–6.

Moses, Lucia. 2000. "Web Workers of the World Unite?" *Editor & Publisher,* December 11, pp. 14–16.

Needham, Marian. 1998. "Jurisdictional Agreements in New Media." New Technology Seminar. The Newspaper Guild—CWA Sector Conference. The Newspaper Guild, pp. 9–34.

Newspaper Association of America. 2001. "Facts About Newspapers: A Statistical Summary of the Newspaper Industry." Vienna, VA.

Noack, David. 1998. "Projo.com Goes Union, Settlement Avoids Ruling." *Editor & Publisher,* August 8, p. 9.

Noack, David. February 3, 1998. "NLRB Says Web Workers Are Editorial." *Editor & Publisher Interactive.* <http://www.mediainfo.com/ephome>.

Rothman, Carol. 1999. "At 65, the Guild Is Far From Retirement." *The Guild Reporter* (May), p. 7.

Rudder, Gregory S. 1999. "After Detroit." *Presstime* (November), pp. 60–64.

Safeway Stores. 1981. 256 NLRB 918, 107 LRRM 1338.

Stanger, Howard R. 2002. Forthcoming. "Labor Relations in the U.S. Daily Newspaper Industry, 1975–2000: Union Decline and Prospects for Growth." In Paul F. Clark, John T. Delaney, and Ann C. Frost, ed., *Collective Bargaining: Current Developments and Future Challenges*. Urbana, IL: Industrial Relations Research Association.

Sullivan, Carl. 1999. "To Separate or Integrate?" *Editor & Publisher* (November 13), p. 52.

The Guild Reporter. 1998. "Arbitrator's Ruling Penetrates Internet." August 21, p. 8. *The Guild Reporter.* 2000. "Akron Maintains .com Jurisdiction." September 15, p. 5. Wenner, Kathryn S. 2001. "Whither the Guild?" *American Journalism Review* (April), pp. 46–49.

Veronis, Suhler. 2001. *Communications Industry Report.*

Zollman, Peter M. 1999. "Making Money Online." *MediaInfo.Co* (February), pp. 6–7, 10–12.

Instability and the Failure of Labor-Management Cooperation at S.D. Warren

Michael Hillard
University of Southern Maine

Abstract

This paper presents a case study of negotiations at S.D. Warren, a Scott-owned paper mill, from 1989–1994. I explain why efforts by Scott to forge an agreement to reorganize work with its largest union failed. These negotiations occurred during a period of heightened instability in the Maine paper industry's labor relations; unionized strikers were permanently replaced in strikes at International Paper (IP) and Boise Cascade. Despite substantial progress in negotiations, unstable paper industry labor relations, turnover in mill management and a local legacy of conflict-ridden job-control unionism ultimately thwarted Scott's efforts to build trust with its major union.

Introduction

This paper presents a case study of negotiations between S.D. Warren, a paper mill then owned by Scott Paper Company, and its unions between 1989 and 1994. Specifically, I examine efforts by the company to forge an agreement with its unions to reorganize work along "high-performance" lines, focusing on negotiations with the mill's predominant local, Local 1069 of the United Paperworkers International Union (UPIU).[1]

These negotiations occurred during a period of heightened instability in the Maine paper industry's labor relations. Dramatic strikes at Boise-Cascade in Rumford (1986) and International Paper (IP) in Jay (1987–1988)—where, in PATCO-like fashion, most workers were permanently replaced—reframed worker-company relations at S.D. Warren: workers had to accept work reorganization and downsizing or face the threat of even more drastic consequences (Getman 1998; Hillard 1989).

Ultimately, efforts to build the trust at S.D. Warren necessary to reorganize work failed. I argue that unstable paper industry labor relations, combined

Author's Address: Department of Economics, University of Southern Maine, P.O. Box 9300, Portland, ME 04104.

with a local legacy of Taylorism and conflict-ridden job-control unionism, made for a hill too steep to climb for management and especially union officials.[2]

The Mill and Its Past

Established in 1854 and located in Westbrook, Maine, S.D. Warren is one of the nation's oldest paper mills. S.D. Warren unionized only in the late 1960s, several decades after the rest of Maine's major paper mills organized. Local observers attribute this anomaly to the effective, 19th-century style paternalism of the founder and his descendents until the mill was sold to Scott Paper Corporation in 1967. The dual shift to out-of-state corporate ownership and unionization ushered in an era of tension-ridden job control unionism that continues to this day.

Local 1069 of the UPIU, the largest of the mill's many locals, had a history of defending its contract fiercely as a matter of pride and principle. This history originated in the rampant favoritism by supervisors who helped prompt unionization in the 1960s; such favoritism lingered long after unionization. Consequently, through the 1980s, Local 1069 filed 700–1000 grievances per year, more than any other within the Scott mills represented by the UPIU. Said one union leader: "John Nee[3] had labeled us the toughest local this side of the Mississippi River . . . and [with] the tenaciousness of a pit bull we . . . won't let them destroy our contract."

Local 1069 did not shy away from striking over important goals or perceived excesses in the tone struck by company negotiators. The local conducted a 5-week strike in 1977 primarily to win mill-wide seniority. The local struck again in 1983 over a company proposal to shift some of workers' health insurance costs on to workers' shoulders.

Finally, from the union's perspective, a change in management's make-up sparked an important transition in mill relations. It became more difficult to negotiate with management, as familiar, local managers were replaced by "outside" managers:

> And then, it got to the point where they were bringing in these people from outside the mill to take these jobs—foreman and department supers—and I'm not saying these were dumb people—they were very smart people, they'd been to college and they studied papermaking, and that sort of thing, manufacturing. . . . But they were clueless as far as what the problems really were. I mean, they knew how to be a manager, they knew probably the technical end of it, but the really everyday, down-to-earth problems, they didn't understand. And when you would talk to them on it, they'd just take a hard, fast position on something and stick to it. And in a lot of cases, it wasn't even good for the mill . . .

Negotiating Over Creating a HPWO

Companies throughout Maine's paper industry initiated work redesign negotiations in the mid- to late 1980s. At the time, paper companies—citing the pressures of increased global competition and opportunities to automate—sought to reorganize production workers into cross-trained teams and also to downsize. Paper companies were also taking advantage of the increased bargaining power afforded corporations by changes in the 1980s in the economic and legal climate for labor relations (Eaton and Kriesky 1998; Getman 1998; Getman and Marshall 1993; Kochan, Katz, and McKersie 1994).

In the late 1980s, the strikes at Boise Cascade (Rumford, ME) and International Paper (IP; Jay, ME) hung like a pall over labor relations throughout Maine's paper industry. Paperworkers throughout the state feared that their employers would similarly embrace these low-road tactics. Moreover, strike support, and education efforts by the Jay strikers in 1987–1988 who traveled throughout Maine and the country holding teach-ins on the strike, created close ties between workers in Westbrook and the strikers (Getman 1998). During the strike, Local 1069 raised money through regular membership collections to help pay the Jay workers' strike benefits; it hosted strikers for local forums on the strike; and many leaders and rank-and-file made the 70-mile trip to Jay to join demonstrations against IP.

So, it was in this setting that Scott Paper initiated HPWO negotiations with local S.D. Warren unions in 1989. Between 1989 and 1994 these negotiations went through several phases. The first was "jointness," an effort to increase general labor–management cooperation. Scott Paper Company initiated jointness programs with the goal of taking its labor relations in the opposite direction as IP (Getman 1998:207). The new program, carried out by Scott Vice-President John Nee, required all of Scott's mills to establish a jointness committee to pursue these goals. However,

> Progress towards mutual trust at Scott Paper has been uneven. In some mills, especially those with a history of conflict, the program has been only marginally successful; in those mills, the program has been controversial within the union, and distrusted by many in mill-level management. (Getman and Marshall 1993:1857)

Westbrook was one of these mills.

Jointness was succeeded in the early 1990s by "enabling," under which the mill and its unions developed pilot total quality management (TQM) projects such as waste/cost-reduction committees. Finally, the company sought acceptance of a plant-wide work redesign in negotiations during 1993–1994. Rank-and-file production workers, members of United Paperworkers Internation-

al Union (UPIU) Local 1069, ultimately rejected the proposal negotiated by union and management.

Interviews with local managers and union officials make clear that these negotiations were an uphill effort. First of all, there was a gap between the strategic shift in labor relations being made by Scott and the commitments and style of local managers. The new jointness effort was seen as a dictate from "corporate," and neither side locally rushed to embrace this new cooperation initiative. One former manager put it this way: "Both parties didn't come to the table with the best of intents. Or with the belief that it was going anywhere, or that it was a valuable use of time."

While management perceived the union as recalcitrant, they admit that their side was also slow to put aside older ways of doing things. Early on, managers continued to take unilateral actions that conflicted with jointness goals. These actions included suspending members of UPIU's negotiating team, repeatedly implementing layoffs, and making changes in production without consulting the union. Nonetheless, management officials recognized that the mill's age, and the increased competitive pressures it faced, necessitated efficiency efforts, and therefore that the mill's long-term survival depended on the mill redesigning its work processes. Local management never wavered from this central objective throughout the 6 years of negotiations.

Turning to Local 1069, throughout most of the 1980s the UPIU had been highly critical of quality of work life (QWL) programs and similar initiatives:

> In fact, the International warned us about it, prior to this. We used to get notifications, and training . . . *to watch out for this jointness stuff. It's just a way of stealing language and worker's rights, away from you, under the pretense that they are going to be your friends.* [emphasis added]

One feature of this education was a critique of global competition and especially Japanese work practices. The critique was important because it was, in union leaders' recollections, a dominant piece of the company's discourse about the need for change. From the International, Local 1069's leaders had learned the following argument centering on Japanese culture and especially job security. First, the obedient behavior and culture of Japanese workers was not transferable to the American workplace and was clearly antithetical to American workers' sense of independence. Second, Japanese workers were guaranteed lifetime employment in exchange for flexibility on the job; American employers, including Scott, were unwilling to make this quid pro quo.

So, it is unsurprising that the initiative was met with strong suspicion by

Local 1069. For one, the union argued that cooperation was an established practice in the mill's labor relations.

Moreover, they saw Nee's initiative as a direct threat to the union:

> The thing we won't do, is give them everything we've negotiated over the years. I mean, if you do that, you might as well decertify, and get the union out of there, and let the company do what they want.

Because the International had embraced jointness, the local leadership was under pressure to set aside their reservations. But following the UPIU's shift in stance was a pill too big to swallow.

One particular incident further illustrates the divide between union and management perception. In 1992, management and union leaders traveled to A.O. Smith, a Milwaukee auto parts plant that Scott's consultant had worked for earlier and considered a benchmark example of HPWO. The consultant considered it a role model because union and management were able to cooperate and implement an HPWO, despite enormous layoffs. Scott's managers were approving:

> Their union president talked like he was in management. They talked about that there was value-added jobs, and those were the only real jobs. If the job wasn't adding value, they weren't going to protect it. They didn't need to have people around just for the sake of being around. . . . They were totally committed to the financial survival of that facility, and that they were going to do whatever was necessary. They were doing teamwork on problem-solving and improvement work, and, they would personally go out and try to convince members who weren't cooperating. They had job rotation, and those workers who didn't want to cooperate feel the heat from their union leadership. [emphasis added]

Local 1069's leaders recalled the trip in almost exactly the same detail, but with a different interpretation of the meaning of what they learned.

> So we went out to see this great joy that was in Sol's [the consultant's] mind, and we met with the local union guys. And after being there for about two hours, *you couldn't tell the union officials from our managers here at the mill,* here in Westbrook. The way they talked, the way they acted.

Another union official described what the problem was:

> We didn't like what we saw. They had this full job circle in place, and we didn't like it all. . . . Number one, they had no accommodation for the injured worker. . . . What really bothered us . . . if the guy refused to rotate, the union would go down and pressure him: "What's the matter with you? We're going to end up taking you out of here. You're not going to work this, you're going to lose you're rate" and all this other stuff.
>
> And so they were doing the company's bidding, and that was very distasteful to us.

Either side, under contract language defining the process's parameters, had the right to unilaterally fire the consultant. The moment the visitors got back into a van to return to the airport, Local 1069's president announced, with the consultant sitting right there in the van, that he would immediately request that the consultant be fired upon returning to Maine. The president then turned to the consultant and said:

> If you think that piece of shit that you just showed us is something that we want, I got a surprise for you. Because there's no way I'm going to let the union treat our members the way that these union officials are treating theirs. You might as well throw the contract out and you guys hire them as managers. In fact in some sense, they're worse than the managers in Westbrook. Some other managers in Westbrook wouldn't do to the people what these guys are doing.

This anecdote illustrates how fundamental the divide between company and Local 1069 were. For management, it was a model of what was necessary to survive in an increasingly competitive world. The local clearly found the A.O. Smith union's abandonment of seniority and coercive enforcement of job rotation to be repulsive and antithetical to the very meaning of being a union.

Despite the hard initial stance, the union nonetheless participated in 5 years of negotiations and projects. Throughout, the union executive council debated seriously over the company's proposals, with some leaders expressing interest or support. There was also turnover within the union's leadership, with later leaders taking less of a hard line. And, the union fully participated in several pilot projects. One such project supported by the local was a major, highly successful waste reduction project. Local 1069's leaders were enthusiastic about its results and believed the union's cooperation helped in subsequent negotiations. Finally, in the rare cases during this period where a new production process was created within the mill, the union also acquiesced to management's desire to organized work along high-performance lines.

Whatever partial progress made on particular projects, parallel events

undermined this progress. Howard Reiche, a locally bred, long-time mill manager trusted by both unions and management, retired in 1988. In the following years, a series of mill managers were brought in by Scott. Their tenure was relatively brief, and one mill leader was widely seen as disruptive in ways large and small. Another critical event was the shutdown, announced in late 1992, of the mill's finishing operation.

Scott eventually proposed reorganizing workers across the mill into cross-trained teams that rotated jobs. The union's reaction to this proposal was equivocal; some of Local 1069's leadership viewed positively certain aspects of job rotation. For example, job rotation reduced repetitive motion injuries, and it was thought that reduced hierarchy could improve solidarity amongst the rank-and-file.

Still, both the union's leaders and its rank-and-file had major problems with reorganizing work in this fashion. Many younger rank-and-file felt that if they were going to be trained to a first-hand level, they should be paid accordingly. More senior workers were also unhappy with job rotation. Having "paid your dues" doing the intense physical labor characteristic of lower jobs, seniority-based promotion relieved older workers of heavy physical labor. Job rotation meant the end of that benefit.

In 1994, Local 1069's executive council recommended the work redesign be put up for a vote of the membership, despite their serious reservations. While Scott had moved significantly on one issue—offering large buyouts to injured workers unable to rotate—the following description conveys how this recommendation came under duress:

> We did come back and [recommended] . . . the acceptance of this. . . . [O]ur concern was we had a contract coming up within the next six . . . or eight months, and . . . that was in that high time of no strikes, you're kind of [committing] political suicide to think about asking for a strike vote or anything—*so we recommended it because we feared that they would force it down our throat anyway—either you get paid for it and take the buck-eighty . . . or you'd get it come next fall and you wouldn't get a nickel for it,* they'll just put it in, and you ain't gonna walk because of it. . . . It failed anyway. It didn't pass, it failed. [emphasis added]

This ultimate failure came in an environment marked by instability: instability in the markets and competition faced by the mill, instability in the industry's labor relations, and instability in the management and ownership of the mill. From interviews with union leaders, the latter appears crucial if not decisive. For them, work reorganization as proposed by the company required eliminating job allocation protection and forms of seniority considered to be

sacrosanct, on "good faith." In turn, they were being asked, in their eyes, to trust outside corporate negotiators and mill managers, who turned over during this period with alarming regularity:

> Now, my vision on it was, look, sometimes you [Scott Paper] will give us people to work with that are pretty honorable people. And they work here for a few months, and then they're gone. "Corporate" sends him somewhere else, and a new face shows up—we don't get along with that person too well. And he may not be too trustworthy. Now, how the hell are we going to have good faith, that you're always going to give us somebody whose going to be reputable to deal with?
>
> And if it doesn't work out, a year, two years down the road—you say, "Hey, the process is over." We look at our contract, and our contract's been torn apart, we can't get that back without negotiating it back. And *I think once it's gone, it's going to be awful hard to get it back . . . . Because you guys could be gone tomorrow. All of you sittin' here could be gone tomorrow. Then, we're dealing with a bunch of bastards that are not willing to give us anything back, and they're going to hold our feet to the fire on what's left of the contract. So we're not willing to do that.* [emphasis added]

This mistrust is seen as reflective of the character of the American employers:

> American corporations don't have very good credibility with being honest and dedicated to their workforce or the communities that they're in. And all of that stuff was a burning issue with us.

Conclusion

Instability in the paper industry's labor relations, and in its management, made the development of trust between local Scott managers and Local 1069 a difficult task. But, as I argue in a longer paper, it is important to see how memories of the past shaped the culture of labor relations as S.D. Warren.[4] The intensity of Local 1069's defense of its contract was rooted in a remembered past of management unfairness, and combativeness had long taken root in the union's daily practices. Combined with the International union's effective past critique of labor–management cooperation and new work practices, the UPIU's embrace of Scott's jointness and subsequent programs was not to "trickle down" to the leaders and rank-and-file of UPIU Local 1069.

Endnotes

1. Following much of the literature, I will refer to "high-performance work organization," or HPWO. See, for example, Applebaum et al. (2000), Applebaum and Batt (1994), Ichniowski et al. (1996), and Osterman (1999).

2. A longer version of this paper, available from the author on request, asks *how* do a "Taylorist past" and a history of job-control unionism produce resistance to reorganizing work? I explore this question by examining memories of the past through extensive oral history interviews.

3. Scott's Corporate Vice-President for Labor Relations.

4. See also Hillard (2001b).

References

Applebaum, Eileen, and Rosemary Batt. 1994. *The New American Workplace: Transforming Work Systems in the United States.* Ithaca, NY: ILR Press.

Applebaum, Eileen, T. Bailey, P. Berg, and A. Kalleberg. 2000. *Manufacturing Advantage: Why High-Performance Work Systems Pay Off.* Ithaca, NY: ILR Press.

Eaton, Adrienne, and J. Kriesky. 1998. "Decentralization of Bargaining Structure: Four Cases from the U.S. Paper Industry." *Relations Industrielles,* Vol. 53, no. 3.

Getman, Julius. 1998. *The Betrayal of Local 14: Paperworkers, Politics, and Permanent Replacements.* Ithaca, NY: ILR Press.

Getman, Julius, and R. Marshall. 1993. "Industrial Relations in Transition: The Paper Industry Example." *Yale Law Review,* Vol. 102, no. 8, pp. 1804–95.

Hillard, Michael, and R. McIntyre. 1998. "The Ambiguous Promise of High Performance Work Organization." *Review of Radical Political Economics,* Vol. 30, no. 3, pp. 25–33.

Hillard, Michael. 2001a. "Paperworkers' Response to Work Reorganization Efforts: The Case of S.D. Warren and Local 1089." *Review of Radical Political Economics,* Vol. 33, no. 3, pp. 287–93.

Hillard, Michael. 2001b. "Conflict and Accommodation at S.D. Warren: Space, Memory, and Workers' Response to Decline at a Maine Paper Mill." Unpublished paper, University of Southern Maine.

Kochan, Thomas, H. Katz, and R. McKersie. 1994. *The Transformation of Industrial Relations.* Ithaca, NY: ILR Press.

Ichniowski, Casey, Thomas Kochan, David Levine, Craig Olson, and George Strauss. 1996. "What Works at Work." *Industrial Relations,* Vol. 35, no. 3, pp. 299–333.

Osterman, Paul. 1999. *Securing Prosperity: The American Labor Market: How It Has Changed and What to Do about It.* Princeton, NJ: Princeton University Press.

Scontras, Charles. 1997. "Non-Adversarial Labor Relations in Nineteenth Century Maine: The S.D. Warren Company," *Maine History,* Vol. 37, nos. 1–2, pp. 2–29.

VI. UNION AND MANAGEMENT COOPERATION AND APPROACHES TO MULTI-EMPLOYER PLANS

Health Care Cost and Quality: Prospects for Mutual Gains

Stephen R. Sleigh *International Association of Machinists and Aerospace Workers*

Abstract

Health care costs represent the largest portion of nonwage labor costs in the United States. With health care costs once again surging to double-digit annual increases, the pressure on collective bargainers to address health care costs and quality also increase. In this paper, the approach of the International Association of Machinists is profiled with specific reference to the joint cost and quality approach adopted with the Boeing Company.

Introduction

Health care costs represent the largest nonwage portion of total labor costs in the United States. In the 1980s and early 1990s, health care costs skyrocketed, increasing at an annual rate more than twice the amount of overall inflation. After 1992, with the threat of some version of national health care and the ascendancy of managed care, cost increases dramatically slowed but continued to increase faster than overall inflation. By the turn of the century, health care costs had increased to an average of 15 percent of total labor costs. The

Author's Address: International Assoc of Machinists and Aerospace Workers, 9000 Machinists Place, Upper Marlboro, MD 20772–2687.

Note: The views expressed in this paper are those of the author, not necessarily those of the International Association of Machinists and Aerospace Workers.

average cost to companies for each employee's health care benefits rose to $4,920 in 2001, according to an annual survey conducted by Mercer.[1]

At the same time that costs began skyrocketing in the 1980s and early 1990s, a new focus on the quality of health care started to evolve. With the shift to managed care, away from fee-for-service, the ability to measure and quantify health plan quality began to take shape. By the dawn of this century managed care was in retreat as a favored form of health care delivery. Employers and unions were left with a health care system in need of critical care: expensive to the employer and unsure of the quality of care, both sides in the labor–management relationship have an interest in achieving better outcomes from the purchase of health care benefits.

This short paper provides a case study in how one union, the International Association of Machinists and Aerospace Workers (IAM), is addressing the question of health care cost and quality and the prospects for mutual gains, particularly through multi-employer health care purchasing. The first section provides an overview of health care cost issues that have confronted labor and management. The second section looks at an emerging model for a multi-employer approach to addressing health care cost and quality. The concluding section assesses the opportunities for mutual gain when labor and management cooperate in purchasing the highest-quality health care at the most affordable cost. Much work remains on this topic—both programmatic between the parties and in terms of researching the outcomes of quality initiatives. As such, this paper probably will raise more questions than it will answer.

Health Care Benefits: The State of Play in the USA in the 21st Century

Unions have played an important role in shaping health benefits for American workers for many years. Starting in the war years of the 1940s, health, and retirement, benefits took on added importance, partly as a response to the War Labor Board's (WLB's) strictures on wage increases. Health and retirement benefits also reflected organized labor's growing use of the social unionism model as opposed to traditional craft unionism. While craft unions had sponsored various forms of mutual aid benefits, both the scale and scope of these approaches were narrow. During the war years, however, after the WLB determined that fringe benefits up to 5 percent of wages would not be inflationary, group health benefits soared from 7 million to 26 million subscribers (Starr 1987:311). As Paul Starr (1987) notes in his history of medicine in the United States, "Collective bargaining and Social Security were the two great institutional legacies of the New Deal in social policy" (311). With the failure to provide a universal health care solution similar to Social Security, workers sought and gained social protection against illness through collective bargain-

ing. The patterns set in collective bargaining in the 1940s, while covering about one in three workers, spilled over across the rest of the economy. In general terms, throughout the period of the social compact between business and labor from the late 1940s through the 1970s, health care benefits settled into a familiar pattern of incremental improvements and expansion of benefit plans with minimal attention to the cost of the benefit. The skyrocketing health care inflation of the 1980s changed this picture dramatically at the same time that labor's overall clout at the bargaining table declined along with its shrinking share of the workforce. What had evolved from the 1940s through the 1980s was a patchwork system of collectively bargained health benefits plans at large employers and parallel multi-employer plans of small and midsized companies that were governed by the provisions of the Taft-Hartley act. Currently, there are 386 joint labor–management welfare funds in the United States with nearly 6 million participants.[2] For employees fortunate to have a union contract, that tended to mean generous benefits at low out-of-pocket costs, with a doctor of one's own choice. Overall, nearly two thirds of the under-65 population of the United States was covered by an employment-based health insurance plan in 1999 (Garner 2002:1)

Then double-digit health care inflation arrived in the late 1980s. The onslaught of health care cost inflation was met with a variety of responses in the late 1980s and 1990s, including a focus on usage, reasonable reimbursement rates, cost sharing with employees, and various labor–management committees that looked at ways to deliver generous benefits at lower costs. These efforts were window dressing compared to the fundamental transformation that occurred in the late 1980s and early 1990s, with the widespread adoption of a "managed" system of health care. The promise was simple: since costs of the current fee-for-service system were out of control, impose a system of managing those costs while not sacrificing clinical care. In a very short time, managed care came to dominate the health care system in the United States, replacing indemnity, or fee-for-service plans, which declined from 52 percent to 8 percent of the insured market from 1992–2000.

Just as quickly as managed care grew, it began to unravel under an onslaught of unfavorable press and media attention. Horror stories of denied care linked "managed care" in the public's mind with second-rate health benefits. By 2001, a dramatic shift was under way as managed care, particularly the health maintenance organization, began to give way to new forms of health care delivery, particularly the preferred provider organization. Where does that leave labor and management in 2002 in regard to health benefits? As the patchwork system has evolved, labor and management have struggled to find new ways to provide comprehensive health care benefits at affordable costs. The surge in costs in the 1980s and early 1990s was brought under control in large

part by the development of the managed care model and, no doubt, also by the threat of legislative action. The late 1990s provided a break in health care cost inflation, but the squeeze on bottom lines and the ascendancy of shareholder value as the only relevant measure of corporate performance continued to put pressure on labor and management to find better ways to contain health care costs. In the experience of the IAM, health care benefits, particularly the shifting of the costs of health care onto employees, is the single most cited issue in the cause of labor disputes. While costs are clearly a hot button issue for both employers and employees, health benefits critically depend on the quality of services provided. But what is health care quality? Can you measure it? Is it the same for everyone? The next section looks at those questions and an emerging approach that focuses on value, integrating health care costs and quality.

Health Care Quality: What Does Health Care Quality Have to Do With Union Negotiations?

Traditionally, unions and employers have negotiated over the structure of health benefits and the cost sharing involved in paying for those benefits. The rapid rise of managed care was accompanied by an explosion of information obtained by managed care providers on the health and well being of plan participants, as well as detailed information on the cost of keeping and getting people healthy. Out of this explosion in health care data and the inherent tension that resides within managed care, particularly for-profit entities, to scrimp on costs to the detriment of participants health, grew a movement to hold health plans accountable for the quality of health care provided. In the traditional, fee-for-service model, quality was an issue that resided in discussions between patient and doctor. The patient asked for little more than to be treated with respect and relied on the professional judgment of the health care providers. The explosion of information on health plans changed all that. Despite this explosion in information, large gaps in the health care system exist. One expert on health care noted:

> Given the importance of health care, it seems inconceivable that we do not have excellent ways of evaluating how well we are doing. Yet the fact is, we do not. Our attempts to systematically measure the quality of care are less than a decade old and still very much in their methodological adolescence. (Eddy 1998:8)

Some of the early attempts to measure quality were pioneered by the National Committee on Quality Assurance (NCQA). The NCQA created a health reporting system for managed care organizations called HEDIS, which provides

the basis for objectively comparing managed care plans along a wide spectrum of both clinical measures (objective reference points) and patient satisfaction (subjective reference points). As Dr. David Eddy notes:

> The design of a performance measure, and therefore how good it is, depends on several factors; the purpose of the measurement, the entity whose quality is being measured, the dimension of quality being measured, the type of measure, and who will use the measure. (Eddy 1998: 9)

NCQA developed detailed measures throughout the 1990s with the active input of labor and employers, along with health policy experts and health care practitioners.

Another health care quality tool under development is FACCT's "Compare Your Care". Strategies to involve patients and consumers more directly in the health care system is also called "consumer activation," "consumer driven health care," and "patient centered care." FACCT, for example, is actively engaged in developing a web-based strategy for "consumer activation." Already working closely with organized labor, it is establishing safety guidelines and an "Internet-based strategy to educate consumers about health care quality, increase their awareness of quality problems in their own care and across the system". Using both Internet- and mail-based surveys, FACCT asked health consumers to review the quality of their health care. The survey practitioners were able to gauge how the public viewed their health care options and convert that information into quantitative data.

A third quality initiative joined NCQA and FACCT in 1999 with the launching of the Leapfrog initiative. Building on the shocking research findings published by the Institute of Medicine in *To Err is Human* (Kohn 2000), a coalition within the Business Roundtable was formed to promote patient safety. The Leapfrog Group has identified three initial hospital safety measures that focus on health care provider performance comparisons and hospital recognition and reward. Based on independent scientific evidence, the initial set of safety measures includes: computer physician order entry, evidence-based hospital referral, and intensive care unit (ICU) staffing by physicians trained in critical care medicine.

- *Computer Physician Order Entry (CPOE):* With CPOE systems, physicians enter medication orders via computer linked to prescribing error prevention software. CPOE has been shown to reduce serious prescribing errors in hospitals by *more than 50 percent.*
- Evidence-Based Hospital Referral: By referring patients needing certain

complex medical procedures to hospitals offering the best survival odds based on scientifically valid criteria—such as the number of times a hospital performs these procedures each year—research indicates that a patient's risk of dying could be reduced by *more than 30 percent.*

- ICU Physician Staffing: Staffing ICUs with physicians who have credentials in critical care medicine has been shown to reduce the risk of patients dying in the ICU by *more than 10 percent* (Brickmeyer 2001).

This initial list is based on four primary criteria: (1) There is overwhelming scientific evidence that these safety leaps will significantly reduce avoidable danger; (2) their implementation by the health industry is feasible in the near term; (3) consumers can readily appreciate their value; and (4) health plans, purchasers or consumers can easily ascertain their presence or absence in selecting among health care providers. These safety leaps are intended as a practical first step in using purchasing power to improve patient safety.[3]

Taken together, health plan accreditation through NCQA, consumer information on practitioners through FACCT, and patient safety initiatives through Leapfrog, provide three avenues for pursuing improvements in the health care provided through collectively bargained benefits. The next section will detail how the IAM has sought to use these three approaches to improve health care for its members, and how a multi-employer strategy around health care quality could benefit both health care purchasers and those covered by health care plans.

Health Care Cost and Quality: The IAM Approach

As part of the settlement to a 1995 work stoppage, the IAM and Boeing agreed to form a joint committee on health care cost and quality. As an incentive to work on controlling health care costs, the IAM agreed to peg future contributions to the cost of health care premiums for the traditional open choice plan to the difference between cost increases and medical inflation. In other words, if Boeing's cost for health care increased faster than national trends, then IAM members would contribute up to a maximum amount. But if these joint efforts were successful, then no contributions would be required.

An essential part of the Joint Committee's work focused on health care quality. This focus was driven by two considerations: (1) high-quality health care leads to healthier workers, which in turn results in lower long-term costs and higher production; and (2) holding health care providers to a high standard of quality is a direct benefit to health care plan participants—whether in the traditional plan or managed care options. The IAM took the lead in pushing quality by facilitating meetings with the National Committee for Quality Assurance (NCQA), the Foundation for Accountability, and the Leapfrog Group.

As a result, in each of the 4 years from 1998 to 2001, IAM member satisfaction with the traditional medical plan increased based on survey results conducted by the IAM's Strategic Resources department while, at the same time, costs increased slower than national medical inflation.

In 1999, the IAM and Boeing renewed and expanded their commitment to tackling health care cost and quality. Through these joint efforts, the IAM and Boeing became the first union and company team to sign on to the Leapfrog Initiative. That effort is already paying off with joint meetings that include IAM representatives and Boeing's benefit team meeting with health care plans and health providers. The message has been loud and clear: the IAM and Boeing are committed to working towards high-quality care at an affordable price.

Starting in the spring of 2001, IAM and Boeing began meeting with hospital administrators and health plan executives about implementing the three Leapfrog initiatives. The power of these meetings resides in the fact that the union and company are jointly presenting their concerns about the quality of healthcare to the providers who service the Boeing community. Given the market clout that Boeing has in the Puget Sound of Washington and in the greater Wichita, Kansas, area, the hospitals and health plans paid close attention. In late 2001, the health care quality initiative was expanded to include three other major aerospace employers in the Wichita area represented by the IAM. Together with Boeing, Raytheon, Bombardier's Learjet Division, and Textron's Cessna Division, provide employment to nearly 75,000 in Wichita, including 25,000 IAM-represented employees, and an estimated 200,000 covered lives. Through the work of the IAM, these employers are starting to work together in the Wichita Aerospace Health Care Alliance.

The WAHCA has set the following goals:

1. Address the quality of health care in the Wichita metropolitan area through purchasing initiatives consistent with best practices throughout the United States. Specifically, the Alliance will pursue improvements in medical safety by encouraging health care providers to adopt computer physician order entry systems in hospitals, evidence-based referral to hospitals, and ICU physician staffing. These initiatives parallel the national effort underway under the banner of the Leapfrog Group.
2. Address the cost of health care in the Wichita metropolitan area through value purchasing initiatives that target best-practice medical providers. Through the joint efforts of the aerospace companies, the IAM and other interested parties, our goal is to keep health care cost increases below that of national trends.
3. Provide more information to employees and their families on health care

costs and quality through the use of consumer satisfaction surveys, distribution of managed care accreditation status, and other means.

The goals of the Alliance are clear and broadly conceived. Where one company may gain competitive advantage over another in product design, marketing, or adopting high-performance work practices, the Alliance seeks to use its purchasing power to produce a mutual gain for all of the companies and all of the employees working for those companies. In general, the health care community, be it health plans, hospitals, or health care professionals, has been receptive to the message about improving health care quality. Perhaps it is not surprising that an industry like aerospace, where quality production is so critical, or that a union like the IAM with its highly skilled membership, would take the lead in creating value in this manner. More surprising to some is that it has taken so long for employers and unions to demand higher quality from the money spent on health care.

Conclusion

Joint union–employer efforts to improve health care quality may prove a very effective tool for multi-employer situations. The current restructuring of health care, with the move away from actively managed care towards a more flexible, consumer driven provider network with discounts, provides a real opportunity for organized labor and represented companies to work together in delivering higher-quality health care at affordable costs. Indeed, the power of a multi-employer and multiunion approach on health care cost and quality resides in the mutual gains from improving health care quality, which in turn has a positive effect on productivity while simultaneously reducing costs. The barriers to cooperation include most significantly the relative newness of the idea. Is health care quality in fact measurable? Do employees care about health care quality? Do employees trust the information they are currently getting on health care choices? What is the business case for quality? Is there really a productivity payoff and lower long-term health care costs? What is the payoff for health care providers who adopt the patient safety standards promoted by the Leapfrog initiative?

These and other questions need fuller explaining before a true national effort is joined. The union and multi-employer approach discussed in this brief paper highlights the reason such an approach is needed and one possible way to attack the issue of health care cost and quality. This is the beginning, not the end, of this story.

Endnotes

1. Reported in *Wall Street Journal,* Dec. 10, 2001, online edition.

2. Information from Nelson's Investment Management Network website at <www.nelnt.com>.

3. Leapfrog Group information packet.

References

Brickmeyer, John D. 2001. *Leapfrog Patient Safety Standards.* Washington, D.C.: Leapfrog Group.

Eddy, David M. 1998. "Performance Measurement: Problems and Solutions." *Health Affairs*, Vol. 17, no. 4 (July/August), p. 8.

Garner, John C. 2002. *Health Insurance Answer Book*. New York: Panel Publishers, p.1–1.

Kohn, Linda et al. 2000. *To Err Is Human.* Washington, D.C.: National Academy of Sciences.

Starr, Paul. 1987. *The Social Transformation of Medicine.* Basic Books: New York, p. 311.

Multi-Employer Pension Plans and the Pension Coverage Problem

Teresa Ghilarducci
University of Notre Dame

Abstract

Unlike other O.E.C.D. nations, the United States depends heavily on the employment relationship to provide social insurance. Yet, academic employee benefit research almost exclusively focuses on the contract between individual employers and workers. Virtually no researchers study group-based employee benefit plans, although worker, union, firm, and public needs are met by multi-employer pension (and, by extension, health and apprenticeship) plans because they solve collective action problems. I argue that because firms, by themselves, will not pay for training and benefits unless their competitors are forced to, multi-employer plans serve the presumed public interest in raising the share of the labor bill devoted to employee benefits and social insurance.

Although private and public sector multi-employer plans cover different types of workers, from janitors to university presidents, they similarly solve four key problems. First, multi-employer plans cover workers who would otherwise not have benefits. Second, multi-employer plans adapt to the skill and insurance needs of heterogeneous workplaces (unlike the uniform social security system). Third, multi-employer plans solve the coordination problem that no one employer has much incentive to provide benefits or training without competitors also being forced to pay. Fourth, multi-employer plans get scale economies and, thus, lower professional fees.[1]

Too Much Cash and Not Enough Social Insurance

Pension coverage has stalled at about 50 percent for all workers, the rate is higher for men than women, and less than a third of nonwhite workers are covered (Employee Benefits Research Institute [EBRI] 2001) and employers are paying less for benefits. The average industry share of total labor compensation going to noncash pay (i.e., benefits) decreased from 27.3 to 26.5 percent between 1991 and 2000 (Employment Cost Index various years).

Author's Address: University of Notre Dame, 434 Flanner, Notre Dame, IN 46556.

Unfortunately, the benefit share dropped in the largest industries: in service from 24.6 to 24.3 percent and from 22.8 to 20.6 percent in retail between 1988 and 2000. However, the few workers covered by pensions in these industries obtain them through collectively bargained multi-employer plans. Regression analysis (available from the author) indicates that more unionization explains higher levels of benefits shares, as do increases in health insurance costs and the level of total compensation. The latter means the higher-paid jobs also have higher employee benefit shares.[2]

How Economists Debate Why Employee Benefits Shrunk

What we think causes the decline in benefits affects our policy choices. Neoclassical pension-determination theories rely on "compensating wage differential" theories that argue workers choose combinations of wages and earnings, desirable job characteristics, and benefits. This implies that older men (especially) who are experiencing declining job tenure and are more mobile, would be expected to choose less tenure-related benefits (Goodfellow and Schieber 1993; Ippolito 1998). However, the finding that pay increases are associated with increasing levels of good working conditions weakens the "trade-off" theory. (Hammermesh [1999] found that jobs with declining injury rates, in the late 1970s to early 1990s, also had the highest earnings growth.) Therefore, the total compensation—wages, benefits, and nonmonetary desirable job attributes—gap is wider than conventionally measured.

Alternatively, institutional economists argue that unions, employers, government, as well as workers, influence workers' cash and benefit preferences. For example, the 1980s defined benefit (DB) pension plan termination and reversion trend may have motivated workers to opt for second best–defined contribution (DC) plans. Osterman (1999) and others argue the "social contract" between workers and firms collapsed in the 1980s. Evidence includes job instability sharply increasing for those whom pension accruals are most crucial—men age 45–64 (particularly African Americans) and, those at any age with more than 9 years of service (Neumark et al. 2000). The eroding social contract and expansion of secondary labor markets explains the eroding employee benefit coverage. (Workers in primary sectors—for example, 90 percent of public-sector workers—have high coverage rates; but, coverage rates in the private sector go as low as 30 percent and 35 percent in personal and business services and are close to zero in nonunion construction and trade; EBRI 2001).

The Role of Unions and Multi-Employer Plans in Benefit Coverage

Buried in a critique of the stock market, Yale economist Robert Shiller (2000:23) argues that union decline causes a decline in group-based, DB-type pensions because without solidarity, or a desire to share risks, demand for social insurance is replaced by demand for immediate and individualized forms of pay. Indeed, the union benefit share is 30 percent higher than the nonunion share.[3] Unions initiate multi-employer plans, which provide benefits in casual labor markets where benefits are scarce. Ninety four percent of heavy construction workers, retirees, and dependents covered by DB plans are in multi-employer plans, as well as a full 55 percent of DC participants. Likewise, a whopping 73 percent of retail food store employees, 59 percent of apparel employees, and 39 percent of furniture industry participants have pensions only through multi-employer plans (details available from author; source: IRS Form 5500 various years).

Multi-employer plans, though ignored in the literature, are key pension delivery systems. Twenty percent of active private DB plan participants had multi-employer plans in 1996 (EBRI 1997), having grown from 10 percent in 1950 to 18 percent in 1960. In all, 11 of the 92 million participants in all employer plan types had multi-employer coverage (U.S. Department of Labor, 2000). Nonbargained multi-employer plans are also in the public and not-for-profit sectors, including the state and local sector, in churches, the Red Cross, charities, and, of course, university and college teachers.

The Scope and Special Features of Multi-Employer Plans

Multi-employer plans may cover many occupations in one industry, or one craft in many industries, or many occupations in many industries, or are industry, occupation, and region-based. An example of the latter includes the United Food and Commercial Workers fund in Northern California, which covers many jobs in grocery stores, including Safeway. The older ladies' garment union and the clothing and textile workers' funds cover production workers across a range of needle trades employers. The building trades cover particular trades operating across diverse industries and regions. And, some funds like the Western Conference of Teamsters pension plan covers many occupations—grocery delivery drivers, warehouse workers, and long haul freight truckers—in several industries in 13 western states (Saunders 2000).

The unions and firms both want to expand the product's market share and improve training. They also view the nonunion contractor and economic downturns as common enemies. Therefore, multi-employer plans are embedded in long-term complex employment relationships. Key to their success is that

multi-employer plans adapt well to employer needs and, as DC and DB hybrids, they combine the best features of each plan type. Participating firms contributions are collectively bargained, so they vary with relative bargaining power. For example, the Sheet Metal Workers' plan bases benefits on service and hourly contributions that vary by local (as do wages) so that plan members with the same career profile, but covered by different contracts, will get different (but defined) retirement benefits. Thus, each employers' financial circumstances are incorporated, and workers get a DB pension.

Labor Market Stabilizers

Multi-employer plans help stabilize labor market cycles with "breaks in service" and "suspension of benefit" rules, and reciprocity agreements. "Breaks in service" (or "loss in service") rules specify how long a participant may not work before losing the right to return to the same fund and resume accruing benefits. Multi-employer plans exhibit substantial business cycle sensitivity by altering these rules. For example, during the 1970s recession, the Sheet Metal Workers Fund liberalized loss-of-credit rules to help unemployed members keep coverage. Consequently, members stayed connected to their craft or "skill-set" and were available to union contractors in the upturn because they knew they could continue accruing benefits. The liberalization was costly, but it exhibits sensitivity to industry and workers' needs.

Another example of how multi-employer plans accommodate labor market conditions is in their response to the rapid 1990s expansion, when many multi-employer pension plans liberalized "suspension of benefit" rules, which prohibit retirees from returning to work in their career industry after collecting a pension. Though the prohibition is designed to avoid subsidizing low wages of nonunion competitors, the severe labor shortages of the time pressured funds to switch to liberal standards—requiring pension stoppage when annual hours exceeded 480 hours and not 40 weekly hours. (Examples are available from the author.) One fund revealed, ingeniously, they use retired union members as "salts" at nonunion sites during organizing drives, which helps the union and, though not emphasized, the unionized employer. Last, in one of many ways, these plans respond to the larger context, "reciprocity" features promote dependable labor supplies in decentralized and unstable industries by allowing participants, who are loyal to their skills, accrue pension benefits while working for different signatory employers.

Economies of Scale

Multi-employer plans are larger than single employer plans and, thus, can obtain significant scale economies (Hustead 1996). There are more than double the fraction of multi-employer plans compared to single DB plans in huge

plans, those with more than 50,000 members (42 percent and 20 percent; U.S. DOL 2000). Despite the criticism that multi-employer plans should merge to save costs, the fact that some are small and decentralized suggests they succeed by adapting to local conditions. Their parochial nature may be their reason for existing.

Cross Subsidies

All defined benefit plans entail cross-subsidies. The obvious transfer is from retirees who die earlier and to those living longer than average. A less obvious concern is that well-off employers subsidize marginal employers. The United Parcel Service proposed in 1997 that its employees leave the Teamsters multi-employer pension plan to form their own single employer plan because, UPS argued, it was subsidizing smaller employers. The union-recognized UPS membership helped achieve scale economies but contended that only a detailed actuarial study would reveal whether a single employer plan could provide the same or more benefits for less.

The Central Pension Fund (CPF) of the Operating Engineers also faced internal dissension when one local experiencing higher level of growth argued they were "carrying" the poorer and shrinking locals. The fund responded that only over 80 actuarial studies, which the administrator implied was impractical, would determine whether each local's past and projected experience would yield better benefits alone than with the CPF (Fanning 2000).

The Episcopal Church Fund formula self-consciously has the rich subsidize the poor in two ways: by attributing a 1.75 percent factor for the first $10,000 of salary and a 1.5 percent for levels above that; thus, lower-paid workers have a higher replacement rate. Second, since 1980, it has historically provided inflation ad hoc adjustments with a flat amount in a "13th check," which varies according to service but not pay (Blanchard 2001). (For instance, ministers earning say, $10,000 and $50,000 annually will get the same, say $1,000, extra payment in December.)

Joint Governance of Trusts Reduce Conflict of Interest and Principal Agent Problems

The Taft–Hartley amendments to the National Labor Relations Act of 1947 and the 1974 Employee Retirement Income Security Act (ERISA) require that union trustee representatives cannot outnumber employer representatives and that they must adhere to the "loyalty" principle—that trustees act for the sole benefit of the plan participants. The legal structure prevents labor and management from using the plan to further their own goals: For example, unions may be tempted, but cannot allow, strapped employers to delay contributions, and employers can't adjust their contributions until the contracts end. This

means workers and employers share investment gains and losses. Between 1984 and 1996, single employer DB plan contributions per participant fell 29 percent, while multi-employer plan contributions fell by 37 percent. Despite this, benefits in multi-employer plans grew 26 percent versus only 6 percent in corporate DB plans. During the same period, multi-employer DC plan contributions rose 8 percent, while (contrary to popular belief) corporate employers cut back on DC contributions by 20 percent (Ghilarducci 2000). In practice, multi-employer plans tend to increase benefits when fund levels reach nontax–favored limits; in contrast, corporate employers tended to reduce contributions.

Multi-Employer Plans Advantages for Workers and Employers

Multi-employer plans' contribution, governance, transparency, and fiduciary framework minimize many risks faced by workers and firms. Workers are tempted to spend their retirement accounts and lose their pension accrual if they leave their employer. This "employment risk" is mitigated because coverage extends to all contributing employers and the DB structure ensures the funds are used for retirement. Furthermore, Pension Benefit Guaranty Corporation coverage and strict ERISA regulation minimizes "investment risk." In addition, group plans minimize "consumer risk" with economies of scale and monitoring by eliminating the high professional fees charged to self-directed individual plans. DB plans minimize "longevity risk" that retirees outlive their accounts and "inflation risk" because multi-employer plans raise benefits more often than corporate DB plans. Finally, how multi-employer DB's shrink "heuristic (choice) risk" is more subtle. The behavioral financial literature suggests self-directed participants make wrong choices, trade and borrow too much, engage in market timing, and experience high costs of trading (Bureau of National Affairs 2001), only because such tendencies are endemic to human behavior. Unlike DC plans, DB plan members do not face "heuristic risk."

Likewise, employers, particularly smaller ones, and those that chronically face skilled labor shortages obtain substantial advantages from multi-employer plans. Small business owners can provide good pensions for themselves and staff. In addition, occupational pensions reduce occupational mobility so that employers and workers have more incentives to invest in employee training because they can reasonably expect to recoup some of the investments costs. Such "win-win" trades help make the economy more productive (Ghilarducci and Reich 2001).

The Future of Multi-Employer Plans

U.S. pension coverage rates are stuck at 50 percent; therefore, we need to attend to pension delivery systems to expand coverage. Tax incentives for participating in new forms of statutorily approved multi-employer plans, other than collectively bargained plans, and allowing employers not party to collectively bargained agreements to join a collectively bargained plan, may work (Gordon 2000). Most experts (see Tim Lynch, this volume) believe employers balk at joining trusteed plans because of a withdrawal liability in an underfunded plan. Because there are ways to avoid this blatant cross subsidy, employers' unwillingness to join a collectively bargained contract and trust fund may reflect preferences to remain nonunion and in sole control of their pension fund.

It has been suggested that individual-oriented plans are chief competitors and substitutes for multi-employer plans because they too avoid dependence on a single employer and, in addition, that increasingly available plans garnered from Internet searches enable individuals to obtain scale economies without joining a group. Yet, I argue, the portability of DC plans adds to their popularity, but exposure to volatility risk makes them undesirable. From workers' point of view, DC and DB hybrids have the best features of both types. Perhaps, a more important factor sustaining multi-employer forms is that employers and workers want and need more than scale economies; they need to take labor costs and training out of competition and avoid "a race to the bottom," though the most profitable short-term strategy for each firm is to provide no benefits and training and compete on the basis of low prices. In the long term, quality erodes, demand falls, and labor shortages create chronic problems.

Multi-employer plans may expand to uncovered groups in conventional ways. Amy Dean, President of the South Bay Central Labor Council, AFL-CIO, and head of the organization Working Partnerships, USA, envisions employer–training networks to be connected to the health and pension consortiums for low-wage workers, and eventually to collectively bargained contracts in the Silicon Valley (Brenner et al. 1999:67).

Conclusion

The rise of cash and the decline of employee benefit as shares of total payroll is caused by a sea change in the U.S. employer–employee relationship; but, the multi-employer plan may serve as a framework for the fast growing supply of casual labor market jobs and "occupation-identified" workers. The continuing importance of negotiated multi-employer plans shows the power of coordination. These plans do what human resource experts and industrial innovation experts say must be done: they adapt to the idiosyncrasies of par-

ticular industries and occupations, induce training by increasing workers' attachment to a industry or occupation, and provide desperately needed supplemental social insurance on the job.

Endnotes

1. Many of these arguments are covered in a longer paper (Ghilarducci 2001).

2. The unionization level in 2000 and the benefit share growth rate between 1989 and 2001 in various industries ranked by the size of the industry's employment (in millions) is as follows (source ECI):

TABLE 1

Industry	Employment in nearest millions, 2000	Unionization rate, 2000	Growth in benefit share, 1989–2001
Construction	2.6	19.0	8.55
Durables	11	16.2	–.62
Nondurables	7	14.8	1.97
Transportation and Utilities	7	25.6	2.6
Wholesale trade	7	5.6	3.75
Retail trade	23	5.2	–7.24
FIRE	8	2.1	14.56
Services	39	6.6	–1.21
State and local government workers		42.0	–1.47

3. The benefit difference between union and nonunion sectors is significant: 37 percent of compensation devoted to benefits versus 29 percent in 1999, respectively. This gap persists in nonmanufacturing, where benefits make up 33 percent of union workers' compensation and 25 percent of nonunion workers' remuneration (ECI 1999). The positive union effect on benefits may result from the workings of group processes enabling workers to overcome myopia and over-optimism regarding risks due to poor health, disability, and retirement. Economies of scale may also explain the relative growth in benefits in multi-employer settings. In addition, unions provide job protection and "voice," helping from training and deferred compensation agreements.

References

Blanchard, Alan. 2001. Administrator for the Episcopal Pension Fund. Telephone interview with Ghilarducci, Feburary 23.

Bureau of National Affairs. 2001. "Offering Internet Access to 401(k) Plans Can Bring Out the Day Trader in Employees." *Pension and Benefits*, Vol. 1, no. 38 (February), p. 6.

Brenner, Chris, Bob Brownstein, and Amy Dean. 1999. *Walking the Lifelong Tightrope*. San Jose, CA: Working Partnership USA and the Economic Policy Institute.

Employee Benefits Research Institute (EBRI). 2001. "Pension Participation: February 2001." *Notes Executive Summary.* Washington, DC: Employee Benefits Research Institute.

Employee Benefits Research Institute (EBRI). 1997. *Fundamentals of Employee Benefit Programs,* 5th ed. Washington, DC: Employee Benefit Research Institute, pp. 149–62.

Employment Cost Index, Bureau of Labor Statistics, U.S. Department of Labor, <http:// stats/bls/special request/owcw/ocit/ect/ecb10013.pdf>.

Fanning, Mike. 2001. Administrator for the Central Pension Fund of the International Union of Operating Engineers. Telephone interview with Ghilarducci, Feburary 20.

Ghilarducci, Teresa. 2001 "Delinking Employee Benefits From A Single Employer: Alternative Multi-employer Models." Working paper for the Pension Research Council, Wharton School of Business, University of Pennsylvania, December.

Ghilarducci, Teresa, and Michael Reich. 2001. "Multi-employer Plans As Solutions to Pension and Training Collective Action Problems." *Journal of Labor Research,* Vol. 22, no. 3 (Summer), pp. 615–34.

Ghilarducci, Teresa. 2000. "Small Benefits Large Funds: How Governance Affects Pension Plans." In Tessa Hebb et al., eds., *Working Capital: The Power of Labor's Pensions.* Ithaca, NY: Cornell University Press, pp. 44–66.

Goodfellow, Gordon, and Sylvester Schieber. 1993. "Death and Taxes: Can We Fund for Retirement Between Them?" In Ray Schmitt, ed., *The Future of Pensions in the United States.* Philadelphia, PA: Pension Research Council, University of Pennsylvania Press, pp. 126–87.

Gordon, Michael S. 2000. Testimony on "ERISA at 25: Has the Law Kept Pace With the Evolving Pension and Investment World?" United States Congress, 106 Congress, Subcommittee on Employer-Employee Relations, Committee on Education and the Workforce, U.S. House of Representatives, February 15.

Hamermesh, Daniel. 1990. "Changing Inequality in Markets for Workplace Amenities." *Quarterly Journal of Economics,* Vol. 114, no. 4 (November), pp. 1085–123.

Hustead, Edward. 1996. "Pension Plan Expense Study. Completed for the Pension Benefit Guaranty Corporation." Washington, DC: Hay Huggins Consulting Group.

Ippolito, Richard A. 1998. *Pension Plans and Employee Performance.* Chicago, IL: University of Chicago Press.

Neumark, David, ed. 2000. *On The Job: Is Long-Term Employment a Thing of the Past?* New York: Russell Sage Foundation.

Osterman, Paul. 1999. *Securing Prosperity.* Princeton, NJ: Princeton University Press.

Saunders, Mike. 2001. Telephone interview with Ghilarducci, February 27.

Shiller, Robert J. 2000. *Irrational Exuberance.* Princeton, NJ: Princeton University Press.

United States Department of Labor: 2000. Private Pension Plan Bulletin. No.9 Winter. 1999–2000 Final 1996. Pension Benefits and Welfare Administration, Washington DC: GPO, p. 5 (Table A2.)

Defining Responsibility: Exploring Government's Role in Regulating Multi-Employer Arrangements

Heather Grob
Washington State Department of Labor and Industries

Abstract

This paper covers various regulatory approaches to multi-employer plans and arrangements. It addresses topics in training, health and pension plans but will focus primarily on workers' compensation and regulatory agencies' approaches to "carve out" plans. Of particular interest is government's role in protecting employers' and employees' rights through establishment of rules and responsibilities, adequate mechanisms for settlement of disputes and some level of oversight. This paper will be from a practitioners' point of view, but the paper will reference basic models of regulation including collective action problems and public choice theory.

Multi-employer plans[1] have special arrangements under federal and state law, and they have several advantages for workers and employers, especially those in small businesses. Workers who otherwise might be vulnerable to gaps in employment, benefits and training opportunities can expect continuity of benefits through change in jobs. Employers achieve economies in group purchasing, simplified administration and stabilization of benefits and labor costs (Employment Benefits Research Institute 1997).

Despite their advantages, multi-employer arrangements are generally not well understood by industrial relations and economics professions. The IRRA research volume on "nonstandard" work challenged traditional perceptions of employment arrangements (Carré, Ferber, Golden, and Herzenberg 2000). While authors Cobble and Vosko (2000), Herzenberg, Alic, and Wial (2000), and Cappelli (1999) examined the occupational union model and suggest multi-employer solutions to contingent work, they did not critically examine

Author's Address: Washington State Department of Labor and Industries, P.O. Box 44320, Olympia, WA 98504–4320.

the role of regulation of multi-employer arrangements. The opportunity for research in this area is timely, especially as regulators address issues involving local labor development strategies, contingent work, gaps in coverage and group incentives to change behavior toward socially desirable goals. A more comprehensive discussion is needed on governments' role in regulating or promoting multi-employer solutions.

Multi-employer relationships pose some unique issues for regulatory agencies and challenge traditional notions of employment relationships. Many workers find themselves unable to achieve statutory rights because single-employer relationships were assumed (Ruckelhaus and Goldstein 2001). Responsibility for adherence to labor standards with regard to a "covered worker" may reside with many employers rather than just one. While multi-employer relationships often extend benefits beyond those required by law, the existence of a multi-employer situation makes establishment of responsibility and enforcement difficult. In many employer contexts, definitions of *employer* can extend to unions or to labor supply companies, but often the rights and responsibilities to workers are poorly defined. Regulatory oversight is complicated by the timing of visitation or contact.

This paper examines the traditional role of government in relation to multi-employer arrangements and economic theories of regulation. It then suggests some solutions to problems regulators face, using the example of workers' compensation arrangements.

Origin of Multi-Employer Plans and Regulation

Contemporary forms of multi-employer arrangements in the United States and many other countries originate in the guild systems, which date at least to medieval times. Guilds were member–service organizations, often developing voluntary agreements controlling trades' standards of work. Early apprenticeship systems provided for training and means of income in exchange for craftsmanship, dedication, and loyalty. Building and construction trades' unions developed from guild systems and began to provide multi-employer solutions where markets and governments fell short. For example, in the 1930s, few Americans had access to health insurance, but union health and welfare funds provided benefits (Commons and Andrews 1936) and predated any government-sponsored programs. Many trades had their own plans financed by union dues and established between 1893 and 1929 (Dearing 1954). These structures were later included in multi-employer contracts and insurance plans, took wages out of competition and provided an industry with development strategies (Ghilarducci 1992).

Concern with union management of pension funds (due to skimming of pension plans and corruption in some unions) lead to the 1947 Taft-Hartley

Act that barred sole control of pension plans by unions and mandated joint administration by employer and union trustees. Funds were to be managed for the sole interest of workers, tie employer contributions to benefit levels, and pursue a safe investment portfolio. This tight regulation of union sponsored multi-employer funds made union pension fund structure and management more viable and beneficial for workers than many single-employer funds (Ghilarducci 1992).

The Employee Retirement and Income Security Act (ERISA) reach has broadened over the years to include other kinds of multi-employer health and welfare arrangements. Health and welfare funds were frequently under investigation by the Department of Labor but were only recently included in ERISA's reporting structure. Joint labor–management multi-employer plans are regulated under the 1947 Taft-Hartley Act and excluded from ERISA amendments related to multi-employer welfare arrangements (MEWAs). In 1982, legislation refined the category of MEWAs (those established outside of a collective bargaining agreement) to control abuses fostered by lack of adequate federal or state regulation (Field and Shapiro 1993). Still, a few unscrupulous self-insured plans had formed, collected premiums, then disappeared. Between January 1988 and June 1991, MEWAs left 398,000 participants and beneficiaries with more than $123 million in unpaid claims (Frieden 1992; U.S. General Accounting Office 1991).

An emerging form of multi-employer arrangements, with and without union involvement, is in the area of workers' compensation. Many state laws made possible collective bargaining over workers' compensation. Although these arrangements are limited largely to construction and workers' compensation is excluded from ERISA coverage, the role of regulatory institutions and ERISA coverage with regard to plans for combining health insurance and workers' compensation coverage remains somewhat murky, depending on the relevant statute. Some jointly managed multi-employer plans are subject to state insurance laws and differ in level of oversight and enforcement.

Today, most multi-employer arrangements work through collectively bargained contracts between a single union and its signatory contractors. In consultation with trustees, the union, its members and signatory contractors agree to cent-per-hour contributions to jointly-managed funds. Training funds, health and welfare funds, pension funds and sometimes workers' compensation funds are usually managed by a third party and overseen by trustees.

Multi-employer arrangements, and regulation of them, are not limited to the building and construction trades. Waitresses had multi-employer plans (Cobble 1991). In 1992, the Service Employees International Union (SEIU) began negotiating portable plans for its membership (Ghilarducci 1992). Others, such as computer programmers in Silicon Valley and Washington state,

as well as New York media workers in association with the Communication Workers of America, are considering multi-employer benefit structures to counter contingent work.

Little research exists to follow the performance of many forms of multi-employer arrangements. Many jointly managed pension plans remain financially strong and provide stability for members, but union share declines coincided with merging or dissolution of many hiring halls and apprenticeship and training programs, and emergence of temporary help supply companies that typically do not pay benefits or provide advancement opportunities. While the role of multi-employer plans in solving local labor market problems calls for research, regulatory institutions should be prepared to shape policies protecting workers' and employers' rights.

What Can Regulatory Agencies Do?

Governments can do more to help protect employees and employers' rights as parties enter into multi-employer arrangements, whether they are joint labor–management programs, temporary help supply, or employee leasing arrangements.

Establish Entry and Exit Rules

An important role for the government is to define appropriate criteria for entry and exit into multi-employer arrangements. Extensive case law on ERISA clearly indicates lack of definition of entry and exit from multi-employer plans (American Bar Association 1999). In determining jurisdiction, courts generally held that a collective bargaining agreement must exist and that the plan *may* set conditions for entrance to the multi-employer employee benefit arrangement. Exit from multi-employer arrangements sometimes becomes complicated, with employer liability and responsibility at issue.

In workers' compensation insurance, the recent expansion of collective bargaining agreements on workers' compensation provides some additional insight into importance of criteria for entry and exit. Nine states adopted legislation that allows collective bargaining, to "carve out" a joint union–management workers' compensation program.[2]

California's collective bargaining on workers' compensation, or "construction carve out program,"[3] requires a minimum premium threshold of $250,000, or the employer must belong to a multi-employer safety group paying premiums of at least $2,000,000 a year. California's threshold means that employers tend to be fairly large (California Department of Industrial Relations 1999). Entrance and exit rules, and the biases they may create, are important considerations for evaluating programs' performance.

Define Roles and Responsibilities

Roles, responsibilities, and rights of all parties to multi-employer agreements (employer, employees, union, employer association, joint labor–management board, third party administrator or other party to the agreement) need to be clearly stated. The literature addresses the definition of an *employee* as well as principle–agent issues in third party administration of funds. This section raises some other issues regarding definitions of *employer* and *union.*

The history of the California carve-outs is a tidy example of the need for clarity. In 1993, early agreements placed funds into a trust rather than purchasing a workers' compensation insurance policy, and this exposed employers to civil and criminal penalties. The "labor organizations" party to the agreements did not have members but were constructed for the purpose of promoting collective bargaining on workers' compensation. The Administrative Director of the California Division of Workers' Compensation then had to distinguish between the original employer and the nominal employer (promoter) and determined he could not recognize those agreements. Emergency legislation was introduced to tighten qualifications of the parties, the "union" and the "employer engaged in construction" (California Department of Industrial Relations 1999, 2001).

Inform Workers and Employers of Their Rights and Responsibilities

While collective bargaining on workers' compensation can be successful in reducing the number of injuries and claims, controversies arose over rights to an attorney, due process and physician choice (Markowitz and Van Bourg 1995). Not all states allowing these arrangements actively inform workers of their rights. California's legislation on carve-outs requires an annual report to the legislature, providing some level of oversight of alterative dispute resolution. Some states require that employers who want to participate in either carve-outs or wrap-ups obtain signatures from employees to agree to those terms, particularly if they contain alternative dispute resolution. Other states lack any real oversight: for instance, Florida merely requires plans to file annual reports. More research is needed on the mediation, arbitration and litigation over the life of claims in order to know whether workers are adequately informed of their rights and whether these types of arrangements should be expanded (Dunlop and Zack 1997). An important consideration is whether workers are more or less likely to exercise their rights when benefits and costs are borne by individuals as opposed to groups (Weil 1997).

In the union context, good peer review and adequate dispute resolution mechanisms are absolutely essential to individuals achieving statutory rights through unions with multi-employer relationships. In the nonunion multi-

employer context, government could also encourage labor supply companies and participatory employers to supply well-functioning alternative dispute resolution mechanisms. In either case, regulatory institutions should establish an oversight role and monitor dispute resolution systems.

Clearly Communicate Level of Regulatory Oversight Required

Government and industrial relations professionals can play a large role in framing a discussion among employers and workers about multi-employer arrangements' development and regulation. Research in labor regulation offers models to predict noncompliance based on employer characteristics, but greater understanding of multi-employer incentives is needed in order to address potential "free-riding" or avoidance of responsibility. Government should extend enforcement and consultation activities or reporting requirements to multi-employer groups, and develop predictive models to anticipate intervention while considering jurisdiction.

An important role of the regulatory agency could be to facilitate agreements between workers and employers and to arrive at voluntary solutions to economic problems. Multi-employer arrangements, if structured well and able to self-regulate, can strengthen labor–management relations and assist government regulation of the employment relationship.

The role of labor unions and of trade associations is of particular importance. Unions offer individuals actual assistance in exercising rights and exhibit positive union enforcement effects in many federal labor regulations (Weil 1997). The impact of unions in improving employee access to federal courts via class action suits in the case of single employer plans is evident, although multi-employer plans' role in enforcing ERISA is less clear (Langbert 1995).

Consider Effects of Portability of Benefits

Regulators need to understand multi-employer effects to know how policy may affect occupational attachments. Enforcement that negatively impacts the viability of plans could negatively impact economic development strategies that use multi-employer solutions that affect more than one employer.

Portability of benefits can increase occupational tenure but decrease job tenure, an important factor in sectors such as construction, where employees are constantly changing jobs and dependent on skilled, experienced tradesmen and -women. Theoretically a multi-employer plan increases occupational tenure by making benefits and skills development "contingent" on hours worked for *any* participating employer rather than just one. Ghilarducci and Reich (2001) found a positive correlation between training and participation in jointly-managed multi-employer pension plans but not in other plans. Bilginsoy and Philips (1996) also found positive outcomes for joint union–man-

agement sponsored apprenticeship and training programs over nonunion programs, but declines in unionism threaten this effect.

The same could be said for compensation policies: multi-employer employee benefit models must be taken into account. A recent Washington State Supreme Court decision[4] ruled that the Department of Labor and Industries must consider employee medical benefits as "compensation" under workers' compensation law. But administering this judgment is not a simple calculation of employment benefits at the employer of injury. Currently under discussion is the definition of eligible benefits arising from health and welfare funds, to which employees may have banked hours prior to injury and to which employers paid any share of health costs. Administering compensation for eligible benefits is further complicated when employees may participate in different plans and at differing levels of eligibility under one health and welfare fund, or when a fund is self-insured. If multi-employer health and welfare funds do not regularly report details of their plans and participants, it is especially difficult to verify or determine the fairness of compensation of lost benefits. Agencies responsible for compensation must coordinate their efforts and track coverage and conditions set forth in multi-employer plans.

Allocation of Profits and Risk

Government should assist parties in obtaining agreement on appropriate allocation of profits or risk among participatory employers. An example of this can be drawn from retrospective rating insurance groups. Although not strictly a multi-employer benefit system, Ohio and Washington treat a retro group as a single insured entity, essentially forming a voluntary system of self-regulation. Groups of employers may apply and must meet standards to obtain a refund on their workers' compensation payments. While this many-employer incentive appears to have been successful in reducing claims in Washington, a dispute arose over the rights of retro organizations to keep and distribute refunds as they saw fit. When the Department of Labor and Industries sought to regulate the allocation of refunds within retro organizations, it lost a lawsuit to the Building Industry Association of Washington. The BIAW had kept about $5.2 million of $26 million it received in refunds for safety programs, training, program administration, and political donations (Postman 2001). Despite need for clarification on distribution of retro payments, Washington states' laws on retrospective rating are remarkably thoughtful in anticipating conditions that may arise. For example, the law details a process by which a retro group could be expelled, the responsibility for expulsion of a company rests with the retro group, not with the department.

Government can do more to protect workers and employers by encouraging multi-employer plans to establish legal and financial contingency plans.

For the most part, plans covered under ERISA are financially and legally savvy, but some do not clearly fall under ERISA's umbrella and may require greater attention by state governments. Contingency plans should include consideration of liabilities and duties to participants.

Government should establish or require mechanisms for disputes settlements. Alternative dispute resolution systems in California "carve-outs" all provide for "ombudspersons"—a third-party neutral available to all parties, who resolves disputes at an early stage, or even before disputes arise. Two-thirds of all 661 construction claims filed in 1997 were resolved before mediation, with only four claims taken to mediation (Young 1998).

While multi-employer arrangements make a lot of sense for some industries, the realities are that managing a union or a business through difficult times could detract attention from employee benefit plans, potentially placing health, welfare, and pension benefits in jeopardy if unions and signatory contractors do not set up adequate legal and financial contingency plans. Government should help to ensure that member benefits, access to benefits, and privacy of medical records are preserved through union as well as corporate closures and mergers.

Conclusion

Effective government oversight and enforcement requires better understanding of multi-employer arrangements in their various forms. Important policy initiatives, such as the attempt to expand health and pension benefits, could be thwarted by ignoring impacts on multi-employer agreements, including employers, unions, and workers who participate. Failure to monitor plans can lead to socially undesirable effects such as promotion of so-called "sham" unions, breakdown in bargaining between labor unions over proper structuring of plans, and adverse effects on small businesses. Further, an assumption of single-employer relationships is not necessarily conducive to appropriate compensation for workers in multi-employer arrangements.

In order to accomplish the goals of facilitating well-functioning labor markets and providing adequate levels of oversight, three things need to happen. First, regulatory agencies need to recognize and facilitate more than one model of industrial relations. Second, government may play a role in putting safeguards in place by informing parties of their rights and obligations under multi-employer arrangements, including insistence on dispute resolution mechanisms and well-funded contingency plans, and maintaining oversight with enforcement and consultation capabilities. Third, government agencies need to work together to determine appropriate jurisdiction and regulatory oversight. Attorney Michael Gordon suggested that a single central regulatory agency supervise private pensions (Wood 1999).

I have examined a few examples of the kind of contingencies policy makers should consider. In many of the examples provided, disputes arise because of lack of clarity in law as to rules and responsibilities of multi-employer plans, questions of free-riding and resulting expulsion or exclusion from plans. The processes by which plans should be managed, the process by which expulsion could occur and the amount to which a group should be entitled from the undesirable actions of an individual employer are important considerations. Oversight can vary considerably depending on jurisdiction. Another problem to consider is proper handling of disputes or financial disaster. In these contingencies, the rights of workers and employers must be clearly defined. Industrial relations professionals can play an important role in educating each other and practitioners about multi-employer plans' structure, performance and relationship to regulatory activities. Economists and industrial relations researchers have fertile ground to apply public choice theory to practical examples of group behavior in multi-employer plans.

Acknowledgments

I am grateful to many employees at the Department of Labor and Industries and other state agencies for providing insight to multi-employer regulation. All statements and opinions are my own and are not be construed as representing the policies or views of the Department of Labor and Industries or the State of Washington.

Endnotes

1. A *multi-employer arrangement* can be defined as employment or employment benefit systems organized under a collective bargaining agreement with collectively bargained health and welfare or retirement funds or training benefits, and sponsored by two or more employers.

2. States expressly allowing collective bargaining on workers' compensation are Florida, Hawaii, Kentucky, Maine, Maryland, Massachusetts, Minnesota, Pennsylvania, and New York.

3. California's labor section 3201.5 specifies the conditions under which construction unions and employers may create alternatives to the state-supervised workers' compensation system.

4. Cockle v. Department of Labor & Industry, 142 Wn.2nd 801, 808, 16 P.3d 583 (2001).

References

American Bar Association. 1999. *Multiemployer Plan Withdrawal Liability: 1999 Mid-Winter Report.* <www.bna.com/bnabooks/ababna/benefits/99/benefits05.pdf>.

Bilginsoy, Cihan, and Peter Philips. 1996. *Regulation and Training: Prevailing Wage Laws and Apprenticeship in Construction.* Department of Economics, University of Utah.

California Department of Industrial Relations, Commission on Health and Safety and

Workers' Compensation. 2001. *California's Construction Carve-Out Program report to the legislature from the California Division of Workers' Compensation on January 2001.*

California Department of Industrial Relations, Division of Workers' Compensation. 1999. *The Construction Carve-Out Program: A Report of Activities in Calendar Year 1999.* San Francisco: California Department of Industrial Relations Division of Workers' Compensation.

Cappelli, Peter. 1999. *The New Deal at Work: Managing the Market-Driven Workforce.* Cambridge, MA: Harvard Business School Press.

Carré, Françoise, Marianne A. Ferber, Lonnie Golden, and Stephen A. Herzenberg, eds. 2000. *Nonstandard Work: The Nature and Challenges of Changing Employment Arrangements.* Industrial Relations Research Association Series 2000. Ithaca, NY: Cornell University Press.

Cobble, Dorothy Sue, and Leah F. Vosko. 2000. "Historical Perspectives on Representing Nonstandard Workers." In Françoise Carré, Marianne Ferber, Lonnie Golden, and Steve Herzenberg, eds., *Non-traditional Work Arrangements and the Changing Labor Market.* Industrial Relations Research Association Series 2000. Ithaca, NY: Cornell University Press, pp. 291–312.

Cobble, Dorothy Sue. 1991. *Dishing It Out: Waitresses and Their Unions in the Twentieth Century.* Chicago, IL: University of Illinois Press.

Commons, John R., and John B. Andrews. 1936. *Principles of Labor Legislation,* rev. 4th ed. New York: Augustus M. Kelley.

Dearing, Charles. 1954. *Industrial Relations.* Washington, DC: Brookings Institution.

Dunlop, John T., and Arnold Zack. 1997. *Mediation and Arbitration of Employment Disputes.* San Francisco: Jossey-Bass.

Employment Benefits Research Institute. 1997. *Fundamentals of Employee Benefit Programs.* Washington, DC: Employment Benefits Research Institute

Field, Marilyn J., and Harold T. Shapiro, eds. 1993. *Employment and Health Benefits: A Connection at Risk.* Washington, DC: National Academy Press.

Frieden, Joyce. 1992. "Will Multi-employer Plans Be Regulated?" *Business & Health* (August), p. 61.

Ghilarducci, Teresa. 1992. *Labor's Capital: The Economics and Politics of Private Pensions.* The MIT Press: Cambridge, MA.

Ghilarducci, Teresa, and Michael Reich. 2001. "Multiemployer Plans As Solutions to Pension and Training Collective Action Problems. *Journal of Labor Research,* Vol. 12, no. 3 (Summer), pp. 615–34.

Herzenberg, Stephen, John Alic, and Howard Wial. 2000. "Nonstandard Employment and the Structure of Postindustrial Labor Markets." In Françoise Carré, Marianne Ferber, Lonnie Golden, and Steve Herzenberg, eds., *Non-traditional Work Arrangements and the Changing Labor Market.* Industrial Relations Research Association Series 2000. Ithaca, NY: Cornell University Press, pp. 399–426.

Markowitz, E., and Victor Van Bourg. 1995. "Carve-Outs and the Privatization of Workers' Compensation in Collective Bargaining Agreements." *Syracuse Law Review,* Vol. 46, no. 1, pp. 1–60.

Postman, David. 2001. "Rebate Ruling Is Win for Builders Group: Cap Affecting Workers' Comp Money Tossed Out." *Seattle Times,* October 2. <http://archives.seattletimes.nwsource.com>.

Ruckelhaus, Catherine, and Bruce Goldstein. *The Legal Landscape for Contingent Workers in the United States*. New York: National Employment Law Project. <www.nelp.org/pub42.pdf>.

U.S. General Accounting Office. 1991. "States Need More Department of Labor Help to Regulate Multiple Employer Welfare Arrangements and Correct Problems." Washington, DC: GAO. T-HRD-91–47. Testimony.

Weil, David. 1997. "Implementing Employment Regulation Insights on the Determinants of Regulatory Performance." In Bruce Kaufman, ed., *Government Regulation of the Employment Relationship*. Madison, WI: Industrial Relations Research Association, pp. 429–74.

Wood, James O. 1999. "Revising ERISA for the next 25 years." *Benefits Quarterly*. Brookfield, Fourth Quarter, 1999.

Joint Labor–Management Apprenticeship Programs: The Issue of Access to Multi-Employer Training Programs in Chicago's Construction Industry

Helena Worthen
University of Illinois at Urbana-Champaign

Abstract

Historically, apprenticeships, not organizing, were the primary channel through which people come into the unionized construction workforce. But today, the average age of an apprentice is the late 20s; many are in their late 30s. The ageing of the typical apprentice, plus the changing linguistic (in Chicago, Hispanic and Eastern European) demographic of the U.S. workforce, from which many "organized" workers come, put stresses on traditional apprenticeship programs. These stresses have the potential overall effect of pushing apprenticeship programs in the direction of organizing. This paper compares aspects of access to two Chicago apprenticeship programs, Plumbers Local 130 and Carpenters District 5, to show the difference between a "recruiting" and "organizing" approach to joint training programs.

Introduction: Understanding Training As Part of a Strategic Organizing Plan

In December 2001, a spokesperson for the labor–management Chicago Construction Industry Service Corporation (CISCO) said, "The biggest problem facing building trades apprenticeship programs is lack of qualified applicants." This opinion is widely shared among apprenticeship program leadership. However, as a way to frame the challenge of how to bring people into the union, it creates more difficulties than it solves. It views apprenticeship programs as independent of an overall union organizing strategy. It separates

Author's Address: Chicago Labor Education Program, University of Illinois, Institute of Labor and Industrial Relations, Suite 214, The Rice Building, 815 West Van Buren Street, Chicago, IL 60607.

"recruiting" from "organizing." This paper looks at this same challenge and asks how access into apprenticeship programs stands up when viewed as part of organizing.

Historically, apprenticeships, not organizing, were the primary channel through which people came into the unionized construction workforce. At one time, the typical apprentice was straight out of high school. But today, the average age of an apprentice is the late 20s; many are in their late 30s. In addition, many tradespeople are "organized" rather than trained; that is, they come into the union not through the apprenticeship program but by working construction or having their employer sign on with the union. The ageing of the typical apprentice, plus the changing linguistic (in Chicago, Hispanic and Eastern European) demographic of the U.S. workforce, from which many "organized" workers come, put stresses on traditional apprenticeship programs. These stresses can be seen as evidence of the need to simplify access and make it more transparent. They have the potential overall effect of pushing apprenticeship programs in the direction of organizing.

This paper sketches the structure of typical joint apprenticeship programs, gives a brief history of apprenticeship programs in Chicago noting problems related to minority and women's access, and then compares access to two apprenticeship programs, the Plumbers (L.U. 130, U.A.) and the Carpenters (Chicago and Northeast Illinois District Council) to show how the first operates in the traditional "recruiting" mode, while the second integrates training and organizing.

The comparison offered here is being developed through my ongoing relationship with Plumbers Local 130 UA and Carpenters District 5. Plumbers represents about 2,300 journeymen, operates a hiring hall, and maintains a traditional apprenticeship program only slightly linked to organizing. Carpenters, which includes several locals and represents about 32,000 journeymen, does not operate a hiring hall and has significantly adapted its training programs to organizing. For the past year, I have been acting as a consultant to a working committee of the Plumbers called the Workforce Development and Training Committee that has been taking a critical look at access to their apprenticeship program. I have also been working with the Chicago Interfaith Committee on Worker Issues helping to set up the pre-apprenticeship project called Building Bridges; the two major unions involved in that project are the Carpenters and the Electricians.

How Joint Apprenticeship Programs Differ From Non-Union Programs

Joint apprenticeship programs function defensively, in an environment of competition from nonunion training programs: vocational or school-to-work

programs in the public high schools, the Job Corps, community colleges, and private and for-profit job-training entities. When people graduate from a non-union program, they leave their training context behind and enter the labor market as individuals. By contrast, a joint apprenticeship program produces the skilled workforce and then brings it into the union, represents it, and bargains for it. This creates a very different set of goals for joint programs. But the union does not do this by itself. Training, like safety and technological change, is traditionally a labor–management concern. Labor and management negotiate details of the apprenticeship program between the union and an industry council, including the per-worker-hour contributions to the training fund. Then contractors sign on—become "signatory"—to that master agreement. Labor and management, through a joint apprenticeship committee (J.A.C.) made up of union and industry representatives, oversee the number of apprentices in each class, the location of the program, the application process, even the curriculum.

Traditionally, apprenticeship programs have been set up to defend what they produce. The benefits of signing on to the master agreement must be preserved for those who have signed on and reserved from those who did not: this means guarding its trade secrets, its curriculum, its training sites, equipment, and tools closely. From the outside, this can look like efforts to exclude (and sometimes appearance is reality). Today, with a generation of journeymen retiring and market share of the unionized workforce dipping below 20 percent, defensive design of access to union membership runs counter to the need to organize.

Chicago's Joint Apprenticeship Programs

Since 1937, apprenticeship programs, whether they are joint programs or run solely by employers or employer associations, must be registered with the Bureau of Apprenticeship and Training (BAT) of the Department of Labor <www.doleta.gov.indiv.apparent>. There are about 1,000 apprenticeship programs registered in Illinois. Of these, about 225 are joint. Of these, 26 are located in the Chicago/Cook County area. The joint apprentice programs in the Chicago area include the crafts (compiled from various sources including the CISCO Guide and personal communications) listed in Table 1.

Increasingly, apprenticeship programs are linking up with community colleges to add some academic courses to their program to enable apprentices to graduate with an A.S. degree, eliminating the forced choice between a trade and college. This adaptation, while it helps recruiting, does not open up access, however.

The historical racial and gender exclusivity of the building trades has created a legacy that still has to be overcome. Many of the old-timers in Chicago

TABLE 1

Trade	Years of training	First year apprentice wage*	Journeyman wage, 2000*
Architectural iron worker	4 years, 8,000 OJT	$16.53	$27.55
Brick and stone mason, bricklayer	3 years, 4,200–4,500 OJT	$14.25	$28.50
Carpenter	4 years, 144 hrs/year classroom; OJT	$12.00	$29.15
Cement mason	3 years, 1 day/week of classroom/ 30 weeks, 4,000 OJT	$20.30–$21.08	$24.80–$29.00
Ceramic tile finisher, tile layer	1.5 years, 3,000 hrs OJT, 144 hrs classroom	$13.77	$27.55
Drywall finisher	2 years, 3,712 hrs OJT, 220 hrs of classroom	$13.75	$27.50
Electrician (residential, communications, commercial, installer)	3–5 years, 4,800–8,000 hrs OJT, 540–900 hrs classroom	$12.20	$25.00
Glazier	3 years, 6,000 hrs OJT, 3 hrs/week classroom	$9.17	$26.50
Heat and frost insulator	5 years, 720 hrs classroom, 8,000 hrs OJT	$14.12	$28.25
Ironworker	4 years, 8000 hrs OJT, 500 hrs classroom	$18.00	$32.70
Laborer	2 years, 2,400 hrs OJT, 8 weeks classroom	$15.25	$25.41
Operating engineer	4 years, 6,000 hrs OJT, 240 hrs classroom	$14.25	$25.70
Painter/decorator	3 years, 960 hrs classroom, 4,800 hrs OJT	$11.00	$27.50
Pipefitter	5 years, 1,250 hrs classroom, 9,200 hrs OJT	$11.80	Not given
Plasterer	4 years, 1 day/week classroom, OJT	$13.76	$27.52
Plumber	5 years, 1 day/week classroom first 3 years, all OJT years 4 and 5	$11.50–$11.90	$29.75–$33.82
Roofer and waterproofer	4 years, 4,800 hrs OJT, 288 hrs classroom plus advanced training	$14.58	$29.15
Sheetmetal worker	Pre-apprenticeship program; 5 years, 1,000 hrs classroom, OJT 9 weeks/	$8.77–$9.00 pre-app, $10.23	$29.97
Sprinkler fitter	5 years; 1,080 hrs classroom, 4 days/week OJT	$12.55	$31.32
Structural and reinforcing iron worker	3 years, 432 classroom, 6,000 hrs OJT	$18.00–$21.00 after 6 months	$30.00
Technical engineering (surveying)	5 years, 754 hrs classroom, 10,000 hrs OJT	Not given	Not given
Tuckpointer	3 years, 6,000 hrs OJT, Saturday classroom and “when work is slow.”	$14.23	$28.45

*Wages do not include health and welfare, pension, annuity, dental, vacation savings plan (varies by union).

building trades refer to an era in apprenticeship programs by the name of a west-side Chicago public high school called Washburn Tech. At one time, all the building trades apprenticeship programs were located there. In heavily segregated Chicago, racism was always an issue in the schools. In 1963, the Superintendent of Schools, Benjamin C. Willis, publicly blamed racial discrimination in the trades for the lack of black enrollment at Washburn Tech (*Chicago Daily News*, July 18, 1963). During the early 1980s, under Harold Washington, Chicago's first black mayor (1983–1987), a direct conflict developed in which the Chicago Public Schools demanded that all classes at Washburn Tech be taught by Chicago Public Schools teachers; the building trades responded that all classes must be taught by journeymen tradespeople: "Only tradespeople teach tradespeople." The CPS argued that it paid the teachers (including the tradespeople) and owned the building. The trades responded by moving out, mostly relocating in the largely white northern and western suburbs. This happened during the period following the first racial discrimination complaints brought before the EEOC in Chicago and the 1978 Executive Order (Order #11246, under President Jimmy Carter) that set a timetable for hiring women on federally funded construction projects. During that same period, three Chicago apprenticeship programs—the Electricians, the Pipefitters, and the Plumbers—were brought under consent decrees as settlements to discrimination lawsuits.

An African American woman who eventually succeeded in an apprenticeship program described her experience with the application process as it was in 1981. Applications for this particular trade were available for only 2 weeks every 2 years. They were given out at three different Park Department sites around the city. On the morning of the first day, there was a line with several hundred people waiting when the door opened. In the application form was the information about what had to accompany the application: birth certificate, high school diploma, doctor's note describing physical health, and so on. All of this had to be gathered and submitted within the 2–week window. That year, she failed to make the submission deadline. Two years later, there was a recession and the application process was not opened at all. But in 1985 she was close to first in line when the doors opened. This time she knew what was required by way of documentation. She had it all in her car; she got the application, went to her car, put the documentation in an envelope, drove straight to the post office, and saw them postmark the envelope. This time she was accepted and called for a test and an interview. Five months (or, depending on how you tell it, 4 years and 5 months) later, she started taking apprenticeship classes. While these barriers to access were surmountable, they could not be defended on the basis that they sorted good applicants from poor applicants. In addition, since the information about documentation is the kind of

information a relative of a journeyman would have in advance, these barriers clearly had an "adverse impact" on groups of people not already connected to the trades. Twenty years later this union has important black and Hispanic member caucuses that watchdog the apprentice experience.

Access to the Plumbers Apprenticeship Program

Access to the Plumbers, as the program is now, reflects the hope that the applicant will be the traditional high school graduate. To enter the apprenticeship program, applicants must obtain an application (available for a limited time, only once every 2 years), provide a birth certificate, a high school diploma or GED, pass a drug test and a physical exam, and have a valid driver's license and "reliable transportation." Applicants must also take and pass an aptitude test, complete a personal experience form (credit would be given for previous construction experience), and obtain a letter of recommendation (from a teacher or minister) or an "intent to hire" letter from a contractor (CISCO:79). Points are given for each of these parts of the application. On the basis of these points, applicants are ranked on a list in order of their score. As each new apprenticeship class opens up (which might happen several times a year), candidates are drawn from this list. This means that a person with a low score may wait 2 years and never be called or may wait nearly 2 years before getting called. "Organized" workers are tested and take classes but do not stream in with the apprentices. No ESL or Spanish-for-English-speakers class is offered.

The main recommendation from the Workforce Development committee has been that the J.A.C. replace the 2-year list with a rolling application system. "They graduate from high school and they want a job right away," was the typical comment. "They won't wait around 2 years." The committee also recommends increasing the apprentice wages to median of trades (about $14.00/hour) and linking the program to an associate (A.S.) degree program and ultimately to a B.S. program. While these recommendations would open up the application process considerably, they do not go far towards integrating training and organizing. They do not include outreach to previously not-included communities or shaping entry to and exit from the program to accommodate "organized" (more experienced) or non-English speaking workers. They continue to view the target applicant as a recent high school graduate who will spend a lifetime as a plumber.

The Chicago Carpenters: Linking Training and Organizing

The Carpenters is a union more than ten times larger than the Plumbers, with eight times the number of apprentices. The following table offers a comparison:

TABLE 2

Chicago unions	Number of signatory contractors	Size of union	Size of apprenticeship program
Plumbers	450 (350 are active)	2,300 journeymen	500 apprentices (ratio about 5 to 1)
Carpenters	In 2000, there were 3,734; number is higher now. At least 90% are active; 60–70% of these are small shops with less than 10 employees.	32,000 journeymen	4,000 apprentices (ratio about 8 to 1)

In addition, the Carpenters have disaffiliated with the AFL-CIO. This has led to some jurisdictional conflicts, where there is no overarching structure within which they can be reconciled. However, the Carpenters have allocated money to organizing and have an imperative to organize aggressively, and they have integrated organizing and training to a great degree. While specific circumstances surrounding the Carpenters at this point in time may have worked to push them toward this strategy, the strategy could also be undertaken by a union not in identical circumstances.

Access to the Carpenters apprenticeship program begins when a person finds a union contractor who will hire or "sponsor" them. Thus an applicant who has not started the apprenticeship program can start work "on permit" and wait until the next set of classes start. The application process includes producing an original Social Security card, having 2 years of high school or a GED, being physically fit, and taking an aptitude test that measures vocabulary, arithmetic ability, and "reasoning power". Before the apprenticeship starts, if an applicant is already working, he or she takes a short series of mini-classes such as the 10-hour OSHA safety class and CPR. An experienced worker—one with 3 or 4 years of experience—can be sponsored by a contractor to start as a second-, third-, or fourth-year apprentice, at that pay scale. While the union trainers will encourage such a person to start as early in the program as possible, the worker (with the contractor's approval) may decide to start later. He or she will be encouraged to take "upgrade" classes later on. This is a set-up specifically designed for organizing. This also eases a problem found in many trades, where an organized worker is given a journeyman's card and put to work right away, despite not having the skills of someone who has been through the apprenticeship; this situation breeds resentment against newly organized workers. Organizers report that the strongest recruiting tool they

have for these people is the specialized training that the union offers: an experienced worker can quit his or her job with a nonunion contractor, join the union, begin to work for union contractors, and start immediately taking upgrading classes.

The upgrading classes, also called the Carpenters Skill Advancement Program, include about 160 different courses. Fees are low: many courses are free, others cost $25 to $45 with a few costing $99. Most are offered on Saturdays or weeknights, totaling between 8 and 25 hours. They include courses in construction supervision. Most are offered in English, but some are offered in Spanish. Some training materials are printed in Polish. There is also ESL for non-English speakers.

Conclusion

The following table summarizes the comparison between the two apprenticeship programs:

TABLE 3

Union	Entry	Training	Languages	Integration of trainers and organizers
Plumbers	Application process; 2 year list. Hiring hall placement.	Five years of apprenticeship; 400 hours for "organized workers"—no overlap.	English	None
Carpenters	Work "on permit" while waiting for class. No hiring hall: applicants find sponsoring contractor.	Four years of apprenticeship plus 160 or so separate upgrading courses; organized workers can enter at any level.	Classes in English, Spanish; training materials in English, Spanish, Polish; International's materials in English, French, Spanish	Organizers visit classes to explain organizing; trainers visit worker meetings to promote upgrading classes. Organizers bring recruits through training facility.

When we look at how joint apprenticeship programs "work" we are asking how they accomplish their goals of producing a high-skill, high-wage workforce, numerous enough to meet the labor demands of the industry, efficient enough to compete against a nonunion workforce, and also how they (acting as a function of the union) keep that workforce and its skills in the union so that the union can represent it effectively. The test of the success of an apprenticeship program, therefore, has to be related to how the union as a whole is succeeding in a fiercely competitive environment. Since measures of orga-

nizing gains and workforce demand are not part of this study, no projections are being made here that evaluate the outcomes of the different strategies of the Plumbers and the Carpenters. In addition, of course, there are apprenticeship programs that exhibit access processes that range all along the continuum. However, a focus on targeting the traditional high school–age applicant and shaping the application process to that person overlooks the value that the promise of training has for organizing. And conversely, an organizing approach is incompatible with an application process that includes hurdles unrelated to the job, delays, and unavailability of information.

Acknowledgment

This paper benefited greatly from the research assistance of Jocelyn Graf, graduate student at University of Illinois, Chicago.

References

"Contractors Back Union's Bias Fight." 1963. *Chicago Daily News,* July 18. No page number visible.

Construction Industry Service Corporation (CISCO). 2000. *Build Your Future With a Career in Construction: A Guide to Apprenticeship Programs in Northeastern Illinois.* <www.cisco.org>.

Warren, Possley, and Tybor. 1986. "Race-Bias Case Ends Quietly." *Chicago Tribune,* February 18, Business, p. 1.

DISCUSSION

Bruce Nissen
Florida International University

The papers in this session comprise a very interesting and well-written set of analyses on the issues surrounding multi-employer plans. Each paper's primary focus ranges from pensions (Ghillarducci), to health care (Sleigh), to training (Worthen), to government regulation (Grob). All make a contribution to our understanding. I discuss each of the papers in the order presented.

The paper by Teresa Ghilarducci, "The Economic Logic of Multi-Employer Pension Plans," does an excellent job of analyzing the economic role of multi-employer pension systems. It also exposes the inadequacies of simple neoclassical economic theory, which is unable to perceive, much less solve, principal agent and collective action problems inherent in single-employer plans.

This paper highlights the crucial role of a union or a similar coordinating agent in making multi-employer plans work. I particularly appreciate the detailed explanation of the various ways that collective action and principal agent problems manifest themselves and are solved by multi-employer plans. Thus, I have little criticism to make of the paper, conceived within its own parameters. My only suggestion for future work would be to supplement current analysis with a class-based one. Many of the advantages noted in multi-employer plans (portability that frees a worker from dependence on a particular employer, a shift from lower employer contributions toward higher payouts in the event of overfunding, joint governance of the plan, etc.) may be positive from a public policy or worker perspective, but they represent a shift in power away from unilateral employer control and thus may not be in the class interests of employers even if they do benefit primarily smaller employers. The paper's depiction of such plans as wholly beneficial to *all* parties concerned may be overlooking an overall employer class interest in maintaining single-employer controlled plans.

The paper by Heather Grob, "Defining Responsibility: Exploring Government's Role in Regulating Multi-Employer Arrangements," likewise does a fine job in exploring the issues concerning government oversight of multi-employer arrangements. While the emphasis is on the regulation of workers' compen-

Author's Address: Center for Labor Research and Studies, Florida International University, University Park, Miami, FL 33199.

sation arrangements and the bargaining over them allowed in some states, the analysis covers governmental regulation of multi-employer benefit and training plans as well. The clear exposition of economic theories of regulation is followed by a strongly empirical "practitioners" look at the issues involved. Within its own frame of reference, the article is excellent, and I have no major objections or critiques of its contents.

But some severe problems are not addressed by the author. At least in mostly deregulated and largely nonunion markets like the construction industry in the state of Florida, the main problems articulated by workers and unions are much more basic than those enumerated in this paper. There is widespread evasion of most governmental regulation of any kind. Workers are reclassified as "independent contractors" (so-called "1099s"); many fly-by-night subcontractors or sub-subcontractors carry no workers' compensation insurance at all; and in extreme cases drywall workers may work for $25 a day in cash plus boarding (with 4–5 others) in some local cheap hotel room. An underfunded state regulatory apparatus can't even begin to address these problems. So, at least in some states, basic problems of political will and government funding overshadow the issues of dispute resolution, transparency, and so on, discussed in this paper.

Stephen Sleigh's paper, "Health Care Cost and Quality: Prospects for Mutual Gains," provides an interesting look at one union's attempt to use a major employer (and later multiple area employers) to contain health care costs and to increase health care quality. This is an interesting story, and the author provides both an historical context (health care cost inflation) and an explanation of various attempts to define and measure quality. The bargained approach also illustrates inducements to both union and management to contain costs and increase quality.

My quibbles with this paper are largely technical. The chart illustrating IAM membership satisfaction with their health plan is difficult to interpret absent some basic facts like the number of workers surveyed and the level of significance of the changes noted. Further, if the changes were implemented following a 1995 strike, why are data from the years 1996 and 1997 omitted? I also wonder about the dynamics bringing together four Wichita area employers into one alliance. Were there any hesitations or conflicts? Or was cooperation easy to achieve despite competition in other areas?

The final paper, Helena Worthen's "Joint Labor–Management Apprenticeship Programs: How Multi-Employer Training Programs Work in Chicago's Construction Industry," provides a very detailed picture of how two construction industry joint apprenticeship programs operate in the Chicago area. Her argument is that these apprenticeship programs "work" best when they combine training with union organizing. The empirical detail, the consideration

of relevant contextual issues (like previous racial exclusion), and the formulation of the argument are all well done. The comparison of a rather restricted Plumbers union apprenticeship program with a more flexible and strategically used Carpenters apprenticeship is clear and instructive.

My suggestions to the author for further research center on the union–community dynamics unearthed in the Carpenters' relationship with community and faith-based organizations. This is a fruitful area for more investigation, particularly in a union sector like construction, where relations between unions and minority communities have been quite bad in the past. Such research would lead into the internal dynamics of building trades unions that limit their willingness to implement the types of measures advocated in the paper.

VII. AFFIRMATIVE ACTION (AA)/ EMPLOYMENT EQUITY (EE) POLICIES AND PROGRAMS IN THE UNITED STATES, CANADA, SOUTH AFRICA, THE EUROPEAN UNION COUNTRIES AND NETHERLANDS

Contrasts and Contradictions in Employment Equity Practices in EU Countries

John Wrench
University of Southern Denmark

Abstract

This paper looks at the development in EU countries of diversity management, in the context of the employment integration of Europe's post-war immigrant population and their descendants. The paper suggests some variables of national context that may be relevant to the adoption of diversity management in the EU context, such as the different legal and institutional context, and historically different national conceptions of citizenship, and responses to immigration and ethnic diversity. Finally, the paper asks the question as to whether the nature of the national political discourse on issues such as immigration and multiculturalism can have a direct effect on the adoption or otherwise of diversity management by employers.

Diversity management is the latest development in a sequence of strategies that have aimed to better represent excluded minorities in employment.

Author's Address: University of Southern Denmark, Niels Bohrs Vej 9, 6700 Esbjerg, Denmark.

It stresses the necessity for recognizing cultural differences between groups of employees and making practical allowances for such differences in organizational policies (Jamieson and O'Mara 1991; Kossek and Lobel 1996; Thomas 1990). European governments are becoming increasingly concerned about issues of the social inclusion and exclusion of immigrants and ethnic minorities within their borders and the important role that integration into employment plays in this. The communities established by post-war labor migrants in western European countries have long been overrepresented in long-term unemployment or in poorly paid, insecure and generally undesirable work. Many people are now seeing diversity management as a tool for promoting employment inclusion of these groups.

The first question to ask is whether the development of diversity management in Europe will turn out differently from that in the United States. For one thing, the historical and political context of diversity management in Europe is different in many potentially significant ways from that in the United States. For example, there has been nothing like the U.S. experience with affirmative action in Europe and no parallel political movement against it. In the United States the legal and administrative pressure on companies through equal employment opportunities/affirmative action (EEO/AA) provided the context for the development of diversity management. There was also in the United States a body of expertise, a tradition of consultants and a class of management experts and human resource professionals who developed into the diversity advocates and specialists of later times (Kelly and Dobbin 1998). The difference of the EU context is that in most member states, there has been nothing like the U.S. EEO/AA pressure for action, nor has there developed an identifiable management constituency of professionals working with these issues.

One recent comparative research project raises some questions relevant to the development of diversity management in Europe. This is the ILO initiative "combating discrimination against (im)migrant workers and ethnic minorities in the world of work", a 7-year research project finished in 1999. One part of this looked at the extent, content and impact of anti-discrimination training and education activities in migrant-receiving countries (Wrench and Taylor 1993). This was carried out in the Netherlands, the United Kingdom, Finland, Spain and Belgium (see Abell et al. 1997; Castelain-Kinet et al. 1998; Colectivo Ioé 1997; Taylor et al. 1997; Vuori 1997). The aim was to document and evaluate in different countries antidiscrimination training and education activities, where such training is imparted to people who have a part to play in access to the labor market, such as human resource and line managers in both the private and public sectors who are involved in the recruitment process, as well as civil servants and officials in labor exchanges and other agencies that play a placement role for individuals seeking employment, and

trade union full-time officials and shop stewards. Whilst the research showed that diversity management was still very much a minority activity, it also produced indications of its growing popularity in two countries, the Netherlands and the U.K. (Wrench, forthcoming).

The exercise was also carried out in the United States (Bendick et al. 1997), and the American study confirmed that diversity management is much more common in the United States than in Europe. The American researchers compared the distribution of training emphases of the sample of training providers contacted in the United States research with those used in the United Kingdom and the Netherlands research. It is interesting to note that in each of these three countries in the mid-1990s, the majority training emphasis was different. In the Netherlands, the most common activity was Cultural Awareness Training, with nearly half the trainers involved in this. The emphasis of this kind of training was on increasing understanding of different cultural attributes or on training how to manage people from different cultural backgrounds. In the United Kingdom the majority activity was Equalities Training, with nearly 60 percent involved in this. The emphasis of this type was on changing behavior rather than attitudes, and on training the correct skills and practices for operating without discrimination or combating the discriminatory practices of others. In the United States the largest category was Diversity Management Training, with over a third involved in this.

Drawing on the evidence of the ILO study, we can raise a question in the context of the spread of diversity management in Europe. Will the previous dominant tradition of organizational policies in a national context have implications for the character of diversity management as it develops in that country? For example, does the historically strong Dutch tradition of intercultural management, as reflected in the dominance of Cultural Awareness Training, mean that diversity management in the Netherlands will be stronger on cultural elements and weaker on the combating discrimination elements, compared to the United Kingdom, where the dominance of Equalities Training to combat discriminatory behavior might mean that antidiscrimination elements figure more strongly? In Finland the ILO study revealed an almost complete absence of any antidiscrimination activity in the employment sphere. A conclusion drawn from the report was that "a fundamental prerequisite for further training to be developed is a raising of the awareness of the occurrence of discrimination against migrant and ethnic minority workers—an awareness which is still lacking among many of the labour market gatekeepers interviewed for this research".[1] Since the Finnish ILO study was completed, the ideas of diversity management are now starting to be discussed in Finland, with a conference on the subject in Helsinki in September 2000. Will the development of diversity management in Finland take on a different form from that in the

United States or even in the United Kingdom simply because of the apparently total lack of experience of previous organizational approaches in Finland? More broadly, it can be said that between different parts of Europe, there is a great variation in the levels of awareness of racial discrimination in employment, in the definition of it as a problem issue, and in the experience in organizational policies to combat it (Wrench 1996). Will this have implications for the character of diversity management in these locations?

Culture, Structure and Management

Other questions suggest themselves on the transferability of the practice of diversity management to Europe. The first concerns issues of culture. There have been many studies on the implications of national culture for management practice (e.g., Hofstede 1991). However, there has been relatively little written so far on the specific implications of national culture for diversity management. There is not the space here to list all of the intra-European differences of culture, history and institutions that might have some relevance to international diversity management, but we can consider just one or two in order to indicate the sorts of factors that might be relevant. An example of a cultural constraint on diversity management might be the "particularism" characteristic of some parts of Europe. A family-based particularism is said to be common in areas such as the south of Italy, Greece and Spain, and is a phenomenon which is "characterised by the elevation of family bonds above all other social loyalties" (Mutti 2000:582). In a society where this carries through into organizational practices, it will have implications for policies targeted to produce a more diverse workforce. For example, trade unions will often have formal or informal agreements with employers that prioritize their own family members for jobs and thereby exclude newcomers. In Nice, in the south of France, there was until recently an agreement between the trade unions and public transport employers that priority for all new jobs on the buses went to the children of existing bus drivers. The bus company began to have problems on the buses with some immigrant young people and decided that the problem might be helped if they were to recruit some people of immigrant background. However, the trade union agreement initially made it difficult for the drivers to accept this new scheme to prioritize the recruitment of people of immigrant background, until eventually a new agreement was made which reserved 50 percent of jobs for the family of drivers, and 50 percent for external recruitment (Wrench 2000).

If particularism is an example of a potential cultural constraint on diversity management, then a structural constraint might be size of firm. In the United States, it seems that diversity management policies are more developed in the larger companies. In 1998, 75 percent of Fortune 500 companies had a diver-

sity program. Similarly in Europe, the "frontrunners" seem to be the larger corporations and public sector organizations. However, in some European countries, a much higher proportion of business activity takes place in small- and medium-sized companies compared to the United States or the United Kingdom. Denmark, for example, is a country characterized by relatively small businesses, often without anything like a formal human resource function.

Other Potentially Relevant Differences of European Context

There are great differences, historically and culturally, in national responses to ethnic diversity within the EU. This is at least partly related to the very different historical approaches to immigration. Different approaches to immigration and ethnic diversity include the "gastarbeiter" approach, where immigrants are seen as guestworkers without full social and political rights (e.g., Germany, Austria, Switzerland, Belgium), an "assimilation" approach where immigrants are awarded full rights but are expected to become like everyone else (e.g., France) and a "multicultural" approach where immigrants have full rights but maintain some cultural differences. (Sweden and the United Kingdom have some elements of this; Castles 1995.) Will a diversity management approach only find a sympathetic home where elements of a multicultural approach have been historically more in evidence?

One difference between the European and American context is that in America, there is an assumption that immigrant populations will eventually become full and equal members of society, and that certainly their children born on American soil will become American citizens. This is not so in some European countries, where citizenship is made difficult to acquire for immigrants of long-standing legal residence and even for their children born in that country. The lack of citizenship rights excludes whole sections of workers from many employment opportunities (Wrench 1996). Legal restrictions on immigrants ensure that large sections of immigrant workers remain complementary to native workers and do not endanger their employment prospects (Gächter 1995).

In some parts of southern Europe, immigrants operate in an almost separate labor market to the national majority. Migrant workers such as agricultural workers in Spain on temporary contracts are segregated from Spanish workers, doing unpleasant jobs that the locals don't want to do. The areas where large numbers of immigrants work on temporary contracts were traditionally untouched by equal employment opportunity or antidiscrimination policies and, in such circumstances, diversity management policies are similarly irrelevant. However, the continuance or extension of a "gastarbeiter mentality" into higher-status jobs in the normal labor marker does have implications for diversity management. For example, there is a new German initiative—dubbed Germany's "green card" scheme—which aims to alleviate

its information technology shortages by inviting computer experts from countries such as India to live and work in Germany for up to 5 years. This, according to one commentator "is helping to sustain the old myth that one day, if circumstances change, the foreigners may all go and leave Germany to the Germans. The green card holders are ultimately modern, hi-tech guestworkers" (*Guardian* October 31, 2000). This does not sit well with the sort of organizational culture that is supposed to be fostered by diversity management—a heterogeneous pluralistic culture where all differences are valued—when sections of ethnically-differentiated workers are marked out in a legally inferior position to their colleagues.

Cultural Imperialism

Thus, under circumstances of legal inequality, a diversity management approach would seem to be premature. However, even when this is not the case, there are still those who question the easy transfer of diversity management to a European environment on the grounds that the philosophy is grounded in American culture that is not appropriate elsewhere. Writers such as Bourdieu and Wacquant criticise the "cultural imperialism" inherent in the assumption that American academic ideas can be imposed on nonAmerican environments. An example of "cultural imperialism" for Bourdieu and Wacquant is the American imposition of the word *minority* with all its unstated assumptions and presuppositions that "categories cut out from within a given nation-state on the basis of 'cultural' or 'ethnic' traits have the desire or the right to demand civic and political recognition as such" (Bourdieu and Wacquant 1999:46, 51). For some people in France the very word *diversity* has unacceptable overtones. The American historian Nancy Green, when describing the French discourse on immigration, notes that some French writers see that the United States is no longer the immigration "melting pot" it once claimed to be; they argue that "the United States has renounced its literal melting pot to follow a dangerous path of diversity, which France should in no way copy" (Green 1999: 1199). Green sums up this view thus: "As seen from across the Atlantic, then: the melting pot is dead (in the United States) long live the melting pot (in France)" (1999:1204).

Consistent with this is the hostility in the French national environment to the recording and monitoring of ethnic origin. It is not only in France where there are problems of this sort. It is difficult to do this in Denmark, and even in the Netherlands, which is a country with one of the strongest records of equal employment opportunity and diversity management practices; there has been in recent years considerable opposition to the practice. There are thus wide variations within Europe with regard to the acceptability of one important component of diversity management practice.

The Political Context of Diversity Management in Europe

There are important differences in "national myths" that have implications for the acceptability of policies relating to immigrants and ethnic minorities. In countries such as the United States, Canada and Australia, which have been built on immigrants, the idea of immigration has been a relatively positive theme in national development. European countries, on the other hand, see their cohesion as coming from nationality or ethnicity rather than the "strength through diversity" associated with traditional immigration countries. It has been noted by others that someone in the United States who would be called a "second-generation American" would be called in most European countries a "second-generation immigrant". Thus in some European countries, the national political discourse does not provide a sympathetic environment for the adoption of diversity management by employers.

An example of such an unsympathetic national environment is Denmark. In recent years, "cultural racism", rooted in ideas that Europeans—or Danes—are culturally superior, has become a widespread and deep-rooted aspect of Danish public debate. As Wren (2001:146) writes, cultural racism has found a particularly fertile territory in Denmark, and has indeed become "part of the very fabric of Danish society. . . . Public racist slurs have become commonplace (and legally tolerated), and political parties across the spectrum have adopted cultural racism as an integral part of their platforms". Right wing politicians in Denmark play on public fears that foreigners will flood into the country and take advantage of the Danish social welfare system. Mainstream political discourse on the subject of immigrants and refugees has shifted markedly to the right in recent years, and the views of right wing politicians, once considered extreme or racist, are now uttered by "respectable" people in mainstream organizations. In 2000 the (Social Democratic) Minister of the Interior felt the need to forcefully reassure the public that "Denmark will never be a multicultural society". The November 2001 general election was fought in a climate of anti-immigration rhetoric, with the new successful government promising to "do something about the immigrants".

This climate inevitably has an effect on labor market actors. A study conducted on behalf of the Danish Board for Ethnic Equality in 1995 found evidence that many Danish companies would not take on second generation immigrants as trainees who may "irritate customers or colleagues", "lack the Danish sense of humour", or "do not understand workplace jargon". There is also evidence of a lack of tolerance of cultural differences once ethnic minorities are in employment. Hospitals have instructed their Muslim staff not to wear their head covering at work "on grounds of hygiene" (*Jyllands-Posten* August 6, 1996). During 2000 several stories in Danish newspapers concerned

major department stores or supermarket chains where the policy was to refuse to allow Muslim employees to wear the headscarf at work.

In recent years an extra and paradoxical dimension has been added to this picture. Employers in Denmark are beginning to suffer labor shortages and, in particular, a severe shortage of skilled labor. Yet the negative social climate for immigrants, and the associated discrimination they face, means that highly qualified immigrants and refugees remain unemployed. In 2000, a number of media stories reported that the unemployment record for immigrants in Denmark was the one of the worst in the EU, and that highly qualified immigrants were despairing of ever finding work in Denmark and were moving to other countries to work, thus taking from Denmark skills it cannot afford to lose.

This climate of negative political discourse means that in Denmark the private labor market seems to be ahead of the public one when it comes to diversity issues. An organization called "Foreningen Nydansker"[2] was set up in June 1998 by a number of large businesses with the aim of influencing public debate and setting a "positive agenda" in the business community regarding the employment of "new Danes". However, activists in this organization report that they are "swimming against the tide" in trying to promote more broadly a diversity management consciousness. The director reported that when he meets with employers to discuss with them the possibility of adopting diversity management policies, the employers reply that the government has pronounced that Denmark is not a multicultural society, and that government integration polices will make Danish people out of the immigrants. Therefore, say the employers, why do we need to introduce policies that make allowances for cultural differences when in 5 years there won't be any? He also reported that those employers who might be sympathetic to taking on more immigrant employees were concerned about customer reaction, and concluded: "As long as the politicians won't put any demands on the Danes, then companies can't put any demands on the customers".[3]

In conclusion, there would appear to be many differences between the American and European contexts, and between EU countries themselves, in variables that may have implications for the introduction or operation of diversity management. Within Europe, there are differences such as in the legal context for antidiscrimination or equal opportunities polices, different traditions of organizational equity policies, differences in access to citizenship, differences in political discourse and many other differences in national institutional, cultural and historical context. U.S. practices of diversity management were developed in the context of years of experience in regard to affirmative action and equal employment opportunity policies. European employers are facing some of the same forces that encouraged the adoption of diversity management in the United States, and there is evidence of a

spreading interest in the practice of diversity management across EU member states, yet many European countries have virtually no previous experience of any sort of antidiscrimination or equal opportunities policy in organizations. It will be important to observe whether and in what ways rate of adoption of diversity management, and the specific content of practices under that heading, are related to these variables of European national difference.

Acknowledgments

This paper comes from a broader project on diversity management in Europe financed by the Swedish National Institute for Working Life and coordinated through the program "Work and Culture", Norrköping.

Endnotes

1. Foreword to the report by M.I. Abella, Vuori 1997 p. vi.

2. The full title is "Foreningen til integration af nydanskere på arbejdsmarkedet", which means the association for the integration of new Danes (immigrants) into the labor market.

3. Personal interview, Copenhagen 2001.

References

Abell, J.P., A.E. Havelaar, and M.M. Dankoor. 1997. *The Documentation and Evaluation of Anti-discrimination Training in the Netherlands.* Geneva: International Labour Office.

Bendick, M., M.L. Egan, and S. Lofhjelm. 1998. *The Documentation and Evaluation of Anti-discrimination Training in the United States.* Geneva: International Labour Office.

Bourdieu, P., and L. Wacquant. 1999. "On the Cunning of Imperialist Reason." *Theory, Culture and Society,* Vol. 16, no. 1.

Castelain-Kinet, F., S. Bouquin, H. Delagrange, and T. Denutte. 1998. *Pratiques de Formations Antidiscriminatoires en Belgique.* Geneva: International Labour Office. Castles, S. 1995. "How Nation-States Respond to Immigration and Ethnic Diversity." *New Community,* Vol. 21, no. 3.

Colectivo Ioé: M. Angel de Prada, C. Pereda, and W. Actis. 1997. *Anti-discrimination Training Activities in Spain.* Geneva: International Labour Office.

Gächter, A. 1995. "Forced Complementarity: The Attempt to Protect Native Austrian Workers from Immigrants." *New Community,* Vol. 21, no. 3.

Green, N. 1999. "Le Melting-Pot: Made in America, Produced in France." *Journal of American History,* Vol. 86, no. 3.

Hofstede, G. 1991. *Cultures and Organizations: Software of the Mind—Intercultural Cooperation and Its Importance for Survival.* London: Harper Collins.

Jamieson, D., and J. O'Mara. 1991. *Managing Workforce 2000: Gaining the Diversity Advantage.* San Francisco: Jossey-Bass.

Kelly, E., and F. Dobbin. 1998. "How Affirmative Action became Diversity Management." *American Behavioural Scientist,* Vol. 47, no. 7 (April).

Kossek, E.E., and S.A. Lobel, eds. 1996. *Managing Diversity: Human Resource Strategies for Transforming the Workplace.* Oxford: Blackwell.

Mutti, A. 2000. "Particularism and the Modernization Process in Southern Italy." *International Sociology,* Vol. 15, no. 4.

Taylor, P., D. Powell, and J. Wrench. 1997. *The Evaluation of Anti-discrimination Training Activities in the United Kingdom.* Geneva: International Labour Office.

Thomas, R.R., Jr. 1990. "From Affirmative Action to Affirming Diversity." *Harvard Business Review* (March/April).

Vuori, K. 1997. *Anti-discrimination Training Activities in Finland.* Geneva: International Labour Office.

Wren, K. 2001. "Cultural Racism: Something Rotten in the State of Denmark?" *Social and Cultural Geography,* Vol. 2, no.2.

Wrench, J., and P. Taylor. 1993. *A Research Manual on the Evaluation of Anti-Discrimination Training Activities.* Geneva: International Labour Office.

Wrench, J. 1996. *Preventing Racism at the Workplace: A Report on 16 European Countries.* Luxembourg: Office for Official Publications of the European Communities.

Wrench, J. 2000. *Trade Unions, Immigrants and Ethnic Minorities in Europe: Report on the Danish National Project.* European Social Fund "INTEGRA" Project No. I 1997 DK 508. Unpublished report, Esbjerg: University of Southern Denmark.

Wrench, J. Forthcoming. "Anti-Discrimination Training at the Workplace in Europe: The Application of an International Typology." In Peter Docherty, ed., *Diversity in Work Organisation—International Perspectives.* Stockholm, Sweden: National Institute for Working Life (Arbetslivsinstitutet).

The Challenge of Equality in Employment in South Africa

Harish C. Jain
McMaster University

Abstract

South Africa has successfully gone through a peaceful transition through its 1994 national election and enacted a constitutional democracy that augurs well for equal protection and equal opportunity for all its citizens regardless of race, color, gender, religion, political opinion, and so on. In the 1990s, the country also passed some of the most progressive legislative measures including the Labour Relations Act, Employment Equity Act and the Promotion of Equality Act, among others.[1]

This paper discusses the demographics of the labor market in South Africa, the legislative framework for employment equity, the state of compliance, and some of the positive and negative aspects of the move to legislate employment equity.

Employment Equity (EE) in South Africa

According to the Census, 76 percent Africans, 9 percent Coloreds, 3 percent Indians and 12 percent Whites were economically active in 1996. There were 52 percent women in the population, and 45 percent were economically active in 1996, as per SA Census. According to the World Bank, in 1999, 17 million people were in the labor force, while 34 percent of the economically active population were found to be unemployed (World Bank 2001:50).

The Employment Equity Act (EEA) was enacted by the Parliament in 1998. It aims to redress the ghettoization of the blacks—including coloreds and Indians—women and persons with disabilities (called the designated groups) in the workplace. The objective of the EEA is to achieve equality in the workplaces by elimination of unfair discrimination and promotion of equal opportunity, through the implementation of positive and proactive measures (termed as *affirmative action measures*) to advance the designated groups. The EEA requires employers with either 50 or more employees or certain specified turnover (in monetary terms) to undertake affirmative action measures with a view to ensure that the designated groups have equitable representation in

Author's Address: MGD School of Business, McMaster University, Hamilton, Canada.

all occupational categories and levels in an employer's workforce consistent with their availability in the external labor market.[2]

Rationale for Employment Equity Legislation

Historically, the labor market was a distorted one, with inequality in access to education, skills, managerial and professional work, based on race and ethnicity (Bowmaker-Falconer et al. 1998, 1997). Racial discrimination was created in labor legislation—for example, in job reservation clauses that restricted access to skilled jobs, preserving them for white employees—in the Mines and Works Act (1904) and Industrial Conciliation Act (1956). These provisions have been abolished since 1980, and significant labor law reforms have occurred in the last 5 years. However, the apartheid labor market has left most employees inadequately trained and economically disempowered.

The legacy of workplace discrimination against blacks, the majority population, is systematically being eroded, albeit slowly. In 1998, the percentages of blacks, coloreds and Indians were 6, 4 and 4, respectively, with 86 percent white managers, and 84 percent male and 16 percent female, (BWM 2000). However, in the year 2000, a survey of 161 large firms in South Africa (employing 560,000 workers) revealed that (Breakwater Monitor, BWM 2000) 10 percent of managers were black, 5 percent each were colored and Indian; thus, 80 percent of all managers were white. Of these managers, 79 percent were male and 21 percent female. There is therefore some incremental progress.

According to the Commission on Gender Equality (CGE 1999), women constituted the major segment of the SA population but accounted for only a third of the labor force. They were mainly concentrated in service, retail and manufacturing sectors.[3] Across all sectors, women were mainly to be found occupying jobs associated with stereotyped domestic roles. Thus gender equality,[4] within the workplace, according to the CGE, was underpinned by job segregation and perceived roles associated with gender group (CGE 1999).

The Department of Labour (1999) found that whites had 104 percent wage premium over Africans; men earned approximately 43 percent higher wages than similarly qualified women in the similar industrial sectors and occupations (cited in Thomas, in press).

As of December 1997, 87 percent of management in the Public Service (Director and above) were men, and only 13 percent were women. Over half the men who were public sector managers were white (Booysen 1997:39). Women comprised only 1.3 percent (49) of the 3773 directors of the 657 companies listed on the Johannesburg Stock Exchange. Only 14 women were listed as executive directors, chairwomen or managing directors, and less than 1 percent board members were women[5] (Naidoo 1997 in Booysen 1997).

Employer Obligations Under the EEA

The EEA requires employers in consultation with unions and employees to:

1. Conduct a review of employment policies and practices to identify the specific job barriers faced by the designated group members and attempt to remove them;
2. Conduct a workforce survey and analysis to identify the under-representation of members of the designated groups relative to their availability in the external workforce;
3. Develop an employment equity plan with numerical goals and timetables, monitoring and evaluation procedures; report on remuneration and benefits in each occupational category and level.[6]
4. Develop measures an employer will undertake to progressively reduce any disproportional differentials as well as an employment equity plan.
5. The EEA requires that employers give due consideration to a "suitably qualified person" in their recruitment of designated groups. Such a person may have either formal qualifications, prior learning, relevant experience or capacity to acquire—within a reasonable time—the ability to do the job.

Capacity to acquire the ability to do the job will require training and support. Currently, few black men and women are qualified to fill semi-skilled, skilled and professional jobs, due to apartheid practiced by the previous white regime. The EEA along with the Skills Development Act (1998) requires employers to provide training to designated groups.

The EEA encourages employers to provide improved internal grievance procedures against discriminatory behavior and harassment. Labor inspectors have the enforcement powers. Those disputes that cannot be resolved through internal procedures will be referred to the Commission for Conciliation, Meditation and Arbitration (CCMA) and ultimately the Labour court (Hepple 1997).

State of Compliance With the EEA By Employers

The Commission for Employment Equity (CEE) recently released its first annual report covering the period 1999–2001 (CEE Report 2001). The Commission's report for 2001 is based on 8,250 employers with 3,336,784 employees and shows mixed results.

On the plus side, it indicates that employers, in general, are taking their responsibility seriously for eroding the effects of apartheid labor market, which had left most black workers inadequately trained and disempowered. For instance, the EEC report indicates that black (African, coloreds, and Indians)

workers improved their labor market position from a 1998 baseline survey (conducted by Jain and Bowmaker-Falconer in 1998 for the SA Department of Labour) to 2001 as Professionals, Technicians and Associate Professionals from 25 percent and 38 percent in 1998 to 55 percent and 48 percent in 2001, respectively (see Table 1). The professionals' position also compares favorably to Statistics South Africa's Household Survey data for 1999. Blacks lost ground from 1998 as legislators, senior officials and managers when their representation in these occupational categories was 28 to 26 percent in 2001; this is even more pronounced compared to their representation of 45 percent in the Household Survey of 1999. They are still concentrated in elementary occupations (98 percent in 2001), plant and machine operators (94 percent in 2001), skilled agricultural and fishery workers (86 percent in 2001) and service and sales workers (72 percent in 2001; Commission for EE Report 2001:30; see Table 2).

TABLE 1
Black Representation Per Occupational Category

Occupational category by percent	EE report 2001 Black	OHS 1999 Black	Baseline 1998 Black
Legislator, senior officials and managers	26.1	45.07	27.88
Professionals	55.1	48.64	24.70
Technicians and associate professionals	47.5	66.89	37.84
Clerks	59.4	64.20	57.71
Service and sales workers	72.0	83.31	62.07
Skilled agricultural and fishery workers	85.6	90.64	90.79
Craft and related trades workers	61.7	84.94	65.88
Plant and machine operators and assemblers	93.7	94.59	92.22
Elementary occupations	97.5	97.67	98.30
Non-permanent works	84.1	N/A	N/A
Total	75.2	80.77	66.11

Source: Employment Equity 2001: Executive Summary of the First Annual Report of the Commission for Employment Equity, South Africa, Department of Labour, p. 10.

Table 2 indicates that women (both white and black) currently hold only 13 percent of all top management and 21 percent of all senior management positions in SA; however, African women hold only 1.2 percent of all top management positions (CEC 2001:19). Women represent 38 percent of total employment and are clearly under-represented in all management occupational levels (Commission for EE Report 2001:19, 24).

Black employees consisted of almost 31 percent of all levels of management; therefore, an overwhelming majority of managers across all levels of management were white. Employees with disabilities represented only 1 percent of all management levels.

TABLE 2
Summary of Occupational Level Representation By Designated Group in South Africa, 2001

Occupational level	Black%	Female%	Disability
Top management	12.6	12.5	1.2
Senior management	18.4	21.0	1.1
Professionally qualified, experienced specialists and middle management	44.0	43.1	0.9
Skilled technical, academically qualified and junior management	56.4	40.0	0.8
Semi-skilled and discretionary decision making	82.2	38.6	1.0
Unskilled and defined decision making	98.0	28.6	1.0

Source: Commission for Employment Equity Report, 1999–2001, South Africa, Department of Labour.

Women (black and white) hold a minority of positions, that is 22 percent, as legislators, senior officials and managers; of the 22 percent, white women hold 15 percent, Indian females 1 percent, African females 3 percent, and colored females 2 percent in this category (CEC Report 2001:30).

Pros of Employers Equity

Employers Equity is helping employers to focus not only on African blacks but also on coloreds, Indians and other designated groups such as women and persons with disabilities (Jain 1993).

It is encouraging more and more employers to devise new and innovative measures to proactively recruit, promote and train the designated groups. It goes beyond the poaching of African blacks by one employer from another to plan staffing in a systematic and planned manner. It is motivating employers to develop HR information systems (Jain 1993). It is sensitizing employers to labor market demographics of the designated groups while developing their EE plan (Jain 1993).

Cons of the EEA

According to the CEE's latest evaluation of the state of EE in SA (2000), as noted above, there is mixed progress. Similarly, the CGE survey of employers (1999) found that there were significant job barriers in the recruitment and promotion of women. It seems employers in SA have a long way to go. At the

same time, one has to realize that the EEA has been in effect only 2 years and that the legacy of apartheid will take some time to overcome.

The EEA treats women as a homogeneous category. White and black women currently have extremely different levels of education and training, job opportunities and wages. Even among black women, there are significant differences. Legislation at present does not require companies to disaggregate their information on race and disability by gender. This presents the possibility that targets for women will be met by advancing the already privileged, thereby denying black women access to training and traditionally male jobs (Samson 1999).

Companies below the threshold limit of 50 employees are not covered by the EEA. Since the vast majority of African women work in the informal sector or as domestic workers, most of them will remain uncovered by EEA in their workplaces (Samson 1999).

The fines for non-compliance may not be a sufficient deterrent. First time offenders could be fined up to R500,000, but they could also be charged much less.

An evaluation of the compliance with the EEA must take into consideration: (1) the economic and financial factors relevant to the sector in which the employer operates, (2) present and anticipated economic and financial circumstances of the employer, (3) progress in implementing EE by other employers, and (4) reasonable efforts made by the employer to implement EE (Samson 1999). This will make EE planning flexible according to the needs of an employer rather than a fixed target in terms of numerical goals.

Conclusion

Although progress has been made in enhancing racial and gender representation in the workplace, this is an incremental process that has to be supported by coherent human resource development priorities through the implementation of the skills development legislation and changes in the organizational culture. This is vital at both public policy and organizational levels. An increasing earnings gap has an adverse impact on mainly black people—this, in spite of the increasing diversity and multiracial character of a growing middle class. The biggest priority must be human resource development and education in skills and competencies needed in a society in transition.

This reality has been recognized by the government and the Black Economic Empowerment Commission. The Commission has made important recommendations to the government to "kick-start" the economy and enhance economic growth through state-driven measures to ensure black participation in the mainstream economy. Proposed measures include a national integrated human resource development strategy, legislated deracialization of busi-

ness ownership in the private sector, national targets—which include land distribution and ownership, equity participation in economic sectors. The Commission further recommends targets for senior and executive management in private sector firms of more then 50 employees to be black. The commission's proposals, which have been accepted by the government in principle, are a significant policy basis for improving access to capital and skills and economic empowerment for the majority of South Africans. These overall measures, along with the progress in implementing employment equity, will greatly improve the chances of majority blacks to have their just share in the South African economy.

Endnotes

1. The legislative armory against unfair discrimination is now quite formidable. For example, chapter 2 of the new Employment Equity Act (1998) in SA prohibits unfair discrimination against designated employees. These include black people, women and employees with disabilities. Legislative prohibitions against unfair discrimination are also intrinsic to South Africa's Constitution (1996). Chapter 2 (the Bill of Rights) contains an equality clause, and like the Employment Equity Act, specifies a number of grounds that constitute unfair discrimination. Additionally, Schedule 7 of the Labour Relations Act (1995) considers unfair discrimination either directly or indirectly as a residual unfair labor practice. Grounds include race, gender, ethnic origin, sexual orientation, religion, disability, conscience, belief, language and culture. Labor laws have been at the forefront of the post-apartheid government's determination to remove unfair discrimination. A new act, The Promotion of Equality and Prevention of Unfair Discrimination Act (1999), seeks to prohibit discrimination in both civil society and in employment practices.

The draft Constitution adopted by the Constitutional Assembly on May 8, 1996, was approved by the Constitutional Court in November 1996 (Corder 1996). Section 9(2) of the Bill of Rights in the Constitution states in part:

> To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken.

Similarly, section 2(2) of Schedule 7 of the Labour Relations Act of 1995 stipulates that

> An employer is not prevented from adopting or implementing employment policies and practices that are designed to achieve the adequate protection and advancement of persons or groups or categories of persons disadvantaged by unfair discrimination, in order to enable their full and equal enjoyment of all rights and freedoms.

More explicitly, section of the EEA sets out the purpose of the Act to achieve equity in the workplace by

1. Promoting equal opportunity and fair treatment in employment through the elimination of unfair discrimination; and
2. Implementing affirmative action measures to redress the disadvantages in employment experienced by designated groups, in order to ensure their equitable representation in all occupational categories and levels of the workforce.

2. Occupational categories are based on the standard definitions provided by Statistics South Africa in the collection and analysis of Census data. Occupational levels are based on a semantic scale that can be related to any of the standard job evaluation systems and is based on Paterson Broadband Classification. Source: Department of Labour: Commission for Employment Equity Report 1999–2001, p. 17.

3. More than a quarter of African males and 60 percent of African females in the formal sector were in the elementary occupations such as cleaning, garbage collection and agricultural labor. Similarly 41 percent of colored women were in these elementary occupations, while 40 percent of Indian women were in clerical occupations. About 18 percent of African women and 19 percent of colored women were in managerial or professional jobs, while 11 percent of African men, 14 percent of colored men, and 37 percent of Indian men were in managerial professional jobs (Erasmus and Sadler 1999).

4. Sex vs. Gender: A person's sex refers to the biological characteristics that make him or her male or female. Biological differences between men and women are: (1) Only women can get pregnant and (2) women menstruate and men do not. Gender refers to the characteristics that society expects a person to have, based on their sex. It refers to economic, social and cultural roles, behaviors, attributes and opportunities that are associated with being female or male, such as women are meant to do certain types of work, for example, and men, other types of work.

5. There is also a concentration of managerial control through a system of interlocking directorates where the same person(s) serve(s) on the boards of several corporations. This social closure has limited the upward mobility of black managers and women. However, SA's reentry into the international business community has forced awareness about its relative competitiveness in the manufacturing and services sectors. Recently, statutory and governmental tender requirements have been towards employment equity and diversity at all levels. Several black directors have been appointed to boards of directors. Although less than 15 percent of SA's company directors are black or women, this is likely to change significantly by the year 2005 (Erasmus and Sadler 1999).

6. The Employment Equity Act does not set quotas but rather enables individual employers to develop their own plans. Criteria regarding enhanced representation include national and regional demographic information and special skills supply/availability. Section 27(1) of the Employment Equity Act requires designated employers to submit a statement of remuneration and benefits received in each occupational category and level to the Employment Conditions Commission established by section 59 of the Basic Conditions of Employment Act (1998). Section 27(2) requires that, where disproportionate income differentials are reflected in the statement, a designated employer must take measures to progressively reduce such differentials. Section 27(3) indicates that these measures may include: (1) collective bargaining; (2) compliance with sectoral pay determinations made by the Minister of Labour in terms of Section 51 of the Basic Conditions of Employment Act; (3) applying norms and benchmarks set by the Employment Conditions Commission; and (4) relevant measures in the Skills Development Act (1998). The Employment Conditions Commission is required to research and investigate norms and benchmarks for proportionate income differentials and advises the Minister on appropriate measures for reducing disproportional differentials. The Commission is not allowed to disclose information pertaining to individual employees or employers. There is likely to be considerable public and organizational policy debate around what constitutes an acceptable pay curve in respect of differentials within organizations, and indeed whether such pay structuring is possible in a market driven global economy.

References

Booysen, Lize. 1997. "Towards More Feminine Business Leadership for the 21st Century: A Literature Overview and Study of the Potential Implications for South Africa." *South African Journal of Labour Relations,* pp. 31–61.

Bowmaker-Falconer, Angus, Frank Horwitz, Harish Jain, and Simon Taggar. 1998. "Employment Equity Programmes in South Africa: Current Trends." *Industrial Relations Journal,* Vol. 23, pp. 223–33.

Bowmaker-Falconer, Angus, Frank Horwitz, Harish Jain, and Simon Taggar. 1997. "The Status of Employment Equity Programs in South Africa." *Proceedings of the Forty-Ninth Annual Meeting of the Industrial Relations Research Association.* Madison, WI: IRRA, pp. 310–20.

Breakwater Monitor, BWM. 2000. Department of Labour Web site: <www.labour.gov.za>.

Breakwater Monitor, BWM. 1997. "Workers Fee Left Behind by Rigid, Tight Managers." *Business Times,* February 16.

Corder, H. 1996. "South Africa's Transitional Constitution: Its Design and Implementation." *Public Law* (Summer).

Department of Labour, Pretoria. 2000. *Employment Equity Reporting: Key Findings,* October 2. <www.labour.gov.za>.

Erasmus, B.J., and E. Sadler. 1999. "Issues Affecting Women in the South African Workplace: A Comparative Analysis of Survey Findings." *South African Journal of Labour Relations,* pp. 4–19.

Hepple, Bob. 1997. "Equality Laws and Economic Efficiency." *Industrial Law Journal,* Vol. 18.

Jain, Harish C. 1993. "Employment Equity and Visible Minorities: Have the Federal Policies Worked?" *Canadian Labour Law Journal* (Spring), pp. 389–408.

Naidoo. 1997. In Lize Booysen, "Towards More Feminine Business Leadership for the 21st Century: A Literature Overview and a Study of the Potential Implications for South Africa." *South African Journal of Labour Relations,* pp. 31–61.

Reports of the Commission on Gender Equality. 1999. "Survey of Employers re AA Policies and Practices: Gender and the Private Sector." Pretoria.

Rycroff, A. 1999. "Obstacles to Employment Equity? The Role of Judges and Arbitrators in the Interpretation and Implementation of Affirmative Action Policies." *Industrial Law Journal,* Vol. 20 (July), pp. 1387–1671.

Samson, M. 1999. "Training for Transformation?" *Agenda,* Vol. 41.

World Bank. 2001. *World Development Indicators.* Washington, DC, April.

Employment Equity in Canada and the United States

Morley Gunderson,
Douglas Hyatt, and
Sara Slinn
University of Toronto

Abstract

Employment equity in Canada and the United States is analyzed with respect to various dimensions including: the legal environment; the rationale; the mechanics or steps involved; the relationship to collective bargaining; and the evaluation of its impacts. Particular attention is paid to the relationship of employment equity to related policies and practices including: pay equity (comparable worth); diversity management; family-friendly work practices; barrier identification strategies; and human rights and antidiscrimination policy in general.

Employment equity means different things to different people—ranging from the general concept of equity or fairness at the workplace to more specific concepts pertaining to requirements to achieve particular representations of target groups in the internal workforce of organizations. The latter, more specific concept is the subject matter of this analysis. The term *affirmative action* is more commonly used in the United States, while employment equity is the term used in Canada, coined by the Abella Commission (1984) in part to differentiate from the earlier U.S. affirmative action initiatives that were often associated with rigid quotas.

Legal Environment

In Canada, legislated employment equity exists mainly in the federal jurisdiction which covers about 5 to 10 percent of the Canadian workforce in "inter-provincial" federally regulated areas such as banking, transportation and communication as well as in federal Crown corporations. The legislation, which applies to organizations of 100 or more employees, was established through the federal Employment Equity Act of 1986, amended in 1996 to also cover

Authors' Address: Centre for Industrial Relations, University of Toronto, 121 St. George Street, Toronto, Ontario M5S 2E8 Canada.

federal employees. The Federal Contractor's Program (FCP), established in 1986, also requires similar employment equity initiatives for firms of 100 or more employees who bid on federal contracts of $200,000 or more. Following the recommendations of the Abella Commission, there are four designated or target groups: women, visible minorities, disabled persons, and Aboriginal persons.

Enforcement under the federal legislation is generally regarded as weak. Penalties under the legislated program exist only for failing to file a report with the Federal Human Rights Commission, and these are minimal (maximum of $10,000 for a single violation and $50,000 for repeated violations). There are no penalties for failing to establish or implement employment equity. The main sanctions are through the "court of public opinion," since the reports are made public and the Commission can initiate a complaint. This pressure can be important, since many of these organizations are large, publicly visible and often publicly accountable—thereby sensitive to their image. Sanctions under the Federal Contractors program also appear to be minimal. A recent evaluation[1] indicated: "No employers have recently been prevented from bidding on a new federal contract because of non-compliance, although many do little or nothing to fulfil their . . . commitments."

At the provincial level, employment equity has existed in Quebec since 1985 for government departments and agencies. It can be part of a remedy imposed by the Human Rights Commission following an investigation after a complaint. British Columbia, Saskatchewan and Manitoba also have employment equity for their public servants (Antecol and Kuhn 1999: S31). In Ontario in 1993, the New Democratic Party passed a provincial Employment Equity Act. However, before it became enacted it was repealed in 1995 by the Progressive Conservative Government, highlighting the controversial nature of such legislation. Employment equity requirements can also be imposed as part of court ordered remedies for complaints brought before provincial human rights tribunals, although such procedures are rare in Canada (unlike the United States). This could reflect a Canadian emphasis on mediation and conciliation through tribunals rather than litigation through the courts, as well as the absence of a civil rights movement, with its emphasis on civil liberties protected through the courts.

At the local level, employment equity is often part of city or municipal ordinances for local governments, and it has been voluntarily adopted by some government departments. These voluntary initiatives, when registered with the Human Rights Commissions under the exemption provisions of the legislation, have generally been sanctioned by the courts as not constituting reverse discrimination (Jain and Hackett 1989).

The United States has a much more extensive history of affirmative action

initiatives mainly as part of court ordered remedies or negotiations with enforcement agencies under the statutory provisions of Title VII, the Equal Employment Opportunity (EEO) provisions of the Civil Rights Act of 1964. As well, it is part of federal contract compliance under various Executive Orders and regulations established in the 1960s. The affirmative action initiatives were initially directed at blacks (reflecting the political pressures of the civil rights movement), but in the 1970s this was broadened to include women. Enforcement through the courts meant that implementation was subject to the social norms as interpreted through the courts, as well as the political decisions to appropriate budgets to enforcement agencies. This meant that the vigorous application of the 1960s and 1970s under the impetus of civil rights and anti-discrimination was somewhat displaced by the more conservative and deregulatory agendas of the 1980s.

In general, court decisions in the United States have also interpreted voluntary affirmative action decisions as not constituting reverse discrimination as long as the initiatives pass a two-pronged test established in *United Steelworkers of America v. Weber,* 443 U.S. 193 (1979). The two-pronged test is that the affirmative action plan must (1) have purposes that mirror those of the statutes, and (2) do not unnecessarily trammel the interests of nonminority employees. A similar test applies to affirmative action plans initiated by government actors.

Rationale

In both Canada and the United States, the rationale for affirmative action initiatives was similar—to offset the legacy of the cumulative history of discrimination, including systemic discrimination that was the (often unintended) byproduct of other policies and practices. Even for economists, who tend to be noninterventionist in markets, there may be some appeal. A true equality of *opportunity* (emphasized by economists) may require compensatory policies to ensure a fair and competitive race, given the already unequal starting points—in a world of "second-best" it may be necessary to offset other constraints. The emphasis on *results* (representation of the designated groups in the firm's workforce) leaves it up to the firm as to how best achieve those results. The increased demand for the designated groups should increase *both* wages and employment, in contrast to equal pay policies, which could reduce employment as a result of the wage fixing. The increased demand by employers should also filter down to education and other institutions to augment their supply of designated groups. Affirmative action initiatives could also be *temporary and short-lived*, with their need being reduced as the designated groups establish their own networks, mentors and role modes, and stereotypes dissipate through experience and interactions.

Of course, there may also be downsides. The designated groups may feel stigmatized as receiving their job or promotion only because of their group status. They may be placed "over their heads" if qualifications are bypassed, with failures reinforcing stereotypes. Backlashes can also result if more qualified groups are bypassed by less qualified designated groups. Clashes can occur over other principles of fairness, such as seniority, if employment equity takes precedence over these rules.

Mechanics or Steps Involved

Employment equity tends to involve four basic steps. First, an internal audit is conducted within the firm to determine the *internal representation* and position of the designated groups within the firm. Second, the *external availability* of the designated groups is determined by documenting their representation in the relevant external labor market, often through census data, with notions of the qualifications and the appropriate labor market from which the firm can reasonably be expected to draw, obviously being contentious issues. Third, *targets or goals* are established to achieve an internal representation that is representative of the external availability of the designated groups. Fourth, a *plan* and timetable is established for achieving those targets. The plans can involve strategies pertaining to such dimensions as: recruitment, retention and promotion; internal education and awareness campaigns; outreach strategies; identification of barriers, especially unintended, systemic practices; mentoring; and reasonable accommodations as appropriate.

Relationship to Collective Bargaining

There has always been an "uneasy tension" between employment equity and collective bargaining. Employment equity can conflict with collective bargaining, especially if the employment equity initiatives take precedence over rules like seniority.[2] In situations like construction, where unions can be involved in the hiring hall and in setting apprenticeship requirements, the employment equity initiatives can be directed at union behavior. Unions can be jointly liable with employers "for discrimination that is caused by the terms of the collective agreement" [Cornish, Schucher and Pask 1988, chap. 3, p. 5; *Renaud v. Central Okanagan School District 23*, (1992) 2 S.C.R. 970].

Unions, however, can be an important complement to legislative initiatives like employment equity. They can help initiate claims and protect workers against reprisal by management. They can inform workers of their rights and obligations under the law and help explain complexities of legislation. They can be part of joint labor–management committees to deal with issues such as internal education and awareness campaigns, outreach strategies, identification of barriers, and reasonable accommodation adjustments.

Importantly, unions can enshrine the legislative requirements into the collective agreement. This would initially appear as redundant in situations where the requirements are legislated, since the legislation takes precedence over collective agreement provisions. Even in these situations, however, enshrining the legislation into the collective agreement can still serve important functions. First, it can make workers more aware of the initiatives. Second, it can provide a degree of institutional continuity, since the collective agreement provisions would still exist if the legislation is rescinded. Third, it can make contentious issues over the legislation subject to the grievance procedure. Fourth, it can facilitate determining the trade-offs that may be involved in areas where the legislation and agreement may conflict, as with respect to seniority rights. Fifth, if the requirements are not legislated, then they are enforceable through the collective agreement and its ancillary apparatus.

Affirmative action/employment equity provisions are not commonly enshrined in collective agreements in Canada, although they are increasing (Jackson and Schellenberg 1999: 266). The extent of affirmative action provisions increased from covering 5.9 percent of employees in 1985 to 11.8 percent by 1998.[3] This contrasts to antidiscrimination provisions in general, which were more prominent but did not increase much (from 56.1 percent in 1985 to 60.5 percent by 1998) and equal pay provisions, which started off at the same low level but increased much more rapidly (5.4 percent in 1985 to 27.6 percent by 1998).

Evaluations

Evaluations[4] of the affirmative action initiatives in the United States generally found positive results for the target groups (although often at the mild expense of the non–target groups), with those results improving with stronger enforcement and expanding firms, and when high-level management supported the initiatives. Employers often indicated that the initiatives led to improved utilization of human resources in general, usually as a result of reassessing their overall human resource practices within the organization. Importantly, Holzer and Neumark (2000) cite two of their other papers, which find that affirmative action does lead to compromises in *formal* qualifications of target groups at the *hiring* stage, but this is more than offset by the more intensive search, evaluation and training efforts at the *recruiting* stage, such that the target group employees have better unobserved *informal* qualifications. The end result is that their *performance* is similar to or slightly better than that of the non–target employees.

In Canada, the few studies that have been done of the impact of the federal employment equity initiatives tend to find small positive effects on the

wages and occupational advance, mainly for women and visible minorities.[5] The most recent study, however, found no impact after the mid-1990s, attributable in large part to reduced enforcement.[6] Jain and Hackett (1989), for example, found that only about one-third of the organizations that were subject to employment equity had what they categorized as an effective implementation procedure in place.

Relationship to Related Policy Initiatives and Practices

Employment equity and equal pay initiatives are generally regarded as complementary. Without equal pay policies, the target groups may be hired and promoted, but with little regard for the pay they receive. Similarly, without employment equity initiatives, equal pay policies may reduce the employment opportunities of the groups to which they apply, given the higher wages. As indicated previously, however, economics would emphasize that equal pay may be a natural byproduct of the increased demand for the designated groups; in that vein, it may be a substitute for equal pay policies.

Issues pertaining to diversity management at the workplace are obviously related to employment equity. There is increased recognition that the former *challenges* of diversity management at the workplace may increasingly give rise to *opportunities,* given the diversity that prevails with respect to customers, suppliers, and global markets. In essence, employment equity can be good business practice in the global economy and diverse workforce.

Family-friendly workplace practices that are increasingly emphasized may also be complementary to employment equity policies, especially in reducing the systemic, unintended barriers that may have been part of the rationale for employment equity in the first place. Flexible worktime arrangements, leaves and childcare arrangements may reduce the burden of balancing work and family faced by many women—a burden that may be even more prominent in the future as issues of eldercare grow in importance. Many of these workplace issues may also reduce barriers faced by disabled persons.

Increased emphasis also tends to be placed on assisting employers in identifying barriers that inhibit the more natural attainment of employment equity, without the formal representational requirements. As well, with the growing emphasis on human rights and antidiscrimination issues with respect to a wide range of enumerated grounds (age, sexual orientation, religion, marital status, criminal record), there is questioning of the merits of special employment equity initiatives for specific target groups.

Obviously, the ideal arrangement is one where employment equity has become unnecessary or has outlived its usefulness given the increased emphasis on such initiatives as diversity management and family-friendly workplace

practices, as well as any initial impact that employment equity already may have achieved. While there is unlikely to be agreement as to whether this is the case, this is likely to be the focus of the future debate on employment equity.

Endnotes

1. Unpublished report cited in the *Toronto Star,* July 13, 2001, p. A03.

2. In the federal employment equity legislation in Canada, seniority is not deemed to be a barrier to employment equity unless it is determined to be an overtly discriminatory practice under the Canadian Human Rights Act. If seniority is deemed to have an adverse impact, however, the employer and employee representatives are required to consult with each other to minimize the adverse impact. Few decisions exist on the possible clash between seniority and employment equity (Cornish, Schucher and Pask, 1998, ch. 3, p. 17).

3. Special cross-tabulations provided to us by the Workforce Information Directorate of Human Resources Development Canada indicate that by December 2001, 29.7 percent of employees covered by collective agreements had provisions pertaining to employment equity in their collective agreement. This suggests that the upward trend for the inclusions of such provisions is still increasing. Differences in the coding of such provisions as well as in the procedures for sampling the agreements over time, however, suggest that caution should be used in determining trends.

4. Reviews are contained in Gunderson (1989), Leonard (1989, 1990), and Holzer and Neumark (2000).

5. Eight studies are reviewed in Gunderson (1998:17), most of which involved surveys or tabulations of data rather than formal econometric evaluations. In a recent study, Antecol and Kuhn (1999) report that employment equity also improves the re-employment probability of women who are laid off.

6. Unpublished report cited in the *Toronto Star,* July 13, 2001, p. A03. The lack of enforcement is also emphasized in Baines (2000).

References

Abella, Rosalie. 1984. *Equality in Employment: A Royal Commission Report.* Ottawa: Supply and Services.

Antecol, Heather, and Peter Kuhn. 1999. "Employment Equity Programs and the Job Search Outcomes of Unemployed Men and Women." *Canadian Public Policy,* Vol. 25, Supplement, no. 1.

Baines, Beverley. 2000. "Occupational Sex Segregation and Employment Equity: Lessons from Canada." *Canadian Labour and Employment Law,* Vol. 8, no. 2.

Cornish, Mary, Karen Schucher, and Amanda Pask. 1998. *Canadian Labour Congress Trade Union Guide to the Federal Employment Equity Act.* Toronto, ON: Cavalluzzo, Hayes, Shilton, McIntyre, and Cornish.

Gunderson, Morley. 1989. "Male-Female Wage Differentials and Policy Responses." *Journal of Economic Literature,* Vol. 27, no. 1 (March), pp. 46–72.

Gunderson, Morley. 1998. *Women and the Canadian Labour Market.* Toronto: ITP Nelson.

Holzer and Neumark. 2000. "Assessing Affirmative Action." *Journal of Economic Literature,* Vol. 38, no. 3 (September), pp. 483–568.

Jain, Harish, and Richard Hackett. 1989. "Measuring the Effectiveness of Employment Equity Programs in Canada." *Canadian Public Policy*, Vol. 25 (June), pp. 189–204.

Jackson, Andrew, and Grant Schellenberg. 1999. "Unions, Collective Bargaining and Labour Market Outcomes for Canadian Working Women: Past Gains and Future Challenges." In Richard Chaykowski and Lisa Powell, eds., *Women and Work*. Kingston: McGill-Queen's University Press, pp. 245–82.

Leonard, Jonathan. 1989. "Women and Affirmative Action." *Journal of Economic Perspectives*, Vol. 3, no. 1 (Winter), pp. 61–75.

Leonard, Jonathan. 1990. "The Impact of Affirmative Action and Equal Employment Law on Black Employment." *Journal of Economic Perspectives*, Vol. 4, no. 4 (Fall), pp. 47–63.

DISCUSSION

Trevor Bain
University of Alabama

The three papers provide the reader with a comparative view of affirmative action (AA) and employment equity (EE) policies and programs. Although each of the papers discusses a different country or countries, there are six generalizations that can be made. In no particular order, these are:

(1) The three papers deal principally with political, judicial, and legislative attempts to effect economic, social and organizational behavior.

(2) The general thrust in the countries covered, including the United States, has been to improve the labor market position of minorities and women through hiring, selection, placement and promotion.

(3) A group of disadvantaged, or minority groups, are specifically identified as the recipient of policies and programs.

(4) The government sector is often the primary target for these policies and programs. Government agencies are required to take action to improve the labor market position of the designated groups and women. Also targeted are private firms that do business with the government. Together, these two sectors will make up a large part of any economy whether socialist or free market. Private firms, without government ties, are often impacted on a voluntary basis, and small employers are exempt.

(5) AA and EE programs seek employment opportunities for the protected classes in each occupational category in proportion to their percentage of some defined population.

(6) The three papers briefly touch on the issue of evaluation of these AA and EE programs.

I will discuss each of the three papers before turning to some concluding comments. John Wrenche's paper is different from those of Gunderson, Hyatt and Slimm and Jain in that it is written from the management perspective. Many of the public labor market programs in the United States have sought to influence the supply side of the market, leaving the demand side to macroeconomic policy. However, Wrench makes the point that employers may be

Author's Address: P.O. Box 870225, Tuscaloosa, AL 35487.

sold on EE and diversity management if it can be shown that these programs improve organizational effectiveness and efficiency. For European politicians, the "angle", and this is Wrenche's term, could be social inclusion in a Europe with continuing immigration issues. His paper is an excellent overview of what has been going on in diversity management and is a good introduction to the literature.

I conducted a cursory review of a couple of the leading U.S. textbooks in managing human resources and found that they provide an excellent review of U.S. programs and policies—particularly, the proper and improper actions of managers in conforming to AA. Each of the texts now also includes a chapter on diversity management and point out to potential mangers, not only the ethical argument for diversity, but that discriminating against qualified employees hurts the organization in a changing labor market, where mergers, alliances and globalization require different cultures to work together.

The paper by Morley Gunderson, Douglass Hyatt and Sara Slimm provides a brief review of legislated EE in Canada and the United States. Among its benefits is informing the reader of the issues related to collective bargaining. The authors point out that AA provisions are not common in agreements in Canada but that antidiscrimination provisions are found in more than half of the agreements. I find in my work as a labor arbitrator the same results for the United States. Agreements have very little on the subject of EE, but most contracts do include an article that prohibits discrimination and particularly sexual harassment. This is a difficult political issue for unions, since the aggrieved employee, as well as the person being charged, may both be union members.

The paper by Harish Jain is different from the others. In Europe, Canada and the United States, there are white majorities and nonwhite minorities. However, in South Africa there is a nonwhite population that has transformed itself into a majority at the ballot box but not at the time clock in managerial positions. This paper is a very good introduction to EE in South Africa and the state of compliance.

The major weakness of these papers is that they only briefly touch on the evaluation of programs. Evaluation is critical to public policy. The Gunderson, Hyatt, Slimm paper cites the best review of the U.S. economic literature in an article by Holzer and Neumark in the *Journal of Economic Literature*, September 2000.

The reader is left with the thought that successful AA and EE in those countries discussed is a long ways from realization; that the political will is crucial if there is to be enforcement and a budget to finance this enforcement; that there is considerable resistance by employers and the public, as evidenced by reverse discrimination rulings, California Proposition 209, and other attacks on preferential treatment in university admissions.

VIII. ASSOCIATIONS, UNIONS, AND THE CHANGING NATURE OF PROFESSIONAL WORK

Changes in Employment and Working Conditions Among Technical and Professional Workers

Danielle D. van Jaarsveld and Rosemary Batt
Cornell University

Abstract

Recent organizing drives and strike activity among technical and professional employees raise the question of whether the employment conditions of these workers are deteriorating more generally. To consider this question, this paper reviews empirical research and national surveys on trends in employment contracts and working conditions of technical and professional employees. On average, we find that employment security and benefits have deteriorated, more pay is at risk, and hours of work have increased, negatively spilling over from work to family life.

Recent organizing drives among physicians, psychologists, graduate students, and high-tech workers at IBM and Microsoft have attracted national attention. Similarly, in 2000 we witnessed militant strikes by the Screen Actors Guild in Hollywood and a 40-day strike by aerospace engineers at Boeing, the longest white-collar strike in history. These incidents raise the question of whether the employment conditions of technical and professional workers are deteriorating more generally, such that they may be more likely take collective action than in the past. To consider this question, we review

Author's Address: ILR Human Resource Studies, Cornell University, Ithaca, NY 14853–3901.

national evidence on the extent of change in working conditions and employment contracts for technical and professional workers.

One indicator of changing conditions at work is attitudinal data from national surveys. In one survey of a nationally representative sample of individuals (conducted annually since 1984 by Gantz Wiley Research), technical and professional workers reported significant improvements in the intrinsic aspects of their work such as the use of skills, discretion, participation at work, and sense of personal accomplishment. However, they reported significant declines in extrinsic aspects of work, including job security and satisfaction with pay and benefits (National Research Council 1999). Similarly, analyses of the General Social Survey show that perceptions of job security among white-collar workers declined significantly between the 1980s and 1990s (Aaronson and Sullivan 1998). In the following sections, we review national trends in job security, compensation, hours of work, electronic monitoring, and work/family balance.

Employment Security

National indicators of employment security include trends in the rates of nonstandard employment contracts, job stability, and worker displacement. Data on the use of nonstandard contracts are available from the Bureau of Labor Statistics (BLS) Contingent Work Supplements to the Current Population Survey (CPS) for 1995, 1997, and 1999. Analyses of the 1995 data showed that 30 percent of female professionals and 25 percent of male professionals worked in nonstandard arrangements, which include regular part-time, temporary, on call/day laborer, self-employed, independent contractor, and contractor (employed by a contract company; Spalter-Roth 1997). By 1999, contingency rates among professional workers had increased somewhat from 1995 (Hipple 2001). Professional specialties were among the occupations with the highest rates of nonstandard contracts in 1999, along with farming, forestry and fishing, and administrative support (Hipple 2001). Similarly, the number of temporary staffing agencies that focus on placing technical and professional employees specifically in temporary positions increased by five-fold between 1990 and 1999 (Melchionno 1999). Moreover, projections based on the BLS data are that temporary employment will grow by almost 50 percent for technicians, 68 percent for engineers, 78 percent for sales and marketing positions, and 123 percent for computer engineers and scientists between 1996 and 2006 (Melchionno 1999).

Employment security and career growth is a significant issue for professional employees in temporary, freelance, or subcontracting arrangements. In a recent survey of new media professionals in New York City, for example, respondents reported that they spent 14 hours per week of unpaid time just to upgrade their skills to be "employable" (Batt et al. 2001). Despite the fact

that the study focused on a very successful group with an average income of $99,000 per year (1998 dollars) at a time when the industry was booming, only half felt their jobs were secure and only 60 percent were satisfied with their career prospects (Batt et al. 2001).

One measure of job stability is job tenure, or the length of time an employee stays with one employer. BLS data show that the job tenure of college-educated employees has declined almost as much as that of less educated workers. For example, between 1979 and 1996, the percent of college-educated workers with 10-year-tenure jobs declined by 6.9 percentage points, compared to 7.3 percentage points among workers with less than a high school degree (Mishel, Bernstein, and Schmitt 2001).

Another measure of job stability is the rate of job loss or displacement due to factors such as downsizing or restructuring that are unrelated to individual behavior (e.g., quits or discharges). Using displaced worker surveys of the CPS, Farber found that the proportion of technical and professional workers who experienced job loss because their positions were abolished grew from 1.1 to 1.7 percent between the two periods of economic recession 1981–1983 and 1991–1993 (Farber 1997). He also showed that between the two periods of economic recovery 1987–1989 and 1993–1995, the proportion of technical and professional workers whose positions were abolished increased from 1.0 to 2.2 percent (Farber 1997). In subsequent analyses of data through 1999, Farber (2001) found that more educated workers experienced a higher increase in the job loss rate during the early and mid-1990s than did other groups. Among workers with at least 16 years of education, job loss due to a position or shift being abolished was 1.5 percent in 1981–1983, 3.2 percent in 1993–1995, and 2.2 percent in 1997–1999 (Farber 2001).

Although white-collar workers continued to be less likely than blue collar workers to lose their jobs, the gap in displacement rates between the two groups has narrowed considerably since the early 1980s. In his analysis of the displaced workers supplements to the CPS, for example, Helwig (2001) found that the displacement rate for blue collar workers for the 1981–1982 period was 7.3 percent compared with 2.6 percent for white-collar workers. Meanwhile, by 1997–1998, the displacement rates were 3.1 percent and 2.4 percent, respectively (Helwig 2001). In sum, several indicators suggest that job security for technical and professional workers has declined, and the reasons for that decline are not cyclical but structural, driven by managerial choice.

Pay and Benefits

On average, technical and professional workers experienced real wage growth during the 1980s and 1990s (Mishel, Bernstein, and Schmitt 2001). This trend masks the fact that male technical workers experienced a decline

in hourly wages between 1989 and 1995 (Mishel, Bernstein, and Schmitt 2001). However, the rising rate of nonstandard contracts among these workers also has some negative wage and benefit implications. Multivariate analyses of the 1995 BLS data, for example, showed that technical and professional workers in nonstandard contracts had significantly lower wages and benefits than did their full-time counterparts (Spalter-Roth et al. 1995:48).

In addition, while most technical and professional workers experienced real wage increases, the growth of performance-based pay strategies has put more pay at risk. Many companies have shifted from incentive pay, based on bonuses and add-ons, to "risk sharing" in which a portion of pay is at risk or employees receive stock options in lieu of pay. Stock option plans, particularly popular for high-tech workers, grant employees the right to buy company stock at a specified price during a set period once the option has vested. Companies granting broad-based stock options to all employees rose from 5.7 percent in 1993 to 10.3 percent in 1997 according to one study of the proxies of 350 of the largest public companies (Mercer 1997). The downturn of the stock market, however, left many workers with underwater stock options—options in which the exercise price for a company's stock exceeded the current market price (Delves 2001). In other cases, employees have filed lawsuits alleging that firms such as DoubleClick and IBM dismissed them right before their stock options vested (Kowalski 2000).

In the area of benefits, health insurance and pension coverage for higher-skilled workers has declined, according to data from the BLS national compensation survey of medium and large private establishments. Of full-time workers in medium and large private establishments who participated in medical care plans, only 31 percent had individual coverage wholly financed by their employer in 1997, down from 77 percent in 1980. In 1997, 20 percent of full-time medical plan participants in medium and large private establishments were eligible to receive fully employer-paid coverage for their families, a significant decrease from 51 percent in 1980. For professional, technical, and related employees, pre-coverage expenses as well as average employee monthly contributions for individual coverage and family coverage for both HMO and non-HMO plans increased substantially for the period from 1991–1997 (BLS 1999, table 8). Some firms also are transforming health insurance plans into "defined contribution" systems in which they provide a set amount of money for each employee's health benefits, thereby capping the company's costs (Winslow 2000).

Employers also have shifted investment risk to workers by converting defined benefit pension plans into defined contribution plans: 401(k) plans or Employee Stock Ownership Plans (ESOPs; Ippolito and Thompson 2000). For example, data from the 1999 National Compensation Survey reveal that in

private industry, the percentage of professional, technical, and related employees participating in a defined benefit plan was 29 percent, while the percent covered by defined contribution plans was 56 percent (BLS 1999, table 1; BLS table 1 1997)

In defined benefit plans, employees are guaranteed a fixed income based on their years of service, and the company absorbs the risks associated with changes in interest rates and inflation. In addition, the Pension Benefit Guarantee Corporation, a governmental agency, guarantees the accrued benefits up to a certain point. In defined contribution plans, by contrast, employers contribute a set annual rate to employees' retirement accounts (typically fifty cents to every dollar invested by the employee). Employees absorb the market risks and can take the cash value of the plan whenever they leave the company. These plans are favorable for mobile workers, but generally provide lower payouts and are not guaranteed by the Pension Benefit Guarantee Corporation. In addition, because ESOP plans invest employee savings in the employer, employees cannot diversify their portfolio and risk loss of savings in the event of poor corporate performance or bankruptcy, as in the Enron case (Cummings et al. 2002). Employees increasingly have challenged firms for 401(k) losses through class-action lawsuits in corporations such as Procter & Gamble, Qwest Communications International Inc., and Enron Corporation (Schultz 2001). In other cases, such as IBM, technical and professional employees not only filed a lawsuit to challenge IBM's conversion of their defined-benefit plan to a cash-balance plan, but also formed IBM/Alliance, an employee organization pursuing an ongoing organizing drive under the auspices of the Communication Workers of America (CWA).

Work Hours and Work/Family Balance

Technical and professional employees also are working longer hours, according to analyses of CPS data. The share of full-time professionals working 49 hours or more per week increased between 1985 and 1993 (Rones et al. 1997). Compared to other occupations, professionals and managers were most likely to work long workweeks. The work hours of men and women in married couples also have risen. In 1998, 31 percent of married couples had both spouses working 35 or more hours per week, up from 13 percent in 1969 (U.S. Department of Labor 1999). Couples with small children are spending more combined hours at work, and the number of couples where both spouses work long hours has increased (U.S. Department of Labor 1999). In addition, the availability of paid time off has declined (U.S. Department of Labor 1999). Finally, among professional employees in regular full-time jobs, mothers and fathers in dual-earner families with children have average weekly hours of 45.9 (fathers) and 42 (mothers) (Spalter-Roth 1997).

A central question is whether professionals prefer to work these long hours. The most comprehensive data on this question come from the National Study of Families and Households (NSFH), a nationally representative sample of more than 10,000 men and women, (including spouses and partners) in 1987–1988 and 1993–1994. Clarkberg and Moen (2001) analyzed the relationship between the preferences and the actual hours worked by couples in the two waves of data. They found that only 41 percent of wives and 44 percent of husbands are working the schedule they prefer. Approximately two-thirds of those who were not working their desired schedule were working longer hours than they wanted. Among dual-earner professional couples, the odds of being overworked were 50–90 percent higher than among nonprofessional couples (Clarkberg and Moen 2001).

Increased work hours also have negative spillover effects on family well-being. A Cornell study found that the proportion of workers who reported high levels of work–family conflict jumped dramatically for those who put in more than 50 hours a week (Institute for Workplace Studies 1999). Similarly, Canadian researchers conducted two separate surveys of 6,500 public and private sector employees in 1991 and 2001 (Duxbury and Higgins 2001). Compared to 1991, professional workers in 2001 reported significantly higher levels of depression and stress and lower levels of job satisfaction and organizational commitment. Parental status was significantly related to job stress in 2001, but not in 1991, a finding that did not differ by gender. Although "family-friendly policies" were introduced in the past decade, male and female professionals reported that taking advantage of those policies would negatively affect their career prospects. In both periods, professional women reported the highest levels of role overload and work-to-family conflict compared to nonprofessional women, and professional and nonprofessional men.

Another source of stress comes from the increased use of electronic performance monitoring. In 2001, over three-quarters of U.S. firms recorded and reviewed employee activities on the job, twice the percentage that did so in 1997 (American Management Association 2001). While little data specific to technical and professional employees exists, a wide variety of monitoring mechanisms typically cover these employees, including advanced communications technologies such as computer laptops, voice mail, e-mail, and cell phones; and company norms increasingly imply that speedy response to these communications is an indicator of commitment and performance. A national survey of technicians in the telecommunications industry, for example, found that 25 percent are electronically monitored on a regular basis (Batt et al. 2000).

Increased productivity pressure and performance monitoring are associated with higher stress. According to a survey conducted by Northwestern National Life, employees experiencing job stress frequently suffer from health ailments

(Northwestern Life 1991). In 1997, OSHA reported that roughly two-thirds of cases of occupational stress involving days away from work occurred to workers in white-collar occupations (Webster and Bergman 1999). High levels of stress can lead to increased health risks. In one study of female lawyers, researchers compared female lawyers who work long hours with part-time female lawyers (Fraser 2001). Those who worked longer hours were 5 times as likely to suffer great stress at work and 3 times as likely to have a miscarriage. Similarly, a University of Michigan study of nurses who work more than 40 hours a week found that nurses who worked longer hours were 70–80 percent more likely to deliver premature, underweight babies (Fraser 2001).

Discussion and Conclusions

This paper provides an initial assessment of changes in the employment contracts and working conditions of technical and professional employees. On average, it appears that job security and benefits have deteriorated, more pay is at risk, and hours of work have increased, negatively spilling over from work to family life. Some case studies also point to heightened job-related stress. However, there are many areas in which data on employment conditions for these occupational groups are unavailable. Moreover, we were unable to assess variation in these trends by detailed occupational subgroups. In future research, we intend to undertake more fine-grained analyses of trends in the nature of work, technology, and employment contracts for employees in technical and professional specialties.

References

Aaronson, D., and D.G. Sullivan. 1998. "The Decline of Job Security in the 1990s: Displacement, Anxiety, and Their Effect on Wage Growth." *Economic Perspectives* (Federal Reserve Bank of Chicago), Vol. 22, no. 1 (Q1), pp. 17–43.

American Management Association. 2001. *Electronic Monitoring and Surveillance.* New York: American Management Association.

Batt, R., S. Christopherson, N. Rightor, and D. van Jaarsveld. 2001. *Net Working: Work Patterns and Workforce Policies for the New Media Industry.* Washington, DC: Economic Policy Institute.

Bureau of Labor Statistics. 1998. *Employee Benefits in Medium and Large Establishments, 1995.* Bulletin 2496, Washington, DC: U.S. Department of Labor.

Bureau of Labor Statistics. 1999. *Employee Benefits in Medium and Large Establishments, 1997.* Bulletin 2517, Washington, DC: U.S. Department of Labor.

Bureau of Labor Statistics. 2001. *Employee Benefits in Private Industry, 1999.* News release, Washington, DC: U.S. Department of Labor.

Clarkberg, M., and P. Moen. 2001. "Understanding the Time-Squeeze." *American Behavioral Scientist,* Vol. 44 (March 7), pp. 1115–36.

Cummings, J., J.R. Emshwiller, T. Hamburger, S.J. Paltrow, J. Sapsford, E. Schultz, and R. Smith. 2002. "Though Enron Case Isn't Over, Lessons Already Emerge." *Wall Street Journal,* January 15, p. A.4.

Delves, D. 2001. "Underwater Stock Options." *Strategic Finance*, Vol. 83, no. 6, pp. 26–32.

Duxbury, L., and C. Higgins. 2001. *Work-Life Balance in the New Millennium: Where Are We? Where Do We Need to Go?* Ottawa, ON: Canadian Policy Research Networks.

Farber, H.S. 1997. "The Changing Face of Job Loss in the United States, 1981–1995. " *Industrial Relations Section Working Paper 38*. Princeton, NJ: Princeton University.

Farber, H.S. 2001. "Job Loss in the United States, 1981–1999." *Industrial Relations Section Working Paper 453*. Princeton, NJ: Princeton University.

Fraser, J.A. 2001. *White-Collar Sweatshop.* New York: W.W. Norton.

Helwig, R.T. 2001. "Worker Displacement in a Strong Labor Market." *Monthly Labor Review,* Vol. 124, no. 6, pp. 13–28.

Hipple, S. 2001. "Contingent Work in the Late 1990s." *Monthly Labor Review,* Vol. 124, no. 3, pp. 3–27.

Ilg, R.E., and S.E. Haugen. 2000. "Earnings and Employment Trends in the 1990s." *Monthly Labor Review,* Vol. 123, no. 3, pp. 21–33.

Institute for Workplace Studies. 1999. *Overtime and the American Worker.* Ithaca, NY: Cornell University.

Ippolito, R.A., and J.W. Thompson. 2000. "The Survival Rate of Defined-Benefit Plans, 1987–1995." *Industrial Relations*, Vol. 39, no. 2, pp. 228–45.

Kowalski, R. 2000. "As Options Spread, So Too Do Suits From Workers Fired Before They Vest." *TheStreet.com.* <www.thestreet.com/tech/internet/900423.html>.

Melchionno, R. 1999. "The Changing Temporary Workforce." *Occupational Outlook Quarterly,* Vol. 43, no. 1 (Spring), pp. 25–32.

Mercer, W.M. 1997. "Stock Options Move Beyond Companies Executive Suites." Press release, December. New York: William M. Mercer.

Mishel, L., J. Bernstein, and J. Schmitt. 2001. *The State of Working America.* Ithaca, NY: ILR Press.

National Research Council (NRC). 1999. *The Changing Nature of Work: Implications for Occupational Analysis.* Committee on Techniques for the Enhancement of Human Performance. Commission on Behavioral and Social Sciences and Education, National Research Council. Washington, DC: National Academy Press.

Northwestern National Life Insurance Company. 1991. *Employee Burnout: America's Newest Epidemic.*

Rones, P.L., J.M. Gardner and R.E. Ilg. 1997. "Trends in Hours of Work Since the Mid-1970s." *Monthly Labor Review,* Vol. 120, no. 4, pp. 3–14.

Schultz, E.E., and T. Francis. 2001. "Fair Shares? Why Company Stock Is a Burden for Many." *The Wall Street Journal,* November 27, p. A.1.

Spalter-Roth, R.M., A.L. Kalleberg, E. Rassell, N. Cassirer, B.F. Reskin, K. Hudson, D. Webster, E. Appelbaum, and B.L. Dooley. 1997. *Managing Work and Family.* Washington, DC: Economic Policy Institute and Women's Research & Education Institute.

U.S. Department of Labor. 1999. *Report on the American Workforce.* Washington, DC: U.S. Department of Labor.

Webster, T., and B. Bergman. 1999. "Occupational Stress: Counts and Rates." *Compensation and Working Conditions,* Vol. 4, no. 3, pp. 38–41.

Winslow, R., and C. Gentry. 2000. "Health-Benefits Trend: Give Workers Money, Let Them Buy a Plan." *The Wall Street Journal,* February 8, p. A.1.

Professional Associations and Collective Bargaining: Motivations and Difficulties

Matthew M. Bodah
University of Rhode Island

M. Catherine Lundy
Michigan State University

Patrick P. McHugh
George Washington University

Abstract

This paper addresses two questions: what motivates a professional association to move toward collective bargaining, and what problems does a professional association face once it becomes a bargaining agent? Two case studies were conducted. The first involves the American Pharmaceutical Association, which recently amended its policy that discouraged unionization. The second concerns the American Nurses Association, which recently underwent restructuring with the disaffiliation of several state branches and the creation of a new bargaining wing. The findings are that the protection of "professionalism" is a key reason an association moves toward bargaining, while the balancing of interests between bargaining and nonbargaining members, particularly if many of the latter are supervisors, managers, or executives is difficult and can lead to organizational schisms.

Introduction

In this paper we ask two related questions: what motivates a professional association to move toward collective bargaining as a means of advancing its members interests, and what problems does a professional association face after becoming a bargaining agent? For answers we bring together two research projects. The first began several years ago when one of the authors was

Authors' Address: Labor Research Center, University of Rhode Island, 36 Upper College Road, Kingston, RI 02881–1328.

commissioned by the American Pharmaceutical Association (APhA) to study workplace issues among pharmacists. A national survey was conducted with a questionnaire that included an item concerning pharmacists' views toward unionization. That research was supplemented with interviews with several high-level APhA officials. The second research project began in the summer of 2001 and is continuing. This latter research examines the reordering of representational forms in the nursing profession. Specifically, we explain some of the dynamics that have surrounded the American Nurses' Association (ANA) within the past few years—several of its state branches have disaffiliated and may form a new national union, while ANA's national office has established United American Nurses (UAN), an AFL-CIO affiliate, as its collective bargaining wing.[1]

The key findings are: First, while some argue about the appropriateness of unionization for professionals (Rabban 1991), in fact perceived threats to "professionalism" are important factors in the move toward collective bargaining by professionals and their associations. Second, there is a delicate balance between the interests of collective bargaining and non–collective bargaining members, which can threaten the solidarity and stability of a professional association, particularly when a significant number of non–collective bargaining members are executives, managers, or supervisors.

Case Study 1: Pharmacists

One motivation for the study of the work lives of pharmacists was the increasing tension within the APhA regarding the potential role that collective bargaining could play in improving the practice environment. In turn, the dissemination of survey results coincided with a change in the APhA's position concerning unionization. Although there is an interesting history of labor militancy among pharmacists (Bectel 1970; Fink and Greenberg 1989; McHugh and Bodah in press), the APhA had been skittish about the unionization of pharmacists. In 1948 it called for pharmacists to work out "codes of employer-employee relations" as substitutes for collective bargaining (Bectel 1970:2) and eventually, in 1971, adopted a policy stating that "membership in a trade union is the antithesis of professional status for pharmacists" (American Pharmaceutical Association 1999:3–4).

However, there have been major changes in pharmacy practice during the past several decades. Employment has shifted from small owner–operator pharmacies to large chain stores. There has been an increased dependence on third party payers. At the same time, prescription volume has increased, while pharmaceutical care and drug treatments have become more sophisticated. In short, pharmacists have become increasingly stressed while dealing increasingly with institutions whose interest is financial not medical. As one

of interviewees stated: "New practitioners had stars in their eyes . . . [they] had been told that you are going to do some really great things providing patient care. [But then] they were working seven, twelve-hour days with the associated pressure and problems."

As a response to these pressures, some pharmacists and even independent pharmacy owners have reached out to unions. Largely due to the efforts of APhA members who belonged to unions despite the association's policy, in 1999 APhA rescinded its former policy and created a new policy on unionization. Its new policy provides implicit support for unionization by stating that APhA "supports pharmacists' participation in organizations which promote the discretion or professional prerogatives exercised by pharmacists in their practice" and "supports the rights of pharmacists to negotiate with their respective employers for working conditions that will foster compliance with standards of pharmaceutical care as established by the profession" (American Pharmaceutical Association 2000).

We find that at both the individual and organizational levels, the change in policy is linked to a belief that collective bargaining can protect or restore professional standards in the workplace. We base our beliefs on evidence from survey data and interviews with APhA officials.

The national survey (n = 718) found that 27.9 percent of respondents would "definitely vote against a union"; 29.5 percent "would probably vote against a union"; 28.3 percent "would probably vote for a union"; and 14.3 percent "would definitely vote for a union". In seeking to explain the probability of a respondent favoring unionization, we subjected a number of variables and factors to ordered probit analysis. (See McHugh and Bodah in press.) We find that union support is strongest among male nonwhites, those with prior union experience, those with a union member in the household, and those whose job satisfaction is low. We also find that union support is most likely among those who believe that a union would improve compensation. But we believe the more noteworthy findings are that union support is negatively associated with the current level of "professionalism" in the workplace[2] and positively and strongly associated with a belief that a union would be instrumental in restoring or protecting professionalism.[3] With these latter findings, we conclude that the belief that a union could enhance the professional practice environment is a key reason why individuals within APhA sought the move toward a more favorable position concerning unionization and collective bargaining within their association.

Findings at the individual level do not necessarily translate into changes at the organizational level. However, our interviews confirm that the same belief that collective bargaining could advance professionalism was a factor in APhA's change of policy. APhA officials told us "they [the union members] were

the earliest barometer. People who were in unions and carried that banner believed that if only more of their brethren were represented in those kind of collective bargaining units then we could in fact mobilize more activity to set right the practice environment problems." Another added, "It was a vocal group of pharmacists that were union members or had leadership positions within their union. . . . They believed that unionization was the way to go to solve workplace issues." One APhA official noted that "APhA does strongly support the professional autonomy of the pharmacist so if you are in a position where you are being asked to do something that you are not comfortable with you get out. If the union helps you do that—great." Another APhA official highlighted the role that professionalism played regarding changes to the association's collective bargaining policy, "We established and calibrated the policy and had an opportunity to reaffirm our strong feelings about pharmacists' professionalism and the fact that they need to work in an environment that allows them to deliver professional services." Hence, we believe that concerns over professionalism were a key reason for APhA's change in policy at the organizational level.

Case Study 2: Nurses

While APhA only recently moved toward a position more favorable to collective bargaining, the largest professional association for nurses endorsed bargaining many years ago and, soon after, through its state affiliates, became the largest bargaining agent for nurses in the United States. By studying pharmacists, we were able to explore why a professional association moves toward collective bargaining; the nurses' case allows us to see the difficulties faced at a more advanced stage.

Like APhA, the American Nurses' Association was at first reluctant to embrace collective bargaining. When union membership surged in the 1930s, ANA's first response was to urge against unionization by nurses. Instead, it proposed that its state nurses' associations (SNAs) develop programs of public education to raise the economic standing of the profession. Such programs alone were insufficient to raise nurses' wages and with pressure from its own ranks and competition from labor unions that were organizing nurses, ANA decided to become directly involved in bargaining through its SNAs (Alexander 1978; Kruger 1981).

Although the ANA became a bargaining agent, it remained a professional association and continued to enroll non–collective bargaining members, including those who held supervisory, managerial, and executive positions. Balancing the interests of all of its members has proven difficult for ANA. In 1976, nurses at a hospital in Midland, Michigan decertified the Michigan Nurses Association as their representative. A scholar who studied the case wrote: "The

Midland nurses saw the MNA's role as primarily concerned with advancing the professionalism of nursing practice rather than with the furthering of nurses' collective economic interests. Many other professional nurses view their state associations in a similar light" (Kruger 1982:275). A former ANA official was quoted more recently as saying that the existence of bargaining and nonbargaining members produced a "palpable weirdness" within the ANA (Moore 1997:24).

In addition to balancing the interests of bargaining and nonbargaining members, another, and perhaps more significant, challenge is in reconciling the interests of staff and supervisory nurses. An organization called the Boston Nurses Group (1978:7) noted that a state director of nursing, who had been responsible for laying-off nurses at a public hospital, was the secretary-treasurer of her SNA.

Interviews we conducted in the summer and fall of 2001 indicate that the tensions caused by ANA's dual role led to the disaffiliations of several SNAs during the 1990s and early 2000s. Since 1995, the California, Massachusetts, and Maine state nurses associations have disaffiliated from the ANA. There is also no longer an ANA-affiliated state collective bargaining organization in Pennsylvania, although that resulted primarily from the decision of the nurses' association to relinquish bargaining activity.[4] Interviewees in the disaffiliated states rooted their discontent in the divisions that surfaced during the difficult economic times of the early 1980s.

> It started with the acquisitions and mergers and the downsizing and all of this. And it just became crystal clear that the only people who were standing up and fighting this were the staff nurses at the bedside. . . . Those who were in charge looked at it and told us . . . "This is an opportunity. If you get laid off it is good for you because you will expand and you will grow".

Dissatisfied with the response of ANA leadership, which was dominated by managers, to the financial pressures of the time, labor representatives encouraged staff nurses to become more active in the association.

> I was always pushing grassroots organizing within the organization. If you're the majority of the membership, you have the majority of the voting power, but you have to lead it, you have to take it, you have to elect people, you have to get involved.

In California, this activism was met with stiff resistance from the association's executive board, which terminated the labor relations director and much of her staff. The terminations (which were followed by successful actions for

reinstatement) provided a further rally point for the labor activists, who went on to win a one-vote majority on the executive board. In 1995, at a state convention, and following the speech of the president of ANA critical of the labor activists, the California nurses voted to disaffiliate.

Their move was closely watched by labor officials from the Massachusetts Nurses Association, who were growing increasingly dissatisfied with the positions of ANA. However, Massachusetts remained with the national association until the final establishment of UAN. Although the Massachusetts officials had been active in the formation of the UAN, they did not approve of several aspects of UAN's proposed structure and operation. For example, they did not believe that there was sufficient insulation between ANA and UAN with respect to budgeting and staffing; they were concerned that AFL-CIO membership would make organizing more difficult, since they would be unable to compete with other AFL-CIO unions for members; and they did not approve of the mandatory nature of UAN membership, preferring instead to have membership determined on a state-by-state basis.

Hence, with their general discontent with ANA and several disagreements concerning UAN, Massachusetts chose to disaffiliate. The first attempt at breaking away came at a state convention in 2000. Although 62 percent of delegates supported disaffiliation, 66 percent were needed for the motion to pass. Comments on the vote by a Massachusetts official further reveal the tensions within ANA:

> You could look in the audience and almost tell who was going to vote which way. Because by age and by the person arriving in scrubs you could see that they had just gotten off a shift trying to get there for the vote. And the group that was either totally elderly or clearly coming from a work environment in which they wore suits or had freedom over their schedule or . . . it was just a very different . . . when you looked at it you really saw a class struggle.

While initial attempts at disaffiliation failed, during the same time frame elections were held that put the Massachusetts executive board firmly in the hands of those who favored disaffiliation. After the election, the executive director was terminated; the director of labor relations was elevated to executive director; and in the spring of 2001 the Massachusetts Nurses Association disaffiliated from ANA.

Conclusions

The pharmacists' case provides evidence of why a professional association moves toward unionization. We believe that survey and interview data dem-

onstrate the importance of the link between professionalism and collective bargaining. At both the individual and organizational level, unionization and collective bargaining are viewed more favorably if they are perceived as means toward restoring or protecting professional standards.

The nurses' case shows that professional associations that become bargaining agents, but continue to enroll nonbargaining and management-level members, can face difficulties in balancing the interests of all groups. If not handled properly, such conflicts of interest can lead to instability and eventually the fragmentation of an organization.

Endnotes

1. The authors thank the following interviewees and respondents for their help: James Bailke, Teri Evans, Cheryl Johnson, Lucinda Maine, Kay McVay, Theresa Peaphon, Pat Philbrook, Julie Pinkham, April Shaugnessy, and Susan Winkler.

2. Professionalism was measured with the following 6-item scale (alpha = 76): (1) My employer provides me with feedback regarding the quality of patient care; (2) my work environment is conducive to patient care; (3) I am rewarded for the quality of work I do; (4) I am encouraged by my employer to attend educational seminars or professional association meetings for professional development purposes; (5) I have time to keep up with the clinical knowledge and practice issues; and (6) I feel pressure from my employer to make unethical/illegal decisions (reversed coded). In responding to these items, participants were asked: "Consider your current primary work locale, to what extent do you agree or disagree with each statement?"

3. Union instrumentality-professionalism was measured with the following 6-item scale (alpha = .88): (1) The amount of training available for staff . . . ; (2) the demands my work organization puts on pharmacists . . .; (3) the workload (number of prescriptions filled per hour) . . .; (4) the quality of patient care . . .; (5) the amount of time spent on patient assessment and counseling . . .; (6) my dispensing error rate. . . . Participants were asked to complete the preceding sentences with statements ranging from 1 = would get much worse, to 5 = would get much better, after they were instructed to "Assume that your present employment site becomes unionized. Indicate how you would complete the following sentences. . ."

4. However, an organization called the Pennsylvania Association of Staff Nurses and Allied Professionals (PASNAP) is composed of units that disaffiliated, on a unit-by-unit basis, from the ANA in the early 1990s.

References

Alexander, E.L. 1978. *Nursing Administration in the Hospital Health Care System.* St. Louis, MO: C.V. Mosby.

American Pharmaceutical Association. 1999. *House of Delegates Report of the Policy Committee,* Annual Meeting of the APhA, San Antonio, TX.

American Pharmaceutical Association. 2000. "APhA Policy Statements on Employer/Employee Relations." *American Pharmaceutical Association Policy Report.*

Bectel, Maurice Q. 1970. "The Problem of Employer-Employee Relations in Historical Perspective." *Journal of the American Pharmaceutical Association,* Vol. 10 (February), p. 91ff.

Fink, Leon, and Brian Greenberg. 1989. *Upheaval in the Quiet Zone: A History of Hospital Workers' Union Local 1199.* Urbana: University of Illinois Press.

Kruger, Daniel H. 1982. "Labor Relations and the Nurses." In J. Lancaster and W. Lancaster, eds., *Concepts for Advanced Nursing Practice.* St. Louis, MO: C.V. Mosby, pp. 270–93.

McHugh, Patrick P., and Matthew M. Bodah. Forthcoming. "Challenges to Professionalism and Union Voting Intentions: The Case of Pharmacists." *Journal of Labor Research.*

Moore, J. Duncan. 1997. "Breaking Apart." *Modern Healthcare,* November 3, pp. 24–25.

Rabban, David M. 1991. "Is Unionization Compatible With Professionalism?" *Industrial and Labor Relations Review,* Vol. 45 (October), pp. 97–112.

Charting Their Own Future: Independent Organizing By Professional Workers

Richard W. Hurd
Cornell University

Elisabet Tenenholtz
Organization of Home Care Professionals

Abstract

In 2000 a group of about 100 physical therapists, occupational therapists, and speech pathologists, most of whom are employed on a contingent basis in the home care division of a Virginia-based health care corporation, performed a remarkable feat. They organized an independent union and won an NLRB election in the face of stiff employer opposition. The story of the Organization of Home Care Professionals (OHCP) is intriguing in its own right because these professionals initially and explicitly steered clear of affiliation with any established union, preferring to chart their own course aimed at blending aspects of unions and professional associations. It is also noteworthy because most of the 80+ dues-paying members of OHCP did not know each other before the campaign began, and relied on e-mail and a web site to build their organization.

The case of the OHCP is a compelling example of the potential for unionization among professional workers when they experience the effects of the restructuring of labor markets and the reorganization of work as described in this session by Van Jaarsveld and Batt. In the context of the changing environment, successful union organizing among professionals in the private sector often follows a common pattern. The impetus for collective action usually centers around the desire for a voice in key decisions related to the organization of work and/or the delivery of professional services. Initial informal efforts at dialogue may set the stage for subsequent collective pursuit of a formal role in decision making. When initiatives to question or influence management decisions evolve into full-blown organizing campaigns, a com-

Authors' Address: Cornell University, 208 ILR Conference Center, Ithaca, NY 14853–3901.

mitment to the profession is retained that influences the character and bargaining priorities of the union. Even while pursuing unionization, professionals typically are cautious about direct action, although escalation is possible especially if the employer response is perceived as insulting or disrespectful. Perhaps most telling, professionals who are moved to action expect to control the direction of the union they embrace; they are most comfortable with an organization that they own (Cohen and Hurd 1998).

Although most unions use the same approach for organizing professional workers that they use in campaigns targeted at other occupational groups, there is growing evidence of the potential to appeal to professionals by following nontraditional paths to representation (Hurd 2003). There are several examples of union-sponsored experiments to build organizations outside of the typical collective bargaining framework, such as the CWA effort with Microsoft engineers (Washtech) and the AFT associate membership program for teachers in Texas (where there is no public-sector bargaining law). There are also a number of examples of professional associations establishing affiliations with unions, including the Podiatric Medical Association with OPEIU and the Graphic Artists Guild with the UAW. Perhaps the most intriguing nontraditional path to representation is self-organization, accomplished initially without formal ties either to a union or to a professional association. A case in point is the recent creation of the National Substitute Teachers Association, an amalgam of various local organizations of substitute teachers from across the country.

The OHCP is an example of self-organization that reflects the emerging interest of professionals in collective action. As the story of this nascent organization shows, professionals prefer to move at their own pace when embracing unionism, engaging in direct action and experiencing the power of solidarity. Although OHCP ultimately chose to affiliate with CWA, the terms of the relationship assured independence and a comfortable cultural fit. The remainder of the paper describes the experience and is told in the first person from the perspective of coauthor Tenenholtz, OHCP Vice President.

OCHP Organizing Campaign

The Organization of Home Care Professionals is a group of therapists, about 80 people in all, who formed an independent labor union in August 2000. We represent a bargaining unit of 102 physical therapists, occupational therapists, and speech therapists working for Inova VNA Home Health, a hospital-based home care company. The company is divided into four different geographical teams (each with a separate office location) serving all of northern Virginia. We spend most of our working hours alone in the car or with the patients at their homes. We only go to the office for monthly staff meetings and to drop off paperwork every other day. Consequently, when we started this process, only a

few of us knew each other personally, mostly just the other therapists on our own geographical team. In the summer of 2000 the therapists in our company started seeing changes in procedures and workload that worried us as far as impact on our work and quality of patient care. When a letter landed in our mailboxes in late July 2000, informing us of an immediate pay cut of 20 percent, it poured salt in our wounds. The therapists tried to reason with management but were told at a subsequent town meeting scheduled at our request that the pay cut stood, and there was nothing more to discuss.

On August 23, 2000, about 60 therapists met in a borrowed church basement to consider forming an organization. We had a labor lawyer present who explained our rights and what we needed to do in order to establish a collective bargaining unit. There was a lot to learn and a lot to ponder. However, it was clear that the therapists wanted to take action. We took motions from the floor and voted on a name for the organization, members for the executive board, and a dues structure. The lawyer had drafted a set of bylaws that we adopted on the spot. We also collected a $100 initiation fee and the first month's dues of $20 from each person. The following week a letter was composed by the executive board and sent to our company CEO informing her of our existence and asking for recognition. About 5 days went by, and since we had not heard anything, we sent the petition on to the NLRB. Then we received a telephone call from the CEO, asking the OHCP board to come and meet with her. At first we were reluctant but, on the advice of our attorney, we went. Present at the meeting were representatives for the hospital system's human resource (HR) department and higher management. Our CEO hardly spoke at the 45-minute meeting, which ended with the HR person asking us, "Let's assume this scenario—what would it take for you to abandon this whole project?" We reported this conversation to our attorney, who filed an unfair labor practice (ULP) charge, which we later won.

A representation election was scheduled and the company hired a lawyer from out of state. Therapists were pulled into the manager's office and questioned about loyalties, relationships, beliefs, and interest in the newly formed union. The CEO made frequent visits to team meetings where she debated OHCP members. The company sent printed materials to our homes, including a warning of what might happen in case of a strike. Managers also telephoned individual therapists, asking them to vote *no*. In the meantime, members of the union executive board met several times per week in each other's homes. We also had daily e-mail and phone contact. Strategy was planned and executed. We put up a bulletin board in each team office and "debated" management there with posted messages. We also had a "thought of the day" that we posted to address a specific issue that might have arisen. One such blurb

addressed the possibility of a strike, and another explained plans for a union steward on each team.

We were completely new to this venture, and the company was treating us like they were fighting the Teamsters. We had vague ideas about the meaning of words like *arbitration, excelsior list, bargaining unit, union steward, management's rights,* and *picketing.* In order to find out how to conduct a successful campaign, we obtained a copy of an SEIU organizing manual. We were pleased to learn how we could increase our leverage and what steps we needed to take. We also could see that we were ahead of the game, since we already had set up a website and had e-mail addresses for most members of the unit. In fact, we communicated with the therapists more easily than the company could, even though they had all of the resources and a built-in voice-mail system to our company cell phones.

The atmosphere in the offices started to show the stress of the campaign. Most therapists had joined OHCP and the company did their best to try to figure out which people were not members. Some supervisors called meetings to tell us how sad it would be to create a division between management and employees if a union came into play. Meanwhile, we continued to meet at the church, to discuss strategy and what the members wanted to do. We formed the needed committees, including a fund-raising committee, which held garage sales to raise money to pay for our campaign materials and mounting attorney bills.

The weekend before the election, we telephoned all bargaining unit members reminding them of the election and the need for them to vote, and that we were hoping for their support. From the conversation we had with each individual, we could take a bit of a tally, and we were pretty confident. On the day of the election, October 25, we assembled at the company headquarters to see the vote being counted by the NLRB official. When it was all over, we had won with 83 *yes* to 16 *no.* We celebrated that night, ecstatic but also apprehensive about what was in store for us, trying to bargain a first contract with the second largest employer in the metropolitan Washington, D.C. area next to the federal government.

Communication, Outreach and Eventual Affiliation

It was evident from the start that we needed swift means of communication in order to fight the corporate anti-union gorilla we were up against. At preliminary meetings before formally organizing, and also at the meeting on August 23, 2000, when we established OHCP, we collected private e-mail addresses from all potential members and set them up in two different databases, one for members and one for the rest of the unit. A listserv of mem-

bers and non-members of the unit was maintained, so we could communicate quickly with everyone.

We set up the website early on in September 2000. A board member's college-age child maintained it. We established a secure portion "for members only" by providing OHCP paid members with a password. The website soon contained material for our election campaign and links to many professional association and union sites. We also built up a page with material that had appeared in the press about OHCP. We experienced a couple of short periods of server trouble. One time the website was down for a week, and the company's lawyer inquired what was the matter with it. We then knew that they monitored the website and that we could use it as a means of "official" communication with the company.

When we first formed OHCP, only a handful of our members were computer savvy beyond using basic word processing and/or sending e-mail. We learned quickly to use the Internet to search for union related materials and research the company, to use the listserv and also to use the editing features of our word processing software. During negotiations, the executive board put out bargaining bulletins after each session on the secure part of our website. We also used the company website to obtain the addresses of 400 referring physicians. We wrote them a letter explaining our union's goals and asking for their support.

We let the national and local professional organizations for our respective disciplines know that we existed through e-mails, letters and personal contacts. We had great response from the American Speech, Language and Hearing Association (ASHA), the national organization for speech pathologists. Their executive director sent a personal letter to the hospital system's CEO declaring his concern about the pay cut and the impact this would have on ASHA members in the region as well as on quality of care. In addition there was a feature article about one of our demonstrations in the ASHA journal, which goes out to about 100,000 members. We also got some press in the ADVANCE magazines, which are publications that cater to therapists and other health care workers. Some of our members went to meetings of the local chapters of our professional organizations to share information about what was going on in our company. We got good support from the local physical therapy association. We also purchased the database of all licensed therapists in Virginia, Washington, D.C. and parts of Maryland, and wrote a letter asking them not to be replacement workers in case of a strike. That letter basically stopped the flow of résumés to the company.

When conducting some of our leverage actions, we had help from established unions. They provided us with picketers and helped with printing handbills and other materials. We learned a great deal about pressures needed to

gain leverage in collective bargaining. The first time we picketed was at a gala fundraiser that the company put on for its largest donors at a hotel in Washington, D.C. We had practically all of our members there to picket, along with many of their spouses and children. The placards had been painted in the team representatives' garages. It was our first big test of solidarity and direct action, and it went well. The press was there, and the coverage generated some interest. Later, we handbilled the hospitals in the Inova health system to inform staff and patients about our goals. These actions solidified our membership and showed the company that we meant business.

During the organizing campaign we felt that we wanted to stay independent, even though in our contacts with union people, their advice spoke to the need for affiliation with a larger union, particularly since we were so small and inexperienced. We wanted to maintain professional autonomy and integrity and advocate quality care for our patients as well as fair wages and working conditions for ourselves. A discussion about affiliation did not surface until early 2001 as a motion from the floor at one of our general membership meetings. The executive board then proceeded to search out possible union partners. We prepared a list of "twenty questions" to ask each union. We met with five established unions, some several times. In the end, we felt that CWA would provide the best fit for our needs. CWA has its national headquarters in Washington, D.C., and it also has a local that was ready to receive us. We were promised that we could maintain our name and executive board intact, and that our president would get a seat on the local's board. We voted to affiliate in September 2001, at which time CWA started to provide us with two experienced bargainers, legal advice, printing resources, a toll-free telephone number, strategic advice, mailings, and office space. We continued to charge our regular dues from the members, since we still had legal bills to pay to our previous lawyer, but we would not owe any dues to CWA until ratification of a first contract.

Strengths, Weaknesses and the Future

We have made mistakes along the way, novices at union work as we are. One of our first mistakes was to ask for a news blackout at the outset of the negotiations. We somehow thought that it would be good for our bargaining team to have some breathing space and not have to answer to the membership in the beginning of the talks. This went on for about 2 months. We then met with an outside union, and they advised us to lift the blackout, or we would lose our membership quickly. We immediately called a general meeting and discussed all details in our bargaining proposal and got great feedback and suggestions from the membership. In fact the members were now so enthusiastic that they proceeded to take a strike authorization vote. A survey we took of the membership indicated that they had great confidence in the bargain-

ing team and the conduct of the executive board; however, they thought the negotiations were going too slowly and that the company needed to be more forthcoming and cooperative.

Another mistake occurred when we set out to picket the main hospital in Fairfax. We were aware that you had to give a 10-day notice to the company if you intended to picket a health care facility. As it turned out, we had not understood all of the fine points of the law and were out of compliance. The company sent all employees in our unit a letter to that effect and pointed out that we were amateurs. We then held another picketing event, hoping to be within the guidelines. As it turned out, in a first contract situation, you have to file notice a total of 40 days ahead, and the Federal Mediator also has to be notified. The company filed a ULP, which we lost, delaying any other picketing for a while.

Our greatest strength has been the solidarity we have experienced and the friendships we have formed among therapists in our company. Because of our leverage activities and our monthly membership meetings, we have gotten to know each other and have shared our opinions and ideas. We have maintained a strong focus on the quality and professional development of our work as therapists. We have also located talent we had no idea existed among us. Some are really good at writing or public speaking; others are great at photography, graphic design, public relations and press contacts, and getting members involved and staying in touch. Some simply offered their help with mailings, and opened their homes when we needed meeting space. We have also had some good parties and events for supporting family members.

After 12 months of negotiations, we ratified our first contract on January 3, 2002. It restores the pay cut and establishes a formal grievance procedure and seniority rules. The union will have access to internal mail service and voice mail, and will meet with new hires during orientation. Productivity quotas will be lifted, and a practice advisory committee will address quality issues.

When human beings get together for a common well-defined goal, even though the path is stressful and filled with obstacles, something quite remarkable happens. We now have a cohesive and strong unit of therapists, willing to do what it takes to maintain and grow our union with the help of our CWA local. We want to cooperate with the company in the new union contract environment. We want to organize continuing education activities for therapists in the region and continue distribution of our newsletter, with a focus on professional growth. We also hope to inspire other health care professionals and Inova employees to unionize and achieve a voice in the workplace. When we started, most of us had no idea about labor union work. In fact, most of us had strong reservations or had no positive experience with unions. There are things we would have done differently but, in the end, it was all worth it.

Our president Bill Barrie captured our feelings in our November 2001 newsletter:

> We are not accustomed to making waves. We are accustomed to and prefer to work cooperatively and gently with people. Forming a union was certainly not something we had anticipated. We did it because we felt that we had no other way to maintain our personal and professional dignity and integrity. Our struggle for fairness at our workplace is something we can be proud of the rest of our lives, and it is a valuable lesson and example for our children.

References

Cohen, Larry, and Richard Hurd. 1998. "Fear, Conflict and Union Organizing." In Kate Bronfenbrenner, Sheldon Friedman, Richard Hurd, Rudolph Oswald, and Ronald Seeber, eds., *Organizing to Win.* Ithaca, NY: Cornell University, ILR Press, pp. 181–96.

Hurd, Richard W. Forthcoming. "Unionization of Professional and Technical Workers: The Labor Market and Industrial Transformation." In Richard Freeman, Joni Hersch, and Lawrence Mishel, eds., *Labor Market Institutions for the 21st Century.* Chicago: University of Chicago Press, forthcoming.

IX. INCENTIVES IN THE PUBLIC AND NONPROFIT SECTORS: DO HIGH-PERFORMANCE WORKPLACE PRACTICES WORK?

Teacher Performance Incentives, Collective Bargaining, and Student Outcomes

Randall W. Eberts and Kevin M. Hollenbeck
W.E. Upjohn Institute for Employment Research

Joe Stone
University of Oregon

Abstract

This paper reviews evidence on the effectiveness of individual merit pay systems for teachers on student achievement, presents new empirical results on a system established within a collective bargaining environment, and reviews evidence of the impact of teacher unionization on student achievement. While many merit pay systems have been established in school districts across the United States, little empirical evidence concerning their influence on student achievement exists. A natural experiment arose in a county in which one high school piloted a merit pay system that rewarded student retention, while another comparable high school in the county maintained a traditional compensation system. A difference-in-differences analysis implies that merit pay increased retention, had no effect on grade point averages, reduced average daily attendance rates, and increased the percentage of students who failed. Empirical studies

Authors' Address: W.E. Upjohn Institute for Employment Research, 300 South Westnedge Avenue, Kalamazoo, MI 49007.

of the influence of teacher unionization on student achievement seem consistently to find positive impacts, albeit at increased per pupil cost.

Introduction

Recent discontent with the performance of U.S. public elementary and secondary schools has generated a series of reform proposals. Some reformers have advocated incentive-based schemes to improve school quality (Hanushek 1994), such as merit pay for individual teachers or school-based performance awards. Others have advocated institutional changes such as policies to weaken collective bargaining (Ballou and Podgursky 1997). The purpose of this paper is threefold: (1) to review the (scant) evidence on the effectiveness of incentive-based compensation schemes on student achievement, (2) to present new empirical evidence about the efficacy of individual merit pay from a case study, and (3) to review the evidence about the impact of collective bargaining on student achievement.

Pay-for-Performance Compensation in K–12 Education

Advocates of incentive-based schemes to reform public schools often refer to the private sector as an example of individual performance-based compensation systems and as one that schools should emulate. Yet, even the simplest incentive models are subject to pragmatic problems when they are implemented, and evidence reveals that only a small proportion of jobs in the private sector base compensation on explicit contracts that reward individual behavior.[1] The simple, static principal–agent model that Prendergast (1999) explicates rewards agents for taking on additional risk through a pay-for-performance contract with higher (mean) wages. In his model, the performance measures used are noisy, and the efficacy of the incentives depends on the risk aversion of the agents. Furthermore, incentives may result in unintended, sometimes perverse, consequences. Prendergast uses the term *dysfunctional behavioral responses;* Murnane and Cohen (1986) call them *opportunistic behaviors.* Institutional factors that may result in such dysfunctional responses include poorly defined or poorly measured outcomes leading to a reliance on flawed subjective evaluations, multitasking by job incumbents, team production, and multiple principals/stakeholders. Subjective evaluations may be flawed because (1) evaluators may be subject to a moral hazard problem, (2) individuals being evaluated may engage in non-productive activities to curry favor with their evaluators, or (3) evaluators may end up with distributions of ratings that are compressed because of a reluctance to give very high or very low ratings (Prendergast 1999:29–31).

Jobs in which the incumbents perform many different tasks also strain an

incentives-based compensation contract. First, multiple tasks imply multiple performance measures, some of which may be costly to measure. Second, if performance measures are skewed in their relative weights, then the agent may respond by investing too much effort into the tasks that receive the most weight in the performance measurement system.

Team production introduces the "1/n" problem, in which each individual's contribution (and reward) is diluted by the size of the team. Furthermore, if the individuals' contributions to the team are costly to observe or measure, then team-based incentives may lead to free riders. The problems for an incentive-based compensation system when there are multiple stakeholders come from a potential for misalignment of organizational goals. In effect, the principal–agent arrangement becomes a "principals"–agent problem. Multiple principals may have different, and conflicting, goals. For example, for employed individuals, training directors and production supervisors may conflict with each other on how to reward an individual's (paid) time spent in training activities.

The nature of the educational process features each of these complications and confounds the effectiveness of individual performance-based compensation systems.[2] The four constraints on the effectiveness of incentives-based compensation—need for reliance on subjectively measured outcomes, multiple tasks undertaken by incumbent workers, team production, and multiple stakeholders—characterize the teaching and learning process in schools. Learning outcomes may be assessed through standardized tests, which are amenable to performance-based contracts (particularly if value-added measures are available). Yet, many additional dimensions to student learning and development either are not assessed or are assessed without standardized instruments, so evaluations must be inherently subjective.

Schools (at all levels of the K–12 system) typically have dozens of learning processes or programs going on simultaneously. These include core academic subjects; noncore academic subjects such as art, physical education, music; acquisition of technology skills; career development; special education; extracurricular offerings; gifted and talented programs; human growth and development; and remediation or developmental education. Even within a teacher's discipline, multiple tasks comprise the teaching and learning process—curriculum development and planning, instruction, and assessment, for example. Furthermore, good teaching requires attention to students' learning styles, which may mean multiple modes of instruction.

Education is often delivered through team production. For example, many elementary and middle schools are organized into teams of teachers. However, even apart from explicit team teaching, departmentalized secondary schools result in team production, since students' performances on standardized tests depend on learning in several courses taught by different teachers.

Finally, school governance and control is characterized by many different stakeholders with differing, and sometimes conflicting, goals. Administrators who are accountable for direct student achievement may be most responsive to levels of test scores. School boards, accountable for resource decisions, may be most interested in changes (value added) over time in test scores. Parents may be most concerned about postsecondary education attendance rates, whereas employers may be most concerned about "soft," employability skills such as problem-solving, attendance, and attitude.

Team, or building, incentives theoretically ameliorate the problems of multiple tasks and stakeholders. School-based performance systems have been adopted by several districts. For example, districts in Kentucky and South Carolina have implemented a system in which high-performance schools receive additional revenue that can be used at the schools' discretion, including in some cases offering additional compensation to teachers. Clotfelter and Ladd (1996) analyzed Dallas' performance-based system and found an increase of 10 to 12 percent in the pass rate on selected state-wide tests. Unfortunately, the study did not use a true control group, so it is unclear if the incentive system was primarily responsible for the gains.[3]

Another characteristic of most school districts is that they have very little control over their revenue streams. As noted, incentive-based contracts allocate part of the production risk to the employees in return for higher rewards (wages). Since school administrators have little revenue to share, they cannot offer sizable increases in compensation were teachers willing to accept the risk inherent in a merit pay system.

In short, while economic actors may respond to incentives, there may be several wedges between performance measures and the actions of teachers who tend to mitigate against individual level, incentive-based compensation schemes in education—just as they do in the private sector. The net result of these forces remains an empirical issue. Yet, little empirical evidence examines the effects of merit pay on student achievement. Most of the literature on merit pay systems documents the institutional experiences in districts—for the most part, rather short-lived and usually negative. For example, a major study of merit-based pay (Hatry, Greiner, and Ashford 1994) found that most (75 percent) merit pay programs that had been in existence in 1983 and had been studied by the researchers, were no longer operational in 1993.[4] An interesting self-described limitation of the Hatry et al. (1994) study is that they did not examine student achievement. They note,

> We would especially have liked to have performed an in-depth analysis of the impact of incentive programs on student achievement. However, very few of the participating districts had attempted any

> systematic evaluation of the effects of their incentive plans on student achievement, even though a basic assumption behind incentive plans is that teachers can indeed significantly affect learning. (pp. 7–8)

In a study involving one district in Pennsylvania, Tulli (1991) found no correlation between gains in student achievement and teachers awarded merit bonuses under this district's plan.

A Case Study of a Merit Pay System

We have acquired data from a particular high school that implemented a merit pay system in 1996 and a "comparable" high school that maintained a traditional compensation system.[5] Community High School, which implemented the merit pay system, is an alternative education facility that has an enrollment of approximately 500 students pursuing a high school diploma and 100 students pursuing other certifications. Alternative education settings are characterized by students who have often not succeeded in traditional school settings and usually experience attendance problems and intermittent dropping out and reenrollment episodes. Consequently, the performance-based incentives were targeted on student retention. The results and a more detailed description of this study is found in Eberts, Hollenbeck, and Stone (forthcoming).

The district decided to operate Community High School as a "pilot" program with a performance-based compensation scheme for its teachers, who collectively decided to remain separate from the local district's education association (union). The merit pay system that was implemented offers two supplements to teachers' base pay. The first supplement is a retention bonus, of approximately 12.5 percent, which is paid if 80 percent or more of the students assigned to the class (as of the end of the second week of the quarter) are still enrolled and attending at the end of the quarter.[6] The second supplement is based on student evaluations. Students rate 15 factors on a 5-point scale, and teachers who receive an average rating of 4.65 or higher (the average rating in 1994–1995) for all 15 items in all of their classes (weighted by class enrollment) in each quarter for four consecutive quarters receive the performance bonus, which increases their base pay by about 5 percent *and* increases their retention bonus by 10 percent.[7]

We performed a difference-in-differences analysis of several student outcomes: grade point average, class attendance, course completion, and passing rates conditional on course completion.[8] The analysis included data from the period 1994/95 to 1998/99 for students at this school and at a similar alternative education high school in the same county that relies on a traditional experience/education compensation scheme.[9] The data encompass 2 years

prior to and 2 years after the implementation of the performance incentive system. The grade point average (GPA) is calculated from student-level data; the other three outcomes—attendance, completion, and conditional passing—are calculated from course-level data.

The results are consistent with expectations regarding the effect of incentives on teacher behavior. As shown in the first row of Table 1, the percentage of students who completed courses was dramatically higher in the merit school than in the traditional school. While the completion percentages increased in both schools over the 5-year period, the increase was larger and quite dramatic in School A, as would be predicted. Attendance, on the other hand, was not rewarded (except that a student had to be present during the last week of classes to be considered a completer). Results in the second row of the table show that the merit system appears to have little effect (and, in fact, the sign is negative) on daily attendance. School A's attendance rate stayed approximately the same in the 2 years, and School B's rate actually went up slightly, which is the opposite of what one would expect if teachers were to respond to economic incentives by finding ways to increase overall attendance and not simply during the week the actual class count was taken.

TABLE 1

Difference-in-Difference Analyses of Outcomes

Outcome	School A (merit pay)	School B (traditional pay)	Diff.-in-Diff. (School A – School B)
Course retention			
percentage (post–pre)	20.74%	15.45%	5.29%
std. error	(0.89)	(1.33)	(1.60)
Average daily attendance			
rates (post–pre)	–0.40%	2.09%	–2.49%
std. error	(0.54)	(0.83)	(1.04)
Grade point average			
(post–pre)	–0.53	–0.37	–0.16
std. error	(0.06)	(0.09)	(0.11)
Course pass rates			
(post–pre)	–17.68%	–11.26%	–6.42%
std. error	(0.80)	(1.79)	(1.96)

Note. Standard errors are calculated under the assumption that there is no covariance between the two districts. This assumption places an upper bound on the standard errors, since any positive covariance, which would be expected, would lower the standard errors. Pre = 1994–1995; Post = 1998–1999.

Source: Archive files from attendance and grade book software used at School A and School B.

The increase in course completion had an adverse affect in outcomes related to student achievement. The (student) average GPA in both schools declined over the 5-year period, but the decline in School A of 0.53 points was greater in magnitude than the decline of 0.37 points in School B.[10] The fact that the decline in School A was greater than the decline in School B is consistent with the hypothesis that the merit pay incentive resulted in higher retention of lower-achieving students, who were most likely to drop out. Finally, consistent with the GPA analysis, the percentage of students actually passing their courses declined over the period of analysis. Again, the decline was far larger for School A, which went from approximately 93 to 75 percent (fourth row). That school's decline in the percentage of students passing the course conditional on completion is more than 6 percentage points greater than School B's, which is consistent with the hypothesis that School A is retaining, on average, more low-achieving students.

The analysis reveals that teachers responded to the incentives explicitly incorporated into their incentive-pay system, but they did not pursue, at least not as vigorously, those outcomes that were not directly rewarded. Course completion was rewarded, and it was significantly higher for students at the merit-based school. Daily attendance rates were not rewarded, and there was actually a statistically significant decline in attendance rates. The same was true with GPA and the percentage passing courses: the merit-based school did worse than the traditional school.

The outcomes illustrate the difficulty of instituting individual merit pay in schools. First, the output measure has to be easily, inexpensively, and accurately determined, and it has to be agreed upon up front. In this case, the administrators of the high school knew that they wanted to increase retention. The incentive "worked" according to the retention measure adopted by the school, but it did not work with regard to passing rates nor to GPA, which could be considered a measure of student achievement. This finding leads to the second difficulty: the output measure should be the organization's final product, or at least highly correlated with the final product. In this case, the definition of final product is ambiguous. Administrators articulated that student achievement is a primary goal, but the incentive system did not appear to promote it.[11]

Collective Bargaining and Incentives

An additional dimension that must be considered when discussing incentives in schools is collective bargaining. Unlike many private sector industries, particularly those that are service-oriented, public education is highly unionized, with coverage reaching about 63 percent of public school teachers. As

such, incentives must be considered within the context of collective bargaining agreements.

Such agreements establish rules that affect the working conditions of teachers and thus the school environment. If improvements in working conditions are in line with factors that positively affect student achievement, then collective bargaining can lead to improved student outcomes. In fact, Eberts and Stone (1984) report that teachers covered by collective bargaining (1) have smaller classes (see also Argys and Rees 1995), (2) spend more paid time in class preparation (see also Hoxby 1996; Kleiner and Petree 1988), (3) are more likely to adopt traditional classroom instruction as opposed to other arrangements, and (4) place more importance on participation in student assignment and teacher assignment than do teachers not covered by contracts. These authors also find that fourth graders in unionized districts on average spend 42 percent less time with a specialist, 62 percent less time with an aide, 26 percent less time with a tutor, and 68 percent less time in independent, programmed study.

Several studies have shown that the factors discussed above, namely class size, teacher time, and instructional leadership, are positively related to student achievement gains.[12] A much smaller set of studies has examined the direct effect of collective bargaining on student outcomes. Stone (1998) summarizes and critiques seven such studies. Eberts and Stone (1984, 1987) use detailed student, teacher, and school data from a national sample of 14,000 elementary students and find that students in districts covered by a collective bargaining contract scored roughly 1 percent higher on a post-test, or about 3.3 percent higher as a percentage of the average gain from the pretest to the post-test (statistically significant).[13]

Studies using aggregate state data find larger positive effects of unions than those using student-level data. Kleiner and Petree (1988) find that SAT and ACT scores are 6 to 8 percent higher in states with 100 percent union representation versus states with no representation. Nelson and Rosen (1996) include more detailed control variables and find that students in states with more than 90 percent union coverage score on average 4.5 percent higher on SAT tests than students in states with fewer than 50 percent union representation.

The positive effect of unions on student achievement is not enjoyed by all students. The student-level studies by Eberts and Stone, Milkman, and Argys and Rees find an inverted U-shaped effect of collective bargaining on student achievement gains. For students of average ability, as measured by pretest scores, those in union districts score higher on post-tests than those in nonunion districts. The opposite is true for low-achievers and high achievers. Below- and above-average students in nonunion districts score higher than those in union districts.

These results for below-average students are consistent with those presented in Hoxby's (1996) detailed district-level study of the effect of unions on high school drop-out rates. She finds that the presence of collective bargaining, where at least 50 percent of the teachers are union members, increases high school dropout rates by 2.3 percent. Recognizing that students at the lower end of the test-score distribution are more likely to drop out of school, Hoxby's results are consistent with the studies that show that below-average students in union districts experience less academic success.[14]

Therefore, empirical studies of the effect of collective bargaining on student achievement find little, if any, support for the argument that unions on average reduce academic success. Unions, by negotiating rules to standardize the workplace through class size provisions and traditional instructional models, may affect students with different abilities, but even these effects may be small. Thus, the codification of bureaucratic rules through collective bargaining agreements does not appear to have significant negative effects on student achievement.[15]

This is not to say that unions do not have detrimental effects. Unions increase the cost of education by between 8 percent and 15 percent and distort the least-cost combination of inputs (Eberts and Stone 1991; Stone 1998). These findings are consistent with the prediction that bureaucracies establish rules to avoid counterproductive activities, such as influence activities, at the expense of inefficient allocations.

Conclusion

In summary, we argue that the nature of schools and the teaching and learning process make the use of individual-based merit pay an extremely delicate weapon to use in the arsenal of school reform. Incentive systems within education, with its multiple goals and outcomes, team production, and multiple stakeholders, may produce unintended results that are, at times, misdirected—unless carefully constructed and implemented. The case study results buttress this point.

In this case, the implementation of a merit pay system in a specific high school showed that incentives do "work." The merit pay system directly targeted at student retention, as defined by a measure understood and agreed upon by both teachers and administrators, resulted in higher student retention, as defined by attendance during the last week of classes. However, student grade-point averages and daily attendance rates were virtually unchanged, and course passing rates declined. There was also anecdotal evidence that suggested that course content was diluted.

The paper argues that weakening teacher collective bargaining institutions is also unlikely to improve student achievement, particularly for students within

the middle range of academic success. (The evidence does seem to suggest that unionization is detrimental to students at either end of the distribution of achievement, however.)

What about group or organizational incentives? First, it is interesting to note that they have been instituted successfully in several unionized districts (see CPRE 2001). Second, they overcome some of the issues that plague incentive schemes in education. School-building performance awards are less subject to the problems associated with subjective evaluations, multitask job descriptions, and team production. However, it is still the case that multiple outcomes and multiple stakeholders may complicate the design of a group award system such that it results in unintended consequences. Consequently, we agree with Hanushek's (1994) prescription that administrators and policy makers should constantly evaluate and be ready to revise their performance award systems.

Acknowledgments

An earlier version of the paper was prepared for a National Academy of Sciences Conference entitled "Devising Incentives to Promote Human Capital," held December 17–18, 1999, in Irvine, CA. The authors appreciate the helpful comments of Derek Neal, Richard Murnane, other participants of the conference, and two anonymous referees. The research assistance of Kristine Kracker and Noyna DebBurman is gratefully acknowledged, as is the excellent clerical assistance of Phyllis Molhoek and Claire Black. The views expressed do not necessarily represent the views of The W.E. Upjohn Institute for Employment Research or The University of Oregon.

Endnotes

1. For example, a study in the early 1980s found that the practices of merit pay in private industry are neither as common nor effective as many believe (Lawler 1983).

2. Much of the argument presented here was also presented in Murnane and Cohen (1986). Dixit's (1999) analysis of incentives in education also coincides closely with ours. He suggests four complications in educational settings that confound the simple "principal–agent" model of implicit contracting: multiple goals, multiple principals, lack of competition in the product market, and agents motivated by intrinsic values.

3. Private sector businesses reward workers more through promotions and group-based merit systems, such as gainsharing or profit-sharing, than through individual merit rewards (Prendergast 1999). See Kruse (1993) for a study of the effects of profit-sharing in private industry.

4. Murnane and Cohen (1986) also emphasize the short-lived nature of merit pay systems.

5. Unfortunately, the data only contained course-related information such as grades and daily attendance. They did not include any information about the students other than ID number.

6. The initial enrollment in the class for purposes of calculating retention is capped at 20, so to earn the retention bonus, teachers must have 16 students or 80 percent of the initial enrollment at the end of the term, whichever is less.

7. Hatry et al. (1994) found a range of merit pay awards in their study from at most 25 percent of salary to 5 percent or less (see also Lawler 1983). To give the reader a sense for the size of these bonuses, during school year 1998–1999, the base pay for a beginning teacher with a bachelor's degree was $816 per class ($22,848 for 9 months; 4 quarters with 7 classes). With the performance bonus and retention bonuses in all classes, the per-class pay would be $979 ($27,412 for 9 months; 4 quarters with 7 classes). Many teachers have more than six classes per term. With at least six, the teachers receive full benefits equivalent to the unionized teachers in the district.

8. The difference-in-differences technique "differences out" time-invariant causal variables and assumes that there is no interaction between the "treatment"—that is, merit pay—and time-varying causal variables. In short, it is appropriate in this case only if both high schools' student characteristics, curriculum and instruction, and outside external factors such as the local economies changed similarly. Unfortunately, the small sample size and data deficiencies did not allow formal testing of these assumptions.

9. With no data on detailed student characteristics, we relied on the judgment of building administrators and district educators in selecting the best local alternative school to use as a control. Both schools are located in the same county but not in the same district. The districts are both suburban. Educators familiar with both schools indicated that the schools were comparable in course offerings, student socioeconomic characteristics, and funding levels.

10. The pre-merit pay difference in student GPA levels were substantial and weaken our confidence in the comparability of the schools. Nevertheless, we note that the difference is consistent with the Eberts and Stone (1984) evidence that unionization may have a negative impact on lower-achieving students.

11. Administrators in the merit-based school provided anecdotes that suggested that teachers were altering their instructional style and course content in order to make their courses more interesting to and well liked by students. The teachers were trying to entice students who would otherwise have dropped out to stay in the course to ensure that they would earn their student retention bonus, and they were trying to get better student evaluations, which is the second component of the merit pay plan. Anecdotes included activities such as more field trips and in-class parties.

12. Extensive literature on educational production functions exists, and the issue of whether inputs into the schooling consistently and significantly affect student outcomes is not without controversy. Hanushek (1986) raises the issue of whether inputs matter, and reanalysis of the same literature by Hedges, Laine, and Greenwald (1994) draw the opposite conclusion. As Ladd (1996) points out, those studies based on sounder methodologies, such as analysis of student-level data using pre- and post-tests and controlling for school- and home-based resources, generally show that school inputs do affect student test score gains.

13. Milkman (1989) reports similar results. Students in union districts scored 2 percent higher than students in nonunion districts. In a separate study, Milkman (1997) finds that minority students in union districts score about 1.4 percent higher than similar minority students in nonunion districts. Grimes and Register (1991) and Argys and Rees (1995) also find small, but significantly positive, union effects on student achievement.

14. Stone (1998) provides this explanation to reconcile Hoxby's results with those of the six other studies that show positive union effects on student achievement.

15. Heckman et al. (1997) consider bureaucratic behaviors in governmental agencies such as educational districts.

References

Argys, Laura M., and Daniel I. Rees. 1995. "Unionization and School Productivity: A Reexamination." *Research in Labor Economics,* Vol. 14, pp. 49–68.

Ballou, Dale, and Michael Podgursky. 1997. *Teacher Pay and Teacher Quality.* Kalamazoo, MI: W.E. Upjohn Institute for Employment Research.

Clotfelter, Charles T., and Helen F. Ladd. 1996. "Recognizing and Rewarding Success in Public Schools." In *Holding Schools Accountable.* Washington, DC: The Brookings Institution.

CPRE. 2001. December 10 <http://www.wcer.wisc.edu/cpre/tcomp/state/>.

Dixit, Avinash. 1999. "Incentives and Organizations in the Public Sector: An Interpretative Review." Paper presented at the National Academy of Sciences conference on *Devising Incentives to Promote Human Capital,* Irvine, CA, December 17–18.

Eberts, Randall W., Kevin M. Hollenbeck, and Joe A. Stone. Forthcoming. "Teacher Performance Incentives and Student Outcomes." *Journal of Human Resources.*

Eberts, Randall W., and Joe A. Stone. 1984. *Unions and Public Schools: The Effect of Collective Bargaining on American Education.* Lexington, MA: Lexington Books.

CCC. 1987. "Teachers' Unions and the Productivity of Public Schools." *Industrial and Labor Relations Review,* Vol. 40, pp. 355–63.

CCC. 1991. "Unionization and Cost of Production: Compensation, Productivity, and Factor-Use Effects." *Journal of Labor Economics,* Vol. 9, no. 2, pp. 171–85.

CCC. 1997. "Teachers' Unions, Productivity, and Minority Student Achievements." *Journal of Labor Research,* Vol. 18, pp. 137–50.

Grimes, Paul W., and Charles A. Register. 1991. "Teacher Unions and Black Students' Scores on College Entrance Exams." *Industrial Relations,* Vol. 30, pp. 354–63.

Hanushek, Eric A. 1986. "The Impact of Differential Expenditures on School Performance." *Educational Researcher,* Vol. 18, no. 4, pp. 45–62.

Hanushek, Eric A. et al. 1994. *Making Schools Work: Improving Performance and Controlling Costs.* Washington, DC: The Brookings Institution.

Hatry, Harry P., John M. Greiner, and Brenda G. Ashford. 1994. *Issues and Case Studies in Teacher Incentive Plans,* 2nd ed. Washington, DC: The Urban Institute Press.

Heckman, James, Carolyn Heinrich, and Jeffrey Smith. 1997. "Assessing the Performance of Performance Standards in Public Bureaucracies." *AEA Papers and Proceedings,* Vol. 87, no. 2, pp. 389–95.

Hedges, Larry V., Richard D. Laine, and Rob Greenwald. 1994. "Does Money Matter? A Meta-Analysis of Studies of the Effects of Differential School Inputs on Student Outcomes." *Educational Researcher,* Vol. 23, no. 3, pp. 5–14.

Hoxby, Caroline Minter. 1996. "How Teachers' Unions Affect Education Production." *Quarterly Journal of Economics,* Vol. 111, pp. 671–718.

Kleiner, Morris M., and Daniel L. Petree. 1988. "Unionism and Licensing of Public School Teachers: Impact on Wages and Educational Output." In Richard B. Freeman and Casey Ichniowski, eds., *When Public Sector Workers Unionize.* Chicago: University of Chicago Press.

Kruse, Douglas L. 1993. *Profit Sharing: Does It Make a Difference?* Kalamazoo, MI: W.E. Upjohn Institute for Employment Research.

Ladd, Helen F., ed. 1996. *Holding Schools Accountable: Performance-Based Reform in Education.* Washington, DC: The Brookings Institution.

Lawler, E.E., III. 1983. *Pay and Organization Development.* Reading, MA: Addison-Wesley.

Milkman, Martin I. 1989. *Teacher Unions and High School Productivity.* Diss., University of Oregon.

Murnane, Richard J., and David K. Cohen. 1986. "Merit Pay and the Evaluation Problem: Why Most Merit Pay Plans Fail and a Few Survive." *Harvard Educational Review,* Vol. 56, no. 1, pp. 1–17.

Nelson, F. Howard, and Michael Rosen. 1996. "Are Teachers' Unions Hurting American Education? A State-by-State Analysis of the Impact of Collective Bargaining Among Teachers on Student Performance." Technical report, Institute for Wisconsin's Future, Milwaukee, WI.

Prendergast, Candice. 1999. "The Provision of Incentives in Firms." *Journal of Economic Literature,* Vol. 37, pp. 7–63.

Stone, Joe A. 1998. "Collective Bargaining and Public Schools: A Critical Survey of the Evidence." Presented at the Conference on Teacher Unions and Educational Change, September 23–25, 1998, sponsored by the Program on Educational Policy and Governance at the Taubman Center for State and Local Government, Kennedy School of Government.

Tulli, Dennis J. 1991. "An Assessment of Student Achievement before and during a Merit Pay Program for Teachers of the Penn Manor School District." Unpublished dissertation, Temple University, Philadelphia.

Local Union Political Competition and Bargaining Performance

Morris M. Kleiner *University of Minnesota and the National Bureau of Economic Research*

Adam M. Pilarski
AVITAS, DNV

Abstract

How does direct union democracy, with much competition or representative democracy, with little rivalry, affect bargaining outcomes? This paper provides new data from two similar local unions negotiating in the aerospace industry. In addition, we gain insights on bargaining relationships from interviews with the participants in the labor–management events during the late 1960s through the late 1990s. Based on the wage settlements in the collective bargaining agreements and other measures of union success during the contract, the union members at the more democratic union did better than unionists with little political competition, although it comes at a price of greater strife.

Introduction

In Professor Henry Farber's often cited review of the analysis of union behavior, he laments that no one has compared an "operating democratic union" with the "completely unfettered leadership-run union"(Farber 1986). Although there have been empirical estimates of the effect of small variations in union democracy on bargaining outcomes, these results have shown generally murky quantitative results (Fiorito and Hendricks 1986). In this paper we attempt to provide unique in-depth case evidence of the kind that Farber was alluding to in attempting to understand what might be the bargaining outcomes of unions with different levels of internal competition.

This study provides new evidence from two similar local unions as well as insights from interviews with the participants of the events in this union and company, from the 1970s through the 1990s, of the impact of greater politi-

Authors' Address: 260 Humphrey Center, University of Minnesota, 301–19th Avenue South, Minneapolis, MN 55455–0429.

cal competition within a union on bargaining outcomes and the impacts on the shop-floor bargaining. The in-depth analysis of the events, personalities, and outcomes in the union provides unique insights that could not be obtained by only examining the theory and data.

Incentives for Remaining a Union Leader

From the perspective of union leaders in office, there are ample incentives to create an environment where challenges to their job are reduced. Being a union leader in most organizations gives the individual super seniority during potential layoffs, and takes the official off the mundane assembly line work for long periods of time. For those union leaders with public service ambitions, it can provide a springboard to local government work, political office, or opportunities to obtain a job with the national union. With these benefits for union leaders, the incentives for union behavior have long been a topic of debate and discussion in industrial relations.

Conflicting perspectives in industrial relations—namely, what is the objective of unions and what is the role of political competition?—suggests that a more democratic union would be somewhat more successful not only in bargaining contracts but also in fractional bargaining on the plant floor in part because of the competition within the political system (Kuhn 1961). Recent theoretical analysis states that union dissidents typically accuse the union leaders of being too soft in their negotiations with firms. Dissidents rarely accuse the leadership of costing the union members jobs by negotiating too generous an agreement from management's perspective. Professor Michael Kremer states that union leaders who are not seriously challenged are often prepared to sacrifice worker-oriented provisions, such as wages, for union-oriented provisions such as union security, automatic checkoffs of union dues, the right of the union to participate in all grievance negotiations, and preferential seniority for union officials (Kremer 2000). Among the features that give incumbents strong advantages are indirect elections of leaders. If, at the national level, incumbents see that a local union is not supporting them, they have the power to place a local under receivership, and the national union takes over the affairs of the local. Similarly, if a local president sees a steward in a work group or team who is not supporting him, she or he has the power to remove that individual. Moreover, there are often charges of vote-stealing in local elections. Union officers are not required to give memberships lists to opposition candidates. If a local union is spread out over a large geographic area, then this becomes an even greater impediment for a potential challenger because it imposes greater time and money costs of a challenge. Finally, local staffs are known to contribute to the campaign of local union leaders, making it even more difficult for challengers when campaigns are more expensive. Furthermore, when union staffs are

geographically dispersed and less visible, then opposition candidates will find it even more difficult to mount significant political challenges.

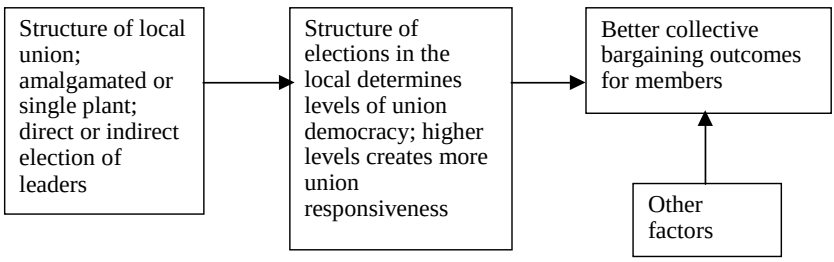
Comparing Two Local Unions

In Figure 1 we show how union democracy at the local level is determined for our comparison of two similar unions, and how it may impact bargaining outcomes. In the far left box, the organizational structure of a union is assumed to impact the level of democracy. For example, if the structure of a local union is an amalgamated one, it would then consist of several plants, generally in the same geographic area. In contrast, if a local union represents only one plant, this would affect the level of union democracy through the level of competition for key positions. Further, within local unions, the structure of voting would also matter in the determination of the level of competition. Direct elections would have their greatest impact on equalization of candidates running for office. Consequently, if there is a great deal of competition for the top union positions, then the union leaders, which include the union stewards, would need to be more responsive to the interests of the members. In the middle box of the figure, the greater the level of democracy and competition in the union, the tougher the union leaders must be in negotiations, which results in better collective bargaining agreements from the perspective of the membership, all else equal. Of course measures of the success of bargaining outcomes would include "orbits of coercive comparison" relative to other negotiated agreements or inflation (Dunlop 1944). This model suggests that union democracy, as defined by more competition within the union, affects what union members receive at the bargaining table and the power they have vis-à-vis management at the shop floor.

Local 148 of the United Automobile Workers (UAW) represented employees at McDonnell Douglas, now Boeing Aircraft, at its Long Beach, Califor-

FIGURE 1

Structure of union democracy and bargain outcomes.



nia facility for more than 60 years and is the focus of our analysis because of its unusually high level of democratic competition.[1] Throughout the 1960s and into the early and mid-1990s, the local had between 10,000 and 35,000 members. The production of large commercial aircraft was in one large plant and subsidiary storehouse plants surrounding the main facility. This made it easy to organize rival political parties within this union local, and there were direct elections of all union officials. The plant also comprised the entire local, an unusual arrangement for unions in the UAW. This union was highly democratic using virtually any measure. For example, there were rival political parties with many candidates, hotly contested elections, and conflicts with the international UAW over bargaining demands during collective bargaining. Union meetings were open to direct legislation from the membership at the floor of the meetings, which made direct democracy a tradition and part of the culture within the local. This union would epitomize Farber's view of an "operating democratic union" and would be consistent with the first box in Figure 1. As a consequence, the union leadership had to be responsive to the membership or a rival leader would organize a new political party and challenge the leadership in the next election.

Our discussions with past union presidents, union stewards, and national union officials responsible for aerospace negotiations concluded that one of the major reasons for this high level of democracy evolved from the way the plant was designed for the assembly of large commercial aircraft.[2] Their opinion was that the high levels of union democracy developed largely because all the employees were "under one roof." This meant that getting political information out to the members was easy and cheap. Campaigning could be done during lunch hours, coffee breaks, or just before or after work. Getting political information to the membership in this plant involved going to a central location in the plant and handing out pamphlets that were often mimeographed on plain paper.[3] There were hotly contested races for all major leadership positions and many candidates from the 1960s through the 1990s. No union president served more than two terms, and only one served two consecutive terms as the leader of the local. The spread between the winner and loser in presidential elections during the period was no greater than 5 percent. This competition ranged from union presidents who wanted cooperation with management to ones who desired conflict because it would produce a more lucrative contract for the membership.

In contrast, Local 887, which was also a UAW affiliate in the aerospace industry, had a representative form of union democracy spread over several plants in the Los Angeles, California metropolitan area and within commuting distance of the plant that 887 represented. They had about the same number of members, roughly 24,000 depending on the period of time and demand

for the product, and there was considerable growth and decline depending on government defense orders. This union was an amalgamated union that represented eight plants for the Rockwell company in the Los Angeles metropolitan area, a large defense contractor that produced mainly military aircraft. As a consequence of geographic dispersion, the international UAW organized this local as a representative form of democracy rather than a direct democracy, which was the case at Local 148. During the 1970s through the 1990s, Local 887 had no hotly contested elections. In most elections, there was either no opposition candidate or token opposition, and no union president was voted out of office during the period. There were three presidents during the 1970s through the 1990s, and the ones who left office did so either to enter local or state political life or to obtain managerial positions with the international union. Since there was no meaningful opposition to the union leader, there may have been fewer incentives to perform in the interests of the members. For example, few grievances went to arbitration, and management was able to implement work teams, with lots of employee involvement with little opposition from the local union. In contrast to Local 148, distance and indirect democracy made it difficult to organize opposition to this local's entrenched political party.

These differences in structure were associated not with regular union meetings where motions "from the floor" from the membership could be acted upon, but with monthly meetings that were conducted through representatives of the local in each of the eight plants. Second, union stewards were often appointed by the representatives of the local in the plant. Annual meetings were well organized and, some have suggested, orchestrated to serve the interests of the union president. The union officials argued that this system provided stability and stewards with specific human capital who knew how to handle grievances. In contrast to Local 148, which had considerable turnover of stewards and top officials, Local 887 had individuals in place who were not likely to lose their position in the union. It was costly to form any opposition to the leadership both in terms of time spent organizing and in the potential loss of political favor with the leadership. Consequently, there were few unionists who attempted to do so. Management liked the stability and certainty that this type of union organizational structure provided the company. This local union is close in Farber's terminology to being a "completely unfettered leadership-run union."

The stability of the staff at Local 887 provided job-specific human capital that would allow the union to be knowledgeable about doing their job and serving their members. When it came to negotiating collective bargaining agreements, they knew the relevant information on wages for comparable employees in the region and country. In handling grievances, long tenured

stewards have a longer institutional memory about previous contracts, the issues negotiated in previous contracts, and how arbitrations works. This longer experience by the leadership would give Local 887 a major advantage in negotiating better collective bargaining agreements.

From an analytical perspective, one unique aspect of our "quasi-experiment" is that by picking a local comparison union with such similar outward characteristics as Local 148, we are able to difference out common elements between the two local unions, and any remaining differences in bargaining outcomes is a consequence of the variation in union democracy.[4] The common elements of both union locals are the same national union, worker skills and education, metropolitan area, membership size, and industry. The major differences in the two local unions are the levels of internal competition and the related organizational structure.

Bargaining Performance of the Two Locals

Although clearly not a controlled experiment, Locals 148 and 887 do provide what may be considered a "quasi-experiment" of the effects of union democracy. In spite of the pattern bargaining structure that dominated the policies of the international UAW, there were differences in wages for similar jobs. In Table 1 we give the differences in the maximum salary for two common occupations in the two companies—tool and die makers, a skilled occupation, and janitors, an unskilled occupation—for contracts negotiated from 1969 through 1997. This was the last year the companies were independent of Boeing. We also chose these occupations, since they appeared in all the

TABLE 1

Percent Contractual Wage Difference for the Maximum Hourly Wage for Each Occupation (Local 148 vs. Local 887)*

Year	Percent difference—tool and die maker	Percent difference—janitor
1969	3.36	–0.94
1970	3.19	–5.59
1971	–1.16	–1.06
1975	4.62	0.76
1976	3.94	0.0
1977	–0.97	–5.15
1996	10.11	25.14
1997	10.93	26.06

*The value was calculated as the percent difference between Locals 148 and 887. This is the modal wage for each occupation in the respective locals for each time period.

contracts, whereas many other occupations appeared in some but not in other labor contracts over this 28-year period. Since most workers in each job were at the maximum wage in both plants, this hourly wage reflects the mode of wages for these occupations in both organizations.

The results show that these employees at Local 148 usually had higher wages depending on the time period across these many collective bargaining contracts. There were small differences in favor of Local 148 in the 1960s of approximately 2 to 4 percent for tool and die makers, but this value grew to almost 11 percent by the late 1990s. Wage differences in 1969 for janitors favored those employed in Local 887 but, by the late 1990s, janitors in Local 148 had a more than 26 percent wage advantage. This reflects the impact of strikes, work slowdowns, and tough negotiations at Local 148 and McDonnell Douglas that resulted in major wage gains for union members in the company. Union leaders in 148 needed to be responsive to the members' desires to obtain good contracts or be voted out of office, and this seemed to dominate the benefits of the greater experience of the union leaders in Local 887.

All other major categories of jobs showed a similarly higher pay range for employees in Local 148. Moreover, the shift premium for working for second shift was 20 percent higher at Local 148, but the third shift was the same for employees in both local unions. Local 148 also had pension benefits that were approximately 8 percent higher per year employed by the company for employees in similar jobs with the same years of seniority for contracts negotiated in the late 1990s. Local 148 also had a more generous 401(k) provision in their collective bargaining agreement so that the workers, together with the company contribution, could save 14 percent in the more politically competitive union versus 10 percent for Local 887. Bargaining unit members in Local 148 had one seniority plan for the whole plant, but Local 887 had varying plans based on the specific Rockwell plant, and there were bumping rights across the plants. This came in spite of official publications by the national UAW that they were attempting to get the same benefits for members at both unions.[5]

In obtaining due process at the workplace and cooperation from management, our discussions with management at McDonnell Douglas and union leaders at both locals also showed that Local 148 had greater power in fractional bargaining. The union leadership sometimes bragged that becoming a top corporate leader within labor relations at McDonnell Douglas meant having the approval of the union leadership. "Clear it with 148" was a common refrain heard from management in the industrial relations office regarding those who hoped to advance at the company in labor relations. This type of power in plant-level post-contract negotiations meant having a strong political identity and incentives to serve the membership even if it meant "crossing" management.

There were other major differences on labor relations events. Over the same period, there were three strikes and one work-to-rule policy between Local 148 and McDonnell Douglas. However, there were no strikes, no work to rule, and an explicit TQM policy with teams and employee involvement agreed upon by the union with Rockwell. Perhaps the solidarity that links high levels of democracy also leads union leaders to show that they can deliver the best agreement possible, showing that the union acts as a political institution when it comes to wage setting. Based on the collective bargaining agreements for both unions, and virtually all other measures of union success—including voice at the workplace, wages and benefits, and having a balance of power with management at the shop floor—our results show that unionists at Local 148 did better than those at 887 in spite of the greater experience of unionists at this local.

Certainly other factors such as differences in the structure of the locals, the economic situation of the company, the level of union leadership-specific human capital, and demand for the planes that were being produced by firms also influenced bargaining outcomes. Employees in Local 887 work primarily on military planes, whereas workers at Local 148 are primarily in commercial aviation production. The military production market has only one customer, the U.S. government, whose principal consideration is the quality of performance in the mission. On the other hand, the main criterion for sales of commercial aircraft is price, and McDonnell Douglas had to be much more sensitive to the cost of factors of production, especially labor costs, than Rockwell. Another possibility for higher wages and benefits at Local 148 is potentially higher productivity and effort relative to Local 887. This also seems unlikely since Local 887 had an employee involvement program with considerable employee participation for most of the 1970s through the 1990s, but Local 148 had only a short-term program that failed. Most of the empirical evidence supports the role of employee involvement in increasing productivity (Ichniowski et al. 2000). All of these economic factors would favor a better collective agreement for Local 887. Nevertheless, the results showed better outcomes for Local 148.

From the company's perspective, having this level of economic power by the union would result in Local 148 being able to put short-run pressure on management to make wage and work-rule concessions in order to meet current production schedules. However, in the long-run, management was able to contract out work and put new production facilities in neighboring states or other countries, where union power was perceived to be much weaker. In this case the Dunlop view of wage bill maximization was not realized in the long run by the members of the union, as employment declined dramatically to less than 5,800 employees 2 years after the takeover by Boeing during the late 1990s.[6] However, Local 887 employment also declined, and

there were about 1,400 union members by the year 2000 following the Boeing takeover of Rockwell.

Conclusions

How does direct democracy, with much competition, or representative democracy, with little rivalry, affect bargaining outcomes? We provide a comparison of a highly democratic union with one that has one party rule and is consistent with a model of union behavior suggested by Henry Farber as an appropriate experiment in analyzing this issue.

There were both political and economic factors that influence the behavior of the two unions examined in this paper. In contrast to Local 148, Local 887, which represented several plants in the same industry and location, had a substantially lower level of democracy within the plant. Local 148 had many changes in leadership that represented a variety of political parties that had differing views toward management. On the other hand Local 887 had little contested changes in leadership, which resulted in a stable group of union representatives and a long-standing employee involvement program. In contrast Local 148 was involved in three strikes and one work-to-rule action, and had major swings in the policies of the union leaders.

The economic objectives of the national union were to obtain comparability in wages and benefits between union locals in aerospace in the Los Angeles metropolitan area. Further, the company that negotiated with Local 887 had considerably fewer economic incentives to cut costs and had almost no competitors in its specialized segment of aerospace. In spite of these constraints by the national UAW and with the competitive structure of the product market, Local 148 still had many more economic and job security benefits than Local 887. In short, the level of political competition within the union appears to have led to many more economic gains relative to a similar union local, but the contract gains also should be measured against the costs to the union members of the lost earnings during the three strikes, and the reaction by management, which resulted in subcontracting work to other vendors and the eventual selling of the business to its main rival.

Acknowledgments

We thank William Appleby, Jeff Balfour, Sandy Donovan, Ken Erickson, Douglas Griffith, Ken Hill, Bruce Kaufman, Paul Schrade, and Shirley Underwood for their comments and assistance with this paper.

Endnotes

1. For more details on the election campaigns and election outcomes in both unions, see Kleiner and Pilarski (2001).

2. We had lengthy discussions with Doug Griffith, a past president of Local 148, and with Shirley Underwood, a former union steward in the local and now an international representative for the UAW. In addition, we discussed the politics of Local 887 with Ben Aceves, an international representative with the UAW, and a former union officer with Local 887, Paul Schrade, as well as the current president of the local. We visited the Local 148 headquarters and held discussions with members of several of the political parties in the local as well as members of the retirees association. We also visited the McDonnell Douglas plant, saw production facilities, and discussed union politics with members of the labor relations department in the company.

3. We were given access to many campaign materials, handouts, and strategies used during the elections by former president Griffith and former union steward Underwood.

4. See Arvey et al. (1991) and Freeman and Kleiner (1990) for a fuller explanation of the statistical impact of choosing a close companion/twin organization in differencing out common elements in statistical inference.

5. News releases from the UAW aerospace group for members were showing that each of the contracts were similar, calculations from the contracts obtained from the international for both unions showed the important distinctions in the contracts that are noted in the text.

6. It should also be noted that, because of the decline in defense orders, union employment at Rockwell also declined substantially during the 1990s.

References

Arvey, Richard, Thomas Bouchard, Nancy Segal, and Lauren Abraham. 1989. "Job Satisfaction: Environmental and Genetic Components." *Journal of Applied Psychology*, Vol. 74, no.2, pp. 187–92.

Dunlop, John. 1944. *Wage Determination Under Trade Unions.* New York, NY: MacMillan.

Farber, Henry. 1986. "Analysis of Union Behavior" In Orley Ashenfelter and Richard Layard, ed., *Handbook of Labor Economics*, New York, NY: North-Holland, pp.1031–90.

Fioito, Jack, and Wallace E. Hendicks. 1987. "Union Characteristics and Bargaining Outcomes," *Industrial and Labor Relations Review*, Vol. 40, no. 4 (July), pp. 569–84.

Freeman, Richard B., and Morris M. Kleiner. 1990. "Impact of New Unionization on Wages and Working Conditions: A Longitudinal Study of Establishments." *Journal of Labor Economics*, Vol. 7, no. 3, pt. 2, pp. S-8–S-25.

Ichniowski, Casey, David Levine, Craig Olson, and George Strauss. 2000. *The American Workplace.* Cambridge, U.K.: Cambridge University Press.

Kleiner, Morris M., and Adam Pilarski. 2001. "Does Internal Political Competition Enhance Its Effectiveness?" In S. Estreicher, H. Katz, and B. Kaufman, eds., *Internal Governance and the Organizational Effectiveness of Labor Unions.* New York, NY: Kluwer Publishing, pp.103–19.

Kremer, Michael. 2000. " An Epidemiological Model of Unions," Working Paper, Harvard University, pp. 1–24.

Kuhn, James. 1961. *Bargaining in the Grievance Settlemen.*, New York, NY: Columbia University Press.

X. LABOR STUDIES/LABOR UNIONS, COLLECTIVE BARGAINING, DISPUTE RESOLUTION AND LABOR AND EMPLOYMENT LAW REFEREED PAPERS

The NLRA's "No-Man's Land" in Partial and Intermittent Strikes: Research and Policy Implications

Michael H. LeRoy
University of Illinois at Urbana-Champaign

Abstract

Partial and intermittent strikes, common in the early years of the NLRA but dormant thereafter, have made a comeback. Preliminary findings are presented for these unconventional strikes. Although these work stoppages are still infrequent, they appear to be occurring more often in response to employer hiring of permanent striker replacements. Since 1990, they have exhibited industry patterns (e.g., airlines and education). Preliminary research also indicates that occupational certification plays an important role in these job actions, since employers cannot easily find short-term replacements. Finally, for airlines the mere threat of a CHAOS or HAVOC job action is costly and appears to increase union bargaining power.

The strike weapon has been blunted since the late 1970s. To illustrate, only 19 strikes occurred among large bargaining units in 1999, compared to 235 in 1979. More global competition, contingent workers, and aggressive management consultants and lawyers have led to this decline. These factors have re-

Author's Address: Institute of Labor and Industrial Relations, 504 East Armory Avenue, University of Illinois at Urbana-Champaign, Champaign, IL 61820.

volved, however, around greater employer willingness to hire permanent striker replacements.

Unions have responded to this loss of bargaining power with on-the-job strategies. Work-to-rule tactics (e.g., a slowdown for safety regulations) protect workers from replacement while creating nuisance costs for employers. In a related vein, while unions have stayed on the job during labor disputes, they have taken their disputes to shareholder meetings or their employer's creditors or consumers. These tactics have helped unions avoid the high costs of a strike.

A new kind of strike has recently emerged, however. Called HAVOC or CHAOS in the airline industry, where these strikes have occurred most often, they are brief and involve only a few workers. For example, flight attendant unions threaten to have crews walk off the job just as passengers are boarding, but do not disclose which flights or how many are targeted. They also publicize their threat well in advance. This becomes costly to airlines when customers switch carriers to avoid cancellations.

Partial and intermittent strikes are not really new. They have occurred since the 1930s. This paper examines current forms of these unconventional strikes. Apart from their shorter duration, how do they differ from full-scale strikes? What industries are most affected? To what extent are partial and intermittent strikers protected by law? Finally, what does this emerging trend imply for industrial relations research and public policy?

What Are Partial and Intermittent Strikes?

A strike is a withdrawal of labor for the purpose of putting economic pressure on an employer. It ends when an employer agrees to a contract, or when a union—having lost its economic contest—returns on the employer's terms. No union can tell when a strike will end. A strike also involves the entire bargaining unit, even when some workers crossover.

By law, an employer is permitted to hire permanent replacements for strikers (*Mackay Radio* 1938). While strikers cannot be fired, they do not have a right to return to their jobs upon ending their work stoppage. Unless their employer agrees to reinstate them, the law provides them a right to reinstatement only when a vacancy occurs (*Laidlaw* 1971). This can take years. Strikes that fail can be very costly to unions and their members.

In the 1980s and 1990s, unions experienced high strike costs. Strikers were permanently replaced by airlines (Continental Airlines, United Airlines, Trans World Airlines, Eastern Airlines), manufacturers (Bridgestone/Firestone, Ravenswood, Oregon Steel), newspapers (*Detroit Free Press, Chicago Tribune, San Francisco Chronicle*), and mining companies (Phelps Dodge, Pittston Coal). The federal government hired 12,000 replacements in the PATCO strike.

In contrast, a partial strike involves only a small fraction of the bargaining unit. An intermittent strike involves two other variables: timing and duration. It is often timed to maximize disruption to an employer's operations. Work interruptions may last only an hour—long enough to miss a meeting, a work assignment, an overtime shift. The striker then returns to work, that day or the next. She may withdraw her labor again, perhaps repeatedly.

To illustrate, in 1978 flight attendants for Alaska Airlines staged a conventional strike. The airline hired permanent replacements, resulting in high union strike costs. In 1991, when the parties were at impasse again, the union staged a CHAOS strike ("Create Havoc Around Our System"). This involved only a handful of employees. After a few crews walked off flights that were boarding, airline operations were seriously disrupted. Strikers returned to work after their flights were canceled—and before they could be replaced.

The "No-Man's Land" of Partial and Intermittent Strikes Under the NLRA

Partial and intermittent strikes are a strategic union response to the hiring of permanent striker replacements. Although they appear to be recent innovations, these limited strikes have occurred since the inception of the NLRA. Initially, the NLRB ruled that partial and intermittent strikes were lawful and protected. In *American Mfg. Concern* (1938), union workers walked off their jobs an hour before quitting time in support of their bargaining proposal to reduce the workweek from 45 to 40 hours. They were discharged for breaking a rule. The company contended that the strike was unprotected, since there was notice of the rule and because its use of discipline was not discriminatory. The Board disagreed: "The cessation of work by a group is no less a strike because the group itself may not have considered its action to constitute a strike."

This precedent eroded as state labor boards began to regulate strikes. A conflict emerged between federal and state law. Matters came to a head in *Int'l Union, UAW Local 232 v. Wisconsin Employment Relations Commission* (also called *Briggs-Stratton* 1949). The union and company were at an impasse in talks for a new contract. While workers stayed on the job, they engaged in 27 surprise strikes over 4 months. These were limited to walking off the job mid-shift to attend unannounced union meetings. Production was regularly disrupted.

Instead of disciplining workers, the company filed an unfair labor practice complaint with the Wisconsin Employment Relations Commission. The state agency, and later the state supreme court, ruled for the company. The U.S. Supreme Court upheld these rulings. In two later cases, the Court retreated from this precedent. However, these rulings created an ambiguous public policy. While partial and intermittent strikes are not unlawful, they are also unprotected.

In *NLRB v. Insurance Agents Int'l Union* (1960), salesmen engaged in several on-the-job tactics to pressure Prudential into agreeing to a contract. Periodically they refused to solicit new business, delayed paperwork, and reported late to meetings. Prudential charged the union with failure to bargain in good faith. The NLRB agreed, reasoning that the union's "reliance upon harassing tactics during the course of negotiations for the avowed purpose of compelling the Company to capitulate to its terms is the antithesis of reasoned discussion." The Supreme Court reversed this ruling. In its view, "the use of economic pressure by the parties to a labor dispute is part and parcel of the process of collective bargaining." The Court also noted that "surely it cannot be said that the only economic weapons consistent with good-faith bargaining are those which minimize the pressure on the other party or maximize the disadvantage to the party using them." But the Court stopped short of protecting these strikes when it said that Prudential could have discharged agents without violating the NLRA. In sum, "a union activity [that] is not protected against disciplinary action does not mean that it constitutes a refusal to bargain in good faith" (494–95).

Machinists v. Wisconsin Employment Relations Commission (1976) is the most recent Supreme Court ruling on these strikes. As they bargained for a new contract, a company and union reached impasse over the definition of a workweek. The union wanted a 7 1/2–hour workday. The company wanted 8 hours to reduce weekly overtime costs. Employees then punched out 30 minutes early and reported for work the next day. This amounted to refusing to work overtime. Rather than fire its workers, the company sought a ruling from the same state labor board that ruled in *Briggs Stratton.* WERC issued a cease-and-desist order, and the Wisconsin Supreme Court affirmed.

The U.S. Supreme Court reversed this judgment, holding that the union's refusal to work overtime was "peaceful conduct constituting activity which must be free of regulation by the States if the congressional intent in enacting the comprehensive federal law of labor relations is not to be frustrated" (p. 155). This ruling sharply limited state authority to regulate strikes. States are permitted to regulate strike-related violence and intimidation as a function of their police powers to preserve law and order. Peaceful overtime strikes are another matter, according to the Court: "It is not contended . . . that the Union policy against overtime work was enforced by violence or threats of intimidation or injury to property. Workers simply left the plant at the end of their workshift and refused to volunteer for or accept overtime or Saturday work."

This overruled *Briggs-Stratton* but again stopped short of protecting partial and intermittent strikes. The majority believed that a partial strike might be an act of disloyalty that was unprotected under the NLRA, or violate a contractual promise to accept compulsory overtime. Their ruling simply meant

that the NLRB, rather than state courts or agencies, should rule on these matters. Justice Stevens' dissent went to the heart of the problem with this approach. If, as the majority suggested, an employer has a right to discipline employees for leaving work early without permission, how could this activity also be lawful under the NLRA? He believed that limited strikes were left in a regulatory "no-man's land" in which they are not unlawful but unprotected.

Since then, the NLRB has ruled that partial and intermittent strikes are not protected (e.g., *E.R. Carpenter Co.* 1980; *Audubon Health Care Center* 1983). Restating this rule (*Hostar Marine Transport Systems* 1990), the NLRB said:

> While employees may protest and ultimately seek to change any term or condition of their employment by striking or engaging in a work stoppage, the strike or stoppage must be complete, that is, the employees must withhold all their services from their employer. They cannot pick and choose the work they will do or when they will do it. Such conduct constitutes an attempt by the employees to set their own terms and conditions of employment in defiance of their employer's authority to determine those matters and is unprotected. (193)

A more recent paradox has been added to partial and intermittent strikes. Two recent court rulings involving these strikes under the Railway Labor Act (RLA) had the effect of protecting CHAOS strikers. In *Pan American World Airways v. Int'l B'hd of Teamsters, Local 732* (1990), Pan American World Airways unsuccessfully petitioned a federal district court to enjoin employees from engaging in 1-hour work stoppages. The district court in *Association of Flight Attendants v. Alaska Airlines* (1993) went further when it specifically ruled that a CHAOS strike was protected under the RLA. The union obtained an injunction that barred the airline from firing CHAOS strikers. In making this ruling the court rejected the airline's argument that CHAOS work stoppages are unprotected activity.

Partial and Intermittent Strikes: Survey and Preliminary Conclusions

Partial and intermittent strikes are difficult to classify. Since the federal government tabulates only full-scale strikes, limited strikes are not reported by the usual sources (BLS and FMCS). I filled this void by searching for reports of these strikes since 1990 in WESTLAW's electronic databases for NLRB and federal court decisions, and U.S. newspapers. I chose this year because a recent list could lead to a detailed case study.

Many of these strikes are probably unreported because of their low intensity. A more fundamental research problem is how to define them. A partial

or intermittent strike must involve some form of withdrawal from work, however temporary. In addition, it must involve concerted activity and planning. A job-action by one worker does not count (e.g., *Myth, Inc. d/b/a Pikes Peak Pain Program* 1998), nor does a spontaneous and short-lived strike (e.g., *Regency Service Carts* 1998). The requirement for withdrawal of labor distinguishes partial and intermittent strikes from work-to-rule tactics. Finally, a strike must involve only selective portions of the bargaining unit (partial strike), or targeted work periods or assignments (partial strike), or repetitious withdrawal (intermittent strike).

Table 1 (below) summarizes partial and intermittent strikes since 1990. My preliminary findings suggest that these strikes have observable patterns and effects on bargaining. (1) Partial and intermittent strikes are rare, even assuming that Table 1 underreports their frequency. (2) These strikes exhibit industry

TABLE 1

Partial and Intermittent Strikes (1990–2001)

Partial or intermittent strike occurred	
Occupation, Employer, Date	WESTLAW Source
Graduate assistants [University of Illinois 2001]	2001 WL 30796575
Pilots [United Airlines 2000]	2000 WL-WSJ 26611521
Flight attendants [America West 1999]	1999 WL 14820183
Pilots [American Airlines 1999]	53 F.Supp. 909 (1999)
Nurses and service employees [Rhode Island Hospital 1999]	1999 WL 12745686
Graduate assistants [Yale University 1997]	1997 WL 24392921
Auto workers [Chrysler 1997]	1997 WL 2200318
Teachers [Oakland, CA 1995]	1995 WL 5308027
Commuter rail workers [Metro-North Railway 1995]	1995 WL 12844481
Truck drivers [United Parcel Service 1994]	1994 WL 6109399
Teachers [East Cleveland, OH 1994]	1994 WL 7204802
Teachers [Athens, OH 1994]	1994 WL 7841758
Auto workers [General Motors' Delphi Interior Unit 1994]	1997 WL 2892395
Flight attendants [Alaska Airlines 1993]	1997 WL-WSJ 2425346
Teachers [Woodsfield, OH 1993]	1993 WL 5261571
Partial or intermittent strike threatened	
Occupation, Employer, Date	WESTLAW Source
Flight attendants [US Airways 1999]	1999 WL 14820183
Flight attendants [Northwest Airlines 1999]	1999 WL 14820183
Professors [California State University 1999]	1999 WL 4060449
Teachers [Los Angeles, CA 1998]	1988 WL 2201098
Grave diggers [New York City 1998]	1998 WL 2675577
Flight attendants [United Airlines 1993]	1997 WL-WSJ. 2425346
Flight attendants [Trans World Airlines 1993]	1997 WL-WSJ. 2425346

patterns (e.g., airlines and education). (3) Occupational certification plays an important role. Flight attendants require training before the FAA allows them to work. Teachers must hold certificates to work. When these employees withdraw their labor for only brief periods, they are virtually immune from replacement or discharge. (4) The threat of these strikes can be costly to employers (e.g., customers defected en masse as flight attendants and pilots engaged in CHAOS strikes at America West and United).

More investigation of partial and intermittent strikes is needed. Although they are rare, they appear to be highly effective. By hybridizing conventional strikes and in-plant strategies, they seem to redistribute strike costs to the detriment of employers and benefit of workers. This is noteworthy because it reverses the pattern of dispute costs for replacement strikes since the 1980s. Their effect seems magnified with just-in-time work processes. Thus, this weapon offers a union more control over the timing and scope of a dispute than a full-scale strike.

Still, very little is known about this phenomenon. Detailed case studies would help to answer these important questions: How do worker attitudes differ about these job-actions and traditional strikes? What are the costs of a CHAOS strike for employers, and for unions and their members? How do theses strikes affect bargaining outcomes? Are fewer partial and intermittent strikes observed under the NLRA because they have been unprotected since the 1976 ruling?

There are also important public policy questions to answer. Why should the NLRA treat a peaceful 30-minute striker the same as a violent striker (*Clear Pine Mouldings* 1984)? Are the two recent RLA cases that protect partial and intermittent strikes anomalies, or will they influence the Board and federal courts to reconsider the "no-man's land" under the NLRA? What public interest is served in having an NLRA policy that is so convoluted and so divergent from a similar law for airline and railroad employees? Why have courts and the NLRB not concluded that the lockout weapon is a better public policy than the current "no-man's land"? After all, a lockout allows an employer to meet pressure with pressure (*Central Illinois Public Service Company* 1998). It also mitigates a union's control over the timing of labor disputes. A defensive lockout merely synchronizes weapons without precipitating conflict. Most importantly, while a lockout is a potent weapon, it does not sever the employment relationship.

In sum, current public policy is deeply conflicted. The *Insurance Agents* court said that "collective bargaining is a brute contest of economic power." In reality, however, workers must choose between a high-risk full-scale strike that exposes them to permanent replacement, or engage in a limited strike and risk being fired. Why should the law permit only full-scale economic warfare but not

guerilla tactics? And if the expansive right to strike in Section 13 means what it says—that "nothing in this Act shall be construed so as to interfere with or impede or diminish in any way the right to strike"—how can the NLRB and federal courts justify a policy of their own creation that deprives employees a peaceful economic weapon simply because that tactic appears to succeed so often?

References

American Manufacturing Concern, 7 N.L.R.B. 753 (1938).
Association of Flight Attendants v. Alaska Airlines, 847 F.Supp. 832 (W.D. Wa. 1993).
Audubon Health Care Center, 268 N.L.R.B. 135 (1983).
Central Illinois Public Service Company and Local 702, International Brotherhood of Electrical Workers, 326 N.L.R.B. No. 80 (1998).
Clear Pine Mouldings, 268 N.L.R.B. 173 (1984).
E. R.Carpenter Co., 252 N.L.R.B. 18 (1980).
Hostar Marine Transport Systems, 298 N.L.R.B. 188 (1990).
International Union, UAW Local 232 v. Wisconsin Employment Relations Commission (Briggs-Stratton), 336 U.S. 245 (1949).
Laidlaw Corp. and Local 681, International Brotherhood of Pulp, Sulphite, & Paper Mill Workers, 171 N.L.R.B 1366 (1968).
Machinists v. Wisconsin Employment Relations Commission, 427 U.S. 132 (1976).
Myth, Inc. d/b/a Pikes Peak Pain Program, 326 N.L.R.B. No. 28 (1998).
NLRB v. Insurance Agents International Union, 361 U.S. 477 (1960).
NLRB v. Mackay Radio & Tel. Co., 304 U.S. 333 (1938).
Pan American World Airways v. International Brotherhood of Teamsters, Local 732, 894 F.2d 36 (2d Cir. 1990).
Regency Service Carts, 325 N.L.R.B. No. 94 (1998).

The Evolving Intellectual Core of Industrial Relations

Paula B. Voos and Haejin Kim
Rutgers University

Abstract

The central ideas of the field of industrial relations (IR) are contrasted with those of human resources (HR). IR has a public policy perspective—evaluating changes in the workplace in terms of societal well-being. In contrast, HR takes a management perspective, emphasizing the goal of improved firm performance. IR takes a pluralist perspective on the firm; it retains a particular interest in collective bargaining. IR should continue devoting attention to the economic and public policy context of work, since these have major effects on the standard of living, democracy, and other matters of vital concern to employees.

Where is industrial relations going? Has the "intellectual center" of our field shifted away from the study of collective bargaining and the industrial relations theories related to labor relations? Is industrial relations (IR) becoming indistinguishable in its core approach from human resource (HR) management? Recently John Godard and John Delaney (2000) have raised precisely that possibility in a conceptual critique of the "high-performance paradigm" that has come to underlie much research on work systems in the IR field.[1] Thomas Kochan (2000), a scholar associated with the new paradigm, has answered Godard and Delaney on behalf of those who utilize the high-performance approach. In this paper, we propose a third perspective on the theoretical issues involved and the appropriate direction for IR scholarship.

Our central thesis is that one of the essential elements of IR is its focus on public policy; this is complementary to IR's parallel focus on collective bargaining. Public policy discussions in IR have the goal of improving outcomes for both employees and for the society as a whole. In contrast, HR's primary focus is on what occurs inside corporations and on how managers can best enhance firm performance—HR policies, work systems, affirmative action practices are all major elements of the HR universe (Voos 2001). IR, howev-

Author's Address: School of Management and Labor Relations, Rutgers University, 50 Labor Center Way, New Brunswick, NJ 08903–8553.

er, is also concerned with those elements of the employment relationship that are internal to corporations because they do impact the well-being of employees—and hence the majority of the general public. They are appropriately part of the subject of IR; nonetheless, the perspective of IR on these matters is ultimately a public policy perspective rather than a management perspective.

With this thesis in mind, we turn to a review of Godard and Delaney's paper and the response to it by Kochan because we find that debate to be an illuminating one that has the potential for advancing IR theory.

Does the High-Performance Approach Blur the Difference Between IR and HR?

Godard and Delaney charge that the academic field of IR is in danger of losing its distinctive soul and is increasingly blurring into the approach of human resource scholarship. They point to a variety of reasons for concern:

- Current IR research has devoted considerable attention to understanding the effects of high-performance work systems on firm performance and on discerning the reasons for the diffusion (or lack of diffusion) of these work systems.
- This contrasts with the study of collective bargaining, the institution that was at the center of IR research in the 1950s.
- The new paradigm differs from the traditional "pluralist" paradigm by placing less emphasis on the conflict in interests between labor and management and more emphasis on the mutual gains that are available from new modes of work.
- It also posits a less prominent role for collective bargaining and a greater role for direct employee participation.
- Finally, it attaches less priority to legal changes to ensure worker rights and puts more emphasis on progressive management initiatives (p. 485).

In these ways, Godard and Delaney contend we have come perilously close to the "unitary" framework of HRM in which the achievement of the firm's goals are primary and in which there is an essential continuity of interest between management and labor. In their view, IR scholars in England have taken a more analytical and critical approach to the study of new work systems and have placed greater emphasis on understanding their impact on workers and on labor organizations.

The Unitary and Pluralist Perspectives

Fox (1966) is the IR theorist who presents the classic discussion of how the unitary approach to the firm evolved in human relations theory from more

classical theories of management, including that of scientific management. In this view, managers are responsible for providing leadership so that all employees work toward common ends, the success of the corporate enterprise. Fox contrasts the pluralist view of IR, in which conflict is inevitable because different parties have different interests, with the unitary view that conflict is a result of bad management (p. 369):

> conflict was seen, not as intrinsic to the very nature of industrial organization, but as the outcome of managerial incompetence. For the classicists, the incompetence lay in the failure to apply scientific, rational principles to the planning and coordination of work; for human relations it lay in some failure of leadership and social skills—a breakdown, for example of effective communication between management and men. But both based their theorizing on the assumption that the industrial organization is a unitary, monolithic structure, a single set of integrated relationships.

Are IR scholars who adopt the high-performance paradigm with its emphasis on "mutual gains" implicitly adopting a unitary perspective? Kochan (2000) denies the allegation. He states that he continues to regard the employment relationship as inherently one of mixed motives. That is, employers and employees have a "mix of conflicting and shared interests that require periodic resolution and fresh searches for ways to achieve mutual gains or integrative outcomes" (p. 707). The traditional way of stating this same fundamental premise of IR is contained in the first edition of Kochan's influential IR textbook (1980:19):

> There is an inherent conflict of interest between employees and employers. It arises out of the clash of economic interests between the employees seeking job and income security and improvements through their jobs and employers seeking to promote efficiency and organizational effectiveness. . . . The conflict is limited, however, since (1) employers and employees are interdependent—neither can survive and achieve their goals without the survival and goal attainment of the other, and (2) employers and employees may share common goals on some range of issue of mutual interest.

Postmodern students of discourse will note both the continuity of ideas and the subtle shift in emphasis between 1980 and 2000. It is not possible in a paper of this length to fully explore the reasons for the changed language adopted by contemporary IR scholars. Nonetheless, Kochan's current language does not represent an abandonment of the fundamental pluralist perspective, but

rather entails a contemporary restatement of it particularly appropriate for public policy debates.

Most IR scholars doing research on high-performance work systems do not predicate their scholarly activity on the assumption that employers and employees have similar interests. Rather, they recognize that often the two parties have different interests. It is precisely because workers have different interests than managers (and stockholders) that their direct participation in decision making can promote better outcomes for workers—this is the IR perspective. The view that work systems with significant amounts of employee involvement can better promote worker interests and worker voice than mass production systems reflects the traditional pluralistic perspective of IR in which workers do have separate interests from those who manage them (Voos 1996).

In fact, on particular issues, different groups of employees may have different interests from one another, and from the union itself as an institution; this has long been recognized in IR discussions of "fractional bargaining" and the importance of the union as an institution that compromises disparate worker interests for the purposes of bargaining. IR scholars also recognize that managers at different levels in the organization may have different interests from one another, and from shareholders themselves—for instance, first-level supervisors may have a different set of concerns with regard to employee involvement programs than do middle managers, much less top executives. Discussions of "mutual gains" from high-performance work systems are not predicated on a unitary conception of the corporation. If anything, realistic discussion of whether or not changes in work systems can improve outcomes for both frontline workers and for the firm as a whole, and the reasons why such changes are often resisted by particular groups of employees, involve a deeply pluralist perspective on the firm.

What Is a Managerialist Perspective?

In any event, it is not correct to equate managerialism and a unitary perspective claiming employers and employees have similar interests; it is quite possible to have a management perspective that is pluralist. Most American managers recognize that shareholders have different interests than employees, including management employees, and many contemporary business theories (e.g., agency theory) begin from that premise.

Given this, what makes a perspective managerialist is that the goals of firm are emphasized over the goals of employees; performance is the vital outcome, and employee well-being is distinctly secondary and important primarily insofar as it affects retention and recruitment. In short, the focus is on what managers should do to enhance corporate performance, not on what society

should do to enhance outcomes like the standard of living, equality, or democracy. In this respect, HR is clearly managerialist.

Has IR Research on High-Performance Systems Been Managerialist?

Godard and Delaney fairly point out that IR research has devoted less attention to the impact of these systems on workers than their impact on firm performance. This is beginning to be remedied by IR scholars—for instance see Berg (1999), Osterman (2000), Appelbaum et al. (2000), Black and Lynch (2000), Lynch and Krivelyova (2000), Godard (2001); Bailey et al. (2001), Batt (2001), and Batt et al. (forthcoming). However, the early focus on firm performance has lent a managerialist coloring to much research on high-performance work systems done by IR scholars. It is doubtful this reflects much more than a desire by those scholars to encourage firms to adopt such systems and a pragmatic recognition that performance rather than worker well-being is key to such adoption decisions. Nonetheless, leading IR scholars now recognize the need for more research on the impact of new work systems on employees (Kochan 2000), and that would indeed improve the balance of our discipline.[2]

What About Collective Bargaining?

Kochan claims that implicitly Godard and Delaney are imposing a "collective bargaining litmus test" on IR scholars:

> Implicit in Godard and Delaney's paper is an argument that collective bargaining as it has evolved over the years is the only way or the best way to advocate and represent worker interests. Therefore a shift away from the study of collective bargaining as it has been practiced implies an equivalent abandonment of workers interests for some other concerns—presumably, as noted above, a concern for management interests. (pp. 706–7)

Have most IR scholars adopting the high-performance perspective rejected the view that collective bargaining is the best way of representing workers? Some have and some have not.

Both Godard and Delaney, and Kochan, fail to make distinctions among scholars with diverse views. There is currently a debate in the IR community regarding the necessity of union revival for worker voice in the United States. Some of us would see union revival as absolutely central, whereas others would view it as of lesser importance than the provision of alternative mechanisms of worker voice to a majority of workers who presumably will remain nonunion in the years to come. Such mechanisms might include nonunion employee

representation (Kaufman, forthcoming) and a greater role for other representative groups/market intermediaries besides traditional unions (Heckscher 2001). At the same time, the partnership perspective on high-performance work systems adopted by many IR scholars (e.g., Appelbaum et al. 2000; Rubinstein and Kochan 2001) emphasizes the value of combining collective bargaining and high performance work systems. In short, study of high-performance work systems doesn't imply any particular set of views about unions and collective bargaining.

Has U.S. IR abandoned the study of collective bargaining? No. Many U.S. IR scholars continue to study collective bargaining and its effects. Consider the distribution of sessions as these meetings. Judging simply from the title of the papers in the IRRA program for 2002, out of 27 sessions containing multiple papers, we counted 21 with one or more papers concerning unions, collective bargaining, or labor relations. Furthermore a majority of sessions clearly have papers concerned with public policy issues like contingent work, labor market intermediaries, work hours, mobility opportunities for low-skilled workers, and so forth.

Paul Jarley, Timothy Chandler, and Larry Faulk (2001) recently published an insightful analysis of the contents of six "core" IR journals, *Industrial Relations, Industrial and Labor Relations Review, Journal of Labor Economics, Journal of Human Resources, Labor Law Journal,* and *Journal of Labor Research.*[3] Their evaluation of articles in the six journals from 1986 to 1995 inclusive indicates that 58 percent of all articles were on unions and collective bargaining; the second largest group (33 percent) were on matters related to labor markets and the associated public policy issues.

IR has not abandoned the study of labor relations, unions, and collective bargaining, nor should it. At the same time, it is important that IR not limit itself to the study of collective bargaining because other employment matters affect the well-being of workers and the society at large. IR scholars study public policies affecting labor markets, changing work systems, contingent employment, the relationship between work and family, and other matters besides collective bargaining for this reason.

Concluding Comments

In our view, the problem with the "high-performance" paradigm is not so much that it is based on a unitary perspective of the firm, because it really is not, but because it tends to focus IR scholarship on developments that are internal to corporations, which is only part of our field. One of the crucial differences between IR and HR has always been that HR has been focused "inside" the firm while IR investigates the dependence of what happens inside

firms on the wider economy and on the public policy that crucially shapes the economy (Voos 2001).

In this respect, IR as a field of scholarly endeavor mirrors the activities of unions themselves.[4] Unions work to change public policy in economic areas that are central to workers' well-being. Recently, central issues in American politics have been the size of a tax cut and its distribution across income groups, the quality of the public education system that serves the children of workers, the continued fiscal soundness of the Social Security system that provides income to retired workers in the United States, and the availability/quality of health insurance. These are issues in which U.S. workers need a voice. They are also issues that deserve continued study by United States IR scholars. In short, it is fine for IR to study developments internal to corporations, like high-performance work systems, and its OK to consider the changing nature of corporations (Kochan 2000), but it is also essential that IR continues to devote considerable attention to the broad economic and public policy context of work.

Endnotes

1. Ichniowski et al. (1996) is adopted by Godard and Delaney as a prototypical example of the paradigm.

2. Kochan adds that the IR attention to the impact of these systems on firm performance comes not so much from a managerialist perspective as a frank recognition that management was the initiating party in the wave of changes in work and the IR system in the 1980s. If IR were to ignore these developments and to focus exclusively on unions and collective bargaining, it would be missing the most important IR developments of our era.

3. We and others might quibble about the particular set of journals analyzed—we'd add *Advances in Industrial and Labor Relations* (appears annually), *Relations Industrielles/Industrial Relations* (Canadian), and *Labor Studies* (close to IR) to the group and subtract the *Journal of Labor Economics* and *the Journal of Human Resources* as being primarily labor economics, not IR, journals; nevertheless, the study highlights the continuing importance of collective bargaining to the field.

4. We are reminded of the Webbs' discussion of the "methods" (today that would be termed *strategies*) of unions: mutual insurance, collective bargaining, and legal enactment. Today mutual insurance would encompass all self-help strategies of workers in union and other organizations; legal enactment would include all strategies emphasizing public policy.

References

Appelbaum, Eileen, Thomas Bailey, Peter Berg, and Arne L. Kalleberg. 2000. *Manufacturing Advantage: Why High-Performance Work Systems Pay Off.* Ithaca, NY: Cornell University/ILR Press.

Bailey, Thomas, Peter Berg, and Carola Sandy. 2001. "The Effect of High-Performance Work Practices on Employee Earnings in the Steel, Apparel, and Medial Electronics and Imaging Industries." *Industrial and Labor Relations Review,* Vol. 54, no. 2A (March), pp. 525–43.

Batt, Rosemary. 2001. "Explaining Wage Inequality in Telecommunications Services: Customer Segmentation, Human Resource Practices, and Union Decline." *Industrial and Labor Relations Review,* Vol. 54, no. 2A (March), pp. 425–49.

Batt, Rosemary, Alexander Colvin, and Jeffrey Keefe. Forthcoming. "Employee Voice, Human Resource Practices, and Quit Rates: Evidence from the Telecommunications Industry." *Industrial and Labor Relations Review.*

Berg, Peter. 1999. "The Effects of High Performance Work Practices on Job Satisfaction in the United States Steel Industry." *Relations Industrielles/Industrial Relations,* Vol. 54, no. 1, pp. 111–34.

Black, Sandra E., and Lisa M. Lynch. 2000. "What's Driving the New Economy: The Benefits of Workplace Innovation." Cambridge, MA: NBER Working Paper No. 7479.

Fox, Alan. 1966. "Managerial Ideology and Labour Relations." *British Journal of Industrial Relations,* Vol. 4, no. 3 (November), pp. 366–78.

Godard, John. 2001. "High Performance *and* the Transformation of Work? The Implications of Alternative Work Practices for the Experience and Outcomes of Work." *Industrial and Labor Relations Review,* Vol. 54, no. 4 (July), pp. 737–75.

Godard, John, and John T. Delaney. 2000. Reflections on the 'High Performance' Paradigm's Implications for Industrial Relations as a Field," *Industrial and Labor Relations Review,* Vol. 53, no. 3 (April), pp. 482–502.

Heckscher, Charles. 2001. "Living with Flexibility." In Lowell Turner, Harry C. Katz, and Richard W. Hurd, eds., *Rekindling the Movement: Labor's Quest for Relevance in the Twenty-First Century.* Ithaca: ILR Press, 2001.

Ichniowski, Casey, Thomas A. Kochan, David Levine, Craig Olson, and George Strauss. 1996. "What Works at Work: Overview and Assessment." *Industrial Relations,* Vol. 35, no. 3 (July), pp. 299–333.

Jarley, Paul, Timothy D. Chandler, and Larry Faulk. 2001. "Maintaining a Scholarly Community: Casual Authorship and the State of IR Research." *Industrial Relations,* Vol. 40, no. 2 (April), pp. 338–43.

Kaufman, Bruce E. Forthcoming. "The Employee Participation/Representation Gap: An Assessment and Proposed Solution." *Journal of Labor and Employment Law.*

Kochan, Thomas A. 1980. *Collective Bargaining and Industrial Relations: From Theory to Policy and Practice.* Homewood, IL: Richard D. Irwin.

Kochan, Thomas A. 2000. "On the Paradigm Guiding Industrial Relations Theory and Research: Comment on John Godard and John T. Delaney, 'Reflections on the 'High Performance' Paradigm's Implications for Industrial Relations as a Field.'" *Industrial and Labor Relations Review,* Vol. 53, no. 4 (July), pp. 704–11.

Lynch, Lisa M., and Anya Krivelyova. 2000. "How Workers Fare When Employers Innovate." Unpublished paper, Tufts University and Boston University.

Osterman, Paul. 2000. "Work Reorganization in an Era of Restructuring: Trends in Diffusion and Effects on Employee Welfare." *Industrial and Labor Relations Review,* Vol. 53, no. 2 (January), pp. 179–96.

Rubinstein, Saul A., and Thomas R. Kochan. 2001. *Learning from Saturn: Possibilities for Corporate Governance and Employee Relations.* Ithaca, NY: ILR Press.

Voos, Paula B. 1996. "Labor Law Reform: Closing the Representation Gap." In Todd Schafer and Jeff Faux, eds., *Reclaiming Prosperity: A Blueprint for Progressive Economic Reform.* Armonk, NY: M.E. Sharpe, pp. 123–42.

Voos, Paula B. 2001. "An IR Perspective on Collective Bargaining." *Human Resource Management Review,* Vol. 11, pp. 487–503.

Private Justice and Public Policy: Whose Voice Prevails in Arbitration?

Michael H. LeRoy and Peter Feuille
University of Illinois at Urbana-Champaign

Abstract

Data and findings on federal court review of arbitration awards from 1990–2000 are presented. In the arena of voluntary labor arbitration awards, the results replicate findings of earlier research for the period 1960–1990. District court enforcement is approximately 70 percent, and only slightly lower for appellate courts (66 percent). Results for individual employment awards show a higher rate of enforcement, about 84 percent for district and circuit courts. This discrepancy may be explained by the fact that the grounds for reviewing employment awards are usually governed by the Federal Arbitration Act and not the Steelworkers Trilogy. Although a higher percentage of these awards are enforced, there is evidence that courts are moving in the direction of the labor arbitration model by exercising closer review of arbitrator rulings.

Grievance procedures long have been considered "remedial voice" mechanisms for employees. Grievance arbitration has been viewed as a particularly employee-favorable component of these remedial voice procedures, for arbitration enables an aggrieved employee to seek redress from a decision maker independent of management.

During the 1990s the arbitration of employee grievances expanded in American workplaces. This expansion did not occur in the unionized sector, for grievance arbitration provisions have been an almost universal feature in union contracts for decades (Eaton and Keefe 1999). Instead, this expansion occurred as a result of thousands of nonunion employers adopting arbitration as a condition of employment (U.S. GAO 1995). The result is that we now have systems of "labor arbitration" (grievance arbitration in the union sector) and "employment arbitration" (grievance arbitration in the nonunion sector) covering many millions of employees.

Both types of arbitration have generated controversy. Labor arbitration is

Authors' Address: Institute of Labor and Industrial Relations, University of Illinois at Urbana-Champaign, 504 E. Armory Avenue, Champaign, IL 61820.

a very stable feature of unionized employment relationships, but the judicial review of appealed labor arbitration awards continues to generate sparks among union and employer advocates and arbitrators. Employment arbitration has generated a great deal of controversy, much of it via lawsuits over the legal status of this type of arbitration process and the awards it produces.

Because these two types of arbitration have developed with little legislative guidance, the obligation to resolve these disputes has fallen upon the courts. In turn, an informed understanding of the public policy status of these two systems of private justice must involve a comprehensive analysis of how the courts have reacted to challenged arbitrator decisions. Accordingly, below we present the results of our analysis of hundreds of decisions issued by the federal courts involving appeals of labor and employment arbitration awards. Our results should yield a more informed portrait of the evolving public policy toward these two private justice systems.

Arbitral Finality and Judicial Review: An Oxymoron?

Both labor arbitration and employment arbitration procedures state that the arbitrator's ruling (award, decision, etc.) is final and binding. This finality is arguably the key attraction of the arbitration process. Arbitration allows the parties to privately devise and operate an adjudication procedure in which the disputes referred to arbitrators will be resolved once and for all—at least in theory. In this manner, labor arbitration provides unions and employers a substitute for the use of work stoppages to resolve grievances, and a dispute decision system that is faster and cheaper than litigation. Employment arbitration is not adopted as a substitute for work stoppages but as an alternative to litigation. It also offers a faster and less expensive way to resolve disputes, and it arguably offers employees more access to arbitrators than they would have to the courts. However, these efficiency advantages are premised upon arbitrator decisions being final and binding. If arbitrator rulings are not final, the process would become merely an intermediate stop on the way to a final, and much more costly, decision in some other forum, most likely the courts.

At the same time, these private judging systems cannot stand above our societal system of public law. For instance, it is difficult to persuasively argue that an award that directed one or both of the disputing parties to do something that violated a clearly articulated public policy should be unreviewable and allowed to stand. At a more prosaic level, there needs to be a method to seek redress from an arbitration award that is the result of the arbitrator's collusion with one party at the expense of the other, or from an award in which the arbitrator clearly exceeded the decision authority provided to her by the procedure. As a result, there must be a balance between the parties' need and desire for finality in the private judging system they have adopted, and the need

for society to provide a safety valve through which arbitration users can seek redress if they are convinced the arbitrator's decision is intolerable.

Union/Employee Voice and the Finality of Labor Arbitration Awards

The arbitration of disputes over the interpretation of collective bargaining agreements became widely established in unionized American workplaces during the 1940s and 1950s (Nolan and Abrams 1983). In 1960 the U.S. Supreme Court strongly endorsed the use of the labor arbitration process in a series of three decisions issued on the same day known as the *Steelworkers Trilogy*. For our purposes, the most pertinent of the Court's rulings emerged in the third of these decisions, *Steelworkers v. Enterprise Wheel and Car Corp*. (363 U.S. 593, 1960). In *Enterprise*, the U.S. Supreme Court issued strongly worded instructions to the lower courts directing them to refrain from reviewing the merits of arbitrators' rulings.

At the same time, however, the *Enterprise* Court said that arbitral authority is not absolute and that lower courts may vacate appealed awards when arbitrators' awards do not draw their "essence" from the collective bargaining agreement. In other words, the Court said that courts reviewing appealed labor arbitration awards generally should follow a "hands-off" policy in deference to the arbitration decision process chosen by the parties but that there are some lines that arbitrators cannot cross. The result is that the lower courts asked to review arbitration awards need to engage in a "hands-off/hands-on" balancing act that is easier to describe than to follow (Sharpe 2000).

The available evidence indicates that the vast majority of labor arbitration awards are indeed final. Researchers have estimated that less than 1 percent of the labor arbitration awards issued in the private sector are appealed to the courts (Estreicher and Harper 1993; Feuille and LeRoy 1990). This high rate of award compliance seemingly indicates that arbitral finality is widespread and hence any accompanying controversy should be minimal. However, judicial review of labor arbitration awards continues to be a vexing problem, as seen in two continuing developments.

First, three times in the past 18 years the Supreme Court has believed it necessary to issue decisions reaffirming the "hands-off" portion of the balancing act lower courts should use when reviewing appealed labor arbitration awards. Specifically, in *W.R. Grace and Co. v. Rubber Workers Local 759* (461 U.S. 757, 1983), *Paperworkers International Union v. Misco* (484 U.S. 29, 1987), and *Eastern Associated Coal Corp. v. United Mine Workers* (531 U.S. 57, 2000), the Court tackled the problem of how the courts should respond to appeals in which the disgruntled party sought to nullify awards on grounds that the offending awards violated "public policy." In each of these rulings the

Court said that (1) federal courts could vacate awards that violate public policy but (2) only in very limited circumstances.

Second, ever since the issuance of the *Trilogy* decisions in 1960, and continuing to the present, commentators continue to criticize the courts for being too willing to second-guess arbitrators and undo their decisions (Feller 1993; Gottesman 1989; Sharpe 2000). Much of this criticism understandably comes from labor arbitrators, who don't like to see their rulings reversed.

These developments indicate a need for a careful analysis of the judicial review phenomenon. In contrast to most of the other commentary on this subject, which usually consists of a close textual analysis of a handful of cases, we use a previously developed methodology for locating and analyzing reported federal court decisions involving appealed labor arbitration awards (LeRoy and Feuille 1991). Specifically, we used the online version of Westlaw to locate the reported federal court decisions issued during the 1991–2000 period that involved a challenge to a labor arbitration award. After locating each court decision, we used a survey form to extract standardized information about the appealed award and about the court's ruling. We present these results in Table 1.

The Table 1 results confirm the findings offered by LeRoy and Feuille a decade ago. First and foremost, challenges to labor arbitration awards are overwhelmingly driven by employer dissatisfaction with arbitrator decisions favoring unions/employees. Eighty-five percent of the appealed awards in this sample period favored the union. This is a continuation of the phenomenon noted in their analysis of challenges to awards during the 1960–1990 period, when 80 percent of the appealed awards favored the union (Feuille and LeRoy 1990). Second, the district courts rejected 70 percent of these challenges during the past decade, a result that is very similar to the 71.8 percent rate at which the district courts rejected challenges to awards during the 1960–1990 period (LeRoy and Feuille 1991). Third, however, the federal courts show substantial regional variation in their willingness to overturn awards. Leaving aside the judicial circuits in which fewer than 10 decisions are reported, the district courts in the federal Second Circuit upheld awards 86 percent of the time, while the district courts in the Fourth Circuit upheld awards only 45 percent of the time. In other words, Table 1 confirms the earlier finding that challenges to labor arbitration awards have significantly greater chances of succeeding depending upon the region of the country where the challenge is lodged.

Most important, the data in Table 1 show that criticisms of the federal judiciary as being increasingly more willing over time to overturn labor arbitration awards are without merit. There are always selected court decisions that arbitration proponents can point to as justification for claims that this or that federal court is impermissibly intruding upon the labor arbitrator's author-

TABLE 1

Judicial Enforcement of Labor Arbitration Awards (1991–2000)

	Union prevails in award	District court decisions to uphold award	Circuit court decisions to uphold award
Total appealed awards	197/232 85%	163/232 70%	77/116 66%
Grounds for appealed awards (some appeals involved multiple issues)			
Award did not draw essence from CBA	141/159 89%	110/159 69%	53/82 64%
Arbitrator exceeded authority	86/102 84%	76/102 75%	29/57 64%
Arbitrator violated public policy	71/84 85%	60/84 71%	30/41 73%
Arbitrator made fact-finding error	22/28 79%	23/28 82%	7/13 54%
Award procured by bias or fraud	4/8 50%	4/5 80%	0
Decisions grouped by federal circuit			
First	6/7 83%	6/7 83%	4/5 80%
Second	33/41 81%	35/41 86%	8/8 100%
Third	22/25 88%	21/25 84%	3/7 43%
Fourth	17/20 85%	9/20 45%	9/13 69%
Fifth	8/10 80%	7/10 70%	2/5 40%
Sixth	41/47 87%	28/47 60%	21/31 68%
Seventh	13/15 87%	12/15 80%	4/5 80%
Eighth	21/24 87%	14/24 58%	9/19 47%
Ninth	15/20 75%	15/20 75%	12/15 80%
Tenth	6/7 86%	7/7 100%	2/2 100%
Eleventh	11/11 100%	5/11 46%	2/5 40%
D.C.	4/5 80%	4/5 80%	1/1 100%

ity (Sharpe 2000). However, the Table 1 results, when combined with the results presented by LeRoy and Feuille (1991) a decade ago, show that during the past four decades the federal courts have been quite stable in their responses to requests to overturn labor arbitration awards. Specifically, they have approved less than one-third of these requests to vacate the appealed awards.

Employer Voice and the Finality of Employment Arbitration Awards

Observers agree that union-negotiated/supported labor arbitration provides employees with an institutionalized and stronger form of remedial voice to challenge adverse managerial decisions than is customarily available to their peers in nonunion workplaces. As this description implies, unions typically propose to employers that arbitration be adopted (in return for the unions'

agreement to a no-strike clause), and unions are the moving party in seeking arbitral determinations of disputed grievances.

During the past 10 or so years, employment arbitration has become much more widespread in nonunion workplaces (Bickner, Ver Ploeg, and Feigenbaum 1997; Howard 1995; McDermott 1995; U.S. GAO 1995). In contrast to the union sector, in nonunion establishments arbitration is not adopted in response to employee preferences. Instead, it is unilaterally imposed by the employer, often as a mandatory condition of employment. (Indeed, its critics often call it "mandatory arbitration".) These employers have adopted arbitration primarily as a litigation avoidance mechanism. This behavior is a rational response to an increased employee willingness to sue their employers, as seen in the fact that the number of employment discrimination lawsuits filed in federal district courts more than tripled between 1990 and 1998 (BNA 2000).

The employer incentive to adopt arbitration received a big boost in May 1991 when the U.S. Supreme Court said in *Gilmer v. Interstate/Johnson Lane Corp.* (500 U.S. 20, 1991) that a mandatory arbitration provision could be used to resolve an age discrimination complaint arising under the Age Discrimination in Employment Act. Since then, the federal courts have extended *Gilmer* to other kinds of discrimination complaints (race, sex, disability, etc.), and they usually have compelled plaintiff employees to pursue their discrimination claims via arbitration if the employer demonstrates the presence of a valid arbitration agreement between the parties. The court issued another pro-arbitration statement when it ruled in *Circuit City Stores, Inc. v. Adams* (121 S.Ct. 1302, 2001) that the Federal Arbitration Act covers most employment contracts. This ruling has the effect of affirming *Gilmer* by facilitating the employer-sought enforcement of mandatory arbitration provisions over employee objections. A subsequent court ruling in *E.E.O.C. v. Waffle House* (121 S.Ct. 754, 2002) limited the reach of *Gilmer* and *Circuit City*, but only modestly, by holding that an agency charged with enforcing discrimination laws (the EEOC) is not a party to a mandatory agreement and therefore is not barred from seeking relief for employees who are parties to such agreements.

The heated controversy over employment arbitration centers around two key dimensions. The first is the mandatory, take-it-or-leave-it nature of the arbitration agreement signed by the employee. Many employers present arbitration to prospective and current employees as a mandatory condition of employment, and employee advocates believe this is an inherently coercive and hence unacceptable method for adopting what should be a voluntary mechanism for resolving disputes. Second, these arbitration provisions are broadly written to cover "any dispute" arising from a person's employment or termination of employment, and the breadth of the typical arbitration clause encompasses claims of employment discrimination. Critics argue that the

public interest in the elimination of employment discrimination can be ensured only if the nation's antidiscrimination statutes are enforced via public enforcement mechanisms. Expressed another way, this criticism of employment arbitration is based on the belief that public justice should not be privatized. The critics are not persuaded by the pro-arbitration arguments that arbitration provides greater access to a third-party adjudicator than does litigation, is faster and less expensive, and can offer the prevailing employee the same remedies available in court. These arguments have been flourishing ever since the Supreme Court's 1991 ruling in *Gilmer,* and this controversy shows no signs of diminishing (Bales 1997; Stone 1999; Zack 1999).

But what is happening closer to the workplace with employment arbitration? The available evidence is sketchy, but it suggests that (1) employment arbitration provisions now cover several million nonunion employees; (2) where valid arbitration agreements exist, the lower federal courts have generally followed *Gilmer* and compelled the use of arbitration over employee objections when employees have filed discrimination lawsuits (Cole 2000); and (3) the number of employment arbitration awards issued each year is increasing.

There has been only a modest amount of research into how employment arbitration has actually worked in practice. Looking at outcomes, one study of awards issued in 510 cases processed by the American Arbitration Association involving a claim of employment discrimination during the 1992–1994 period found that (1) employees won something in 68 percent of these awards, and (2) the median monetary award to prevailing employees was $32,950 (Howard 1995). For comparison purposes, in 21,518 employment discrimination lawsuits litigated in federal district court during that same period, the author found that employees recovered something 71 percent of the time if they settled, but only 28 percent of the time if they received a trial verdict (38 percent of the time if they received a jury verdict and only 19 percent of the time in bench trial verdicts; Howard 1995).

Most of the research on the legality of employment arbitration has focused on pre-arbitration disputes of the type addressed by the Supreme Court in *Gilmer* and *Circuit City:* Should an employee with a discrimination complaint be compelled to use the employer-imposed mandatory arbitration procedure when the employee prefers to pursue her claim in court? This research shows that most courts compel arbitration (Cole 2000), but it offers no insight into what happens after the arbitration process has been completed. In particular, what happens when one party in an employment arbitration is sufficiently disgruntled with the award that they ask a court to vacate it? Our research has not uncovered any prior studies of how the courts have reacted to appeals of employment arbitration awards. Accordingly, we used the Westlaw electronic search capability described above to locate reported federal court decisions

involving an appealed employment arbitration award (awards issued in nonunion workplaces). After locating these cases, we extracted standardized data from each judicial opinion about the nature of the dispute that had been arbitrated and the nature of the legal appeal. We report our results in Table 2.

Because employment arbitration is a more recent and less widespread phenomenon than labor arbitration, it is not surprising that our search uncovered only a small number of court rulings involving appealed employment arbitration awards. With the "small sample" caveat in mind, the Table 2 data show that most of these employment arbitrations were triggered by a termination, that employers prevailed in these awards more often than employees, that the disgruntled party challenging the award is usually the employee, and that the federal district and circuit courts deny most of these appeals and uphold the award.

TABLE 2

Judicial Enforcement of Employment Arbitration Awards (1990–2000)

Arbitration characteristics (33 awards)	Litigation characteristics (33 district court decisions, 15 circuit court decisions)
Industry	*Plaintiff in district court* (*N* = 33)
Securities: 21	Employee: 25
Others: 12	Employer: 8
Managerial action challenged in award	*Grounds for appealed awards*
Termination: 25	*(some appeals involved multiple issues)*
Pay/bonus: 4	Federal statute: 22/33
Demotion: 2	Title VII: 13; ADEA: 5; ADA: 2 ; Other: 2
Could not determine: 2	State law: 19/33
Who prevails in award?	Antidiscrimination statute: 5
Employer: 20	Breach of contract: 4
Employee: 7	Unjust dismissal: 3
Split decision: 6	Emotional distress: 3
Amount awarded to prevailing	Fraud: 2
Employee (*N* = 9 awards)	*District court decision* (*N* = 33)
Range: $57,605–$3,617,935	Fully confirm award: 28
Median: $90,355	Partially confirm award: 1
Mean: $788,335	Vacate award: 4
	Prevailing party in district court (*N* = 33)
	Employee: 11
	Employer: 22
	Circuit court decision (*N* = 15)
	Fully confirm award: 12
	Partially confirm award: 0
	Vacate award: 3
	Prevailing party in circuit court (*N* = 15)
	Employee: 6
	Employer: 9

How should we interpret the arbitration outcomes in these thirty-three cases? In particular, the fact that employees win something only 39 percent of the time in these cases [thirteen of thirty-three awards in which employees prevail (7) or receive a "split" decision (6)], compared with the fact that unions/employees prevail fully or partly about 50 percent of the time in labor arbitration (American Arbitration Association 1993), may suggest that employment arbitration is a process biased in favor of employers. Employment arbitration indeed may be a process that favors employers more than employees, but there are at least two persuasive reasons why the arbitration outcome data presented here should not be used to support that assessment. First, the sample of arbitration decisions portrayed in Table 2 is highly selective and consists only of those taken to court. We have no data reporting the rate at which employees prevailed in the thousands of employment arbitration rulings issued during the past decade.

Second, the union/employee win rate in labor arbitration is not an appropriate benchmark for assessing outcomes in the employment arbitration arena. The employment arbitration cases reported in Table 2 served as substitutes for court adjudication of these employee claims. Accordingly, an appropriate assessment yardstick would be the rate at which plaintiffs prevail in similar disputes that are litigated to a verdict in court. Although not all of these appealed awards involved a claim of employment discrimination, at least 20 of them did (based on the issues raised on appeal to the courts). Accordingly, we compare the rate that employees prevailed in this sample of awards with the rate that employee-plaintiffs prevail in employment discrimination lawsuits. In that vein, the employees in the 33 awards portrayed here prevailed in the arbitration process at a somewhat higher rate (39 percent) than did the employment discrimination plaintiffs in two studies: (1) plaintiffs who received a trial verdict in federal district court during 1992–1994 (28 percent) as reported above in Howard (1995), and (2) plaintiffs in another study of almost 8,500 employment discrimination federal court trial verdicts issued during 1990–1998 (30 percent; BNA 2000).

The monetary amounts awarded to prevailing employees in the nine awards where this information was available similarly should be cautiously interpreted. Some of these cases involved disputes over executive compensation agreements that arbitrators determined had been breached by employers. As the wide range of amounts awarded to prevailing employees suggest, and as the huge difference between the median and mean amounts awarded to prevailing employees suggest, a few of these rulings resulted in very large amounts awarded to highly paid employees. Among other things, the dollar amounts reported in Table 2 indicate that the median amount awarded to prevailing employees is a much more useful assessment yardstick than the mean amount awarded.

Conclusions

Labor arbitration, as the final step in the union-negotiated/supported grievance procedure, is a classic example of an employee remedial voice mechanism by which employees, with union assistance, can challenge what they believe are adverse decisions by their employer. The evidence presented here indicates that when challenges are filed against labor arbitration awards, these challenges usually result from employer dissatisfaction with the labor arbitrator's ruling. Perhaps this can be viewed as evidence of an employer belief that the challenged arbitrator provided too much voice to the employee-grievant. This evidence also indicates that the courts uphold less than one third of these challenges, which means that most of the time the courts abide by the arbitrator's interpretation of whose voice should prevail in the resolution of the grievance.

Employment arbitration ostensibly plays a similar remedial voice role by allowing nonunion employees to challenge adverse decisions by their employer. However, the fact that employment arbitration procedures are unilaterally designed and implemented by employers as a method to avoid employee-initiated litigation, and the fact that most legal challenges to employment arbitration awards are filed by employees, indicates that the remedial voice opportunity being provided to employees is occurring through the *employer's* preferred voice mechanism. In other words, the two sets of legal challenges to arbitration awards examined here indicate that employers and employees have divergent views of whose interests are favored in these two kinds of arbitration systems.

At the same time, the evidence reviewed here indicates that the federal courts generally treat labor *and* employment arbitration awards for what they are designed to be: a private judge's binding ruling in a workplace dispute that the disputing parties could not resolve by themselves. Our two samples of reported federal court decisions from the past decade show that the federal courts are unlikely to accommodate the wishes of the disgruntled parties who seek to escape adverse arbitral rulings issued in either type of arbitration. Whatever one's views of the appropriateness of the arbitral processes or decisions being disputed in these lawsuits, the public policy portrayed in the federal court decisions reviewed here demonstrates considerable deference toward the private justice voice of the arbitrators asked to decide these workplace disputes.

References

American Arbitration Association. 1993. *Study Time* (a quarterly newsletter for labor arbitrators), no. 4.

Bales, Richard. 1997. *Labor and Employment Law Compulsory Arbitration: The Grand Experiment In Employment.* Ithaca, NY: Cornell University Press.

Bickner, Mei L, Christine Ver Ploeg, and Charles Feigenbaum. 1997. "Developments in Employment Arbitration." *Dispute Resolution Journal,* Vol. 52, no. 1 (January), pp. 8–15, 78–84.

Bureau of National Affairs. 2000. "Employment Bias Cases in Federal Court Almost Tripled in Previous Decade, DOJ Says." *Daily Labor Report,* January 20, pp. A1–A2, E5–E16.

Circuit City Stores, Inc. v. Adams, 121 S.Ct.1302 (2001).

Cole, Sarah Rudolph. 2000. "Managerial Litigants? The Overlooked Problem of Party Autonomy in Dispute Resolution." *Hastings Law Journal,* vol. 51 (August), pp. 1199–1263.

Eastern Associated Coal Corp. v. United Mine Workers, 531 U.S. 57 (2000).

Estreicher, Samuel, and Michael Harper. 1993. *Cases and Materials on the Law Governing the Employment Relationship,* 2d ed. St. Paul: West Group.

Feller, David E. 1993. "End of the Trilogy: The Declining State of Labor Arbitration." *Arbitration Journal,* Vol. 48, no. 3 (September), pp. 18–29.

Feuille, Peter, and Michael H. LeRoy. 1990. "Grievance Arbitration Appeals in the Federal Courts: Facts and Figures." *Arbitration Journal,* Vol. 45, no. 1 (March), pp. 35–47.

E.E.O.C. v. Waffle House, 121 S.Ct. 754 (2002).

Eaton, Adrienne E., and Jeffery H. Keefe. 1999. "Introduction and Overview." In Adrienne E. Eaton and Jeffery H. Keefe, eds., *Employment Dispute Resolution and Worker Rights in the Changing Workplace*. Champaign, IL: Industrial Relations Research Association, pp. 1–26.

Gilmer v. Interstate/Johnson Lane Corp., 500 U.S. 20 (1991).

Gottesman, Michael H. 1989. "Enforceability of Awards: A Union Perspective." *Proceedings of the Forty-First Annual Meeting of the National Academy of Arbitrators.* Washington, DC: Bureau of National Affairs, pp. 88–96.

Howard, William F. 1995. "Arbitrating Claims of Employment Discrimination." *Dispute Resolution Journal,* Vol. 50, no. 4 (October), pp. 40–50.

LeRoy, Michael H., and Peter Feuille. 1991. "The Steelworkers Trilogy and Grievance Arbitration Appeals: How the Federal Courts Respond." *Industrial Relations Law Journal,* Vol. 13, no. 1, 78–120.

McDermott, E. Patrick. 1995. "Survey of 92 Key Companies Using ADR to Settle Employment Disputes." *Dispute Resolution Journal,* Vol. 50, no. 1 (January), pp. 8–13.

Nolan, Dennis R., and Roger I. Abrams. 1983. "American Labor Arbitration: The Maturing Years." *University of Florida Law Review,* Vol. 35, no. 4 (Fall), pp. 557–632.

Sharpe, Calvin William. 2000. "Judicial Review of Labor Arbitration Awards: A View From the Bench." *Proceedings of the Fifty-Second Annual Meeting of the National Academy of Arbitrators.* Washington, DC: Bureau of National Affairs, pp. 126–51.

Stone, Katherine V.W. 1999. "Employment Arbitration Under the Federal Arbitration Act." In Adrienne E. Eaton and Jeffery H. Keefe, eds., *Employment Dispute Resolution and Worker Rights in the Changing Workplace.* Champaign, IL: Industrial Relations Research Association, pp. 27–65.

United Paperworkers International Union v. Misco, 484 U.S. 29 (1987).

United Steelworkers of America v. Enterprise Wheel & Car Corp., 363 U.S. 593 (1960).

U.S. Government Accounting Office. 1995. *Employment Discrimination: Most Private-Sector Employers Use Alternative Dispute Resolution.* Report GAO/HEHS-95–150, July.

W.R. Grace & Co. v. Rubber Workers Local 759, 461 U.S. 757 (1983).

Zack, Arnold M. 1999. "Agreements to Arbitrate and the Waiver of Rights Under Employment Law." In Adrienne E. Eaton and Jeffery H. Keefe, eds., *Employment Dispute Resolution and Worker Rights in the Changing Workplace*. Champaign, IL: Industrial Relations Research Association, pp. 67–94.

DISCUSSION

Bruce Nissen
Florida International University

The papers in this session are extremely varied, with little to relate them thematically. I find them all to be worthwhile and interesting individually, and will address them in the order in which they were listed in the program.

The paper by Roland Zullo, "Shaping Political Preference Through Workplace Mobilization: Unions and the 2000 Election," studies one union local's efforts to influence its members' presidential voting behavior. He finds that phone calls and literature mailed to members' homes are ineffective in influencing voting preferences (although telephone calls probably *are* useful in getting out the vote). Only workplace-level education and personal contact is able to decisively influence voting preferences.

The research is well designed, and it reinforces what the AFL-CIO have already learned to emphasize: that face-to-face, personal workplace contact is key to effective work, political or otherwise. Further research might investigate the internal state of union locals. What keeps them from carrying out the needed grassroots outreach? This is part of a larger question: how can unions transform themselves internally to develop more membership engagement?

Michael LeRoy's "The NLRA's 'No-Man's Land' in Partial and Intermittent Strikes: Research and Policy Implications" is well written and nicely organized. It shows that partial and intermittent strikes can be quite effective; they shift some risks from unions and workers onto employers. The NLRB and federal courts have found them to be legal, but unprotected, activity. Yet, under the Railway Labor Act, they have been ruled legal *and* protected.

Future research and analysis on this topic could focus on the limitations regarding effectiveness, particularly the occupational certification issue noted by the author. If these types of strikes are effective only in occupations where certification makes replacement difficult, they may have limited application. Answers to the author's query as to how the NLRB and the courts can justify a policy curbing a peaceful economic weapon simply because it seems to succeed so often may be found in labor law history. *All* of labor's most effective weapons, usually those relying on widespread or class solidarity, are

Author's Address: Center for Labor Research and Studies, Florida International University, University Park, Miami, FL 33199.

either curbed or banned over time. The currently unfashionable perspective of class conflict would explain a lot.

The paper by Paula Voos and Haejin Kim, "The Evolving Intellectual Core of Industrial Relations", concerns a central question. Has the field of IR veered off into a path dangerously close to a strictly managerialist, HR perspective, as maintained by John Godard and John Delaney? The authors' discussion is stimulating and interesting. They argue that IR scholars do not adopt a "unitarist" managerial perspective but rather hold to a pluralist interest perspective. In unitarism's extreme version—that there is *no* conflict of interest in any way between employers and employees—this is clearly true. But critics of the managerialist tilt of modern IR scholarship do not deny that mainstream IR academics admit *some* mixed motives. They assert that the employee (or union) interest is not accorded equal weight but is seen through a managerial lens. This charge has considerably more merit, at least as applied to mainly leading IR academics.

Voos and Kim do note a shift in emphasis and language in the past 20 years that reinforces Godard and Delaney's critique: quotes from writings by Thomas Kochan in 1980 and 2000 both note mixed interests, but the emphasis shifts enormously from a straightforward statement of differing interests to a focus on how to manage "mutual gains." Deference to a public policy discourse dominated by business language and interests is used to explain the shift. This is probably true, but it only further reinforces the point. If the conflictual nature of the employment relationship could be openly stated in 1980 but not in 2000, the dominance of the IR field by business interests is clear.

Voos and Kim correctly note that IR scholarship cannot completely ignore management initiated workplace innovations and study only unions and collective bargaining. Of course this is true, but no one argues that it should. They also note that not all IR scholars have identical views on the importance of unions or of an independent collective voice for employees. This is quite correct; I suspect that the targets of Godard and Delaney's critique were a subset of all IR academics, although they are often considered its "leading lights."

The final part of the paper raises the social and class dimensions of IR scholarship. Here the authors join the critique of recent IR scholarship. I found this part of the paper particularly useful and illuminating. Overall, this paper is very stimulating and excellently done, whatever quibbles one might have with particular points or arguments.

Michael LeRoy and Peter Feuille's "Private Justice and Public Policy: Whose Voice Prevails in Arbitration?" effectively contrasts "labor arbitration" (union based) with "employment arbitration" (non-union, employer imposed). The labor arbitration section merely confirms previous research and historical analysis. The employment arbitration portion of the paper shows that this

is not a system of independent employee voice but merely an employer device to avoid more costly legal adjudication. The authors avoid the question of whether independent employee voice, as given by labor arbitration, is desirable or crucial to equitable labor relations. They conclude with the uncontroversial assertion that the courts mainly defer to arbitral voice under either system. A stronger conclusion, that employment arbitration fails to provide an equitable procedure, could have been made. In my view, this would have strengthened the paper.

XI. UNION EXCLUSION IN THE UNITED STATES, UNITED KINGDOM, AND WESTERN EUROPE

Union Avoidance and Employer Hostility to Union Organizing in the UK

Tony Dundon
National University of Ireland

Abstract

This paper presents empirical data concerning the pattern of non-union employer strategies to remain union-free. The evidence is collected from seven case studies across different industrial sectors and organizational sizes in Britain. Three factors are identified that help understand the context and significance of employer behavior towards unionization: structural, ideological and cultural dimensions. It is argued that these represent a deeper understanding of employer hostility towards unions than existing employment relationship classifications. The prospects for union mobilization are considered in the light of these findings.

Introduction

Decline has been a common problem facing trade unions in almost all industrialized economies. Various reasons have been advanced to explain this "crisis of labor": the changing composition of the labor force, business cycle variables, new patterns of industrial relations, a rise in the power of global capital and a shift from Fordist to flexible modes of production. The precise significance of each of these factors has been the subject of much debate (Freeman and Medoff 1984; Kochan et al. 1986; Towers 1997; Walton et al. 1994).

Author's Address: Department of Management, National University of Ireland, Galway, Ireland.

In Britain the government is promoting a policy of "Fairness at Work", with new rights for individual employees along with the statutory provision for union recognition (Wood and Godard 1999). Interestingly, evidence from the experience of North American union certification shows that, in practice, statutory recognition procedures are increasingly more difficult for unions than employers (Logan 2001).

The purpose of this paper is to present empirical evidence about the "shape, pattern and form" of employer tactics to remain union-free. Following a brief critique of the typologies of union avoidance, the evidence is then used to illustrate a deeper understanding of employer behavior towards unions. The evidence suggests that the "configuration" of anti-union approaches involves an uneven and at times contradictory interaction of context-specific factors. Three mutually inclusive influences on employer behavior are identified: structural, ideological and cultural factors. The prospect for union organizing is then briefly considered in the light of very different patterns of union avoidance tactics.

Non-Unionism and Employment Typologies

In the non-union situation labor relations practices are often related to an either/or scenario of union suppression and/or substitution. On the one hand, companies such as IBM, HP or M&S are cited as exemplars of good human relations that "substitute" the triggers to unionization. At the other end of this simply dichotomy is the sweatshop or exploitative small firm that "suppress" union demands (McLoughlin and Gourlay 1994). One implication is that non-union firms tend to be labeled as being either "good, bad, or ugly" (Guest and Hoque 1994).

A more recent addition to non-union "typologies" has been advanced by Gall (2001). Given that employers may use, simultaneously, practices that are both suppressive and substitutive, Gall revisits a framework devised by Roy (1980) in the United States, and seeks to classify managerial control approaches in the light of legally enforceable union recognition. Essentially, Gall (2001:3) adds three additional categories to Roy's original four typologies to accommodate differences between UK and U.S. managerial practices (see Table 1).

While this revised framework can better locate different types of anti-union behavior with more detail than the simple "suppression-substitution" dichotomy, there remain a number of difficulties. First, it is unclear whether employers have the ability to consciously adopt one particular strategy over another. It is possible that managerial approaches to union organizing are both haphazard and ad hoc. Indeed, Gall (2001:17) acknowledges that "the use of *one or more* of the seven approaches at any one point in time" is important

TABLE 1
Non-Union Management Control Approaches

Non-Union Approach	Type of anti-union behavior and control
Fear Stuff[1]	Union Suppression: Employer behavior here includes blatant intimidation of workers, the objective to instill a "fear" (real or otherwise) of managerial reprisals to possible unionization.
Sweet Stuff[1]	Union Substitution: Management argue that unions are unnecessary, with better terms and conditions and sophisticated employee voice channels to resolve any grievances.
Evil Stuff[1]	Ideological Opposition to Unions: Management articulates the view that unions are "reds under the beds", and will be destructive to the company performance.
Fatal Stuff[1]	Blatant Refusal: Employer behavior here includes refusal to recognize a union, or at best refusal to "bargain in good faith".
Awkward Stuff[2]	Stonewalling: Managers create what appear to be legitimate obstacles to union recognition, effectively employing "delaying" tactics.
Tame Stuff[2]	Damaged Limitations: Employer behavior can take the form of "sweetheart" deals, partially recognizing "moderate" unions or creating internal (managerial controlled) staff associations.
Harm Stuff[2]	Bypassing: Employer behavior seeks to effectively marginalize employee voice, often through specific non-union communication channels.

1 = Roy's (1980) original classification; 2 = Gall's (2001) additional typologies.

(emphasis added). Second, there is little evidence to suggest that such typologies in general have any predictive power across industrial sectors or occupational groups (Kitay and Marchington 1996). For unions seeking recognition and worker mobilization, then, this is likely to be of particular importance.

Research Method

The evidence used to consider these issues was collected from seven non-union case studies between 1995–1998. Detailed interviews were conducted with key informants in each organization: company directors, line managers and workers. The case study organizations are briefly outlined in Table 2. An initial comment about employer behavior towards unionization is indicated in the final column, which is the subject of more detailed explanation and analysis in the following sections.

TABLE 2

Case Study Context and Managerial Control Approaches

Case study	Corporate context	Employer behavior
Mini Steel	Company opened in mid-1970s, German-owned steel plant operating in South East England. Experienced market decline, but recent growth in 1990s. Employs around 500 workers, mostly manufacturing steel workers.	Fear, Fatal & Harm Stuff: Derecognized AEU and ISTC in 1992. Employer hostility highly offensive: aggressive intimidation of workers.
TEC	Set up in late 1980s, privatized government Training & Enterprise Council. Employs 75 employees, mostly clerical workers who provide training services to local business in North West of England.	Fatal and Harm Stuff: Organizing campaign by public sector unions resisted by use of non-union employee involvement techniques. Marginal intimidation of workers.
Petrol Co	Multi-national petroleum manufacturer in North East of England. Plant employs over 600, mixed between skilled craft workers and semi-skilled process operatives. High market share.	Sweet, Awkward & Harm Stuff: Derecognized AEU and T&G, move to single status terms & conditions. Substitution of former collective consultation channels.
Water Co	U.S.-owned mineral water company employs 120 workers across several UK sites: delivery drivers, process operators and clerical staff. Started in 1987 with fastest growing market share in the UK.	Fear & Harm Stuff: Aggressive hostility, owners ideologically anti-union; intimidation and dismissal of workers.
Chem Co	Manufacturer of intermediary chemicals, employs 130 workers, mostly process operatives. Started in 1977, dependent on few single large corporations for customer base. Sites in North of England.	Sweet, Fatal & Harm Stuff: b Mild overt hostility. MD was a former union officer. Covert union suppression tactics dominant.
Merchant Co	Builders merchant, started in 1936 and grown through take-overs. Employs 3,000 workers with sites across UK. Study exclusive to Yorkshire based HQ. Declining market share.	Fear & Fatal Stuff: Union derecognition during acquisitions of smaller firms. Overt hostility with slack labor market; redundancies and pay rates used to suppress unionization.
Delivery Co	US-owned multi-national. Parcel delivery company with 53,000 employees world-wide. Study of 3,000 workers across different UK sites, mostly delivery drivers and call center workers.	Sweet Stuff: Union substitution and sophisticated human relations. Promotion of strong corporate culture as disincentive to unionization.

Findings

The evidence suggests British employers are to some extent aware of American-style union-busting tactics, even though these are not fully embraced. What seem to be emerging are hybrid forms of union avoidance particular to given organizational contexts, rather than any ideal approach toward union resistance. Using this analysis three mutually inclusive dimensions are used to help understand the complexity of employers' avoidance strategies rather than the mapping of discrete typologies. These include *structural barriers*, *managerial ideology*, and *cultural influences* that shape the form of employer resistance to unionization.

Structural Barriers: "Bypassing Union Channels"

Employers used the tried and tested economic (external) sanction that unionism would damage company profits and future job losses would be a likely consequence. In almost all of these cases, management sought to devise flexible working systems justified on the grounds of external economic necessity. This created a structural barrier to collective organization that served managerial aims. At Water Co, it was common for workers to be dismissed and re-employed a few weeks later to circumvent statutory employment rights. If individuals or groups of workers proposed the idea of union representation, they were simply not invited back, according to the managing director.

While such extreme examples point towards "fear stuff", it is important to understand that workers themselves were not ignorant of economic conditions and, in most organizations, management used other tactics in tandem with the threat of economic or structural instability. At Merchant Co, TEC, Petrol Co, and Mini Steel management devised structures of employee voice that mirrored previous forms of collective representation. Management de-recognized the trade unions but in place they promoted their own form of employee involvement: company councils and semi-autonomous teams. The Personnel Director at Petrol Co explained the rationale:

> We've actually collapsed everything into what we call an employee forum . . . constituency-based representation, and that's critical is that; not based on tribal loyalties. We have 12 reps elected across the site and they are elected from defined areas . . . [they] represent all the people within an area whether they're a craftsman, technician, a process technician, whether they're one of the secretaries, whether one of the managers in that area.

While these approaches can be labeled as "fear" or "harm" in terms of unionization, it is also important to understand the importance and relevance of the ideological origins of employer behavior.

Ideological Sentiments: "You Can't Have a Union"

Structural barriers to resist unionization were often underpinned by the employers' ideological distaste of trade unionism. In some cases management were open in their own personal attitude towards unions, and this conveyed a very clear and intimidating message to workers. In many cases, management effectively substituted worker resistance with a climate of "fear". At Water Co one worker commented: "Join the union and you get sacked, that's it".

At Mini Steel similar responses were articulated by workers: "We've been told that if we even mention the union, then the job centre is down the street, turn left."

Management also unashamedly articulated the anti-union message. The personnel director for Mini Steel explained: "If an individual didn't share our vision they'd have to go and work for another company where they could enjoy that sort of representation".

The impact of such messages is not new. However, these anti-union sentiments rarely existed in isolation but were combined with other union avoidance tactics that made it difficult for workers to articulate a claim for unionization. Thus while the classification of "fear stuff" has a resonance with these incidents, there remain other qualitative aspects that require a deeper exploration in order to fully understand employer behavior and union hostility.

Cultural Influences: "Facilitating Winning Teams"

In many of these case studies, management actively sought to socially construct a workplace culture that would engender loyalty to a (non-union) corporate identity. Thus, against a backdrop of managerial intimidation, there also coexisted specific organizational practices that mediated some of the harsh realities of employer behavior. A particularly important factor in this regard is how a discourse of language and meaning is interpreted inside the organization. To this extent the use of fun, humor and games featured as a strong characteristic of non-unionism at Water Co, Delivery Co, Chem Co and the TEC. Significantly, this gave management the space and opportunity to counter any notion of collective representation while not appearing to be the bad guy. The personnel director was quite clear that cultural symbols particular to Delivery Co were important tools to counter any potential union recognition claims:

> We're not too sure how to tackle the [recognition] issue yet. We understand a bit more now, and we'll put some effort in to handle it "our way" because we think it's the right thing to do.

Some of the detail about how management developed initiatives "their way" included the promotion of fun and humor. In the call center at Delivery Co, management encouraged employees to participate in competitive interteam games, with financial and other rewards for "winning teams". At the TEC management would pay for social events with the clear objective of diverting attention away from on-going union organizing efforts. In a number of these organizations, this managerial tactic was relatively successful as this Delivery Co employee makes clear:

> I think people can say and do what they want here without a union. People can put their suggestions forward and if somebody doesn't like it at the end of the day then they say so. It's not a bad working environment, it's not like a factory where it's dirty or filthy. We get free coffee, we have a laugh, there's a good environment. At the end of the day I don't think unions are necessary or help with the client needs for the direction of our industry.

What is significant here is that management would merge cultural initiatives with other, more aggressive anti-union tactics (structural and ideological) when the occasion demanded it. However, as Willmott (1993) argues, such cultural symbols are only effective control systems where employees "internalize" managerial ideologies. At Delivery Co, perhaps the most sophisticated and certainly the largest and commercially successful of all the case studies, management found it necessary to remove their cultural velvet glove and reveal an iron fist of anti-unionism when the impact of corporate culture was found wanting. One call center employee explained:

> There was a lady who worked here. She was quite happy for a union to be here. She doesn't work here anymore—she was too much that way and not enough the management way. She did leave on her own accord, but I think it was because she was made uncomfortable.

Conclusion and Discussion

There are two immediate issues arising from the evidence presented in this paper. The first concerns the way non-union organization, and in particular classifications of employer behavior, have traditionally been viewed and understood. The second is the extent to which new methods of union organizing, such as those depicted by the TUC's New Organising Academy (TUC 1996), may stand up against employer hostility towards unions.

Non-Union Typologies

The variation in employer approaches to resist unions is more complex and uneven than either suppression or substitution would otherwise imply. The often-cited view that non-union employers are either "good, bad, or ugly," or "suppress or substitute" union triggers, is in many respects a misinterpretation. In the smaller case study firms, such as Water Co and Chem Co, management could not afford the same substitution strategies deployed by the larger organizations, such as Delivery Co or Petrol Co. Moreover, the configuration of union avoidance tactics did not fit neatly into either of the managerial approaches reviewed here. On Roy's (1980) and Gall's (2001) classifications, Delivery Co, Mini Steel, and Petrol Co may be labeled as "sweet", "fear", and "harm stuff", respectively. Yet each of these organizations also utilized a combination of specific practices that made sense only within their respective contexts: above average salaries, training schemes, devolved management, non-union voice mechanisms as well as intimidation and threats. There is thus a danger that such typologies represent ideal rather than real situations.

Union Organizing Methods

The pattern of employer behavior also offers some limited insights into the prospect of union organizing among such enterprises. In response to a simple attitude survey, workers in these firms were either mildly or significantly supportive of the principle of union representation. However, one pragmatic implication concerns the efficacy of a union to correct a perceived injustice. In many of these companies workers were fearful of managerial reprisals and this led them to question the ability of a union to effectively challenge managerial attitudes or provide any instrumental job improvements (Dundon 2001). Given the complexity and unevenness of both employer behavior and worker responses, it is debatable what sort of union campaigns can counterbalance managerial hostility and alleviate worker concerns. In part this is because existing evidence suggests a dual strategy by the unions: they want to appear respectable to employers while at the same time trying to appeal to workers.

However, this conveys the concept of universalistic mutual gains without due regard for the context-specific factors prevailing in an organization. There is some research to suggest that a partnership approach may allow employees to articulate their voice (Marchington et al. 2001), or promote union membership through in-fill recruitment (Heery et al. 2000). Significantly, partnership is often a function of managerial support given the pre-existence of collective representation or owing to the industrial relations legacies in an organization.

This is not an option in the case studies reported here. It is difficult to envisage the notion of partnership appealing to an employer who is fundamen-

tally opposed to the very existence of a union (Claydon 1998; Kelly 1996). Of course much depends on the contours of specific partnership arrangements. Recent evidence indicates that "weak" rather than "strong" partnerships are developing in some non-union organizations (Knell 1997; Marchington et al. 2001), perhaps in anticipation of possible union recognition. Indeed, it is highly probable from the evidence presented here that a "weak" (non-union) variant of the partnership model may be used to pacify worker concerns, as in the non-union employee voice mechanisms found at Delivery Co, Chem Co, and Petrol Co. It is also evident that informality and the promotion of a distinctive cultural identity can ameliorate the unpleasant experiences of managerial control strategies (Grugulis et al. 2000). In one respect this can help understand why workers may find unionization either less attractive or indeed unattainable, depending on the precise configuration of employer behavior against a specific organizational context and (anti-union) managerial attitude.

References

Claydon, T. 1998. "Problematising Partnership." In P. Sparrow and M. Marchington, eds., *Human Resource Management: The New Agenda.* London: Pitman, pp. 180–92.

Dundon, T. 2001. "Put Up and Shut Up: Social Mobilisation and Employee Attitudes in Non-union Firms." Paper presented at the *British Universities Industrial Relations Association Annual Conference,* Manchester Metropolitan University, July 5–7, 2001.

Freeman, Richard B. and James Medoff. 1984. *What Do Unions Do?* New York: Basic Books.

Gall, G. 2001. "Management Control Approaches and Union Recognition in Britain." Paper presented to the *Work Employment and Society Conference,* University of Nottingham, September.

Grugulis, I., T. Dundon, and A. Wilkinson. 2000. "Cultural Control and the 'Culture Manager': Employment Practices in a Consultancy." *Work, Employment & Society,* Vol. 14, no. 1, pp. 97–116.

Guest, D., and K. Hoque. 1994. "The Good, The Bad and the Ugly: Employment Relations in New Non-union Workplaces." *Human Resource Management Journal,* Vol. 5, no. 1, pp. 1–14.

Heery, E., M. Simms, R. Delbridge, J. Salmon, and D. Simpson. 2000. "The TUC's Organising Academy: An Assessment." *Industrial Relations Journal,* Vol. 31, no. 5, pp. 400–15.

Kelly, J. 1996. "Union Militancy and Social Partnership." In P. Ackers, C. Smith, and P. Smith, eds., *The New Workplace and Trade Unionism: Critical Perspectives on Work and Organization.* London: Routledge, pp. 77–109.

Kitay, J., and M. Marchington. 1996. "A Review and Critique of Workplace Industrial Relations Typologies." *Human Relations,* Vol. 49, no. 10, pp. 1263–90.

Knell, J. 1998. *Partnership at Work.* Employment Relations Research Series No. 7, London: Department of Trade and Industry.

Kochan, T., H. Katz, and R. McKersie. 1986. *The Transformation of American Industrial Relations.* New York: Basic.

Logan, J. 2001. "Is Statutory Recognition Bad News for British Unions? Evidence From the History of North American Industrial Relations." *Historical Studies in Industrial Relations,* No. 11 (Spring), pp. 63–107.

Marchington, M., A. Wilkinson, P. Ackers, and T. Dundon. 2001. *Management Choice and Employee Voice.* London: Chartered Institute of Personnel and Development, Research Report.

McLoughlin, I., and S. Gourlay. 1994. *Enterprise Without Unions: Industrial Relations in the Non-union Firm.* Buckingham: Open University Press.

McLoughlin, I. 1996. "Inside the Non-Union Firm." In P. Ackers, C. Smith, and P. Smith, eds., *The New Workplace and Trade Unionism: Critical Perspectives on Work and Organization.* London: Routledge.

Roy, D.F. 1980. "Repression and Incorporation. Fear Stuff, Sweet Stuff and Evil Stuff: Management's Defences Against Unionization in the South." In T. Nichols, ed., *Capital and Labour: A Marxist Primer.* Glasgow: Fontana.

Towers, B. 1997. *The Representation Gap: Change and Reform in the British and American Workplace.* Oxford: Oxford University Press.

Trades Union Congress. 1996. *New Unionism—Organisers with Attitude: Experiences from the USA.* London: Trades Union Congress.

Walton, R.E., J.E. Cutcher-Gershenfeld, and R.B. McKersie. 1994. *Strategic Negotiations: A Theory and Change in Labor-Management Relations.* Boston: Harvard Business School Press.

Willmott, H. 1993. "Strength is Ignorance; Slavery is Freedom: Managing Culture in Modern Organisations." *Journal of Management Studies,* Vol. 20, pp. 515–52.

Wood, S., and J. Godard. 1999. "The Statutory Union Recognition Procedure in the Employment Relations Bill: A Comparative Analysis." *British Journal of Industrial Relations,* Vol. 37, pp. 203–44.

Employer Opposition to Union Recognition in Britain

Gregor Gall
University of Stirling

Abstract

This paper examines evidence of employers' attempts to resist campaigns for union recognition in Britain from the period (mid-1995) in which it became clear a statutory route to union recognition would be legislated for. It documents the extent and nature of these employer activities and develops a revised schema, following from Roy (1980) to help understand and interpret the use of certain anti-union activities and the relationship between these tactics.

Introduction

For the first time in 20 years in Britain large numbers of non-union employers are now seriously considering the issue of granting union recognition (UR). This results not merely from the introduction of statutory provisions for gaining UR within the Employment Relations Act 1999 (ERA), but also the heightened level of union recruitment and recognition activity within an improved industrial–political environment (from Westminster and Brussels) for trade unionism (Gall and McKay 1999; Heery et al. 2000a, 2000b). After a prolonged and entrenched period of "managerial Thatcherism", evidence exists of employer opposition to granting UR as these two trajectories come together. This paper reviews the extent of these manifestations, and then examines and analyzes the various components and purposes of this employer behavior by developing Roy's (1980) schema on management tactics for remaining "union-free". The efficacy of this revised schema is then evaluated in terms of its ability to better understand this emerging facet of employer behavior.

Thus the paper examines the period from whence it became clear that the Labour Party would win the 1997 general election and implement its promise to legislate to establish a statutory mechanism for gaining UR. This can be dated from around mid-1995. From the publication of the manifesto in late 1996, to the election in May 1997, to the publication of *Fairness at Work* (early

Author's Address: Department of Management & Organization, University of Stirling, Stirling FK9 4LA Scotland.

1998) and the publication of the *Employment Relations Bill* (early 1999), the passing of the Bill on July 29, 1999, and the enactment of the provisions on June 6, 2000, the issue of UR has, in tandem with greater union campaigning activity and success in gaining agreements, increasingly weighed heavily on the minds of a large number of employers.

Employer Anti-Unionism

Traditionally employer's attempts to remain "union free" have been categorized as policies of union *suppression* or *substitution* (Beaumont 1987:26; Blyton and Turnbull 1998:267), or of *control* or *avoidance.* Some variations exist—see for example the "good", "bad", "lucky" and "ugly" of Guest and Hoque (1994). Nonetheless, this dichotomy is useful in distinguishing between employer activities which seek to provide positive benefits for nonmembership in order to reduce the propensity of workers to unionize and to seek UR, and those which seek to impose costs on workers joining unions to reduce their propensity to unionize/seek UR. However the limitations are two-fold. First, there is no Chinese wall between the two approaches (and attendant techniques). A single employer may use both at the same moment across space and time or either at different moments in space and time as is seen fit. Second, employer activities which seek to determine the form of UR by choosing which union is recognized, imposing "sweetheart" terms or establishing means to undermine the worth of UR cannot be readily accommodated.

However, Roy (1980) provides an alternative schema for classifying employer resistance to unionization and by implication UR—namely, "fear", "sweet", "evil" and "fatal" stuffs. Despite the schema being devised from the experience of the United States (and its "Deep South"), it can be usefully deployed to consider employer attempts to resist UR campaigns in Britain. "Fear stuff" refers to acts of intimidation and suppression, designed to "instill dread in regard of what management might do" (Roy 1980:409) about union recruitment and recognition campaigns. "Sweet stuff" refers to acts of union substitutionism, which are designed to obviate the need for trade unionism per se, but specifically, membership of a union and UR for representation and collective bargaining. "Evil stuff" refers to ideological acts and propaganda designed to create "a robust detestation of what unions are by nature" (Roy 1980:409), often being communist witch-hunting and "red"-baiting. Finally "fatal stuff" refers to attempts to prevent the signing of a recognition agreement leading to negotiations and particularly bargaining on pay and conditions.

Although Roy (1980) recognizes a stage to employer resistance after it has failed to prevent the granting of UR—that is, "fatal stuff"—further approaches can be specified. "Awkward stuff" is about providing obstacles to the union that appear to be "fair" and "legitimate" like stonewalling, requiring ballots and

refusing access to private premises. "Tame stuff" seeks to select the type of union and the type of agreement. It is thus about both "damage limitation" and the deployment of UR for business purposes. "Harm stuff", rather than attempting to wreck the new agreement through bargaining in "bad faith", seeks to marginalize it by establishing other channels of non-union communication and consultation. Using this seven-fold schema, the form and purpose of employer anti-union behavior and activities in Britain in the period 1995 to 2001 are examined and classified from the data collected.

Methodology

The data primarily draw on material from interviews with union officers—interviews carried out with regional and national full-time officers in early 1999 (14), early 2000 (20) and early 2001 (25) from the AEEU, BECTU, BIFU, CWU, GMB, GPMU, ISTC, MSF, NUJ, TGWU, TSSA, Unison and USDAW unions. From 2000 the same union officials were reinterviewed along with new ones. Labor movement publications were surveyed, ranging from journals of unions themselves, to TUC reports, to *Labour Research, Trade Union News,* the *Morning Star, Socialist Worker* and the labournet and labourstart websites. The determinations of the Central Arbitration Committee (CAC), the body charged by the ERA with adjudicating on applications for UR, were also utilized. Generally speaking, applications are for UR in companies that are hostile, as opposed to just reluctant, to granting UR. Reasonable inferences are thus drawn. Finally local, regional and national press through the Lexis–Nexis database were surveyed, and information gained from attendance at various union-orientated conferences (e.g., Institute of Employment Rights, Labour Research Department, TUC) on union organizing.

In presenting evidence of employer anti-union behavior, only "corroborated" cases are used. By this it is meant that: (1) rather than relying on self-reported cases by the aggrieved party (i.e., the unions) through interviews, only those cases reported by unions which could then be verified by third parties (i.e., the media) are used. Whilst this does not guarantee absolute veracity, given the decline of independent media investigation, it does nonetheless indicate that the allegations are not regarded as without basis and thus libelous; and (2) that where a union reports on employer activity in its own journals and publications, it is deduced that this is not without basis and thus libelous. However this has the effect of reducing the incidences of employer anti-union behavior that can be drawn upon.

Extent and Context of Anti-Unionism

Before examining the nature and specific tactical purposes of different forms of anti-unionism, for the purposes of contextualization, it is necessary

to map out the extent of the decline in UR, employer opposition to UR and the legal status of anti-unionism.

(i) Union Recognition and Derecognition

WERS98 records the number of workplaces with UR falling from 53 percent in 1990 to 45 percent in 1998 (Cully et al. 1999:92–93). The Labour Force Survey (Bland 1999) shows a similar trend in regard of coverage of UR, falling from 48.9 percent of workers in 1993 to 43.5 percent in 1998. Other research has demonstrated that that incidences of derecognition increased from relatively small levels in the late 1980s to become significantly greater in the early 1990s (Claydon 1996; Gall and McKay 1994). However Gall and McKay (1999, 2001) highlighted that, with regard to the relative incidences of derecognition and new recognition agreements, the picture in the late 1990s appears to have reversed from that which existed in the early 1990s.

(ii) Employers Against Recognition

Existing within a general fall in the coverage of UR, there is some survey and case-study evidence of moves amongst employers to offer opposition to granting UR (Brown et al. 1998:35; Dibb Lupton Alsop 1999, 2000; Dundon 2001; Heery 2000:2–4). The CBI (1999:3) found in late 1999 that 18 percent of respondents would "definitely" and 45 percent "possibly" be prepared to "fight recognition, if necessary through the statutory procedure". From this we can posit, first, that there are many hundreds of cases where there is serious employer opposition to granting UR despite a significant union presence. Employers in these situations are likely to have made some calculation of the probability of union success, the costs of opposition and UR.

(iii) Legal Status of Anti-Unionism

While the ERA's provisions on UR are important in informing the overall context for unions seeking UR, they are silent with regard to employer behavior before and during UR campaigns. With the accent on voluntarism and avoiding further juridification, employers and unions are being encouraged to achieve voluntary deals. Unions are keen to avoid the prospect of failure should they use the CAC,[1] while employers are often unwilling to the subject to what they see as intrusive intervention. Therefore, for the anti-union employer, considerable room exists to engage in anti-union behavior, as the union is not always willing to wield the CAC sanction. Furthermore in the voluntary setting, the employer is not bound by any legal or regulatory framework promoting or obliging "fair play" such as access to workers and members. Indeed the CAC will not intervene (i.e., accept an application) unless the union can show clear evidence of it seeking a voluntary approach first.

Once an application has been accepted, the CAC still has no jurisdiction over the employer to see that "fair play" is adhered to. The only point at which the CAC can enforce access is during the period of a CAC-authorized ballot. Thus if the application goes through the automatic (i.e., audit) route, the employer has an incentive to influence the level of membership until the audit, which may be a longer period than the minimum if the employer wishes to be seen to be attempting to reach a voluntary deal for alternative motives. Until the period of the ballot, the employer also has incentive to influence the level of membership and employees' views on UR.

A Revised Schema of Anti-Unionism

Under the revised schema of anti-unionism and where unions are campaigning for UR or where UR has recently been granted, data on an array of different anti-union tactics and actions is presented. This does not mean there are no implications for employer anti-unionism in general, anti-unionism in the context of long-standing UR and union presence, or derecognition. But these are not the foci here. Furthermore, the schema does not address the issues of managerial style and practices which in general may be seen as intimidatory and oppressive towards workers but are not necessarily prima facie evidence of conscious and explicit anti-unionism. Similarly, the focus is not on managerial behavior and policies to avoid unionization or managerial responses to unionization per se (see Dickson et al. 1988) but only where certain levels of unionization are attained, and this itself, or allied to campaigning activity, means that UR becomes a serious prospect.

Fear Stuff

The purpose of this is to kill off existing or expected attempts at union organization and requests for UR, or at least prevent them from getting to a "critical mass", which increasingly is being related to the stipulations set by the ERA on numerical thresholds (40 percent or 50 percent of the workforce). The strategy is based on intimidation and creating an atmosphere of fear and trepidation, suggesting to the workforce that it is the union that is the source of "trouble" and "conflict".

The most obvious tools are the sackings, dismissals and redundancies, or the threats of them. These are achieved by the targeting of the shop steward(s) or leading activists through the stringent implementation of time-keeping and sick/absence policies, and monitoring of work performance. Thus employers have been cute enough to sack union activists for apparently legitimate reasons.[2] These actions seek to try to prevent or stop union lay officers from being active in dealing with members' concerns, organizing meetings, producing publicity material and recruiting new members. Thirty examples of such

tactics leading to dismissal exist in nonrecognized or derecognized workplaces.[3] These actions are also meant to send signals to existing members about the response they face if they become active in the union and to say to potential members that the union and its activities are unwelcome. Alternatively redundancies targeted at union members may create a fear of amongst other workers about being members or being active and so reduce the number of and density of union members to weaken a UR request (12 cases). Underlying these particular "fear stuff" tactics is often a general view held by workers that the employer "won't allow us to join a union", as one worker expressed this. The belief is that sackings or victimization will follow such a course. Although illegal to do so, employers have made such statements and let such views develop in seven cases (see also Dundon 2001).

An array of other tactics is also being used by employers to resist UR. There is a strong union suspicion that management plants are being used at some union meetings to find out how, when and where the union is organizing its UR campaign in order to combat it. Other examples exist of videotaping through CCTV, or supervisors or others workers being seen to note those that speak to union organizers at gates to the company's premises and or those that speak to the union rep inside work. Such people are then spoken to by managers about their retrograde actions. Twelve examples of these tactics have been found. A number of instances have been reported of employers providing standardized union resignation forms. Five cases exist of companies organizing petitions and letters from the employees denouncing the union. Amongst the use of "fear stuff" there is some evidence of the use of anti-union consultants and legal firms in attempts to deter unionization and UR, whether of U.S. or "indigenous" law firms and consultants (seven cases).

Elsewhere a "blacklist" is reported to exist against OILC activists through the "Not Required Back" system used by North Sea oil contractors.[4] More sophisticated methods which have been used include specific captive meetings and written and oral communications warning about the "union threat" to the company's health and profitability and thus to wage levels and jobs (twenty-four cases). The less subtle threat of promising to shut the entire factory down if UR is forced upon the employer is known of in five cases and carried out in one case.

Sweet Stuff

This strategy seeks to make the organization "an issue-free company" by supplanting the union role through showing it is unnecessary. Methods include resolving, or being seen to resolve, grievances and establishing "independent" and non-union related mechanisms for resolving grievances and giving expression to employee "voice". Thus employers seek to convince workers that there

are no issues of contention, should any arise they can be easily resolved to the satisfaction of both parties, that the presence of a union is unnecessary and there is a community of interests between workforce and employer.

A commonly practiced tactic is the sudden resolution of long-standing grievances, better than expected pay increases and general improvements in working conditions (cf. McCarthy 1999:41). These are usually set in train after employers recognize they face a serious UR campaign (seventeen cases). Another tactic is the promotion of the policy of their managers' doors "always being open for little chats" or the promotion of one-to-one communication (nine cases). However more noticeable are attempts to formalize and institutionalize non-unionism by establishing "consultative" or "representative" forums, where staff issues and grievances can be dealt with (see also Brown et al. 1998:74) and Terry (1999:21)). While such institutions in non-union settings have a relatively low incidence (Cully et al.1999), they appear to be relatively more common in situations where the employer opposes a campaign for UR. Some 80 organizations are known to have employed this technique to avoid recognition, while another forty are known to have used this to maintain derecognition. Less common are the cases of employer attempts to establish a staff association/union, either from scratch or from their consultative council (six cases).

Evil Stuff

Red-baiting of unions and communist witch-hunting of activists in UR campaigns have not been detected; this is not surprising given the differences in political culture between the United States and Britain. However, this does not imply that employers have not deployed "evil stuff". Some employers have circulated literature and made presentations that denigrate unions in terms of their threat to jobs and industrial harmony at their workplace (see above). More pertinent here has been the distribution of materials, particularly by newspaper companies, which argue that unions are parasitic (they want your money to pay for their empires), are undemocratic (run by cliques) and can make their members do things that members do not want to do (go on strike following a mandate from a ballot). A more overtly political thrust to the anti-unionism emerges when employers link the union "threat" at the workplace with the union "threat" to society. They argue that "returning to the bad old days" of powerful unions would mean more strikes, conflict and economic decline. They ask the question, "Surely, you don't want to go back to those days?"

Fatal Stuff

Fatal stuff is also known in the United States as "bad faith bargaining". It represents a rearguard action by the employer to undermine or indeed rescind

the earlier decision to grant UR. The most common methods are to offer no or low pay raises, no or slight improvements in conditions and to continually refuse to, or delay in, responding to union requests for information and meetings. Here the employer is trying to show that not only has union membership no benefits but that it is a hopeless task trying to prove otherwise. Activists' enthusiasm is thus ground down. Casualization and redundancies can also be used here to undermine UR. Of the former, only a handful of examples have been found. The same is true of the latter. This is likely to reflect the relative recentness of UR agreements so that there has so far been little opportunity in which this may occur and, more importantly, the greater difficulty in halting, at this early stage, the forward momentum that the union has established.

Tame Stuff

Single union deals and union "beauty contests" to determine these deals, where there is multiunionism or competing union, are now more common that at any time since the early 1990s. Some 90 examples are known such deals being signed or employers asking for these deals. Employers here have recognized the question they face is not "do we grant UR or not?" but "to whom should we grant UR?" Faced by "irresistible" requests for UR by virtue of union strength, this type of employer is attempting to dictate the nature of the UR by selecting what they see as the "appropriate" union for themselves. Often they will invite interested unions to outline the types of UR agreements they are prepared to offer before selecting who will be chosen. What is meant by "appropriate" may be a union prepared to eschew traditional bargaining in favor of "business unionism" or "social partnership".

Further pressure for single union deals has emerged because the ERA is predisposed to single union deals whereby a claim for UR can only be made by a single union[5] and because new claims for UR cannot be made where there is already recognition. This may place a premium on employers signing deals with certain unions to preempt the recognition of other unions under the ERA. Areas of industry and services where such deals have become noticeable include airlines, transport, electronics, offshore oil industry and private prisons. Of the CAC cases that have been adjudicated on, three organizations have recently signed single union deals to avoid other unions. Nonetheless there are at least 15 cases where unions regarded as "inappropriate" have been able to gain UR with the support of the other "involved" unions.

Often part of single union deals are constrained UR agreements. Those unions that have signed single union deals are generally more likely to also sign constrained UR agreements. However where the employer has no choice of which union to recognize, given union strength, the employer can seek to impose constrained UR agreements as the price for granting UR. Both are

done with a view not merely to lessening the concessions an employer may have to grant in bargaining but also to establish the limited nature of the new relationship and provide the option for returning to nonrecognition by undermining the faith of the members in their union. The components are the procedural de facto no-strike/no-disruption clauses by virtue of an extended disputes procedure, compulsory and or binding arbitration, and restricted bargaining scope. However this may also extend the restricted substantive and relationship issues like initial pay freezes and partnership clauses.

Constrained bargaining agreements are thus examples of pre-bargaining "concession bargaining". They undermine unions' potential strength and independence by relinquishing the sanction of industrial action, and by muddying the waters on what the purpose of the union is by insisting on the compatibility of employee–employer interests. Forms of "enterprise unionism" may ensue. The other side to "tame stuff" is that employers having decided to recognize are concerned not only to limit UR but to make that which is granted work for them. Here employers seek to realize the "business case" for granting UR, primarily ease of communication and legitimacy to joint decisions.

Awkward Stuff

Given the relational situation where a union requires something from an employer (i.e., their consent and cooperation) and where there is an imbalance of power, employers have often used basic stonewalling tactics to frustrate and demobilize recognition campaigns. Refusal to reply to the union's letters, refusal to have meetings or discussions, refusal to allow access to the organization's premises for recruiting and organizing and refusal to allow members to meet on the organization's premises are the stock in trade of anti-union employers. Together some 50 cases of these are known. If a union has overstretched officer resources, little or no membership at the workplace, or a membership that is not assertive or active then these tactics are likely to lead the union to walk away from continuing or mounting a campaign. Should a union persist and get to the point where UR becomes more of a prospect, other methods are available to employers to frustrate the union. These include the restructuring of the company by splitting up the organization into separate legal personalities (seven cases), the contracting out of certain activities to influence union density and the introduction of personal contracts to take some members out of the potential for union membership and recognition. An emerging issue, particularly in CAC cases, is the enlargening of the bargaining unit to reduce the level of union density by including other workers (11 cases).

While the use of ballots by employers to determine the level of support for UR has not been unknown in the past, it is now the prime method of assessment because of the ERA's impact. Over 150 cases exist where employers

have requested a union majority before discussions could commence. The increased workload of ACAS (2000, 2001) in conducting ballots (and membership audits) is further testament to this growing phenomenon. The commonplace setting of thresholds for voting in a ballot are likely to make some employers more resistant to granting UR under the voluntary mechanism such that they will insist on at least 50 percent+1 support. And with the increased likelihood of employers requiring ballots in voluntary recognition claims, there will now be a value to some employers to seek to influence the outcome of the ballot by whatever means they see fit and are permitted to.

There are further twists to the tactical use of ballots by anti-union employers. The first is the use of a ballot is to challenge unions before they are "ready". The use of ballots appears to be a fair means by which to test the level of support for UR. However employers by challenging the union before it has secured a high level of strong support are attempting to settle the issue for perpetuity. Unions have lost these votes in nine cases. The second is where the employer has agreed to hold a ballot but still refuses to grant recognition when the union wins the ballot. This is evidence of employers trying to exhaust and then demoralize the union presence by going through the processing of holding the ballot then ignoring the result. Six cases exist of this. The third is to deny the union and workers the opportunity to demonstrate their majority support in a ballot by refusing to hold a ballot.

Finally a further tactic has been to stall on negotiations for creating a procedural agreement and delay the signing of such an agreement to undermine the momentum and force of the union's victory in a recognition ballot (five cases). This puts back further the possibility of substantive bargaining. In one CAC automatic award, the employer had sought judicial review.

Harm Stuff

Rather than strike a lethal blow to UR with an "iron fist" as "fatal stuff" attempts to do, the "velvet glove" is placed around the iron fist for "harm stuff" whereby indirect assaults are made on the worth and mechanisms of UR and bargaining. Thus instead of having direct and exclusive bilateral relations between the union and management, recognition and bargaining are conducted through works councils or similar fora in which there is representation for non-union workers and/or the union has to compete in elections to secure seats. In addition, or separately, employers have established parallel means of communication and consultation with their workforces in order to sideline or counter the importance of the union and UR. Employers are trying not only to undermine the value of the union and bargaining but also to show that there is a credible alternative to what is proving to be a more conflict ridden and unproductive mechanism (fourteen cases).

Discussion

The revised schema is shown to be more able to categorize and distinguish between the complex array of different types and forms of employer anti-union behavior. It can better situate and locate anti-unionism because of its higher specification than the simple dichotomy. Furthermore it can be viewed in such a way as to understand the use of a selection of one or more of the seven approaches at any one point in time or space, as well as their use sequentially where a number of approaches can be deployed should the earlier use of other ones fail to deliver the required outcome. Most obviously this would concern continuing anti-unionism before and after UR was granted. With the schema, we can also see that a works council or anti-union literature can be used to play different roles in different contexts, again mostly clearly before or after UR. Clearly the tactics outline here could be deployed by employers that approximate to the ideal types of "traditionalist" and "sophisticated paternalists" (Purcell and Sisson 1983).

The data has uncovered a considerable number of instances of anti-union employer behavior. Employers are trying to influence workers' values, perceptions and outcomes as well as tailoring workers' agendas and workplace institutions and organizational settings to their needs along the spectrum from avoidance to control. Both avoidance and control involve employers trying by different means to put "distance" between the union and its members, potential members and supporters. This may range from views and perceptions of impotence and risk and danger by association to ideological hostility. Considering the tactics themselves, some are more evident because the majority of cases of opposition are in their infancy (given the recent increase in new campaigns for UR and new UR deals; Gall and McKay 2001) and at the start of what may be termed a "sequential process" of opposition. The use of some tactics is dependent upon the employer perception of the ineffectiveness of others that have recently been used. Moreover some are more suited to the legal and political culture of Britain, by contrast to that of the United States.

Examining the dynamics of the use of these tactics, a key point in an employer's decision to move from trying to ignore union requests for meetings (the most basic form of stonewalling) to others is dependent on two specific considerations. First is whether the union walks away or whether it repeats its requests for meetings and UR at the same time as building up its membership. Thereafter the workers' and union's tenacity, ingenuity, strength and staying power are the factors the employer has to contend with. Second is whether the employer has the resources (ideology, finance and personnel) required to implement these anti-union positions comprise. A strong ideological conviction is particularly important so that the employer can withstand adverse

criticism in local and national media. However the other resources may not be so readily available to the smallest companies.

Nonetheless these forms of anti-unionism would appear to be a minority tendency amongst employers faced by serious UR campaigns judged by the number of new UR agreements (Gall and McKay 2001). One caveat is however worth entering into. There are likely to be more cases of anti-unionism than are actually apparent because of the weaknesses in union reporting systems—that is to say, workplace union and local officials do not necessarily report these actions to the higher levels of the union (officers and research departments) so they are not reported to the press or union journals.

Turning to type of employers which behave in these ways, there are three main categories. First are those with what they would regard as "bad" experiences of IR, comprising assertive unions (such as newspaper employers and some offshore oil contractors) or those with low regard for trades unionism and collective relations (such as companies from the United States, charities and entrepreneurs). Second, there appears to be a concentration of employer resistance by workforce size. Those small and medium sized organizations, commonly with between 50 and 250 workers show the greatest signs of resistance, deploying the less sophisticated means of staying "union free". Third, many resisters appear to be relatively new companies where the managing director is also the founder, being in the mould of the Thatcherite "entrepreneur". The latter two characteristics accord with the features of small businesses as employers (Rainnie 1989; Scase and Goffee 1980).

However to consider only the "success" of such employer activities paints a partial picture. Union presence (membership, organization, activity) has not always been diminished by these actions, so possibilities exist that UR may still be obtained from these bridgeheads (60 cases). Equally pertinent is that employers may create new or additional problems for themselves with these tactics. With single union deals, the employer may find the chosen union has no legitimacy or membership amongst the workforce. Thus the union ceases to be an effective control mechanism and instability ensues. Worse still for the employer, workers may retain or seek membership of another union, which then campaigns for UR. In the case of constrained agreements, the membership may rebel against the results and leave the union, again creating problems of democratic legitimacy, of control effectiveness and IR instability. Fear stuff may also produce instability and antagonisms, lessening productivity and efficiency where workers respond in a robust manner.

Endnotes

1. This is because there is a 3-year bar on applying for UR for the same bargaining unit should the application be rejected, the application and adjudicating process are complex, a

CAC awarded recognition deal is of a minimal nature and an application to the CAC may further polarize industrial relations.

2. Although the ceiling for compensation for unfair dismissal was raised to £50,000 by the ERA, it also abolished the "specific award" that was available for victimization for trade union activities.

3. McGovern (1989:68) found a similar array of tactics used by employers in Ireland in the 1980s.

4. The use of such lists is outlawed under Section 3 of the ERA.

5. The ERA precludes multi-unionism whereby there are separate UR agreements within an organization. It does not however preclude multi-unionism where there is a single UR agreement, but this is far less likely than traditional multi-unionism. This adds further pressure towards single unionism.

References

ACAS. 2000, 2001. *Annual Report, Advisory.* London: Conciliation and Arbitration Service.

Beaumont, P. 1987. *The Decline of Trade Union Organisation.* London: Croom Helm.

Bland, P. 1999. "Trade union membership and recognition 1997–98." *Labour Market Trends* (July), pp. 343–53.

Blyton, P., and P. Turnbull. 1998. *The Dynamics of Employee Relations,* 2nd ed. London: Macmillan.

Brown, W., S. Deakin, M. Hudson, C. Pratten, and P. Ryan. 1998. *The Individualisation of Employment Contracts in Britain.* DTI Research Paper, London.

Claydon, T. 1996. "Union Derecognition: A Re-examination." In I. Beardwell, ed., *Contemporary Industrial Relations: A Critical Analysis.* Oxford: Oxford University Press, pp. 151–74.

Confederation of British Industry. 1999. *CBI Employment Legislation Impact Survey* (September). London: Confederation of British Industry.

Cully, M., S. Woodland, A. O'Reilly, and G. Dix. 1999. *Britain at Work; As Depicted By the Workplace Employee Relations Survey.* London: Routledge.

Dibb, Lupton Allsop. 1999. *Industrial Relations Survey 1999.* London.

Dibb, Lupton Allsop. 2000. *Industrial Relations Survey 2000.* London.

Dickson, T., H. McLachlan, P. Prior, and K. Swales. 1988. "Big Blue and the Unions: IBM, Individualism and Trade Union Strategy." *Work, Employment and Society,* Vol. 2, no. 4, pp. 506–20.

Dundon, T. 2001. "Union Avoidance and Employer Hostility to Unions in the UK." AFL-CIO/ULEA Education Conference, Boston, MA.

Gall, G., and S. McKay. 1994. "Trade Union Derecognition in Britain, 1988–1994." *British Journal of Industrial Relations,* Vol. 32, no. 3, pp. 433–48.

Gall, G., and S. McKay. 1999. "Developments in Union Recognition and Derecognition in Britain 1994–1998." *British Journal of Industrial Relations,* Vol. 37, no. 4, pp. 601–14.

Gall, G., and S. McKay. 2001. "Union Recognition in Britain: The Dawn of a New Era?" Unpublished paper, University of Stirling.

Guest, D., and Hoque, K. 1994. "The Good, the Bad and the Ugly: Employment Relations on New Non-union Workplaces." *Human Resource Management Journal,* Vol. 5, no. 1, pp. 1–14.

Heery, E. 2000. "New Unionism Research Project." Bulletin No. 8, Cardiff University.

Heery, E., M. Simms, R. Delbridge, J. Salmon, and D. Simpson. 2000a. "Union Organising in Britain: A Survey of Policy and Practice." *International Journal of Human Resource Management,* Vol. 11, no. 5, pp. 986–1007.

Heery, E., M. Simms, R. Delbridge, J. Salmon, and D. Simpson. 2000b. "The TUC's Organising Academy: An Assessment." *Industrial Relations Journal,* Vol. 31, no. 5, pp. 400–16.

McGovern, P. 1989. "Union Recognition and Union Avoidance in the 1980s." In T. Murphy, ed., *Industrial Relations in Ireland: Contemporary Issues and Developments.* Dublin: University College Dublin, pp. 61–72.

Purcell, J., and Sisson, K. 1983. "Strategies and Practice in the Management of Industrial Relations." In G. Bain, ed., *Industrial Relations in Britain.* Oxford: Blackwell, pp. 95–120.

Rainnie, A. 1989. *Industrial Relations in Small Firms: Small Isn't Beautiful.* London: Routledge.

Roy, D. 1980. "Repression and Incorporation—Fear Stuff, Sweet Stuff and Evil Stuff: Management's Defenses against Unionization in the South." In T. Nicols, ed., *Capital and Labour: Studies in the Capitalist Labour Process.* London: Athlone Press.

Scase, R., and Goffee, R. 1980. *The Real World of the Small Business Owner.* London: Croom Helm.

Terry, M. 1999. "Systems of Collective Employee Representation in Non-Union Firms in the UK." *Industrial Relations Journal,* Vol. 30, no. 1, pp. 16–30.

DISCUSSION

Sheldon Friedman
AFL-CIO

These papers trace a disturbing pattern. That workers' freedom to unionize is widely suppressed in the United States by U.S.-based employers comes as no surprise to anyone remotely familiar with our industrial relations scene. Suppression of the freedom to unionize, however, does not stop there. It is also routinely practiced, as we learn from Tony Royle, by U.S.-based and other multinational corporations in the fast-growing fast food industry in their non-U.S. operations. It is also often practiced, as we are reminded by John Logan, by foreign-based corporations doing business in the U.S. It is even being practiced, as we learn from Tony Dundon and Gregor Gall, by a large and growing number of employers in the UK.

It is noteworthy, though, that the scale and intensity of employer suppression of unionization remain far greater in the United States. Comparing UK figures presented by Gregor Gall with NLRB statistics for the United States and adjusting for the difference in population between the two countries, it appears that illegal discharges in retaliation for union activity are about 50 times more prevalent in the United States than in the UK.

This is, without doubt, a useful collection of papers on a vital but understudied topic. The authors are, in a sense, too modest, since they spend little time explaining the importance of their topic. So these comments will do that for them. In so doing, three points will be made:

- The freedom of workers to unionize is, and should be, a fundamental human right.
- The employer behavior described in these papers has a major impact in suppressing this fundamental human right.
- The consequences of suppressing workers' freedom are severe, not only for the workers directly affected, but for society as a whole.

In closing, a few thoughts about what might be done to counter employer suppression of the freedom to unionize will be presented.

Author's Address: AFL-CIO, Public Policy Department, 815 16th Street N.W., Washington, DC 20006–4101.

Probably most members of the general public, and even most members of the IR profession, view union organizing campaigns mainly as struggles over competing economic interests between workers who want higher wages and employers who want to keep profits high. Viewed in this way, the employer behavior and the behavior of their hired gun consultants described in these papers, while unsavory, reflects little more than employers getting their best hold to defend their economic interests.

But what if more than economic interests are at stake? What if workers' freedom to unionize is a fundamental human right? Then we are looking at a horse of an entirely different color. Suppressing a person's freedom to unionize would then be as immoral as discriminating against a person on account of their religious beliefs or skin color. The entire industry of anti-union consultants and lawyers cataloged so well by John Logan would then exist for the purpose of suppressing human rights; a more questionable basis for an industry is hard to imagine.

Well, it turns out that there is abundant support for the proposition that freedom to unionize indeed is a human right. The UN's 1947 Universal Declaration of Human Rights says so, the 1998 ILO Declaration of Fundamental Principles and Rights at Work says so, and much else in between says so. If the freedom to unionize is a fundamental human right, then it supersedes the mere economic interest of employers in protecting their profits, and suppression of that freedom by employers or their agents is a violation of human rights.

Why should freedom to unionize enjoy human rights status? Stated far too briefly, human beings have an inherent right to associate, to band together in pursuit of legitimate shared aims. In the workplace, this means workers must be free to form organizations that they control—unions—for the purpose of jointly determining with employers the terms and conditions of employment. The alternative, allowing employers to set unilaterally all terms and conditions of employment, is an unacceptable affront to human dignity inconsistent with the norms of a democratic society.

Not only is freedom to unionize a fundamental human right, as it should be, but the employer behavior documented by Logan, Royle, Dundon, and Gall is unfortunately highly effective in suppressing it. There is, of course, an extensive literature on reasons for the long-term decline in unionization, especially in the United States, and this is not the time or place to review it. Changes in the economy, notably the shrinkage of manufacturing, have played an important role. Doubtless too the labor movement, alas, has made plenty of mistakes. But at the end of the day, the evidence that millions of non-union workers want and need unions is overwhelming, as is the evidence that a principal reason—perhaps *the* principal reason—they don't have those unions is employer interference, often orchestrated by hired consultants, wielding the array of tactics that John Logan described so well.

The results of allowing employers a virtually free hand in suppressing workers' freedom to unionize have been little short of devastating, not only for the workers directly affected but, it can be argued, for American society and quality of life overall. Direct consequences include the suppression of wages and benefits and the silencing of workers' voices in the workplace and on the job. This harms all workers, but especially those who face the most difficulties in the labor market—women, minorities, immigrants, workers with less than a college education, and low-wage workers of all kinds. Little wonder, then, that the last three decades of declining unionization coincided with rising inequality in the distribution of income and wealth to levels not seen since the 1920s.

Civil society has also been affected, as recent political science research suggests that there is a strong link between declining unionization and the long-term secular decline in the proportion of American adults who register to vote, and who vote. What about the strength of society's safety net? Is it conceivable that if union density in the United States had remained at or near 1950s levels, the Social Security system would be under unprecedented political attack, the unemployment insurance and welfare systems would be in tatters, or 42 million Americans would lack medical insurance? The previous observations just scratch the surface of the heavy price that virtually unfettered employer suppression of the freedom to unionize has forced society to pay.

So, what is to be done? The AFL-CIO has responded with the Voice@Work campaign; it is a little surprising that John Logan's otherwise admirably comprehensive paper didn't mention it. The purpose of V@W is to help workers win the freedom to choose a union. The long-term goal must be nothing less than a cultural shift so complete that employer suppression of workers' freedom to unionize becomes as socially unacceptable and morally repugnant as forcing African Americans to drink from separate water fountains or ride in the back of the bus—trappings of Jim Crow racism, repulsive today, that were the social norm enforced by law in a number of states just 40 years ago.

Such a change in culture will require a major change in U.S. labor laws, but it will need much more than that—it will require a social movement to be built around, and to struggle for, the freedom to unionize. Instead of suffering in virtual silence while employers and their consultants use every trick in the book to suppress freedom to unionize, the labor movement must mobilize community and public support to publicize these wholesale violations of human rights and to teach employers that such behavior is no longer acceptable. When this happens, workers can win the freedom to unionize, even in the current repressive climate.

The role of scholars in bringing about this kind of social change is considerable, and the papers presented in this session are an important contribution.

XII. INDUSTRIAL RELATIONS IMPLICATIONS FOR THE PRIVATIZATION OF STATUTORY DISPUTE RESOLUTION

Circuit City Is to Workplace Justice As Voting in Florida Is to Democracy

John L. Zalusky
AFL-CIO Retired

Abstract

The *Circuit City* Supreme Court decision denies workers their day in court for employment related disputes, even when the dispute involves statutory violations. The Supreme Court thwarts workplace justice, just as it thwarted the rights of voters in Florida in the recent Presidential elections.

The Supreme Court encourages the use of arbitration in employment disputes, through the use of adhesive contracts.[1] These are hiring contracts to refer all employment disputes to arbitration, including statutory issues. These are contracts where one party has all the power to shape the terms of the agreement and the other parties little to none. The weaker party in the employer promulgated arbitration agreement is clearly the employee. These agreements have been the instruments of grave injustice. The "yellow dog contracts" of the last century, which had the employee agreeing to not join or support a union as a condition of continued employment were contracts of adhesion and notoriously unjust, and would violate today's international standards of human rights. Today's employment contracts that require compulsory final and binding arbitration of disputes arising out of employment are the same kind of contract. Since 1889 the U.S. Supreme Court [*Liverpool 6c Great W. Steam*

Author's Address: General Delivery, Lusby Post Office, Lusby, MD 20657.

Co. v. Phoenix Ins. Co., 129 U.S. 397, 441 (1889)] and many other courts have ruled that the standards for contracts must be reasonable and just. The Rehnquist court, in finding for these adhesive employment contracts, compelling enforcement of arbitration of statutory disputes before the dispute, sets the nation down the road of tyranny by the powerful.

One vital part of the Supreme Court's current line of decisions represented by *Circuit City v. Adams* is the fostering of private contract law and arbitration as a means to strip many workers of their rights provided by state and federal statutes, and arising in tort law. A second is fostering the continued use of the unique and archaic employment-at-will doctrine, a doctrine at variance with international standards. A third is that this court goes beyond allowing employers to strip workers of rights they otherwise had; it encourages a number of injurious industrial relations and public policy results that are regressive and will be long lasting. At the heart of this last point is the Supreme Court's engaged tolerance of contracts of adhesion.

The most recent opinion *Circuit City Stores Inc. v. Adams* (March 21, 2001) filled in a big hole in the earlier *Gilmer v. Interstate/Johnson Lane Corp.* (1991) decision. In *Gilmer* the court found that an adhesive contract to arbitrate statutory disputes would compel the employee to arbitrate, even when the agreement was not made with the employer. In *Circuit City* the conservative majority found that most employees are not excluded from the Federal Arbitration Act [FAA; 9 U.S.C. § 1 *et seq.* (1925)], even though it could be and had been read by many to exclude workers in interstate commerce. These two cases are closely related to *Equal Employment Opportunity Commission v. Waffle House* which is now pending before the Supreme Court. This latter case may completely close the courthouse door on worker rights for the unrepresented, the door that was opened decades ago by elected representatives. Although these cases focus on unrepresented workers, union workers are also at risk with this court's current line of cases. In *Wright v. Universal Maritime Services* [8 AD Cases 1429 (1999)] the Supreme Court, citing *Gilmer,* found that a union may be able to waive the statutory rights of a union member. Where the employer has sufficient bargaining power and the desire, it can put the union worker in the same position as the non-union worker. That is, the union worker can be stripped of the right to go to court on a statutory issue and be compelled to use only final and binding arbitration of statutory rights. At the present time most union workers can elect the courts or arbitration or use arbitration and appeal an arbitrator's decision to the courts. These options can now be lost, and replaced by compulsory unappealable arbitration.

The Issues of Compulsory Arbitration

Adjudication of Statutory Rights Ought to Be Open to the Public, Not Secret

One of the first public policy implications stems from the fact that arbitration is a private process with the record and decision private property. The interpretation of statutes, which are the reflection of public policy, should be open to the press, policy makers and the general public. The public has a right to know and indeed a need to know how the policy is being applied and if it is effective. The parties should be named as a matter of public policy[2] just as they are when courts rule on statutes. One of the basic goals of public policy is to change behavior and conduct. This is much less likely to occur if the malefactors are kept from public view. For example, it is unlikely that Denny's Restaurants would have changed their civil rights behavior absent public scrutiny. Lives may have been saved in the recent spate between Ford Motor Company and Firestone/Bridgestone if 8 years of private settlements had not been hidden in settlement agreements conditioned on silence. The point is arbitration as a private forum, fostering settlement secrecy, and is therefore harmful to formulating, adjusting and enforcing public policy.

The Arbitration of Statutory Disputes Should Be Appealable to the Courts

Although labor agreements use final and binding arbitration, there is a world of difference between this application and the employer's use of compulsory arbitration. Arbitration under a collective bargaining agreement generally involves contract interpretation or application. The employer promulgated arbitration scheme focuses on the worker's statutory rights, the award is final and binding regardless of whether it is a statutory issue or contract violation. The union worker, unless the union has waived the worker's right, can go beyond the arbitrator's award on statutory matters and can take a second bite by bringing an action in court.

The typical employer promulgated compulsory employment arbitration agreement generally contains the American Arbitration Association (AAA) rules, or something very similar. These rules provide that the award is final and binding, with no appeal for the unrepresented employee. However, a little research reveals that other arbitration models have and do permit the appeal of the arbitrator's award. The author believes these models are fairer and provide a better balance of power in the arbitration of statutory disputes.

In the United States before 1925, arbitration was generally used in commercial agreements and a few labor agreements. The parties were near equals in bargaining power when shaping these agreements. When the FAA was

enacted in 1925 one of the major changes in commercial arbitration that it brought about was to practically ban the parties' ability to appeal to the courts. The proponents of commercial arbitration had long been annoyed at the interference of the courts in the process. At the time the FAA became law, it preempted a number of state arbitration laws that allowed either party to appeal an arbitration award for a hearing by state court *de novo.* The AAA strongly lobbied for the passage of the FAA, which was a replica of the New York statute. At the time a number of other states, most notably Illinois, had arbitration statutes which specifically allowed either party to appeal an arbitration award to the courts. The right of the parties to appeal arbitration awards did not end with FAA.

The issue of appeal has also been raised at the international level, although the harmonized international commercial arbitration rules call for final and binding awards, a number of national courts have either annulled awards or heard appeals of arbitration awards (Raghavan 1998:103). The parties in international commercial arbitration are much more evenly balanced than the American worker is to the employer, yet courts of other lands find the need to guard against unjust awards by arbitrators.

Although final and binding arbitration was the norm in collective bargaining agreements, it was not universal. A number of Allied Industrial Workers and International Woodworkers labor agreements retained the right to strike on an arbitrator's award. The United Auto Workers retain the right to strike on safety issues.

More recently federal courts have annexed arbitration with the right of appeal after the award. The federal courts foster the use of all forms of alternative dispute resolution machinery including arbitration in civil matters. When the federal courts considered annexing arbitration to federal civil cases—bankruptcy and other civil maters—they studied the issues carefully for nearly 20 years using pilot projects, advisory committees, studies by Rand Corporation and CPR Institute for Dispute Resolution, and legislative hearings. This effort first produced the Civil Justice Reform Act (CJRA; 28 U.S.C. §§ 471–82) of 1990 followed by the Alternative Dispute Resolution Act (ADRA; 28 U.S.C. §§ 651–58) in 1998. The author believes they provide a much higher standard of due process and justice to the parties, at a lower cost, without a significant change in processing time, than anything available in private arbitration agreements—the agreements workers are now being forced to sign.

Although each court differs slightly, the basic model is distinguished from what the worker faces in the following ways: first, the award is not final and binding. That is, the award is sealed and within 30 days of filing the award any party may demand a trial *de novo* without prejudice. To avoid prejudice the

appealed case is placed on the docket of the court as though it had not been referred to arbitration and judges are not allowed to see the award.

Agreement to Arbitrate Must Be Post-Dispute

Under the ADRA the choice of arbitration or going to court is made post dispute.[3] In contrast the worker is generally compelled to sign the employer promulgated compulsory arbitration agreement before he/she has a dispute. Robert Gilmer of *Gilmer v. Interstate/Johnson Lane Corp.* signed away his statutory rights before there was a statute. There is no way signing an adhesive contract to arbitrate before there is a dispute, even before a statute may exist, can be construed as a knowing act or a meeting of minds.

Agreement to Arbitrate Must Be Knowingly and Freely Obtained

The ADRA also provides that consent to arbitrate must be knowingly and freely obtained—that is, it must be voluntary and the parties must understand the pros and cons of the agreement. Again this must be contrasted to the employer coerced arbitration plan, wherein agreement to arbitrate is generally obtained as a condition of employment or continued employment. The employer promulgated plan is often found buried in the raft of papers employees must sign when employed and the details are obscured in the employee handbook among the provisions stating the employer "is an at-will employer" (a term of art most workers do not understand). The only voluntary aspect to employer promulgated arbitration is with the employer.

Complete Discovery Is Essential to Due Process

Under the ADRA the arbitrator has the same power to compel discovery as the federal judge. Workers bound by an employer promulgated compulsory arbitration plan are often unable to compel witnesses to appear or produce documentary evidence (trade secrecy and presumed privacy issues of other employees are often raised as a defense by employers), and when a worker is allowed discovery the worker must pay whatever the employer says it will cost. When dealing with statutory issues, timely and affordable discovery are fundamental to due process, a right involuntarily put in the arbitrator's hands. An arbitrator may or may not order, or be able to order, the production of documents, witnesses or the taking of depositions.

Arbitrator Competence and Fees

Another point that the ADRA addresses is the competence and the fees of arbitrators. One of the reasons there are more arbitrators than arbitration work is that a fair number are never selected by either party—presumably some of these unengaged arbitrators are not considered competent. Under

ADRA the court qualifies each person serving as a neutral, decides on their competence in the subject matter, and determines their compensation[4]. In fact the court pays the arbitrator. Thus cost to the parties is much less than anything available in the private sector.

Is Arbitration Cost Effective and, if So, for Whom?

For decades the argument has been made that arbitration is less costly than going to court. But there is not much hard evidence based on rigorous studies to support this notion.[5] Of course this argument begs the question, less costly to whom?

A worker has the court's services at no cost. In either event there will still be the cost of counsel, transcripts and discovery (unless discovery is truncated by the arbitrator to expedite matters). Expedited discovery may be false savings on statutory issues. Going to court may add some costs due to the formal courtroom procedures of filing various motions. These formal courtroom procedures are not normally seen in the less formal arbitration forum; however, in the overall picture, they would not add much to total costs.

Looking at the cost of arbitration, the worker must first file for arbitration. The American Arbitration Association, the predominate provider of arbitration services, has a basic filing fee of $500 for employment cases; however, if the amount of the claim is more than $10,000, the fee starts going up. This can be hard for an unemployed worker to afford and can effectively bar the doors of justice for some. Many, but far from all, employer promulgated arbitration plans split this filling fee. In comparison, the use of the court is free.

The courts do not charge for the use of the courtroom or for the salary of the judge, but arbitrators do charge. Although arbitrators will sometimes use public facilities, they normally must rent a suitable room, and they must be paid for that by the parties. Arbitrator basic fees vary but normally run $1,100 per day, with some as high as $4,000 on the West Coast. The worker's total cost for the arbitrator will vary based on the number of hearing days, study days, and expenses. However, it would not be unreasonable for a worker to expect a bill of a $5,000 to $10,000 for arbitrator services. The service of judge in court costs the worker nothing.

Additionally, workers are able to cut their legal fees in court if they can form a class action. The author has never heard of class action in arbitration, nor has anyone else with whom this was discussed. Although the rules currently in use do not bar class actions in arbitration, they clearly do not encourage such an approach.

The studies associated with enactment of the ADRA concluded that cost savings to the courts, if any, were due to fewer cases going to court. Other-

wise, Allen Lind concludes "the court's saving from arbitration seems to just compensate for the costs associated with arbitration."[6]

Thus if there are savings they must be employer savings. Again there are few studies, but there are a couple of areas where the savings might be found. As mentioned above one benefit of arbitration is that it is a private judicial process and that the product is private property. That property has a market value. Publishing or making public an award requires the consent of the three basic parties: the arbitrator, the worker and the employer. In a settlement handled through the courts, the employer would normally have to pay the plaintiff extra for keeping an award out of the press. This is one cost saving to the employer from arbitration.

A study of 1,700 wrongful discharge law suits between 1988 and 1995 reported judgments averaged $152,000 for men and $75,000 for women, with litigation costs averaging $80,000 (studies by John 1996, reported by Lind et al. 2000). On the other hand, large awards to workers by an arbitrator are rare and nearly nonexistent in tort cases. They certainly are not near the awards given by juries.

The United States' Default Employment Law

Employment-At-Will

Another major factor depriving U.S. workers of their workplace rights is the employment-at-will doctrine, the default employment law. It is not a law strictly speaking; it is doctrine handed down by the courts and is not based on an enacted statute. Although it grew up the United States to address problems of another time (Ballam 1996:91–130) and is deeply embedded in U.S. culture, the courts operate with it as though there were no other standard. Yet, all other modern major industrial nations have moved beyond this pre–industrial revolution thinking and have adopted the much less complex "just-cause" standard, while the United States holds onto the "at-will" concept. In other industrialized nations, the employer simply must keep a record and show there is a just cause for discharging or substantively changing the conditions of employment for a worker. While what constitutes just cause is quite broad, the basic difference is that the burden of proof is upon the employer. The just-cause standard contains dynamics compelling positive management styles, while the employment at-will standard enables, indeed encourages, negative employee management styles in all but the tightest labor markets. When U.S. firms operate overseas in just-cause countries, they seem to do just fine.

The current stream of Supreme Court decisions has effectively legislated adhesive arbitration contracts as a means around the employer's problem with the maze of limiting U.S. laws, contract rules and implied public policy. The

Supreme Court and appropriate legislative bodies have given little or no consideration to the idea that the employment-at-well doctrine is at the core of the problem. Yet, in 1986 the AFL-CIO Convention[7] advocated a prohibition on discharges without cause and called for employee access to financing to assure access to due process, speedy access to a tribunal, mandatory reinstatement of wrongfully discharged employees and full compensation for all losses sustained as a result of the wrongful discharge. This model is similar in concept to the modern models used by other industrial nations, including Canada.

U.S. Employment-At-Will Versus Just-Cause

International labor standards addressing discharge are found in the International Labor Organization's Convention No. 158 (International Labor Standards 1990:28)—(Employer) Termination of Employment, 1982. The International Labour Conference affirmed this Convention in 1999. The purpose of the Convention is "protection against termination of employment by employers without valid reason." The burden of proof is clearly on the employer, which is the opposite of the U.S.'s employment-at-will doctrine. It also provides for due process, which should cost the discharged employee nothing.

The point is that propping up employment-at-will, by burying its inadequacies in the secrecy of private arbitration, postpones dealing with the basic problem—the United States needs to come up to world standards in the workplace. And the just-cause is the standard applied in other industrial democracies, not discharges for any reason limited by hundreds of statutes.[8]

Anticipated Effects of Rehnquist's Supreme Court Arbitration Decisions Can Be Expected to Produce

Increased Employer Abuse of Worker Rights

Among the industrial relations spin-offs from these Supreme Court decisions will be a lessened employer deterrent to employee abuse. This exists because compulsory arbitration costs the employer less than the risk of a decision by a court of law and/or a jury. This conclusion is also arrived at because of the secret nature of arbitration and the absence of bad public relations as a deterrent. Among the public policy casualties will be obvious civil rights and age discrimination worker protections, but there are many others: the employment rights of reservists and veterans, overtime and minimum wage standards, occupational safety and health standards, whistle blower protections will be among the wounded, and each has obvious implications for the nation. The nation wants and needs individuals to join the military reserves and National Guard, without employment problems. Individuals should report many forms of misconduct by their employer and its agents. If the whistle blowing employ-

ee's protection against unjust treatment is found only in final and binding arbitration, it is less likely he/she will come forward.

In conclusion, the dissent in the 5 to 4 *Circuit City* decision put it best: "A method of statutory interpretation that is deliberately uninformed, and hence unconstrained, may produce a result that is consistent with a court's own views of how things should be, but it may also defeat the very purpose for which a provision was enacted." That is the sad result of *Gilmer, Wright, and Circuit City,* and is likely to occur in *Waffle House*. The partisan Rehnquist court is taking workplace justice in the same spirit it took democracy.

Endnotes

1. Contracts of adhesion are standard form contracts, wherein one party crafts the terms of the contract and the other parties lack the power to change the terms of the contract.

2. In a significant but insufficient shift §34 of the 2001 American Arbitration Association's *National Rules for the Resolution of Employment Disputes*, provides public availability of awards, but carefully excludes the names of the parties and witness.

3. The issue of pre- or post-dispute arbitration is the major outstanding issue remaining in the Due Process Protocols. The default position, and the one employed by most mandatory plans, is pre-dispute and final and binding arbitration. See "A Due Process"; "National Rules" 2001.

4. By any standard the fees fixed by the courts are modest. In some federal districts the court pays the fee; in others the parties pay the neutrals at a rate set by the parties or the court. For the example the District Court of Arizona paid the neutral $250 per day or per case in 1996. See Plapinger and Stienstra 1996:29–55.

5. In a study of one federal district court (Middle District of North Carolina) Allen Lind found a 20 percent to 38 percent savings to litigants in total legal fees and costs. Bear in mind that the court paid the arbitrator's fees from congressional approbations. See the Testimony of Allen Lind before U.S. House of Representatives, Committee on the Judiciary, Subcommittee on Courts and Intellectual Property, hears on the Alternative Dispute Resolution and Settlement Encouragement Act, October 9, 1997, p. 111.

6. Allen Lind before the U.S. House of Representatives, Committee on the Judiciary, Subcommittee on Courts and Intellectual Property, hears on the Alternative Dispute Resolution and Settlement Encouragement Act, October 9, 1997, p. 111.

7. In 1986 the AFL-CIO reaffirmed its position with a Convention Resolution that called for (1) a prohibition on discharges without cause, (2) employee access to financing to assure access to due process, (3) speedy access to a tribunal, (4) mandatory reinstatement of wrongfully discharged employees, and (5) full compensation for all losses sustained as a result of the wrongful discharge.

8. Recently Dennis Pastranna, CEO of Goodwill Industries, fired Michael Itale because his membership in the Socialist Worker Party. Itale was running for Mayor of Miami. Itale worked on a government contract sewing military uniforms. His lawyer says this contract gave him some basis for a lawsuit. This discharge was newsworthy because it was not socially acceptable. It would probably not pass muster in a just-cause country and probably

would not have happened. From the news reports it seems there will be a lawsuit. *Miami Herald*, Miami, Florida, October 30, 2001, p. 3.

References

Ballam, Deborah A. 1996. "Exploding the Original Myth Regarding Employment-At-Will: The True Origins of the Doctrine." *Berkeley Journal of Employment and Labor Law*, Vol. 17, no. 1, pp. 91–130.

Circuit City Stores, Inc. v. Adams, No. 99–1379, March 21, 2001.

"A Due Process Protocol for Mediation and Arbitration of Statutory Disputes Arising Out of the Employment Relationship" <www.adr.org/rules/employment/protocol.html>.

Gilmer v. Interstate/Johnson Lane Corporation (1991) 520 U.S. 20.

International Labor Organization. 1990. *International Labor Standards*. 2nd ed. Geneva, Switzerland: Author.

Lind, E. Allen, Jerald Greenberg, Kimberly S. Scott, and Thomas D. Welchans. 2000. "The Winding Road From Employee Complaint: Situational and Psychological Determinants of Wrongful-Termination Claims." *Administrative Science Quarterly* (September).

"National Rules for the Resolution of Employment Disputes." 2001. New York: American Arbitration Association <www.adr.org/rules/employment_rules2.html>.

Plapinger, Elizabeth, and Donna Stienstra. 1996. *Settlements in the Federal District Courts: A Sourcebook for Judges and Lawyers*. Washington, DC: Federal Judicial Center and the CPR Institute for Dispute Resolution.

Raghavan, Vikram. 1998. "Heighten Judicial Review of Arbitral Awards: Perspectives From the UNCITRAL Modal Law and the English Arbitration Act of 1996 on Some U.S. Developments." *Journal of International Arbitration*, Vol. 15 (September), p. 103.

XIII. INVITED INTERNATIONAL

Trade Unions under Bargained Corporatism: The Case of Ireland

Patrick Gunnigle and Michelle O'Sullivan
University of Limerick

Abstract

This paper seeks to explore the current role of trade unions in Ireland by examining recent research evidence in the areas of trade union density, trade union recognition, and trade union influence. We conclude that despite almost 14 years of national level accords among the social partners, there is evidence of extensive employer resistance to trade unions and of a significant decline in union penetration in many sectors of the economy. These findings, we argue, raise important paradoxes between espoused government policy, which appears to support a strong trade union role in industry, and actual practice, which encourages the attraction of start-up industries which actively avoid trade union recognition. Some of the reasons for this phenomenon are also explored.

Introduction

The Republic of Ireland has undergone an extraordinary economic transformation over the past decade. Locked in a recessionary spiral, the country faced effective economic bankruptcy in the late 1980s. However, its economic performance since then has been nothing short of remarkable. It is now the OECD's fastest growing economy: GDP increases have averaged between 9 percent and 10 percent per year since 1994, and unemployment has fallen from a high of almost 20 percent in the mid-1980s to its current level of just over 3 percent (Economist Intelligence Unit 2000). In terms of international com-

Author's Address: Department of Personnel & Employment Relations, University of Limerick, Limerick, Ireland.

petitiveness, the *World Competitiveness Yearbook 2000* ranks Ireland as the 7th most competitive world economy (up from 11th in 1998 and 15th in 1997; International Institute for Management Development 2000). This performance has earned the country the label of "Celtic Tiger" following a bullish Euroletter on the Irish economy from the U.S. investment bank *Morgan Stanley* in 1994 (O'Hearn 1998).

Industrial relations has played a significant role in the Irish success story. Since 1986 a series of centrally negotiated accords were agreed upon by the social partners (principally government, employers and trade unions). The most recent agreement—the Programme for Prosperity and Fairness (PPF)—is due to expire in 2003. These agreements deal not only with pay but with a range of economic and social policy issues such as welfare provision, employment creation and tax reform. They have given the trade union movement (through the Irish Congress of Trade Unions) a pivotal role in shaping economic and social policy.

Thus, it is often widely suggested that the position of organized labor in Irish society is significant and enduring. The Irish experience is seen as contrasting that of the UK and United States, where the election of conservative governments with strong anti-labor agendas meant that the 1980s and much of the 1990s was characterized by a hostile political climate for unions. Indeed, an anti-union public policy agenda in the UK and the United States was seen as an important factor contributing to the decline in trade union membership and influence, and in the coverage of collective bargaining during that period (Beaumont and Harris 1994; Kochan et al. 1986; Sparrow and Hiltrop 1994).

Public policy in Ireland followed a very different and apparently more benign route. The most widely touted explanation for Irish "exceptionalism" relates to the socio-political context which, it is argued, remains conducive to a strong collectivist orientation in industrial relations (Roche and Turner 1994). Critical aspects of this "supportive" context include a long tradition of accepting the legitimacy of organized labor and the absence of an anti-union agenda among any of the country's political parties.

This paper seeks to explore the current role of trade unions in Ireland by examining recent research evidence in the areas of trade union density, trade union recognition, and trade union influence. We conclude that despite almost 14 years of national level accords among the social partners, there is evidence of extensive employer resistance to trade unions and of a significant decline in union penetration in many sectors of the economy. These findings, we argue, raise important paradoxes between espoused Government policy, which appears to support a strong trade union role in industry, and actual practice, which encourages the attraction of start-up industries which actively avoid trade union recognition. Some of the reasons for this phenomenon are also explored.

Trade Union Density

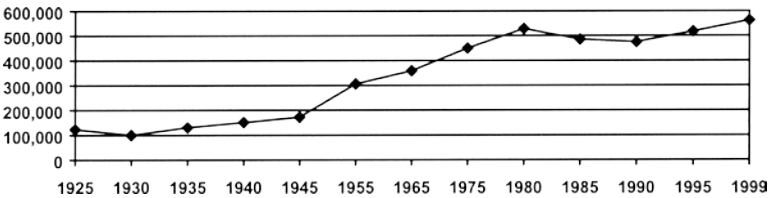
As many commentators have noted, industrial relations in Ireland have traditionally been associated with a strong pluralist orientation. (See, for example, Gunnigle and Morley 1993; Roche 1997). Indeed, despite Ireland's relatively recent industrialization, organized labor has long played a prominent role in Irish history, with trade unions well established in many industries by the early 1900s. Thus, pluralist industrial relations traditions are well ingrained in our national psyche and traditionally evident in comparatively high levels of union penetration, a reliance on adversarial collective bargaining and industrial relations as a key management activity in most medium and larger organizations.

In keeping with such pluralist traditions, Ireland has traditionally been characterized by reasonably high levels of trade union density. As illustrated in Figure 1, trade union membership increased, more or less progressively, from the 1930s right up to 1980. We then witnessed a significant decline in membership between 1980 and 1988. This decline in union membership is principally attributed to macroeconomic factors, particularly economic depression, increased unemployment and changes in employment structure involving decline/stagnation of employment in traditionally highly unionized sectors and growth in sectors traditionally more union averse, such as private services and areas of "high technology" manufacturing (Roche and Ashmore 2000).

Looking at more recent trends we find an increase in union membership

FIGURE 1

Trade Union Membership in Ireland, 1925–1999



in the period 1990–1999, a trend which clearly reflects increased employment levels over the period. However, if we consider trends in union density, the picture is not so sanguine for trade unions. Using the most recent available statistics, our calculations indicate that in 1999 employment density was 44.5 percent and workforce density 38.5 percent (see Table 1). This represents a fall in employment density of almost 10 percent since 1994 in a period when the numbers at work increased by one third. Historically, employment growth

TABLE 1
Recent Trends in Trade Union Density in Ireland

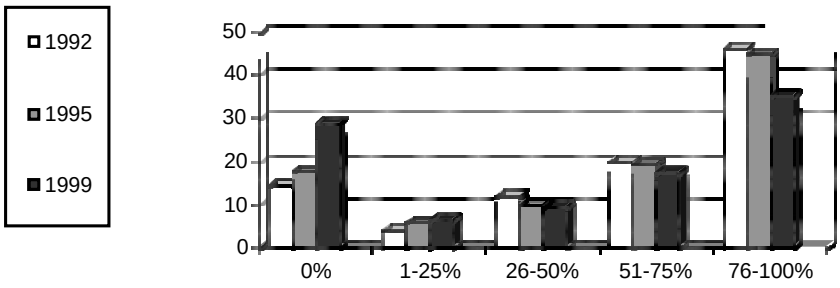
Year	Total union membership	Total employed	Total labor force	Employment density	Workforce density
1994	499.7	1221	1432	54.3%	41.7%
1995	518.7	1282	1459	53.2%	41.5%
1996	539.1	1329	1508	52.4%	41.1%
1997	538.4	1380	1539	50.2%	40.6%
1998	545.3	1494	1621	46.5%	38.9%
1999	561.8	1591	1688	44.5%	38.5%

has positively impacted on trade union density in Ireland. Clearly this is not the case for the boom years of the 1990s and represents a worrying trend in regard to trade union density in Ireland. Taking a longer-term perspective, our data indicate that employment density has fallen by a staggering 17 percent since the high point of 1980 (when employment density reached 62 percent).

Trade Union Membership at Organization Level

While national statistics provide us with an overall picture of trade union density, it is necessary to look at union membership level at organization level to gain insights into the operational role and impact of trade unions. The *Cranfield–University of Limerick (CUL) Study* conducted in 1992, 1995 and 1999 investigated industrial relations practices in large Irish organizations. In this study, respondents were asked to indicate the proportion of the workforce in their organization that was in membership of a trade union. These findings are summarized in Figure 2. If we take a point-in-time perspective, one might argue that the figures indicate that union density levels among larger organi-

FIGURE 2
Proportion of Unionized Workers in Organization

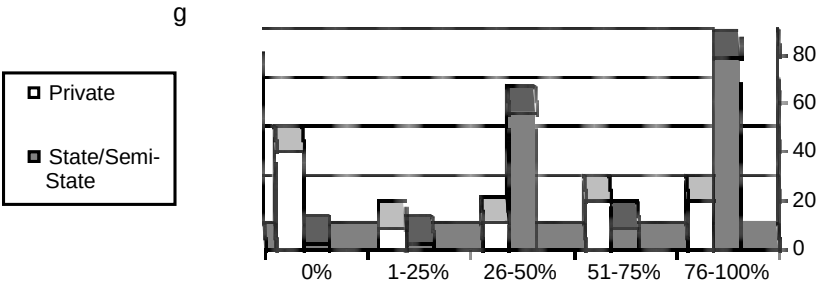


zations in Ireland are reasonably high: in 1999 over half the organizations reported that 50 percent or more of their employees were trade union members. However, if we look at the trend in regard to union density we find a pattern of progressive decline. In the first survey (1992), two-thirds of organizations reported that 50 percent or more of their workforce were trade union members; by 1999 this had fallen by some 13 percent.

As in the previous phases of the CUL survey, the 1999 data reveal that levels of union density remain particularly high in the public sector. The difference in union density is clearly outlined in Figure 3, which compares union membership levels in private and state/semi-state organizations. While only a small fraction of state or semi-state organizations report low or zero levels of union membership, some 40 percent of private companies report no union members, with a further 20 percent reporting membership levels of 50 percent or less. In contrast state or semi-state companies account for by far the greatest proportion of highly unionized organizations. Eight in ten public-sector companies reported union membership levels of between 76 and 100 percent; the equivalent private-sector figure was just two in ten.

FIGURE 3

Unionized Workers—Private V Public Sector



Trade Union Recognition

Trade union recognition represents a critical barometer of "collectivism" in industrial relations. This is particularly the case in Ireland, which has no mandatory legal procedure for dealing with union recognition claims. Thus the granting of recognition remains largely an issue to be worked out voluntarily between employers and trade unions. In addition to data on trade union density, trends on union recognition thus provide another important indication of trade union penetration.

Turning to empirical evidence, data from the 1999 *Cranfield–University of Limerick (CUL) Study* finds what at first might seem a reasonably healthy pic-

ture of trade union recognition in Ireland. In the 1999 survey, some 69 percent of participating organizations recognized trade unions for collective bargaining purposes. However, when we look at the trend in regard to trade union recognition, we find that the proportion of organizations which recognize trade unions fell from 83 percent in the first survey (1992) to the current level of 69 percent, a fall of 14 percent over a 7-year period. We should also add the important caveat that the CUL study covers only larger organizations. However, much of Ireland's business activity takes place among small firms employing less than fifty workers. It is well established in the literature that union penetration is lower in smaller organizations; consequently, union recognition in the small-firm sector is likely to come in well below the CUL figures presented in Table 2. (See Goss 1991; Gunnigle and Brady 1984; McMahon 1996.)

TABLE 2
Trade Union Recognition in Larger Organizations 1992–1999

Trade union recognition	1992	1995	1999
Yes	83% (186)	80% (205)	69.2% (296)
No	17% (38)	20% (50)	30.8% (132)

By and large, the national statistics and data from the CUL study present a mixed picture on trade union penetration in Ireland. Looking at trends in regard to aggregate levels of trade union density we find a picture of steady decline since 1980. A similar picture emerges from our review of trade union membership levels within organizations. However, our data also indicate that most larger organizations are characterized by reasonably high levels of union penetration. At face value, this evidence might lead one to conclude that there is a high level of congruity between public policy—seen as supporting the institutions of trade unions and collective bargaining—and actual practice, whereby the Irish trade union movement plays a key role in both national level and enterprise level industrial relations. To better inform our understanding of trade union penetration in Irish industry, it is necessary to consider additional sources of data. Below we consider one such source, namely data on trade union recognition in new greenfield firms.

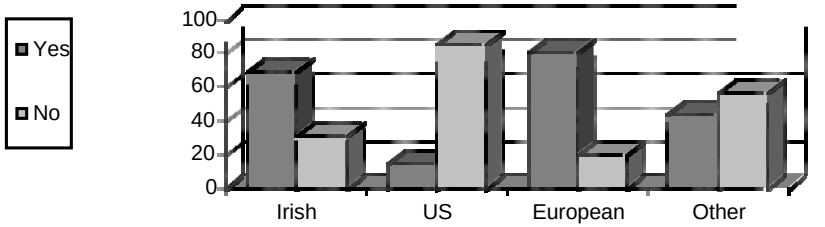
This data is based on a study of a representative sample of firms in the manufacturing and internationally traded services sectors, which established at greenfield sites over a 10-year period (1987–1997). The study excluded firms with less than 100 employees and used qualitative semi-structured interviews with senior managers and statistical analysis of a questionnaire based survey completed by the senior manager responsible for industrial relations. (See

Gunnigle 1995; Gunnigle, Turner and D'Art 1998.) The dataset was gathered in two distinct phases: phase one covered all qualifying greenfield site firms established in the period 1987 to mid-1992, while phase two covered a representative sample of greenfield firms established in the period mid-1992 to 1997. Altogether, the greenfield site dataset draws on information from 76 greenfield firms (62 percent of qualifying firms over the total period, 1987–1997). Of the total, forty four (58 percent) were U.S.-owned with the remainder comprising of thirteen Irish (17 percent), ten European (13 percent), and nine (12 percent) "other" foreign-owned firms. These seventy-six firms employed some 22,900 workers at the time of investigation. As one might expect, there was a concentration of firms in "high-technology" sectors, with the largest numbers in office/data processing equipment manufacture and in software.

Given the profile of the greenfield site population and, particularly, the prevalence of both U.S. and "high-technology" firms, one would anticipate a high incidence of non-union firms. As can be seen from Figure 4, this was certainly the case, with over two-thirds (65 percent) of firms not recognizing trade unions. This evidence is indicative of significant growth in union avoidance among large greenfield start-ups in Ireland. Given that the incidence of non-union approaches was significantly higher in the (second) phase of the study than in the first, the findings also reflect the progressive diminution of union penetration in greenfield firms over the period. (Ninety-one percent of firms were non-union in the second phase, while the corresponding figure for the first phase was 53 percent.) Non-unionism is clearly most prevalent amongst subsidiaries of U.S. multinational in the "high-tech" sector.

FIGURE 4

Union Recognition in Greenfield Sites by Ownership, 1987–1997



If we look more generally at the longitudinal pattern of union recognition in large greenfield sites, we find that non-union approaches began to take off in the early 1980s, became significantly more commonplace as the decade progressed and are now characteristic of the great majority of greenfield site firms in the manufacturing and internationally traded services sector (Gun-

nigle 1995; Gunnigle, MacCurtain and Morley 2001). While the early non-union firms were predominantly U.S.-owned and located in "high-tech" firms (mostly electronics, software and internationally traded services), our more recent evidence from the early 1990s points to the broader diffusion of union avoidance to embrace both Irish and other foreign owned firms. It is all the more revealing that this decline in union penetration in new firms has occurred during an era when the trade union movement has exerted significant influence in the shaping of economic and social policy and when economic growth and employment creation have been exceptionally high.

Discussion

In our introduction we noted the contrast between the industrial relations trajectories of Ireland and those of the UK and the United States from the early 1980s where, in the latter, trade unions had to face a quite hostile political and legal environment. In Ireland, however, the trade union movement has become a key actor in shaping economic and social policy in its role as a "social partner". These developments might lead one to believe that Ireland provides an example of a social, political and economic context conducive to the sustenance of both a strong trade union role in society and of pluralist industrial relations traditions. However, this has demonstrably not being the case.

In first looking at the issue of trade union membership, we find a picture of steady decline since the turn of the 1980s. In regard to trade union recognition, there is conclusive evidence of extensive union avoidance among larger manufacturing and internationally traded service companies, which have established at greenfield sites. Many of these companies are U.S.-owned and located in high-technology sectors. It is likely that this trend will be accentuated by the increasing numbers and visibility of companies successfully pursuing the non-union route which, in turn, provide useful models for new organizations considering establishing on a non-union basis. This development points to an element of contradiction between public policy support for trade unions and a state-sponsored pattern of industrial development which is significantly union averse. The encouragement of foreign direct investment is a critical aspect of Irish public (industrial) policy. The Irish economy is significantly more reliant on multinational investment than any other EU nation. Employment in foreign-owned multinational corporations (MNCs) now accounts for roughly one-third of the industrial workforce. These foreign owned companies account for 55 percent of manufactured output and some 70 percent of industrial exports (Tansey 1998). U.S.-owned firms have a particularly strong presence in Ireland: a result of our overwhelming success in attracting U.S. multinational investment. In 1997, the *Economist* estimated that Ireland attracted close to a quarter of all available U.S. manufacturing investments in Europe and some

14 percent of all direct foreign investment locating in Europe (1997). These are remarkable statistics given that Ireland accounts for just 1 percent of the EU's population. It also seems the locus of much recent industrial development has been in sectors that are quite hostile to trade unions, particularly the computer/electronics, software and teleservices sectors.

These findings raise important paradoxes between espoused public policy, which supports a strong trade union role in industry, and actual practice, which contributes to an ongoing diminution in the role of organized labor. The reasons for this change stem less from any ideological change but rather from Ireland's vulnerable position as a very open, export-oriented economy that is heavily reliant on foreign direct investment (FDI). In an increasingly competitive market for the attraction and retention of foreign investment, Irish industrial policy has adopted the practice of portraying Ireland as a "union neutral" environment. This public policy stance emanates largely from a desire for Ireland to be characterized as a "new" economy: pro-business and enterprise, and an attractive site for multinational investment. Indeed, it appears that FDI has become a major factor impacting on public policy decisions in the sphere of industry and industrial relations. Indeed, Ireland's current public policy approach in the industrial relations arena seems largely determined by pragmatism and dependence on FDI. Thus trade unions in Ireland, while playing an influential role at national level, appear to face much the same challenges at enterprise level as unions in other developed countries, some of which have experienced a more overtly hostile public policy climate. Indeed, it would appear that public policy has done little to promote union penetration but has rather overseen a progressive decline in union influence and Ireland's succession to a neo-liberal economy. This is very much in line with Hyman's (1999:93) more general observation on the international scene that "after two decades in which the superior performance of such 'institutionalised economies' as Germany and Japan was widely recognised, the conventional wisdom of the 1990s has been that dense social regulation involves rigidities requiring a shift to market liberalism". Trade unions are often seen, most particularly by U.S. firms, as key contributors to excessive labor market "rigidities". Ireland has been to the fore in promoting an economic context in which firms, particularly U.S.-owned firms, can conduct their business free from such rigidities. This has been a key factor in contributing to the decline in trade union density, recognition and influence at enterprise level in Ireland.

References

Beaumont, P.B., and R.I.D. Harris. 1994. "Opposition to Unions in the Non-Union Sector in Britain." *International Journal of Human Resource Management,* Vol. 5, no. 2, pp. 457–71.

Economist. 1997. "Green is Good: Advantages of Ireland As a Host for F.D.I." *Economist,* Vol. 343, no. 8017, pp. 21–24.

Economist Intelligence Unit. 2000. "Country Profile: Ireland." London: Economist Intelligence Unit.

Goss, D. 1991. *Small Business and Society.* London: Routledge.

Gunnigle, P. 1995. "Collectivism and the Management of Industrial Relations in Greenfield Sites." *Human Resource Management Journal,* Vol. 5, no. 3, pp. 24–40.

Gunnigle, P., and T. Brady. 1984. "The Management of Industrial Relations in the Small Firm." *Employee Relations,* Vol. 6, no. 5, pp. 21–24.

Gunnigle, P., and M. Morley. 1993. "Something Old, Something New: A Perspective on Industrial Relations in the Republic of Ireland." *Review of Employment Topics,* Vol. 1, no. 1, pp. 114–42.

Gunnigle, P., T. Turner, and D. D'Art. 1998. "Counterpoising Collectivism: Performance-related Pay and Industrial Relations in Greenfield Sites." *British Journal of Industrial Relations,* Vol. 36, no. 4, pp. 565–79.

Gunnigle, P., S. MacCurtain, and M. Morley. 2001. "Dismantling Pluralism: Industrial Relations in Irish Greenfield Sites." *Personnel Review,* Vol. 30, no. 3, pp. 263–79. Hyman, R. 1999. "National Industrial Relations Systems and Transnational Challenges: An Essay in Review." *European Journal of Industrial Relations,* Vol. 5, no. 1, pp. 89–110.

International Institute for Management Development. 2000. *World Competitiveness Yearbook 2000.* Geneva: IMD.

Kochan, T.A., H.C. Katz, and R.B. McKersie. 1986. *The Transformation of American Industrial Relations.* New York: Basic.

McMahon, J. 1996. "Employee Relations in Small Firms in Ireland: an Exploratory Study of Small Manufacturing Firms." *Employee Relations,* Vol. 5, no. 5, pp. 66–80.

O'Hearn, D. 1994. *Inside the Celtic Tiger: The Irish Economy and the Asian Model.* London: Pluto.

Roche, W.K. 1997. "The Trend of Unionisation." In T.V. Murphy and W.K. Roche, eds., *Irish Industrial Relations in Practice: Revised and Expanded Edition.* Dublin: Oak Tree Press.

Roche, W.K., and T. Turner. 1994. "Testing Alternative Models of Human Resource Policy Effects on Trade Union Recognition in the Republic of Ireland." *International Journal of Human Resource Management,* Vol. 5, no. 3, pp. 721–53.

Roche, W.K., and J.S. Ashmore. 2000. "Irish Unions in the 1990s: Testing the Limits of Social Partnership." In G. Griffin, ed., *Changing Patterns of Trade Unionism: Comparisons between English-speaking Countries.* London: Mansell.

Sparrow, P., and J.-M. Hiltrop. 1994. *European Human Resource Management in Transition.* Hemel Hempstead: Prentice Hall.

Tansey, P. 1998. *Ireland at Work: Economic Growth and the Labour Market 1987–1997.* Dublin: Oak Tree Press.

XIV. POSTER SESSION I

Avoiding the Common Problems in the Boundaryless Career: The Role of Employability Obligations

Harry J. Van Buren III
University of Northern Iowa

Boundaryless careers may be beneficial to people with rare and valuable skills, but might prove to harmful to many others. The idea of employability as an ethical responsibility of employers to employees is introduced; it is argued that attention to employability in private practice and public policy partially resolves the commons problem inherent to boundaryless careers. Because employability programs are considered to be voluntary, some means of holding employers accountable for such responsibilities needs to be considered when discussing boundaryless careers. Implications for practice and public policy are also discussed.

The Effect of Interpersonal Trust on Union Member Commitment

Robert C. Hoell
Georgia Southern University

Employees working in unionized environments have the unique position of having their loyalty courted by both their employer and their union. Some employees form a loyalty to both, while some remain uncommitted to one or the other, or in some instances, to neither. There is no strong research evidence that explains these differences.

It was hypothesized that interpersonal trust may explain these varying levels of employee commitment to their employer and their union. Initial findings indicate that individuals with low levels of trust do not form as high a degree of commitment as those who have high levels of trust.

The Work Incentive Provisions of the Social Security Disability Benefits and Beneficiaries' Return-to-Work

Wei Chi and Dennis Ahlburg
University of Minnesota

Social Security Disability Insurance Program (DI) is one of the largest social transfer programs in the United States. The DI program includes work incentive provisions to encourage the DI beneficiaries to return to work. The work incentive provisions include a Trial Work Period (TWP), an Extended Period of Entitlement (EPE), and an Extended Medical Eligibility (EME). The paper investigates the effects of these work incentive provisions on the beneficiaries' return to work by exploring a "natural experiment" created by a policy change in the DI in 1987. The difference-in-difference estimator suggests that the policy change in 1987 that increases the EPE from 15 to 36 months has a positive impact on return to work. It increases male beneficiaries' employment by 4 percent and females' employment by 3 percent. It also increases male beneficiaries' hours of work per year by 9 percent. The results suggest that the DI work incentive provisions succeed in providing work incentives to the beneficiaries to some extent.

Voting in Local Union Officer Elections: A Model and Test

James E. Martin and Michael P. Sherman
Wayne State University

Despite the apparent renewed interest in union democracy, very little empirical work on officer elections in local unions exists. We build and empirically test a model of local union officer elections based on social exchange theory, the concept of voice, and support for the status quo. Survey data from members and stewards, aggregated by voting unit, explained 48 percent of the variance in the incumbent president's reelection. Increased member votes for the incumbent president were found related to higher union loyalty, higher grievance rates, better union–management relations, and more positive perceptions of the union contract, supporting our model of membership voting.

Nonprofit Versus For-Profit Sector: Different Wages and Different Workers?

Mary E. Taber
Skidmore College

The nonprofit sector is of particular interest with the shift in the political climate away from government to private sector provision of social services. Using 1990 census data, this paper explores the nonprofit work force. The results show that nonprofit workers earn less than for-profit workers, with the wage differential being larger for men than women. This study also finds that marital status and having children under the age of 18 help explain why women are disproportionately represented in the nonprofit sector. Controlling for these and other factors, men are as likely as women to work in the nonprofit sector.

Information and Communications Technology Use in British Unions

Jack Fiorito
Florida State University

This paper summarizes research based on survey responses from, and interviews with, British union officers and staff. The information was gathered during the last part of 2000 and early in 2001. Most British unionists see a large role for information and computer technology (ICT) in the future of their unions. Although most are optimistic about the role of ICT, some reservations are expressed about "digital divides" among unions and workers, and the possibility that ICT will be seen as a substitute for face-to-face communications and the "personal touch" that union members value.

XV. POSTER SESSION II

The Beneficial Role of Union Involvement in Dispute Resolution Systems Design

Corinne Bendersky
Massachusetts Institute of Technology

Preliminary evidence from an Integrated Conflict Management System (ICMS) is presented to demonstrate challenges and opportunities to bridge the divide between unionized and non-unionized dispute resolution approaches. Unions can legitimate the new processes to members, but the ICMS must coordinate with existing procedures and be designed without threat of union avoidance.

Labor Unions for Physicians: An Idea Whose Time Is Coming?

Wei-chiao Huang
Western Michigan University

Edwin W. Lai
University of California, Riverside

Are labor unions for physicians an idea whose time is coming? What are the pros and cons of physician unionization? What motivates doctors to join unions, and what are the likely impacts of doctor unions on the American health care system? This paper provides an informational and exploratory analysis of physician unions, with special reference to the Physicians for Responsible Negotiations, a union recently created by and affiliated with the American Medical Association (AMA). In this article, we give a brief account of some physician unions formed in the United States and examine the development of AMA's decision to set up a national labor organization. We also present the divergent views on the rationales and impacts with respect to physician unions.

We conclude by providing a pure economic perspective and assessment on the issue of organizing doctors for collective bargaining.

Women and Community Coalitions in Industrial Disputes

Karaleah Reichart
California State University, Fullerton

Research in industrial relations is progressively recognizing the complex interdependency of work, family and community spheres of social and economic activity within the context of a given labor dispute. This research project consists of a qualitative study of the local manifestations of the 1989 conflict between the Pittston Coal Group and the United Mine Workers of America in Logan County, West Virginia. Life history interviews with women community activists revealed how power relations were altered when traditional gender roles were shifted to build a community coalition that subsequently became an integral party in the strike.

Determinants of Mediation Success: A Survey of FMCS Mediators

Patrice M. Mareschal
Rutgers University

This research examines the mediation process in the labor relations context to identify the determinants of successful conflict resolution. In modeling the determinants of successful conflict resolution, fourteen hypotheses were generated. Three statistically significant relationships were found. Each of these relationships confirmed the hypotheses. Collaborative orientation and mediator skill base were positively related to the likelihood of reaching agreement, while relationship volatility was negatively related to the likelihood of reaching agreement. Interestingly, mediator tactics, which were captured in two independent variables, “the broad approach” and “the narrow approach”, were unrelated to mediation success. This paper concludes by reviewing the implications of this study for research and practice, and provides suggestions for future research.

Collective Bargaining and Knowledge-Driven Work: A Preliminary Look

Betty J. Barrett
Massachusetts Institute of Technology

Technology and globalization drive changes in markets, cultures, political movements, and institutions. These changes require new knowledge-driven responses in the workplace. Employers and labor organizations must identify and respond to these changes in their collective bargaining. What are the bargains to be struck over the increased demands for extra awareness, constant learning, adaptation to new tools, and unflagging resourcefulness facing workers each day? This paper begins to investigate the answer to this question using regression analysis to offer preliminary findings of survey results from over 600 clerical technical workers at a major university.

Contributions of Tangible and Intangible Factors in Creating Social Capital: Do Unions Make a Difference?

Shobha Ramanand, Michael L. Moore, and John H. Schweitzer *Michigan State University*

Our paper explores the role of contextual work factors on organizational success. It attempts to link the constructs of social capital, knowledge creation, and human resources practices by postulating some dimensions that provide a foundation to these constructs. The social capital elements of bonding in the creation of denser network bonds within teams, bridging (i.e., the creation of brokered networks across teams and organizational units) and trust, the willingness to openly share tacit and explicit knowledge in a reciprocal relationship have been established as important for organizational success. We wished to learn whether and how tangibles and intangibles can create social capital in work settings and, specifically, whether unions made a difference in helping to create social capital. The study was conducted in two diverse industries: white-collar university support staff, and restaurant operations in a multistate chain of "upper-end" dining experiences (not fast food). A total of 856 employees were surveyed in the two organizations. A multiple regression method was used to test the relationship between tangible and intangible aspects of work,

union support and social capital (trust, bridging, bonding). The study results concluded that both intangible and tangible factors of work are strongly related to the creation of social capital, with intangible factors of work systems playing a more significant role in the creation of social capital than tangible aspects of work. Union support is also positively related to the development of social capital in the workplace.

XVI. IRRA ANNUAL REPORTS

IRRA EXECUTIVE BOARD MEETING
Friday, June 8, 2001
Omni-Shoreham Hotel, Washington, D.C.

Revised January 3, 2002, at Executive Board meeting

Maggie Jacobsen, president of the IRRA, called the executive board meeting to order on June 8, 2001, at 9:00 a.m. at the Omni-Shoreham Hotel in Washington, D.C. Present were president elect John Burton, past president Sheldon Friedman, and board members: Ronald Blackwell, Kate Bronfenbrenner, Douglas Gamble, Tia Schneider Denenberg, Richard Hurd, Stephen Sleigh, and Arnold Zack. Also in attendance were: Hoyt Wheeler, acting editor of *Perspectives on Work;* Peter Feuille, secretary-treasurer; Paula Wells, executive director; Suzi Millas, assistant to the executive director; and Paula Hamman, administrative coordinator. Absent board members were: Teresa Ghilarducci, Mark Keough, Cheryl Maranto, Kenneth McLennan, Lavonne Ritter, Dennis Rocheleau, Daphne Taras, and Janet Conti, NCAC chair.

Guests included Jim Armshaw, National Policy Forum (NPF) 2001 co-chair; Marlene Heyser, NPF 2001 co-chair; Paula B. Voos, editor-in-chief; and Gregory Woodhead, finance and membership committee chair.

Approval of the Minutes—The minutes of the New Orleans, LA meeting, January 4, 2001, were reviewed. A motion was made by Paula Voos to approve the minutes, and was seconded by Arnold Zack. The minutes were unanimously approved.

2001 Policy Forum Report—Jim Armshaw and Marlene Heyser, co-chairs of the forum, provided information regarding attendance, representation of labor and management, and evaluations received from attendees. The evaluations provided positive feedback. Suggestions were made regarding future NPF planning including staying on top of fund raising, planning regarding hotel booking, and future conference calls to coordinate decisions. The round

table format of this forum was well received by participants; however, it was suggested that speakers increase interaction with the participants at the tables.

Arnold Zack discussed the issue of a one-day vs. two-day meeting, President Jacobsen mentioned the possibility of a one and one half–day meeting, with the half day being a training/seminar day, and Kate Bronfenbrenner suggested that the half day could be optional, and could be provided as a time for participants to make contact with persons such as members of the House or Senate Labor Committee or EPI Members.

The FMCS TAGs system was discussed for possible use in the next policy forum, and there was interest in whether or not it could provide a real-time link for persons who were not able to attend. Additional discussion took place regarding the various panels and the combination of panelists throughout the meeting.

2002 Policy Forum Report—John Burton, chair of the 2002 NPF and president elect, stated that Washington, D.C., was the unanimous choice for the NPF location. He discussed the possibility of holding a one to one and a half–day meeting, with several slots to hold three concurrent sessions. Burton reported that hotel space availability will be a problem in June in Washington, D.C. There could be a possible conflict with an IILR meeting in Canada at the end of June, and the IRRA was asked not avoid conflict with this meeting if possible.

Nonhotel locations were discussed, as well as the consequences of using these locations (the expense of the facility and the distance from lodging creating transportation problems). The possibilities of scheduling the meeting for May or July and of scheduling on Monday/Tuesday dates instead of Thursday/Friday dates were also considered.

Burton recommended that the planning committee should consist of locals in the Washington, D.C. area as well as persons from outside of the area and noted that if the forum is held in Washington, D.C. next year, this will be three IRRA meetings in a row for that location. The increased burden placed on the Washington, D.C. members was considered, as well as the possibility of holding the forum every other year to save money and decrease the strain on these members. Final mention was made of the National Press Club, and that the prestige associated with this site may draw more participants. Burton invited all board members to join the planning committee and provide input.

Program Committee 54th Annual Meeting, Atlanta—Jim Armshaw, co-vice chair, stated that George Strauss coordinated and was the driving force behind this program. Paula Wells discussed the program, including the balance between symposiums and workshops, the three pre-conference workshops on

Thursday, the three concurrent distinguished panels on Friday (each for a different faction of the organization), and the desire for section meetings and a variety of presentations and workshops. The Atlanta Chapter will be sponsoring one session, and three NCAC workshops are planned. Several board members suggested including tourism information in the program packet, and to continue the packet pick-up feature in Atlanta if possible.

Perspectives on Work *Editorial Search and Advisory Board*—Hoyt Wheeler, acting editor, stated that during this transition stage he would continue in this position until a new editor was appointed. The editorial advisory board was comprised of a member of each interest section and 3 appointees from NCAC—one each from labor, management, and neutral. Marlene Heyser and Janet Conti will provide names of appointees. Two to three candidates were interested in the position.

Wheeler suggested a book review editor was also needed, and Tia Schneider Denenberg stated that Robert Taylor of the *Financial Times* would be a good candidate for a book editor. Wheeler told the board that the new editorial advisory board would be meeting in January at the annual meeting to help the new editor plan future issues. Paula Wells reported that the University of Illinois Press is now handling the copyediting and production of the *Perspectives on Work*, and that she and Hoyt were working together to continue magazine publication on schedule for December.

Finance and Membership Committee—Chair Greg Woodhead stated that the auditor's report looked favorable. He mentioned there was a $42K budget surplus for 2000, and the $14K budgeted deficit for 2001. The plan was approved in January 2001 to increase dues in 2002 to $85 for regular membership and to $125 for contributing members. The $25 flat fee for students would remain the same. In addition, half-priced new memberships, increased emeritus memberships, and combination chapter/national memberships with national dues equal to $35 were also approved last winter to go into effect for 2002. Meeting expenses were discussed, including annual and spring meetings, as was meeting attendance. The fulfillment with the University of Illinois Press created a new $23K expense in the budget, but will decrease other promotional and editorial costs and increase some revenues.

Membership statistics were broken down. Long-term trends showed a decrease from 3,900 members in July 1990 to 2,800 members in June 2001, with a noticeable decrease in student members. It was discussed that this may have been due in part to the increase of graduate students in labor union organizations and a decrease in graduate students entering into the industrial relations field, and due to the increasing number of students joining UALE (United Association of Labor Educators) and SHRM (Society for Human

Resource Management). In addition, students often have trouble obtaining funding and need ample time for planning, which can be a problem regarding annual meetings.

Suggestions were made including: pursuing a joint UALE/IRRA membership or to sponsor a session at a UALE meeting; including graduate students in activities such as paper presentations and poster sessions and asking them to act as discussants in sessions; asking IRRA members to sponsor students; choosing topics that are of interest to students; contacting student directors at various campuses; and creating a graduate student listserv. Suggestions for promoting the IRRA included providing an IRRA presence at the next FMCS Chicago meeting, networking with people in industrial relations, promoting publications, and highlighting our publications in e-mail messages or on the Web. Additional ideas for increasing membership included a joint SHRM/IRRA membership, co-sponsor a SHRM meeting or have an IRRA member speak at a SHRM meeting, sending a mailing out to SHRM members, survey the IRRA members who are also managers, and having senior board members recruit members. The national office reported that they had sent more mailings out this year than in many previous years. Wells suggested the 2002 Directory should create interest for new and renewing members, as only members are included. In the next year, the Directory may be placed online, with limited member access only.

Report of the Secretary/Treasurer and Executive Director—Peter Feuille, Secretary/Treasurer and Paula Wells, Executive Director, presented financial statements and an auditor's report that was favorable. Financial statements included Statement of Financial Position, Activities, Functional Expenditures, and Cash Flows. These were discussed, as were the Profit and Loss Statement and Balance Sheet. The Balance Sheet showed strong cash revenues.

Income and Expenses 1999 through 2001 Budget, Historical Income and Expenses 1991 through 2001, and membership statistics were also provided. Paula Voos mentioned that from 1998 to 1999, we increased membership dues but did not realize a loss of membership, although this could have had a delayed affect. Paula Wells stated that the Sloan Grant funds are diminishing, and that the FMCS grant will have a neutral effect on the budget, as budgeted expenses will correspond to revenues.

New Business

FMCS Grant Report—Sheldon Friedman, past president, reported on the status of the $125K grant from FMCS. An earlier FMCS grant to the Southern CA IRRA Chapter had been used to implement a collective bargaining education curriculum in the Los Angeles high schools. That curriculum had

been developed by two high school social studies teachers, Patti Litwin and Linda Tubach, and was very successful in Los Angeles. The purpose of the current FMCS grant to the national IRRA is to disseminate the curriculum to other sites around the country. Initial sites may include New York City, Montgomery and Prince George's Counties, MD, and Minneapolis, MN, as well as Alameda and San Bernardino Counties, CA. A Labor–Management Committee has been formed to oversee the project, which IRRA is carrying out in partnership with the George Meany Center. A brochure is being developed to describe the program and will be distributed to the board. There will be an important role for IRRA chapters in site locations to supply volunteer coaches for the mock collective bargaining sessions that are the heart of the curriculum.

Electing vs. Appointing Officers—The process of electing officers was discussed. Some members thought it might have a negative effect on those persons who do not win the election, decreasing their desire to participate in the association and that appointing officers might be a better procedure. Others pointed out it was an honor to be nominated and that those who were nominated continued to be treated as honored members of the association. Paula Wells pointed out that the election process was specified in the constitution and bylaws and that a change in this process must be voted on by the board and general membership.

University of Illinois Graduate Employee Organization—There was a long discussion regarding a letter that was sent to IRRA president Maggie Jacobsen from Professor Ron Peters at the University of Illinois. The letter brought up issues regarding the University of Illinois Graduate Employee Organization (GEO) and their desire to unionize. Specific sections of the IRRA bylaws and constitution were mentioned regarding the position of IRRA in relationship to these issues. There was discussion of drafting a response letter to Professor Peters and/or the University; however, no consensus was reached. President Jacobsen agreed to draft a response and to get back to the board for their input.

Adjournment—The meeting was adjourned at 11:45 a.m. The next meeting will convene Thursday, January 3, 2002, at 7:00 p.m. at the Hyatt Regency; Atlanta, GA. Dinner will be served at 6:30 p.m.

IRRA EXECUTIVE BOARD MEETING
Thursday, January 3, 2002
Hyatt Regency Hotel, Atlanta, GA

John F. Burton, Jr., president elect of the IRRA, called the executive board meeting to order on January 3, 2002, at 7:35 p.m. He thanked IRRA President Magdalena Jacobsen, in her absence, for her contribution to the association, and asked all present to introduce themselves. Present were Past President Sheldon Friedman and board members: Ronald Blackwell, Douglas Gamble, Tia Schneider Denenberg, Teresa Ghilarducci, Richard Hurd, Cheryl Maranto, Anthony Oliver, Jr., Lavonne Ritter, Dennis Rocheleau, Stephen Sleigh, and Arnold Zack. Also in attendance were: Janet Conti, NCAC chair; Peter Feuille, secretary-treasurer; Paula Wells, executive director; and Suzi Millas, assistant to the executive director. Incoming board members present were Nancy Biagini, Sanford Jacobi, Arthur Schwartz, and John Truesdale. Absent were IRRA President Magdalena Jacobsen (due to weather-related travel complications), IRRA Editor in Chief Paula B. Voos, board members Kate Bronfenbrenner and Kenneth McLennan

Guests included James Auerbach, 2003 Program Committee co-vice chair; Dale Belman, chair, Statistics Committee; Marlene Heyser, incoming chair, NCAC; Eileen Hoffman, *Perspectives on Work* Editorial Advisory Board member; George Strauss, 2003 Program Committee co-vice chair; Hoyt Wheeler, chair of *Perspectives on Work* Editorial Advisory Board; and Gregory Woodhead, chair, Finance and Membership Committee.

Approval of the Minutes—The minutes of the Washington, D.C., meeting, June 8, 2001, were reviewed. Paula Wells suggested that several amendments should be made to the minutes based on a request from Sheldon Friedman. In the New Business section of the minutes, in the subsection titled *FMCS Grant Report,* the proper name Indianapolis, IN, should be changed to Minneapolis, MN.

In the subsection titled University of Illinois Graduate Employees Organization, the wording was changed to read, "The letter brought up issues regarding the University of Illinois Graduate Employee Organization (GEO), their desire to unionize. Specific sections of the IRRA bylaws and constitution were mentioned regarding the position of the IRRA in relationship to these issues. There was discussion of drafting a response letter to Professor Peters and/or the University, however no consensus was reached. President Jacobsen agreed to look into drafting a letter and said she would get back to the board for their input."

John Burton mentioned that these changes were supported by Sheldon Friedman and asked for a motion to accept the minutes with the above-mentioned changes. Motion was made and Lavonne Ritter seconded the motion. The minutes were unanimously approved.

Burton asked if there were any other changes to the agenda at this time, due to the fact that bad weather prevented several members from attending the meeting, and there were none. He also stated that outgoing board members Mark Keough, Cheryl Maranto, Lavonne Ritter, Stephen Sleigh, and Daphne Taras would be recognized with certificates after IRRA President Magdalena Jacobsen arrived in Atlanta.

Nominating Committee Report—Jill Kriesky, chair of the Nominating Committee, was unable to make the meeting due to the weather conditions. Sheldon Friedman, committee member, was asked to present the report in her absence. Chair Kriesky held a conference call on November 15, 2001, and the nominating committee selected candidates for five Executive Board vacancies for terms beginning in 2003. As per discussion from the January 4, 2001 Executive Board meeting, the academic ballot was split and members were asked to vote separately for one of two Canadian candidates and one of two other candidates.

There was discussion regarding the criteria that exists for nomination of a candidate in the Government/Neutral/Other category. The general criteria for this type of candidate included that the nominee not be of a union, academic, or management affiliation. John Burton noted that the nominating committee would look more closely at defining the criteria in the coming year. The question arose as to protocol regarding a board member's changing affiliation mid-term, or as to a board member's residence in the United States. Paula Wells reported that in the past, the IRRA has not removed a board member for an affiliation change, but rather that the member was asked to exercise sensitivity with regards to maintaining balance on the board and the expectations of the members who had elected them. Arnold Zack questioned the validity of holding elections versus appointing board members. There was a short discussion on this topic; it was deferred to the 2002 nominating committee. There was a motion that the candidates mentioned in the Report of the Nominating Committee be approved for the 2002 ballot. It was seconded and the board unanimously approved it.

Finance and Membership Committee Report—Greg Woodhead, chair of the committee, presented several general recommendations regarding increasing association membership in light of decreasing renewals. He first discussed the need for Executive Board members to become more involved in recruiting members. He stated that the slight increase in dues might be off-

set by a decrease in renewals and new memberships, but that student memberships were slightly up (their dues remained a flat $25). Ultimately, Woodhead pointed out that contact between board members and potential IRRA members would be key in the next year.

The appearance of a deficit in the budget was discussed due to the publication of the IRRA Directory in 2002, which is published only every 4 years. That deficit was not projected for the following year. It was also pointed out the inclusion of the FMCS grant money in the budget skewed the true operating budget figure, and it was explained grant revenue was recognized only as expenses were incurred. The role and potential role of chapters in membership figures was also discussed. The example of the Washington, D.C., chapter providing half-price memberships was cited, as well as other similar examples among other local chapters. This type of promotion was determined to be a good method of expanding national as well as chapter membership. Past promotions requiring chapter members to also be national members failed "miserably" according to John Burton. Members were encouraged to contribute any ideas they have for promoting membership. John Burton moved to approve the Finance and Membership Budget proposed for 2003. The budget was unanimously approved.

Education Committee Report—Adrienne Eaton, chair of the committee, was absent due to weather-related travel delays. Sheldon Friedman, who was present at the committee meeting, discussed the events of the meeting. He noted that Cheryl Maranto was nominated as incoming chair of the committee. Funding possibilities for the Collective Bargaining Program, after the FMCS grant expires had been discussed.

The Innovative Teaching in HR/IR Conference, held November 8–9, 2002 and hosted by Ohio State University and co-sponsored by the IRRA, was discussed. The national office will be promoting the conference on the national website. Ohio State had not sent any information to IRRA members regarding the conference, but would soon as they have our mailing list. Co-sponsorship of the conference was determined to be consistent with IRRA practices and went on record as an appropriate National IRRA activity.

FMCS Grant Report—Sheldon Friedman provided a brief report since Valerie Ervin, FMCS Grant administrator, was absent due to weather-related delays. He discussed the FMCS Brochure included in the Executive Board packet and briefly cited the areas of possible expansion for the Collective Bargaining program developed by Linda Tubach and Patti Litwin. These areas included New York City, Montgomery County and Prince Georges County, MD, Minneapolis, MN, and Alameda County and San Bernardino County, CA.

He stated that local chapters might be able to provide support for these programs, as the California chapters have in the past.

Statistics Committee Report—Dale Belman, chair of the committee, presented a brief report. He stated that he and Larry Mishel have been attending Federal Statistical Users Association Meetings but may cut back on attendance, saving money and sharpening their focus. He also stated that many new data products are available for use in census and economic analysis, and that it might be advantageous to provide a forum (workshop) for members during our annual/national meetings showing them how to access and utilize these data products as well as surveying members regarding their concerns in this area. He stated that he would provide a formalized proposal to the program committee. John Burton stated that he would consider including it in the program for the Annual Meeting 2003.

Editorial Committee Report—Paula Voos was absent due to weather-related travel delays, and committee member Cheryl Maranto provided a report. The main focus of the discussion was placing the *IRRA 2002 Membership Directory* and future issues of the *IRRA Proceedings* online versus printing hard copies. The committee discussed that in future years the directory would possibly be printed in a limited run for libraries and institutions, and persons who request the hard copy could get it at cost. In the current year, printed copies and the online version would be available for members only, and information about the directory would be disseminated on the IRRA website and newsletter. The directory would be searchable in the same ways that the hard copy is, but with protection to prevent mass downloading and use of the membership listing. John Burton asked the board if they supported the committee's recommendation, and they did so unanimously.

Discussion took place regarding publishing the *Proceedings* online. The committee recommended that the printed version be made available only to libraries and subscribing institutions, and that copies be made available at cost for those members who request the hard copy. Otherwise, the printed version would be abandoned. They recommended that two versions of the *Proceedings* be provided online: to everyone in HTML format immediately and to members-only in PDF format the first year. A savings of $12K would be realized after the first year of online publication. The issue of access for members and non-members was discussed. It was recommended that authors or the membership be surveyed regarding the switch to an online publication, possibly through the TAGS/FMCS system. John Burton suggested authors be contacted soon as Paula Wells noted that this decision must be made by the end of March or beginning of April for the 2002 edition.

Topics were proposed for future research volumes. The proposed topic for the 2003 research volume was "Public Sector and Service Quality", for the 2004 research volume was "Industrial Relations Theory." Ideas discussed by the committee in order to prepare and issue a call for proposals for the 2005 and future research volumes included but was not limited to: "Survey of Research in Industrial Relations and Human Resources", "Work and Family Issues", "Service Sector Employment Conditions", "State of the Unions: New Model of Unionism" and "Comparative Industrial Relations". Future topics would be discussed by the Editorial Committee, and reviewed by the board.

Perspectives on Work *Board Report*—Hoyt Wheeler, past acting editor-in-chief of the *Perspectives on Work*, introduced (in absentia) Charles Whalen, the new editor-in-chief, and Robert Taylor, the *Perspectives on Work* book review editor. The Editorial Advisory Committee would meet at a later time during the Annual Meeting. John Burton thanked Hoyt for his many contributions in developing and editing the magazine and his many years of service and leadership to the IRRA.

National Chapter Advisory Committee Report—Chair Janet Conti presented a report of chapter activity. There are 47 active local IRRA Chapters, one student chapter. The committee had six contacts regarding new chapter start-up or reactivation including Louisiana, Miami, Texas, Maine, Pittsburgh, and New Mexico. The national office provided support in the form of reports, website maintenance and expansion, listserv utilization, and the distribution of promotional items to chapters. The development and sale of lapel pins featuring the IRRA logo was spearheaded and supported by the NCAC in conjunction with the National Office.

Since 1997, 20 chapters have received IRRA Awards. In 2001, 22 Merit Awards, 3 Chapter Star Awards, and 1 Outstanding Chapter Award were presented to local chapters. The Chapter Star recognizes continued chapter efforts and requires that the chapter received 6 different types of merit awards out of the 8 merit award categories, while the Outstanding Chapter Award requires that the chapter received 4 different types of merit awards out of the 8 merit award categories.

The 2002 initiatives included the convening of a subcommittee to distribute $250 grants from national to chapters (award criteria will be established by the committee but these are meant to help promote regional meetings and membership efforts), submission of NCAC Workshop Proposals for the 2003 Annual Meeting, support for the Collective Bargaining in Schools Program (embodied in the current FMCS Grant) as it expands, refining and increasing chapter liaison functions, and updating the Chapter Manual. Janet stated that she would be stepping down as the NCAC Chair, taking an advisory role,

and that Marlene Heyser would be the new NCAC Chair, with Lavonne Ritter as vice-chair.

Policy Forum Program Committee 2002—John Burton reported on the 2002 National Policy Forum, to be held at the National Press Club in Washington, D.C. He described the background leading up to the NPF, starting with chapter-based spring meetings based on proposals submitted by local chapters. Due to declining attendance by local chapter members and the substantial burden placed on chapter members, the Executive Board deliberated for a year, skipping one spring meeting, and ultimately deciding to hold a policy- and practitioner-focused conference each June in Washington, D.C.

The NPFs held in Washington, D.C., have been fairly successful regarding attendee diversity and quite successful financially. One difficulty has been finding a union hotel at an affordable price. In the past, hotel accommodations offset meeting room rental. This year the meetings will be held offsite at the National Press Club, Thursday and Friday, June 20–21, 2002. The planning committee will meet on Sunday, January 6, and an open invitation was extended to board members to attend and provide input. A tentative theme as well as hotel accommodations were discussed briefly and would be discussed further at the meeting Sunday.

NPF 2003 Preliminary Discussion—There was no preliminary discussion due to the absence of Paula B. Voos. John Burton noted that the next three meetings (NPF 2002, Annual 2003, and NPF 2003) would all be held in Washington, D.C. He recognized the extra burden that would be placed on the Washington, D.C., chapter and thanked them for their pledged support in the future.

*Program Committee 55*th *Annual Meeting, Washington, D.C.*—John Burton mentioned his call for proposals regarding "Improving Employment Relations". Another area mentioned was Anti-Trust Developments and the Relevance for Labor Relations. The call was not meant to limit the range of proposals submitted. Program co–vice chair George Strauss stated that there should be a balance among topic proposals and between labor and management within session. Session time limits were discussed briefly in relationship to the number of session participants. The 55th Annual Program Committee was mentioned, as well as the deadline for proposals (January 15, 2002) and the final program deadline of March 1, 2002. Strauss also stated that committee members would be communicating via email rather than conference calls on a regular basis.

Report of the Secretary/Treasurer and Executive Director—Peter Feuille stated that the IRRA is financially in remarkably good shape considering all

of the constraints that have been placed on the association in the last year, with about $350K currently in the bank earning interest. As a result of hiring a new half-time annual secretary, providing mandatory severance pay to Lisa Narug, and fulfillment of the first year of the contract with UI Press, the Operating Budget saw a deficit of only $12,000. The membership database has been upgraded, and the website has been overhauled by the national staff. The 2002 dues increase and membership efforts should provide an increase in revenues for the association.

Paula Wells discussed the improvements in the website and the fact that this has drawn potential new members to the IRRA. She thanked the board for approving the budget last year allowing the office to utilize a part-time administrative assistant. She discussed the gradual decline in membership and reported the National Office will begin surveying the membership regarding the benefits that they value. A new promotion using "personalized" yellow sticky notes would be undertaken, asking renewing members and board members to invite a friend to join the IRRA. National asked that board members help to contact non-renewing members in the near future.

New Business

Recommendation to Appoint the New IRRA Editor in Chief and Education Committee Chair—John Burton addressed the fact that Paula B. Voos is the new IRRA president elect, and that she would be stepping down as the IRRA editor in chief in September. He recommended members of the Executive Board consider Adrienne Eaton for appointment as the new IRRA editor in chief. Anthony Oliver moved that she be appointed, Theresa Ghilarducci seconded the motion, and the board unanimously approved the motion. Due to this new appointment, Adrienne had asked to be relieved of her position as chair of the Education Committee. Cheryl Maranto was recommended for appointment as the new chair of the IRRA Education Committee. Richard Hurd moved that Cheryl be appointed, Tia Dennenberg seconded the motion, and the board unanimously approved the motion.

Awards Report and Criteria Discussion—The presentation of awards at the Annual Meeting was discussed. The awards were to be presented at different events during the meeting. The Education Awards and Lifetime Achievement Award would be presented at the National Reception on Friday, the Young Scholar and Practitioner Awards and the Best Dissertation Award would be presented at the Presidential Luncheon on Saturday afternoon, and the Chapter Star and Outstanding Chapter Awards and Perspectives on Work special recognition awards would be presented at the General Membership Meeting on Saturday evening. Past Lifetime Achievement Awardees were discussed. John

Burton discussed the need for an advisory committee to determine future Lifetime Achievement Awardees, and the board concurred with his recommendation to appoint a committee if he so desired.

Other Business

The University of Illinois GEO and the situation regarding their desire to unionize were discussed. The issue of Illinois State Law and existing negotiations was discussed, as well as a letter sent by Ron Peters to the IRRA in May 2001. Specific discussion focused on Section 2, Subsections e. and f. of the IRRA Constitution and their relationship to this issue. Previous examples of students attempting to organize were cited, including Harvard and Wisconsin (the previous headquarters of the IRRA National Office). One board member, Lavonne Ritter, recused herself from the discussion on the advice of FMCS council. Arnold Zack read a draft of a possible letter but several board members asked for it to be put on paper and circulated. Ultimately, it was determined that a draft of a single letter addressed to the University of Illinois and the GEO would be circulated to the 2002 Executive Board via e-mail, after January 6, 2002, for their review.

Adjournment—The meeting was adjourned at 11:15 p.m. The next meeting will convene Friday, June 21, at 11:30 a.m. at the at the National Press Club, Washington, D.C.

IRRA GENERAL MEMBERSHIP MEETING
Saturday, January 5, 2002
Hyatt Regency Hotel, Atlanta, GA

Call to Order and Welcome to New Members—President Magdalena Jacobsen called the meeting to order on January 5, 2002, at 6:20 p.m. She welcomed new IRRA members, asking them to stand and be acknowledged.

Nomination Committee Report—Magdalena Jacobsen announced the board had approved the slate of candidates for election in 2002 for the IRRA 2003 Board. She announced that Marlene Heyser would be the candidate for president elect for 2003 and reminded everyone that Paula B. Voos had earlier been confirmed as president elect for 2002.

Finance and Membership Committee—In 2002 the association is budgeted to operate in the red $12,000. Woodhead reported that the IRRA lost members in 2002 and would not be realizing interest income as it had the

previous year. He stated that the board had unanimously approved the budget, and that the focus of the Finance and Membership Committee would be to increase membership. Peter Feuille, IRRA secretary-treasurer, stated that the deficit in both 2001 and 2002 was only a small fraction of the entire budget, and that the IRRA has $350,000 in the bank, providing financial stability. He stated that the University of Illinois Press had taken over the national membership database, upgrading the software and taking some of the burden off of the national office, and that the half-time secretary hired last year would help to free up Paula Wells for membership promotion. Expanded promotion of organizational and new individual members was mentioned as a focus in 2002.

Education Committee Report—John Burton provided a short report of the Education Committee. He stated that Adrienne Eaton had been appointed by the Executive Board as the incoming editor-in-chief of the IRRA, effective September 1, 2002, and would be stepping down as chair of the IRRA Education Committee. Cheryl Maranto had been named chair of the Education Committee to replace Adrienne. Burton discussed the IRRA's co-sponsorship of the Third Innovative Teaching in IR/HR Conference, hosted by Ohio State University. He stated that the deadline for proposals was March 1, 2002 and that IRRA members would be receiving information in the mail. Additional information could be found on the IRRA website.

Editorial Committee—Editor-in-chief Paula Voos reported that she would be stepping down as the editor in chief and that Adrienne Eaton would be assuming those responsibilities later in the year. She mentioned that there had been a recommendation for the Editorial Committee to move the IRRA 2002 Proceedings online and to print a limited amount of copies to go to libraries and authors. This would provide some monetary savings to the organization in future years.

Perspectives on Work *Report*—Magdalena Jacobsen introduced the new editor of the *Perspectives on Work*, Charles J. Whalen. Charles asked the membership to please send him and the new *Perspectives* Editorial Advisory Board any ideas for articles or themes. Special awards were then presented to the co-founders of the *Perspective on Work:* Tom Kochan, Hoyt Wheeler, and Susan Cass.

Chapter Advisory Committee (NCAC)—Marlene Heyser reported that the committee held two workshops at the meeting in Atlanta, one distinguished panel and one workshop on the Contingent Workforce. She announced that nine chapters received merit awards:

Arizona, Atlanta, Central New York, Hudson Valley New York, New York Capital, Washington, D.C.—Outstanding Programming Awards
Arizona, Atlanta, Hudson Valley New York, TERRA, Washington, D.C.—Consistent Chapter Excellence Awards
Central New York—Chapter Turnaround Award
Arizona, Washington, D.C.—Member Innovation Award
Arizona, Long Island—Community Involvement Award
Arizona, Atlanta—Chapter Communications Awards
Hudson Valley New York, New York Capital, TERRA, West Central Florida, Washington, D.C.—Chapter to National Relations Awards.

Heyser presented three chapters with the IRRA Chapter Star Award: Arizona, Hudson Valley New York, and TERRA, and then presented the Washington, D.C., IRRA an Outstanding Chapter Award. She thanked all of the chapters for their efforts.

Report on Annual Meeting for 2003 and National Policy Forum 2002—Maggie Jacobsen announced the 4th annual NPF meeting date as June 20–21, 2002 at the National Press Club in Washington, D.C. She stated that the 55th Annual Meeting would be held Jan 2–5, 2003 in Washington, D.C., as well. John Burton discussed the NPF briefly and introduced the members of the program planning committee. Burton then discussed the 2003 Annual Meeting, and stated that proposals were due January 15, 2002, and that the program vice chairs were George Strauss and Jim Aurbach.

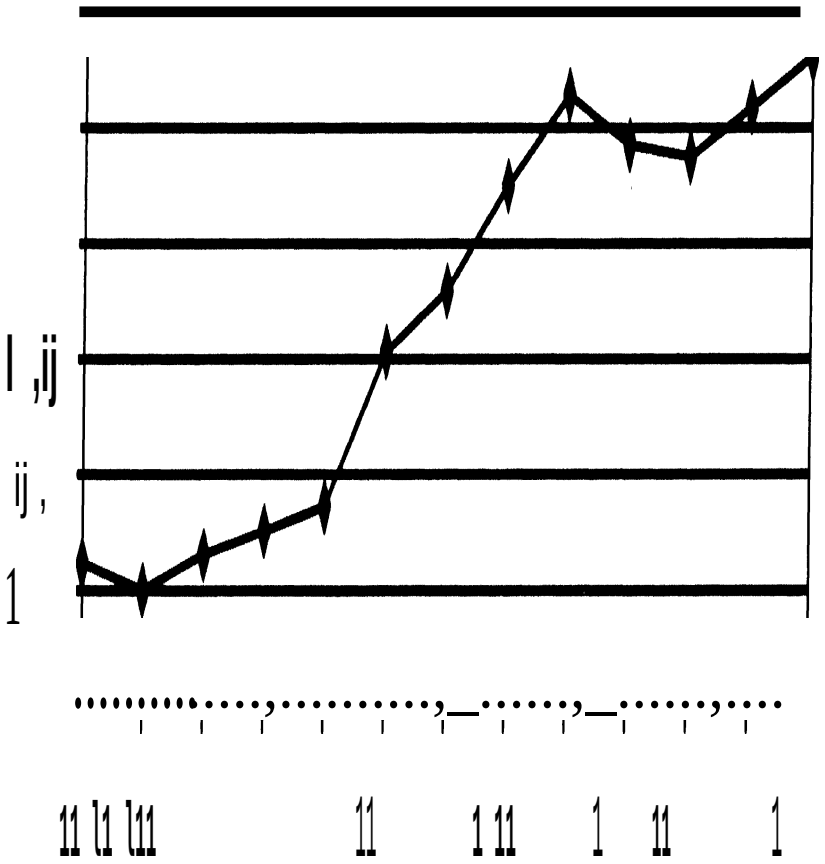
Administrator's Report—Paula Wells reported that the session counts for the meeting were good and that the sessions were well attended. She thanked Magdalena for all of her hard work and asked the general membership for input, feedback, and ideas regarding the national office. She reiterated that the national office added a half-time staff member, and had increased its web profile. She stated that in 2002 there would be greater changes including an online membership directory and online versions of the proceedings. IRRA members would be able to renew their memberships and update their directory listings online. The national office would also consider surveying the membership in 2002 regarding their perception of the value of Association membership benefits.

Request for New Business—Maggie Jacobsen addressed the general membership and asked for any new business to be discussed. Ron Peters, University of Illinois at Urbana–Champaign, addressed the membership regarding a letter that he had written to the IRRA National Office in May 2001. The letter addressed the dispute between the university administration and the Graduate Employees Organization (GEO) regarding the right of the GEO to union-

ize, and Peters' request that the IRRA address this issue in the form of a response letter. Peters made a motion of consent of the general membership that the Executive Board should go forward with this action and deal with this issue. Executive Board member Richard Hurd read the following draft of a response letter composed by he and Arnold Zack for Board consideration, "The Industrial Relations Research Association is an organization of professionals interested in all aspects of industrial relations, human resources and dispute resolution. Our Executive Board has been informed of the dispute involving graduate students and the University of Illinois, which houses our national office. We strongly urge the parties to work toward a voluntary resolution of their conflict consistent with our constitution which declares 'support for fundamental worker and human rights in the workplace and for the rights of employees, employers, and their organizations to full freedom to organize and administer their activities and to formulate and pursue their lawful purposes'."

Maggie Jacobsen asked John Burton to discuss his and the Executive Board's position on the matter. He stated that at the Executive Board meeting it was determined that a version of the statement would be circulated to the board members for review and a vote and that this process was in place. In addition, he added that a "no" vote by any member would indicate that this was a partisan issue. Doris Blank questioned the process and pointed out that the original motion of consent to the general membership appeared to be redundant and should therefore be withdrawn. The suggestion was made to resolve the issue at the general membership meeting; however, lack of representation of the general membership would prevent a legitimate vote. The question was addressed and the motion before the membership was not passed. John Burton stated that he would accept the revised version of the statement, read by Ron Peters, for submission to the 2002 Executive Board for review.

Adjournment—As her last official act as president, Maggie Jacobsen handed over the presidency to John Burton. John thanked Maggie for her service and adjourned the meeting at 7:15 p.m.



INDUSTRIAL RELATIONS RESEARCH ASSOCIATION

STATEMENT OF FINANCIAL POSITION
December 31, 2001 and 2000

ASSETS	**2001**	**2,000**
Current Assets		
Cash and Certificate of Deposit	$ 457,724	$ 588,205
Accounts Receivable - Net	46,180	12,622
Grants Receivable	19,920	1,000
Prepaid Expenses	14,421	8,432
Inventory	12,060	15430
Accrued Interest Receivable	1,095	0
Total Current Assets	551,400	625,689
Property and Equipment	48,611	48,611
Less: Accumulated Depreciation	(40,590)	(38,684)
TOTAL ASSETS	559,421	$ 635,616
LIABILITIES AND NET ASSETS		
Current Liabilities		
Accounts Payable	$ 26,428	$ 63,009
Accrued Liabilities	12,268	28,272
Dues Collected in Advance	108,396	99,701
Subscriptions Collected in Advance	25,525	23,962
Deferred Grant Income	0	94,830
Total Current Liabilities	172,617	309,774
Net Assets		
Unrestricted		
Operating	386,804	325,842
Total Net Assets	386,804	325,842
TOTAL LIABILITIES AND NET ASSETS	$ 559,421	$ 635,616

INDUSTRIAL RELATIONS RESEARCH ASSOCIATION

STATEMENT OF ACTIVITIES
Years Ended December 31,2001 and 2000

	2001			2000		
	Unrestricted	Temporarily Restricted		Unrestricted	Temporarily Restricted	
Revenue, Gains and Other Support						
Membership Dues	160,323		160,323	167,438		167,438
Subscriptions	30,308		30,308	21,928		21,928
Chapter Fees	8,135		8,135	10,356		10,356
Publications	4,737		4,737	2,108		2,108
Advertising	3,565		3,565	2,405		2,405
Mailing list Rental	4,175		4,175	4,092		4,092
Royalties	8,713		8,713	2,938		2,938
Meeting Registrations	54,795		54,795	71,183		71,183
Interest income	25,363		25,363	21,422		21,422
Other	2,743		2,743	1,716		1,716
Contributions						
Sloan Grant		78,397	78,397		50,428	50,428
Clark Grant		433	433		27,295	27.295
DOL Grant		0	0		24,000	24,000
FMCS Grant		37,407	37,407		0	0
Other Grants		15,000	15,000		5,000	5,000
Restrictions satisfied	131,237	-131,237	0	106,723	-106,723	0
Total Revenues, Gains and Other Support	434,094	0	434,094	412,309	0	412,309
Expenses and Losses						
Program Services						
General	113,957		113,957	115,490		115,490
Meetings	48,020		48.020	63,717		63,717
Publications	74,551		74,551	76,596		76,596
Grant Expenses						
FMCS Project	37,407		37,407	0		0
Sloan Project	78,397		78,397	50,429		50,429
Clark Project	0		0	27,295		27,295
Supporting Services						
Management and General	-2,722		-2,722	24,995		24,995
Membership Development	23,522		23,522	11,392		11,392
Total Expenses and Losses	373,132		373,132	369,914		369,914
Change in Net Assets	60,962		60,962	42,395		42,395
Net Assets at Beginning of Year	325,842		325,842	283,447		283,447
Net Assets at End of Year	$ 386,804	$	$ 386,804	325,842	$	$ 325,842

INDUSTRIAL RELATIONS RESEARCH ASSOCIATION

STATEMENT OF FUNCTIONAL EXPENSES
For the Year Ended December 31,2001

	MEETINGS					GRANTS		PUBLICATIONS				SUPPORTING SERVICES		
	Wmter Conference	Regional Meetings	Policy Meeting	WinterBd Meeting	Spring Bd	Sloan	FMCS	Annual Proceedings		Research Volume	DIrocloly& NewsleHer	Management & General	Membership Development	Totals
Compensation														
PayroU taxes & fringes	113,957					16,814	24,252							155,023
Depreciation												1,907		1,907
Insurance												1,048		1,048
Donations												150		150
Bank Charges												840		840
													6,688	6,688
Equipment lease												128		128
Postage and freight						1,503	11					1,326		2,840
Accounting/auditing						500						2,450		2,950
Printing, pruduclicln		1,140		7,634		16,000		10,387	7,890	14,394	6,500			63,945
Poolago		1,681		4,631		4,300		5,126	3,575	5,075	4,008			28,396
Other public. costs					686	214	1,750		1,972	778	1,987	14		7,401
Conlract services							1,999			12,845				14,844
Meals		9,590		12,558	2,053	748	6,906							31,855
Travel		3		1,678	640	1,678	3,020							7,019
other meeting expenses		331		2,280	495		3,716							6,802
Education												312		312
Computer & label supplies							418					636		1,052
Office supplies							2,289					869		3,158
Student and member awards													2,535	2,535
Fulfillment													14,299	14,299
Toloplw)ne							1,915					631		2,548
Chapter expenses												1,339		1,339
Duos												1,070		1,070
FMCSproject							13,144							13,144
1999 Indirect expenses						9,128						-9,128		0
2000 Indirect expenses						7,584						-7,584		0
Other committee expenses												249		249
Miscellaneous office														
		12745	0	3,874			37407							373,132

INDUSTRIAL RELATIONS RESEARCH ASSOCIATION

STATEMENT OF FUNCTIONAL EXPENSES
For the Year Ended December 31,2000

		MEETINGS				GRANTS			PUBLICATIONS				SUPPORTING SERVICES		
	General	Winter Conference	Regional Meetings	Policy	Wintered Meeting	Spring Bd Meeting	Sloan	Clar1<	Winter Proceedings	Perspectives	Research Volume	Directory& Newsletter	Management & General	Membership Development	Totals
Compensation															
Payroll taxes & fringes	115,490						10,227								125,717
Depreciation													1,968		1,968
Insurance													1,967		1,967
Donatioos													135		135
Bank Charges													1,041		1,041
Promotion														5,931	5,931
Equipment lease													127		127
Postage and freight							753						2,787		3,540
Accounting/auditing													4,265		4,265
Printing, production							9,839	21,731	11,493	1,425	17,087	7,995			69,570
Postage									5,392	1,842	7,141	2,852			17,227
Other public. costs							2,000		2,029	6,925	4,635	2,544			18,133
Contract services							11,820			5,236					17,056
Meals		8,261		22,292	2,448	558	5,537	15							39,111
Travel		1,800	116	3,197	579	1,836	3,600	3,192							14,320
Other meeting expenses		4,896	23	16,714	933	64	3,325	2,357							28,312
Educatioo													375		375
Computer & label supplies							707						1,754		2,461
Office supplies							982						1,062		2,044
Student and member awards							39							5,461	5,500
Telephone							234						1,950		2,184
Chapter expenses													2,155		2,155
Dues													1,460		1,460
Duplicating							899						1,595		2,494
Other committee expenses													776		776
Miscellaneous office															
	115,490	14,957	139	42,203		2,458	50,429	27,295	18,914	15,428	28,863	13,391	24,995	11,392	369,914

INDUSTRIAL RELATIONS RESEARCH ASSOCIATION

STATEMENT OF CASH FLOWS
For the Years Ended December 31, 2001 and 2000

CASH FLOWS FROM OPERATING ACTIVITIES		
	2001	**2000**
Change in Net Assets	$ 60,962	$ 42,395
Adjustments to Reconcile Change In Net Assets to Net Cash From Operating Activities		
Depreciation	1,906	1,968
(Increase) or Decrease in Operating Assets:		
Accounts Receivable	(33,558)	(4,132)
Grants Receivable	(18,920)	65,400
Prepaid Expense	(5,989)	(2,430)
Inventory	3,370	14,146
Other Current Assets	(1,095)	0
Increase (Decrease) in Operating Liabilities		
Accounts Payable	(36,581)	32,581
Accrued Liabilities	(16,004)	27,778
Dues Collected in Advance	8,695	(19,008)
Subscriptions Collected in Advance	1,563	5,491
Deferred Income	(94,830)	(101,723)
Net Cash Provided by Operating Activities	(130,481)	62,466
Payments for Property and Equipment	0	(3,607)
Net Increase (Decrease) in cash and cash equivalents	(130,481)	58,859
Cash and short-term Investments:		
Beginning of Year	588,205	529,346
End of Year	$ 457,724	588,205

INDUSTRIAL RElATIONS RESEARCH ASSOCIATION

NOTES TO FINANCIAL STATEMENTS
December 31, 2001 and 2000

Note 1 – Nature of Activities and Significant Accounting Policies

Nature of Activities

The Industrial Relations Research Association (IRRA) was founded in 1947 to encourage research in all aspects of the field of labor, employment, and the workplace. It is a non-profit scholarly association of academic, labor, business and neutral communities committed to the full discussion and exchange of ideas between and amongst its broad constituencies through meetings, publications, and its various electronic listservs and websites. The IRRA National Office is located in Champaign, Illinois, and serves the association by planning conferences and meetings and publishing the various research of its members.

Basis of Accounting

The financial statements of the Association are presented using the accrual basis of accounting.

Contributed Services

During the years ended December 31, 2001 and 2000, the value of contributed services meeting the requirements for recognition in the financial statements was not material and has not been recorded.

Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates.

Property, Plant and Equipment

Property, plant and equipment are carried at cost. Depreciation is provided using the straight-line method over an estimated five to seven year useful life.

INDUSTRIAL RElATIONS RESEARCH ASSOCIATION

NOTES TO FINANCIAL STATEMENTS
December 31, 2001 and 2000

Financial Statement Presentation

The Association has adopted Statement of Financial Accounting Standards (SFAS) No. 117, " Financial Statements of Not-for-Profit Associations." Under SFAS No. 117 the Association is required to report information regarding its financial position and activities according to two classes of net assets: unrestricted net assets and temporarily restricted net assets. As permitted by the statement, the Association does not use fund accounting.

Contributions

The Association also adopted SFAS No. 116, "Accounting for Contributions Received and Contributions Made. Contributions received are recorded as unrestricted or temporarily restricted support depending on the existence or nature of any donor restrictions.

Temporarily restricted net assets are reclassified to unrestricted net assets upon satisfaction of the time or purpose restrictions.

Income Taxes

The Association is a not-for-profit Association that is exempt from income tax under Section 501 (c)(3) of the Internal Revenue Code and classified by the Internal Revenue Service as other than a private foundation.

However, net income from the sale of membership mailing lists and newsletter advertising is unrelated business income, and is taxable as such. After deducting costs associated with the income, there was no tax owed for 2001 or 2000.

Investments

The Association does not have any investments in marketable securities.

Cash and Cash Equivalents

For purposes of the statements of cash flows, the Association considers all highly liquid investments available for current use with an initial maturity of twelve months or less to be cash equivalents.

INDUSTRIAL RELATIONS RESEARCH ASSOCIATION

NOTES TO FINANCIAL STATEMENTS
December 31, 2001 and 2000

Inventory

The Association's inventory of directories, research volumes, proceedings and prior magazines is carried at the lower of cost or market value.

Membership Dues – Advance Subscriptions Collected

Membership dues and subscriptions are assessed on a calendar year basis and are recognized on an accrual basis. Funds received for 2002 and future years are reported as collected in advance on the statement of financial position.

Functional Allocation of Expenses

The costs of providing the various programs and other activities have been summarized on a functional basis in the statement of activities. Accordingly, certain costs have been allocated among the programs and supporting services benefited.

Note 2 – Arrangements with the University of Illinois

The Association moved its offices to the University of Illinois at the end of 1999. Under an arrangement with the University, the employees of the Association are employed by the University. The employees' pension and benefits are part of the University's plans. The University then bills the Association quarterly for the cost of the employees.

Note 3 – Edna McConnell Clark Grant #98165

The Edna McConnell Clark Foundation awarded $100,000 to the IRRA on September 24, 1998 to promote the goals of the Association. The Foundation paid the Association $100,000 on September 24, 1998. In 1999, the IRRA organized six regional forums across the United States to facilitate a dialogue on the broad theme, "Rebuilding a Social Contract at Work." The Foundation incurred the last of the expenses related to this grant in 2000, which closed this grant account.

INDUSTRIAL RELATIONS RESEARCH ASSOCIATION

NOTES TO FINANCIAL STATEMENTS
December 31, 2001 and 2000

Note 4 – Alfred P. Sloan Foundation Grant #98-3-9

On March 17, 1998, the IRRA received notification that it was the recipient of a grant for $239,000 to continue the work of the Sloan Human Resources Network. The IRRA received the grant in three installments starting with $115,000 in April 1998, $82,800 in April 1999 and the final payment of $41,400 in November 2000. The Association incurred the last of the expenses related to this grant in 2001, thereby closing this grant account. 1999 and 2000 indirect expenses from the two previous years are being recognized in 2001. Indirect expenses related to 2001 are shown in the current year's various expense accounts.

Note 5 – Department of Labor Grant #B9491808

On December 18, 1998, the IRRA was awarded a $25,000 grant for "reconstructing the social contract of work". As of December 31, 2000, the IRRA had received $24,000 of the grant, and was to be paid the additional $1,000 in 2001. This was shown as a receivable at December 31, 2000. All grant monies except the final $1,000 have been received as of December 31, 2001, and this grant account has been closed.

Note 6 – Federal Mediation and Conciliation Services Grant #00-IL/PSE-019

On October 1, 2000, the IRRA received notification that it was the recipient of a grant for $139,000 for the "Workplace Issues and Collective Bargaining in the Classroom" project. Those providing the grant funds are FMCS - $125,000, NEA - $5,000, AFT - $5,000, AFLCIO - $2,000, and IRRA general fund - $2,000. The IRRA received $17,487.01 in 2001. $19,919.72 was billed but not paid by December, 31, 2001, and is shown as a receivable at December 31, 2001.

Note 7 – Prior Period Adjustments

The 1999 statements were audited by Stotlar & Stotlar. The prior financial statements showed $68,667 as Permanently Restricted Net Assets. In the year 2000, they were shown as part of the Unrestricted Net Assets. The year 1999 financial statements were also restated. The detail on the changes is on file at IRRA's offices. The following is a summary of the changes made and their effect on Unrestricted Net Assets of the association.

See next page

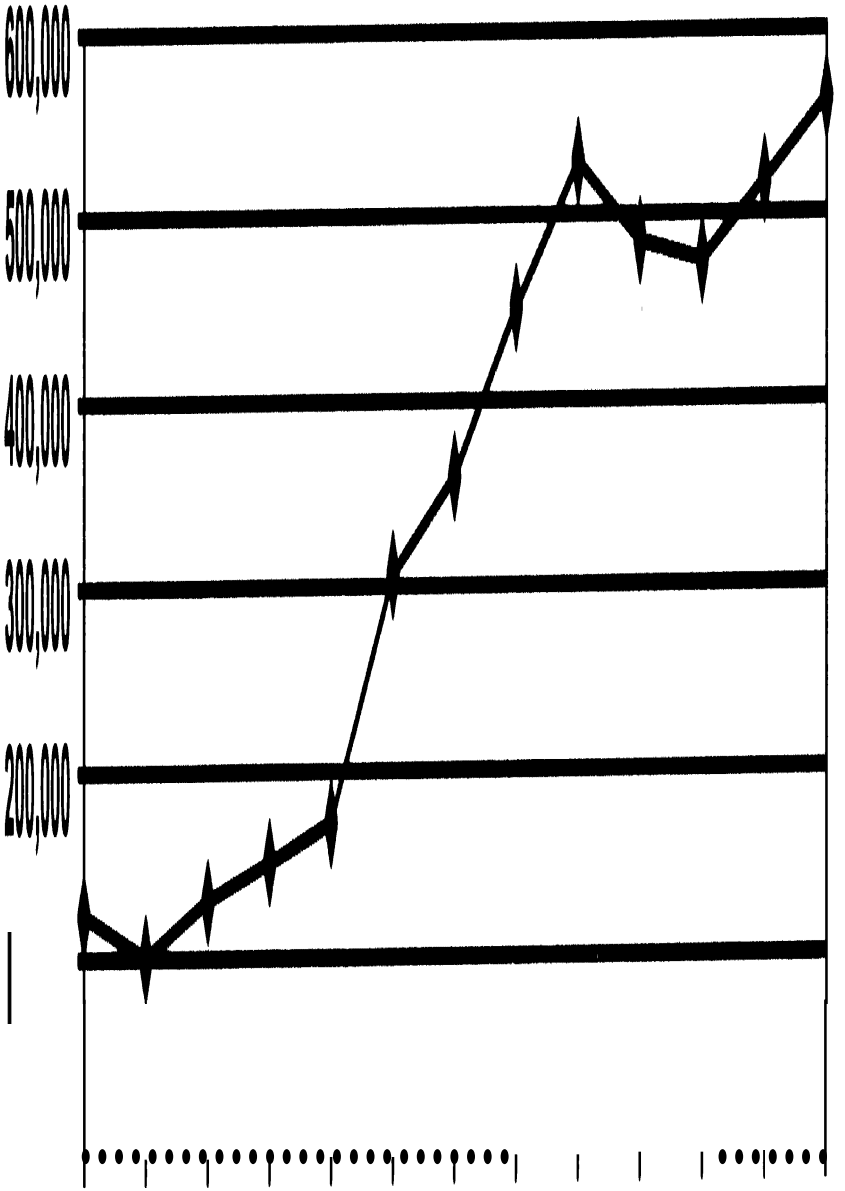
INDUSTRIAL RELATIONS RESEARCH ASSOCIATION

NOTES TO FINANCIAL STATEMENTS
December 31, 2001 and 2000

Note 7 – Prior Period Adjustments – continued

12/31/99 Net Assets before adjustments	$239,687.56
Increased Accounts Receivable	2,895.66
Decreased Inventory	–18,192.58
Decreased Prepaid printing	–2,805.92
Decreased Prepaid directory costs	–7,380.96
Decreased Prepaid meeting costs	–1,408.27
Decreased accounts payable	24,226.68
Increased Clark grant income	46,544.60
Decreased dues collected in advance	327.50
Increased adv subscriptions	–227.50
Decreased Sloan grant income	–219.92
12/31/99 Net Assets after adjustments	$283,446.85

ALPHABETICAL LIST OF AUTHORS


600,000
500,000
400,000
300,000
200,000

IRRA CHAPTERS

For contact information on a chapter in your area, visit the IRRA website at www.irra.uiuc.edu.

ALABAMA
- Alabama

ALASKA
- Alaska (Anchorage)

ARIZONA
- Arizona (Phoenix)

CALIFORNIA
- Central (Fresno)
- Gold Rush (Oakland/San Jose)
- Inland Empire (Riverside/San Bernardino)
- Northern (Sacramento)
- Orange County (Anaheim)
- San Diego
- San Francisco
- Southern (Los Angeles)

COLORADO
- Rocky Mountain (Denver)

CONNECTICUT
- Connecticut Valley (Hartford/New Britain)
- Southwestern

DISTRICT OF COLUMBIA
- Washington, D.C.

FLORIDA
- West Central Florida (Tampa/Clearwater)

GEORGIA
- Atlanta

HAWAII
- Hawaii (Honolulu)

IDAHO
- Idaho (Boise)

ILLINOIS
- Central (Springfield/Peoria)
- Chicago
- LIRA (University of Illinois)

INDIANA
- Delaware County (Muncie)

IOWA
- Iowa

LOUISIANA
- Louisiana (New Orleans/Baton Rouge)

MARYLAND
- Maryland (Baltimore)

MASSACHUSETTS
- Boston

MICHIGAN
- Detroit
- Mid-Michigan (Lansing)
- Southwestern (Kalamazoo)
- West (Grand Rapids)

MISSOURI
- Gateway (St. Louis)
- Greater Kansas City

NEVADA
- Southern (Las Vegas)

NEW JERSEY
- New Brunswick

NEW YORK
- Central New York (Syracuse)
- Hudson Valley (Poughkeepsie)
- Long Island
- New York Capitol (Albany)
- New York City
- Western (Buffalo)

OHIO
- Central (Columbus)
- Greater Cincinnati
- Northeast (Cleveland)
- Southwestern (Dayton)

OKLAHOMA
- Greater Oklahoma (Oklahoma City/Tulsa)

OREGON
- Oregon (Portland)

PENNSYLVANIA
- Central (Harrisburg)
- Northeast (Bethlehem)
- Northwest (Erie)
- Philadelphia
- Western (Pittsburgh)

RHODE ISLAND
- Greater Rhode Island

SOUTH CAROLINA/NORTH CAROLINA
- South Atlantic (Columbia/Charlotte)

TENNESSEE
- TERRA (Tennessee Employment Relations Research Association)

TEXAS
- Alamo (San Antonio)
- Greater Houston
- North (Dallas)

WASHINGTON
- Inland Empire (Spokane)
- Northwest (Seattle)

WEST VIRGINIA
- West Virginia (Morgantown)

WISCONSIN
- Wisconsin (Milwaukee)

CANADA
- British Columbia (Vancouver)
- Hamilton District (Ontario)

FRANCE
- Paris

IRRA Organizational Memberships

The IRRA provides a unique forum where representatives of all stakeholders in the employment relationship and their views are welcome.

We invite your organization to become a member of our prestigious, vibrant association. The Industrial Relations Research Association (IRRA) is the professional membership association and learned society of persons interested in the field of industrial relations. Formed more than fifty years ago, the IRRA brings together representatives of labor, management, government, academics, advocates, and neutrals to share ideas and learn about new developments, issues, and practices in the field. Members share their knowledge and insights through IRRA publications, meetings, and IRRA listservs. In addition, the IRRA provides a network of 60–plus chapters where professionals meet locally to discuss issues and share information.

The purpose of the IRRA is to encourage research and to foster discussion of issues affecting today's workplace and workers. To that end, the IRRA publishes an array of information, including research papers and commentary presented at Association meetings; the acclaimed practitioner-oriented magazine, *Perspectives on Work;* a membership directory; quarterly newsletters; and an annual research volume. Recent research volumes include *Collective Bargaining in the Private Sector,* Paul F. Clark, John T. Delaney, and Ann C. Frost, editors; *The Future of the Safety Net: Social Insurance and Employee Benefits,* Sheldon Friedman and David Jacobs, editors; *Nonstandard Work: The Nature and Challenges of Changing Employment Arrangements,* Françoise Carré, Marianne A. Ferber, Lonnie Golden, and Stephen A Herzenberg, editors; and *Employment Dispute Resolution and Worker Rights,* Adrienne E. Eaton and Jeffrey Keefe, editors. Other member publications and services include online IR/HR degree programs listings, an online member directory, job announcements, calls and announcements, competitions and awards for students and practicing professionals, and much more.

IRRA is a non-profit, 501(c)(3) organization governed by an elected Executive Board comprised of representatives of the various constituencies within the Association.

Organizational memberships are available on an annual or sustaining basis and include individual memberships for organization designees, a wealth of IRRA research and information, and numerous professional opportunities. Organizational members receive all IRRA publications and services. Your support and participation will help the Association continue its vital mission of shaping the workplace of the future. For more information, contact the IRRA National Office, 504 East Armory Ave, Room 121, Champaign, IL 61820.

IRRA Organizational Members

SUSTAINING MEMBERS*

AFL-AFL-CIO
The Alliance for Growth and Development
Boeing Quality Through Training Program
Ford Motor Company
General Electric
National Association of Manufacturers
National Education Association
UAW-Ford National Education, Training and Development Center
United Steelworkers of America

ANNUAL MEMBERS 2002**

Albert Shanker Institute
American Federation of Teachers
Bechtel Nevada Corporation
Chapman University
Communications Workers of America
Cornell University - School of Industrial and Labor Relations
Georgia State University, Beebe Institute International
Brotherhood of Teamsters
Las Vegas Metropolitan Police Department Massachusetts Institute of Technology - Sloan School of Management Michigan State University - School of Labor & Industrial Relations New York Nurses Association
Rutgers University - School of Management and Labor Relations
Society for Human Resource Management
St. Joseph's - Erivan K. Haub School of Business
University of Illinois at Urbana-Champaign - Institute of Labor & Industrial Relations
University of Michigan - Institute of Labor and Industrial Relations University of Minnesota -Twin Cities, Industrial Relations Center
University of Notre Dame - Higgins Labor Research Center

---

*Sustaining Members—one-time contribution of $5,000 to $10,000

**Annual organizational memberships are available at the following levels:

Benefactor, $5,000 or more—6 employee members
Supporter, $1,000 to $4,999—6 employee members
Major University, $500—2 employee members
Educational or Non-Profit, $250—2 employee members

IRRA National Membership Enrollment Form / Directory Update

To join IRRA or update your IRRA listing:

Online at <www.irra.uiuc.edu>.

Or return this form to:

IRRA, University of Illinois, 119 LIR, 504 E. Armory, Champaign, IL 61820

Make checks payable to "IRRA".

Phone: 217/333–0072; Fax: 217/265–5130; E-mail: irra@uiuc.edu

IRRA 2002 MEMBERSHIP DUES

❒ Regular	$85.00
❒ Emeritus	$50.00
❒ First Time Member	$42.50
❒ Full Time Student	$25.00
❒ Contributing Member	$175.00
❒ Institution/Library	$110.00

(Members outside the U.S. must include an additional $15 shipping and handling).

❒ Check

❒ Credit Card: ❒ Visa ❒ MC

Card # _____

Exp. Date _____

Signature: _____

PLEASE PRINT CLEARLY

Name: _____ Phone: _____

Current Position/Title: Fax: _____

Institution/Employer: _____ E-mail: _____

Street / Mailing Address: _____

City: _____ State or Country: _____ Postal Code: _____

CONCURRENT/PAST POSITIONS (up to two, most recent first):

Position: _____ Dates: _____

Institution/Employer: _____

Position: _____ Dates: _____

Institution/Employer: _____

EDUCATION AND DEGREE (omit honorary)

Degree	Year Granted	Institution

IRRA CHAPTER MEMBER:

❒ No ❒ Yes Name of Chapter(s): _____

OCCUPATION *(Mark* ONE *only):*

ACADEMIC DISCIPLINE

- ❒ University Administration
- ❒ Business Administration/ Management
- ❒ Economics
- ❒ Human Resources/Personnel
- ❒ Industrial Relations
- ❒ Law
- ❒ Organizational Behavior
- ❒ Labor Education
- ❒ Sociology
- ❒ Other (Specify)

PROFESSIONAL OCCUPATION

- ❒ Arbitration/Mediation
- ❒ Business: Management/ Administration
- ❒ Business: Industrial Relations
- ❒ Business: Human Resources/ Personnel
- ❒ Consulting
- ❒ Government
- ❒ Legal Practice
- ❒ Union
- ❒ Other (Specify)

AREAS OF MAJOR INTEREST (Mark UP TO THREE; indicate "1," "2," and "3" in order of importance.)

- __ arbitration
- __ collective bargaining
- __ employment/training
- __ government policy
- __ health care
- __ human resources/personnel
- __ income maintenance
- __ industrial psychology
- __ industrial sociology
- __ international/comparative
- __ labor education
- __ labor history
- __ labor/employment law
- __ labor market economics
- __ management/education
- __ methodology/statistics
- __ organizational behavior
- __ union organization/administration
- __ other (specify): _____

IRRA SECTION INTERESTS (Mark TWO only):

- ❒ Collective Bargaining
- ❒ International
- ❒ Labor Union/Labor Studies
- ❒ Dispute Resolution
- ❒ Labor/Employment Law
- ❒ Labor Markets
- ❒ Human Resources
- ❒ NAFTA & Regional Integration